

**ALLEGATIONS OF WASTE, FRAUD, AND ABUSE
IN SECURITY CONTRACTS AT THE
U.S. EMBASSY IN KABUL**

HEARING

BEFORE THE

AD HOC SUBCOMMITTEE ON CONTRACTING
OVERSIGHT

OF THE

COMMITTEE ON
HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS
UNITED STATES SENATE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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CONTENTS

Opening statements:	Page
Senator McCaskill	1
Senator Collins	3
Prepared statement:	
Senator Collins	29

WITNESSES

WEDNESDAY, JUNE 10, 2009

William H. Moser, Deputy Assistant Secretary, Logistics Management, U.S. Department of State	4
Samuel Brinkley, Vice President, Homeland and International Security Serv- ices, Wackenhut Services, Inc.	19

ALPHABETICAL LIST OF WITNESSES

Brinkley, Samuel:	
Testimony	19
Prepared statement with an attachment	35
Moser, William H.:	
Testimony	4
Prepared statement	31

APPENDIX

Eleven documents submitted for the Record from Senator McCaskill	42
“New Information About the Guard Force Contract at the U.S. Embassy in Kabul,” Majority Staff Analysis, prepared by Chairman McCaskill	83
National Security Archive, prepared statement with attachments	95
Questions and responses submitted for the Record from:	
Mr. Moser	106
Mr. Brinkley	110

**ALLEGATIONS OF WASTE, FRAUD, AND ABUSE
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WEDNESDAY, JUNE 10, 2009

U.S. SENATE,
AD HOC SUBCOMMITTEE ON CONTRACTING OVERSIGHT,
OF THE COMMITTEE ON HOMELAND SECURITY
AND GOVERNMENTAL AFFAIRS,
Washington, DC.

The Subcommittee met, pursuant to notice, at 2:34 p.m., in room SD-342, Dirksen Senate Office Building, Hon. Claire McCaskill, Chairman of the Subcommittee, presiding.

Present: Senators McCaskill and Collins.

OPENING STATEMENT OF SENATOR MCCASKILL

Senator MCCASKILL. Welcome to the hearing of the Subcommittee on Contracting Oversight of the Homeland Security and Governmental Affairs Committee.

I am really glad that our Ranking Member is here. She has a long record of oversight on all issues relating to accountability in the government and has been a great mentor for me in this area and it is great to have her here this afternoon.

As we bring this hearing to order, I just want to briefly talk about why we are here today. This is an effort to look at one contract out of tens upon thousands of contracts that has had a difficult record in terms of being compliant with contract provisions and see if by looking at this contract we cannot learn some lessons about contract oversight.

I think it is particularly important because this particular contract deals with the security of our embassy in theater. We are in a conflict in Afghanistan and so there is extreme pressure on the State Department to make sure that the embassy is secure. That is why I think this particular contract should get extra scrutiny and oversight as it relates to how the contractor has performed under the provisions of the contract.

This is about a \$190 million contract to provide the guard force at the U.S. Embassy in Kabul. It is a unique contract. At most U.S. embassies around the world, the State Department hires local nationals if they need guard force assistance. In Iraq and Afghanistan, however, the State Department has decided to contract out the embassy's security to a mix of Americans, expatriates, and third-country nationals. In Kabul, our embassy security force is largely comprised of individuals from Nepal.

The Kabul Embassy contract can be viewed as a case study on how mismanagement and lack of oversight can result in poor performance. AGNA is the contractor and their performance on this contract has been deficient since the contract began in July 2007. The result is that at times, the security of the U.S. Embassy in Kabul may have been placed at risk.

In July 2007, the State Department contracting officer issued a cure notice, a formal letter saying the contractor had failed to meet major contract requirements. The contracting officer told AGNA, "I consider the contract deficiencies addressed below to endanger performance of the contract to such a degree that the security of the U.S. Embassy in Kabul is in jeopardy."

The State Department also told ArmorGroup North America (AGNA) that it questioned the contractor's ability to provide security for the embassy in the hostile environment of Afghanistan. According to the State Department, "The government has serious concerns regarding AGNA's ability to respond in the aftermath of a mass casualty incident or extreme loss of personnel due to mass resignation, hostile fire, or loss of manpower due to illness. Therefore, AGNA needs to come quickly to terms with contract requirements, especially in light of the current incidents occurring in and around Kabul and the corresponding threat environment they pose."

In September 2008, AGNA's performance problems had grown so severe that the State Department advised AGNA that the State Department was considering terminating the contract. According to the State Department, AGNA's failure to provide sufficient guards has "negatively impacted the security posture of the local guard program for the U.S. mission to Kabul. The staffing situation has further deteriorated to a level that gravely endangers performance of guard services in a high-threat environment such as Afghanistan."

In March 2009, in inspections of the guard force operations, the State Department observed that at least 18 guards were absent from their posts at the embassy. In response, AGNA stated that the guards' absences were due to supervisory personnel negligence.

Documents produced to the Subcommittee also show that AGNA officials responsible for buying winter clothing and boots for the guard force acquired over \$130,000 of counterfeit goods from a company owned and managed by this same official's wife. In total, the AGNA official purchased \$380,000 worth of equipment from his wife's company.

Instead of letting the contract end after the first year, the State Department chose to exercise the first option year. We have also learned the Department intends to exercise the second option year, which begins July 1. If they do, the Kabul embassy will be guarded by this contractor at least until next June.

In testimony to be delivered today, the witness from the State Department has said that at no time was the security of the American personnel at the U.S. embassy compromised. I hope that is the case. I have been told that it is. But the State Department's own prior statements indicate that we have a problem and that, in fact, the U.S. embassy could have been at risk, and this is something we need to examine closely.

The State Department and AGNA have also advised the contractor is now fully compliant with requirements relating to staffing. I am satisfied the Department and AGNA have made major progress and there are no remaining glaring deficiencies which endanger the security of the embassy. But I am not satisfied with the record of mismanagement that is before us today and the oversight that this contract had.

So my question for the hearing today is: Is this the best we can do?

There are lessons to be learned from this embassy contract. By examining how the State Department and the contractor allowed so much to go wrong, we can begin the process of ensuring that mismanagement of a contract doesn't ever jeopardize any of our U.S. embassies.

My staff has prepared an analysis of the evidence that the Subcommittee has received and also there are 11 documents that I would like to put in the hearing record. By unanimous consent, I would like to place the staff analysis and the 11 documents that we have received in support of this hearing information in the record.¹

Senator COLLINS. I have no objection.

Senator MCCASKILL. Thank you very much.

I will then turn to Senator Collins for any opening remarks she has.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Madam Chairman, and I want to commend your leadership in this area. I would ask unanimous consent that my entire statement be placed in the record and I am just going to make a few comments.²

Senator MCCASKILL. So ordered.

Senator COLLINS. In government procurement, ensuring the best value for the American taxpayer is important under the best of circumstances, but it is crucial when our Nation is at war and our fellow citizens are serving in harm's way in Iraq, Afghanistan, and in other overseas locations.

Federal employees and contractors working in these hostile environments should feel secure within the walls of our embassies. While safety cannot be guaranteed, our Nation owes its citizens as well as the foreign nationals that serve by their sides a reasonably secure safe haven from those who would do them harm.

Our embassies depend on private security contractors to supplement the Marine security detachments or other Federal security officials. The vast number of these security contractors perform admirably for the U.S. Government. Unfortunately, however, the Government Accountability Office, the Inspectors General, and other investigative bodies have found numerous examples where private security contractors have failed to uphold their contractual obligations and have left their government partners vulnerable to failure or attack.

¹The 11 documents and the staff analysis submitted by Senator McCaskill appears in the Appendix on page 42 and 83 respectively.

²The prepared statement of Senator Collins appears in the Appendix on page 29.

To improve private security contractors and to protect Federal interests, the Federal Government needs to have explicit expectations, precise contract requirements, and diligent program management and oversight by all agencies. Today's hearing will examine this very issue in the specific context of security at the American Embassy in Kabul.

We will examine the State Department's role in writing a clear, performable contract and its ability to provide consistent and responsible contract management and oversight. We will examine the steps that the State Department took to identify the deficiencies in performance by the contractor and whether the State Department held the contractor accountable for poor and declining performance.

In the end, we hope that the lessons learned from this hearing will improve contract administration and lead to better security for our embassy's dedicated staff.

Thank you, Madam Chairman.

Senator McCASKILL. Thank you.

Our first witness is William Moser, who is the Deputy Assistant Secretary of State for Logistics Management at the U.S. Department of State.

It is the custom of the Subcommittee to swear all witnesses that appear before us, so if you don't mind, I would ask you to stand.

Do you swear that the testimony that you will give before this Subcommittee will be the truth, the whole truth, and nothing but the truth, so help you, God?

Mr. MOSER. So help me, God.

Senator McCASKILL. Thank you.

We will be using a timing system today. We would ask that your oral testimony be no more than 5 minutes and your written testimony will be printed in the record in its entirety.

Thank you, Mr. Moser, for being here and we welcome your testimony.

TESTIMONY OF WILLIAM H. MOSER,¹ DEPUTY ASSISTANT SECRETARY, LOGISTICS MANAGEMENT, U.S. DEPARTMENT OF STATE

Mr. MOSER. Thank you very much, Chairman McCaskill, Ranking Member Collins, for the opportunity to appear today before you to discuss the State Department's management of contracts to provide security services at the U.S. Embassy in Kabul.

The Department of State has extensive experience with procuring services to protect our overseas diplomats and facilities. Diplomatic activity is ever-changing to meet the needs of our country amid evolving world events. In today's testimony, I will address the performance of ArmorGroup North America, as the provider of static guard services for our embassy as well as the State Department's oversight of this contract.

Because of the dangerous and unique environment, acquiring guard services for our mission in Kabul is challenging. However, by staying focused on the No. 1 priority, the security of the embassy, complemented by effective contract management, the Department of State has successfully balanced its security requirements and

¹The prepared statement of Mr. Moser appears in the Appendix on page 31.

contract compliance. Indeed, improving the worldwide program for procuring guard services is a Department priority.

The Department of State established an Embassy Guard Branch in the Office of Logistics Management to consolidate, streamline, and regionalize these contracts previously administered individually by post. We believe that these complicated contracts should be centralized so that they receive the attention from procurement professionals that they deserve. We have grown to administer 53 contracts worldwide.

This transition, however, has not been without growing pains, including a backlog of price adjustments and change management with the individual posts. However, we already see that the centralizing of the guard contract program has achieved results that individual posts could not achieve.

I would like to go into a little bit more detail about the security services in Kabul. We have met with your staff three times in the past 3 weeks. We believe that these meetings have been extremely productive. The Department presented historical background, described the on-the-ground conditions in Kabul, and outlined the many steps taken to ensure appropriate oversight of ArmorGroup North America. Prior to the award of the ArmorGroup North America contract, the Department had terminated a contract with MVM due to the contractor's failure to meet contract requirements.

In March 2007, a new guard contract was awarded to ArmorGroup North America. As required by law, this contract was awarded based on the lowest price, technically acceptable offer. This award was for one base year and four option years. The Department is currently in the first option year.

As with all guard contracts, there is constant communication with and collaborative efforts by the contracting officer and Diplomatic Security in Washington and the Regional Security Officers on the ground in Kabul. For the ArmorGroup North America contract, weekly meetings, and at times daily meetings, are held on contract performance.

At the end of the first contract year, Diplomatic Security and the contracting officer completed a thorough evaluation. In addition, the Bureau of Diplomatic Security has conducted 14 program management reviews since contract award. Through this constant oversight, the Department identified several issues and deficiencies and worked to correct them with ArmorGroup. However, at no time was the security of American personnel at the U.S. Embassy compromised. Indeed, one of my priorities in traveling to Afghanistan last week was to have discussions with the Regional Security Officer and senior post management to confirm this fact.

During the 2007 transition to ArmorGroup North America, the Department identified deficiencies in personnel, training, equipment, and performance. The contracting officer and the program manager issued several deficiency letters, a cure notice, a show cause notice, and carefully monitored ArmorGroup North America's corrective action plans. During this monitoring, we discovered other deficiencies concerning reporting, invoicing, and weapons for training. The most serious of our concerns were manning deficiencies that the contractor covered by the use of overtime hours.

The Department always took appropriate deductions from its payments to ArmorGroup North America to ensure that the U.S. Government was compensated for less than full compliance with contractual terms. At the same time, we worked with ArmorGroup North America to correct these problems.

Through this difficult period of contract administration, we have always remained focused on what counts the most, the security of our personnel and facilities in Kabul. The Regional Security Officer in Afghanistan has always reported that despite the contractual deficiencies, the performance on the ground by ArmorGroup North America has been and is sound. The Regional Security Officer and the senior officials of the Kabul Embassy reaffirmed this to me last week.

Effective contract administration in a war zone is challenging. However, in this case, we feel we found the right balance of enforcing contract compliance without losing sight of protecting our people and facilities in Kabul.

I look forward to discussing these issues with the Subcommittee and look forward to your questions.

Senator McCASKILL. Thank you, Mr. Moser.

Let me start by bringing your attention to a couple of documents which don't seem to reconcile completely with your testimony today. On June 19, 2007—and if we can put this document up¹—this was after the contract had begun, and I am quoting the document, “I consider the contract deficiencies addressed below to endanger performance of the contract to such a degree that the security of the U.S. Embassy in Kabul is in jeopardy.”²

And then a year later, a letter to AGNA,² once again in a document from the State Department, AGNA's inability to permanently correct personnel staffing shortages has negatively impacted the security posture of the local guard program for the U.S. mission to Kabul. The staffing situation has further deteriorated to a level that gravely endangers performance of guard services in a high-threat environment, such as Afghanistan.

These are two documents that were generated by the State Department that has this language in them. I am trying to reconcile your testimony today with those documents and want to give you a chance to do just that.

Mr. MOSER. Senator McCaskill, thank you very much for the question. And I really do want to start, first of all, to put this in the context of where we were in the contract administration, particularly with the first one.

The first letter was actually after we looked at the transition from our previous guard contract with the P.A. Berger bridge contract to ArmorGroup North America. Well, to be frank about it, this transition was not easy, and I will say this based on my 25 years in the Foreign Service. If you have ever been in a post where the guard contract transitions from one contract to another, it is a very difficult situation. There is usually a turnover in guards. They have to understand their responsibilities. The management changes. It is a very difficult situation. And, to magnify this, we have never

¹ The letter referred to by Senator McCaskill appears in the Appendix on page 42.

² The letter referred to by Senator McCaskill appears in the Appendix on page 52.

done so many transitions in a place as dangerous as Kabul, Afghanistan.

So, really, what I think that you see in the first letter and really in the subsequent one, too, is what I have actually encouraged all the contracting officers that work in my section to do, which is to be tough with the contractor at the very beginning and make sure that they know that we are serious about these things.

Now, I am not going to say that these were necessarily exaggerations, but what we want to emphasize here, that if they did not correct these deficiencies with the things that were left out that were not done properly. Yes, this could end up to be a serious deficiency in the security posture of the embassy. But I didn't want them to go out and say to the contractors, well, you need to correct these because they don't comply with dotting the "i"s and crossing the "t"s in the contract. We want to tell them that these things really do have real consequences, but at the same time, the people on the ground said, for now, this is OK.

Now, Senator McCaskill, I do want to make one point more on that. One of the reasons why the RSOs on the ground, and I talked both to the previous RSO who was there in 2007 and to the one that is currently on the ground in Afghanistan, and one of the things that they both—or the one that was previously in Afghanistan emphasized to me is that the previous contract, the bridge contract, was so bad and security was so poor under that contract that the transition to ArmorGroup was still a major improvement in the security posture of the embassy. And, to the extent that the guard posts could be covered, the requirements of the contract were met in terms of the actual security, they didn't want to go through transitioning to yet another contractor.

And I can be a little bit more specific with your question—

Senator MCCASKILL. OK. So you are anticipating my next question.

Mr. MOSER. Sure.

Senator MCCASKILL. And I don't mean to put words in your mouth—

Mr. MOSER. OK.

Senator MCCASKILL. I am good at doing that, so stop me if I do it. But what you are saying is that the first letter was meant to be serious with them, but it probably wasn't quite as serious as it sounded? Is that what you are saying?

Mr. MOSER. Well, Senator McCaskill, I think maybe to put it this way, the previous bridge contract was terrible and we really were concerned about the security at the embassy under the previous bridge—

Senator MCCASKILL. I understand that.

Mr. MOSER. I have a new contractor, and frankly, Senator McCaskill, I think that you want the contracting officers in the Federal Government to be tough on contractors, particularly when they are starting into a new contract—

Senator MCCASKILL. OK. So let us, just for purposes of this discussion, take that first letter and say, this is the new sheriff, the new contractor—

Mr. MOSER. That is right.

Senator MCCASKILL. You are going to be tough.

Mr. MOSER. Yes.

Senator MCCASKILL. But a year later, you use the language “gravely endangers performance of guard services in a high-threat environment such as Afghanistan.”

Now, this is a full 12 months later, Mr. Moser. I mean, are we still exaggerating to get their attention or were we not saying what was accurate at that point in time?

Mr. MOSER. I think it is fair to say that because we want this to be a thoroughly documented and tough stance toward contractors, we are going to continue to emphasize that what we are talking about here is security. But this is a tough balancing act.

A year later, yes, we were right there on that borderline where we were thinking about, continue with them, terminate them. What are we going to do? And we had lots of discussions in the Department about what to do. So we knew that there were problems, but that said, and as I said in my testimony, the day-to-day tasks on the ground were still adequate and the security was sound.

Senator MCCASKILL. OK.

Mr. MOSER. So it is a really hard balancing act, and just to put this in the right context, Senator McCaskill, is that, yes, we want the contract, every part of it to be complied with, and we do feel that all of the parts of the contract are important for the security of the mission. But we have got to think about what is going to be better for our people on the ground in Afghanistan, because at the end of the day, we manage first of all toward their security, and second, in terms of thorough contract compliance.

Senator MCCASKILL. I want to make sure I give Senator Collins a chance to question now, but I do want to come back and ask you a few more questions. But I think it is important to put on the record right now that the first letter, you have made an effort to explain. The second letter, you have made an effort to explain. But I think it is very important to point out that on the initiative of the Department of State, in March of this year, you did a check and inspected the guards—

Mr. MOSER. Yes.

Senator MCCASKILL [continuing]. And found 18 posts had been left empty by the guards on duty at the embassy, and that was March of this year.

Mr. MOSER. No, March of last year. Wasn't that 2008? Or was that 2009?

Senator MCCASKILL. No. This is 2009. That is this year.

Mr. MOSER. OK.

Senator MCCASKILL. The third year of the contract, or coming up upon the third year of the contract. I have taken my initial time allotment and let me defer to Senator Collins for questions.

Senator COLLINS. Thank you. Mr. Moser, I have to tell you that in reviewing these documents, I, too, find them to be very conflicting and confusing. It troubles me if you are telling a contractor—and by you, I mean the Department of State—

Mr. MOSER. Yes, I am sure. I understand.

Senator COLLINS [continuing]. Not you personally—if the Department of State is telling a contractor that the deficiencies address below to endanger performance of the contract to such a degree that the security of the embassy is in jeopardy, if that is not a true

statement, then the Department of State should not be saying it. If that is an exaggeration, then it is unfair to the contractor that that is being said. If it is accurate, then it is an alarming situation that demands action by the State Department. So clarify that for me.

Mr. MOSER. OK. Well, I am not a contracting officer.

Senator COLLINS. Right.

Mr. MOSER. I am a Foreign Service Officer, and one of the things that we are very much aware of in the contracting activity is that there is—the actual service being delivered is to provide security services for the U.S. Embassy in Kabul. That is, the principal security service. But there are a lot of other contract terms that have an impact on the delivery of that service that are reflected.

Now, deficiency letters and cure notices are things that if you work with the parties involved can be corrected over time. In other words, we never said that you are not providing the security services. We are saying that these deficiencies, which they call them cure notices because they are curable, that we could work with these and correct them, but they are going to have to be corrected to maintain the long-term posture of security at the embassy.

And those are the things—it is a difficult—I don't want to say that the contracting officers have exaggerated. No. But I think that they have given them a tough enough posture to say, look, if you don't correct these problems, then over time, this could lead to a serious degradation in the security in the embassy and its posture.

Senator COLLINS. Well, let us look at another measure. The Defense Security Service does an annual security review of the contractor. Now, initially, in June 2006, the ArmorGroup received a superior rating. So that seems inconsistent to start with as far as your statement that when there is a change in the contractor, that the contracting officer is very tough up front. But here is the other unit, the Defense Security Service, giving the contractor a superior rating.

Then what happened over the 3-year period is the contractor's rating declines each year. It doesn't go all the way to unsatisfactory, which is what you would expect based on the cure notice, but it does decline from superior to satisfactory.

Now, it is my understanding that the Defense Security Service notifies the sponsoring agency, in this case the State Department, merely whether or not the contractor is still satisfactory, correct?

Mr. MOSER. That is correct. That is my understanding, too, Senator Collins.

Senator COLLINS. But does the Defense Security Service share the actual performance reviews of the contractor with the Department of State?

Mr. MOSER. They do not share them with the contracting authority who holds the actual contract.

Senator COLLINS. Shouldn't that information be shared?

Mr. MOSER. Absolutely. But that is not something that, if I can say this, we would be happy to have external information on the contractor and what the contractor has done in the past. In fact, one of the things in previous contracts that I have actually discussed with the Congress in the past, my contracting officers will trace down blog posts and see—if there is an allegation of blog

posts, they will go chase after it to see if it is right. I would really think it would be beneficial for us to get official information. I fully agree.

Senator COLLINS. It seems to me that it should be an automatic requirement.

Let me go to another issue, and that is the nature of the deficiencies that were identified. You have testified here this morning that at no time during the performance of this contract have you felt that the security of the perimeter was breached or that the embassy personnel were, in fact, endangered, is that correct?

Mr. MOSER. Yes, ma'am, that is correct. And it is not what I think. It is my discussions with the security officials who were on the ground. It means the people who—I talked about this with the people whose lives were at risk.

Senator COLLINS. What concerns me about that assessment is the nature of some of the deficiencies. Some of the deficiencies to me could not possibly have an impact on security. For example, there was a failure to provide adequate gym equipment. Now, that is not complying with the contract and that means potentially we are paying for services that weren't rendered and that is important, but that is a whole different issue and does not speak to security.

But some of the issues seem to speak to security. For example, there is a charge that there was a late submission of ammunition.

Mr. MOSER. Yes.

Senator COLLINS. So why wouldn't that have an impact on security?

Mr. MOSER. Well, the ammunition issue was one of the ones that we were most disturbed about, and this is the reason why. At one time in the early days of the contract, in 2007, in the first 6 months, the State Department had to loan ArmorGroup North America ammunition, not with which to stand post, but with which to train. In other words—and the contract actually requires the ammunition in three forms. The contractor is supposed to supply ammunition for its personnel to stand at post, to train with, and then a reserve storage.

Now, we were disturbed that ArmorGroup North America did not have sufficient reserve storage, and the reason why this is such a disturbing thing to us is that it is Afghanistan and supply chain can be very difficult. So this was one of the ones we really were kind of jumping up and down about. In actual circumstances, the guards were still on post. They had enough ammunition to shoot with. They didn't have to shoot anybody. But we were disturbed that if we had an incident, then we could actually get pressed, and that was where we were really disturbed. But ArmorGroup North America did make up that deficiency and currently have sufficient ammunition supplies.

Senator COLLINS. I see my time has expired.

Senator MCCASKILL. In the deficiencies, following up on Senator Collins' questions, in the contract, we have personnel, we have training, we have equipment, we have performance, we have reporting, and we have invoicing. My understanding, they still don't have the weapons they are required to have under the contract for training, is that correct?

Mr. MOSER. That is true.

Senator MCCASKILL. And we are not talking about office supplies on that list. We are talking about missing guards, counterfeit goods, insufficient relief guards, manning posts with people who lack English language training and weapons training required under the contract. Now, maybe the question that needs to be asked, Mr. Moser, is when we are in theater, when we are sending thousands of Americans to risk their lives in a country that we have deemed such a risk to our country that we are putting men and women's lives on the line every day, is it maybe time to say that we should not be guarding embassies in theater with private security contracts?

Mr. MOSER. Senator McCaskill, that is an excellent question. I can't really give you an official Department position, but I can give you some of my personal views on this.

Basically, we have had local guards or contract guards at our embassies for many years, as long as I have been in the Foreign Service, I think. I have been in the Foreign Service 25 years and the first embassy I went to in Bamako, Mali, had contract guards, and going back much further than that.

It is a good question and one that I would encourage this body to really examine and in a dialogue with the State Department about whether, in certain situations, it is a good idea. But let me give you a couple perspectives on this.

One reason that it is an advantage to use contractors is that it allows us flexibility. As our requirements go up, we can hire more guards or we can ask the contractor to hire more guards. We can decrease as our requirements go down.

And one of the things that is something that the Legislative Branch will have to contemplate if we do change our current arrangements in this is that we actually look at the possibility—that we actually remember that if we would Federalize this workforce, then we also have to increase the amount of embassy staff on the ground in order to supervise that force and to handle things like personnel transactions and financial transactions.

Senator MCCASKILL. Well, couldn't they be military?

Mr. MOSER. No. Well, that—

Senator MCCASKILL. Why couldn't it be military?

Mr. MOSER. I think you will need to talk to my colleagues in DOD about that, because that—

Senator MCCASKILL. Well, here is what I am trying to figure out. I mean, the reason we have these unusual situations in Iraq and Afghanistan is because there was a decision made that nationals were too dangerous. We couldn't hire nationals because of the nature of the threat. So what do we do? We hire people from Nepal who can't speak English for \$800 a month.

Now, I have got to tell you, if this is about the locals being not sufficient to guard our embassy in theater because of the threat, it seems to me that we are not going up the food chain, we are going down the food chain. I mean, these people still—they have told you they can speak English, but you still have not made any verification that the people that are standing guard at this embassy can communicate in English, isn't that correct?

Mr. MOSER. Senator McCaskill, we are currently evaluating the information that we have from ArmorGroup North America and

they have actually attested to us that the English certifications are now correct for all of the Gurkha guards.

Senator MCCASKILL. And they also told you they are going to have weapons a year ago.

Mr. MOSER. Yes, but, Senator, with all due respect—

Senator MCCASKILL. Didn't they?

Mr. MOSER. I am somewhat sympathetic with them about the weapons based on my other experience in procurement. We try to get radios for our embassy in Baghdad or for our other embassies around the world. We can't get them anymore. The reason we can't get them is because the DOD is sucking up all these resources, and particularly for the weapons that we procure for this, we are really in competition with a much bigger buyer, and ArmorGroup North America and the other security companies are, too. There is a real shortage in terms of the supply chain side that really keeps them from getting to them.

And so this is one of the reasons why, even though I am not happy about their shortage of the weapons, I actually am somewhat sympathetic based on my own personal experience in trying to supply equipment for our embassy and our offices.

Senator MCCASKILL. I understand the point you are making about the supply chain on the weapons, but Mr. Moser, this is a contract that anybody with a cold, cruel eye looking at the oversight of this contract would say that there have been serious performance issues. And I guess at this point, the idea that you would trust and not verify when literally just a few months ago when you did try to verify you found 18 posts empty—now either those posts were empty because they didn't have sufficient staff, which they have told you they have now, or they were empty because they were negligent in covering those posts.

Now, we are going to renew this contract again and I guess I am a little worried that at this juncture, with this kind of record on contract performance, that them just telling you that they are now in compliance seems to be sufficient for you.

Mr. MOSER. Well, Senator McCaskill, one of the things is I have worked with local guard contracts or guard contracts for a long time as management officer overseas, and in fact, at one of my small posts, I was actually the post security officer and had to run the guard contract myself. There are two RSOs on the ground out of 16, I think, total, and with that total to grow, that spend most of their time working on this. In terms of the language skills, those are things that we look at the data that they have presented but they go out and verify that, as well. In fact, our attitude with contractors in general is not trust, but verify. Our attitude is more like we don't believe what you are saying, we are going to check it out, and we really do try to do that in this contract, as well.

That is the reason why I have to have those eyes and ears on the ground in Kabul to go out and check with the Gurkhas and see if they can come out with a complete sentence of English. And I have to have them go and check the guard posts to make sure that they are manned.

Senator MCCASKILL. Well, when you checked the last time, could they come out with a sentence in English when you checked?

Mr. MOSER. Well, from what the indications that we had from the RSO, yes, they have made a lot of progress and that things are better. We are going to go over the data. We think that it may be resolved, but we are not entirely certain.

Senator MCCASKILL. OK. Go ahead, Senator Collins.

Senator COLLINS. Thank you.

Mr. Moser, just so we don't leave the wrong impression here, it is my understanding that the Gurkhas are extremely well regarded—

Mr. MOSER. Yes, they are.

Senator COLLINS [continuing]. In security circles, that they are well known for staying at their posts regardless of the threat, is that correct?

Mr. MOSER. That is my understanding, too, Senator Collins. I have seen them at posts, but I have never been in a country where we have had them full time.

Senator COLLINS. And they are, in fact, used at several embassies?

Mr. MOSER. Yes, they are. And in fact, the U.K. uses them quite extensively in various dangerous places around the world.

Senator COLLINS. I just wanted to clarify that point.

Senator MCCASKILL. Thank you. I probably got carried away about the food chain.

Senator COLLINS. Even though, I was just going to say, I am sympathetic with the Chairman's point, that even if you have exceptional guards, they have got to be able to communicate—

Mr. MOSER. Yes.

Senator COLLINS [continuing]. To the English-speaking embassy personnel.

Mr. MOSER. Well, this is something that we do care about. I mean, this is what the RSOs have to go out and determine, that they can actually run the workforce.

Senator COLLINS. Let me talk about the award of this contract. It is my understanding that prior to the award of the AGNA's contract, the State Department had terminated the previous contract with MVM, is that correct?

Mr. MOSER. Senator Collins, if I can give you one point of clarification on that—

Senator COLLINS. Yes.

Mr. MOSER [continuing]. We did terminate it, but they actually never performed.

Senator COLLINS. I guess that would be extremely poor performance.

Mr. MOSER. Well, let us say that, to use a polite phrase, they just couldn't get their act together and it was very obvious in the transition period that they weren't going to be able to perform. And that is the reason why we had to terminate that one rather precipitously.

Senator COLLINS. So let us talk about the contract that was awarded to AGNA. That was awarded in March 2007 and I am informed that it was based on an evaluation technique that is called lowest price, technically acceptable.

Mr. MOSER. Yes, ma'am.

Senator COLLINS. And it is my understanding that in such circumstances, the lowest price bid is selected regardless of the relevant strength of the bidder's qualifications, is that correct?

Mr. MOSER. Senator Collins, if I could put that—just one more finer point on it—

Senator COLLINS. Yes.

Mr. MOSER [continuing]. Is the lowest price, technically acceptable. It is in the State Department legislation passed by Congress. It is actually in our authorizing legislation, is my understanding. I have seen the legislation, but I don't remember the exact passage. And it is technically acceptable.

In other words, to get the specifics on this, there were eight bidders on this contract. Two were found to be technically acceptable. We had discussions with both of those who were found technically acceptable and AGNA was the winner after that based on a price that was lower than the other technically acceptable bidder.

Senator COLLINS. Now tell me how that differs from a best value approach to awarding the contract.

Mr. MOSER. Well, in a best value approach, we would weigh the cost versus the quality of the proposals or what we think that the contractor could bring to the table. You have to make trade-offs between cost and what is being offered. And it is a much more complicated technical evaluation. In other words, at the program office—and this is true in any contract, not necessarily—not only security services, but in any contract—you are trying to make a decision of what is the best value to the U.S. Government given both cost and technical qualifications.

Senator COLLINS. Now, it is my understanding that the current contractor, Wackenhut, bought the company AGNA.

Mr. MOSER. Yes, ma'am.

Senator COLLINS. They had been one of the bidders but lost out because their bid was considerably higher, is that correct?

Mr. MOSER. Their bid was not judged to be technically acceptable.

Senator COLLINS. It was not technically acceptable. Was it also higher?

Mr. MOSER. That, I don't know.

Senator COLLINS. Is there a process when a company is acquired for reevaluation of the contract?

Mr. MOSER. Normally, we do not do that. Companies do get traded, and usually if one goes to another, as long as the other security parts are met in terms of the acquisition about foreign ownership or other things, we don't really go in and change because our contract is still valid.

Senator COLLINS. Do you know why Wackenhut was viewed as not being technically qualified?

Mr. MOSER. No, ma'am, I do not.

Senator COLLINS. It is my understanding that the contractor is currently operating at a loss of \$1 million a month, according to the testimony. This has raised the question in my mind of whether, given the lack of compliance with the contract requirements, the requirement that you essentially take the lowest acceptable bidder—which sounds great, we want competition and we want the lowest bidder—but we also want quality performance. Do you be-

lieve that the bid price was too low to be feasible for a security contract under these constraints or is this just a—the contractor agreed to it, so obviously that is not the government's fault, but what is your assessment?

Mr. MOSER. Well, maybe if I can answer the question this way. As I have said, I have been in the State Department, overseas mostly, for the last 25 years and seen a lot of contracts, overseas contracts, and our biggest contract at any normal post is always the guard services contract. Lowest price, technically acceptable gets us the best value product but usually at the least cost, but it gets us an acceptable product at a least cost.

If you have best value, you would have the chance to get perhaps at a higher cost a better product. And this is the reason why, particularly for these very difficult security situations, like Afghanistan and Iraq and Pakistan, I think that we really should look at a change in legislation that would give us a best value way of appraising this.

Now, I say this partly because I am a big believer in contracting officers, and contracting officers and program officers, and I really think that if they have—if you give the employees at the Federal Government enough flexibility or the employees at the State Department enough flexibility to make good decisions, they will try to make a decision that is in the U.S. Government's best interest, because I think you both share with me that our first priority is making sure that we have good security for our embassy personnel in the most dangerous of situations.

Senator COLLINS. Thank you.

Senator MCCASKILL. In January 2008, AGNA informed the State Department that the logistics manager, the official responsible for AGNA's contracting for embassy guard force, may have been buying counterfeit goods and had purchased over \$380,000 worth of equipment from a company owned and managed by his wife. What actions did the State Department take at the point in time that it learned that information?

Mr. MOSER. At the point in time when we learned that information, we told AGNA to continue its investigation, report back to us, and once we learned that this was true, we asked for the individual to be removed from the contract, the person that was their employee.

Senator MCCASKILL. And what about the wife's company? Was there any investigation? Was there any thought to having a fraud investigation, because clearly when you have that kind of arrangement, speaking as a former auditor, that is generally when you have kickbacks going on. That is generally when you have money being exchanged under the table. Was there any thought at the State Department that this would be a time that you would want your fraud investigators to look at what was going on in this contract in case taxpayer money had been stolen?

Mr. MOSER. Well, one of the things is, Senator McCaskill, I am a big believer in audits. Actually, I am a big believer in them. But this is a firm fixed-price contract. That is part of the nature of lowest price, technically acceptable, that it is at a given price. In other words, we pay them for the guard hours that we ask for. So there

isn't really—the fraud isn't really committed against us. In other words, let me give you an example.

Senator MCCASKILL. Wait a minute.

Mr. MOSER. Well, let me explain. I lived in Central Asia for 3 years. I was assigned to our embassy in Kazakhstan. The counterfeit goods were all over the local markets, but I couldn't always tell whether they were or were not counterfeit. And I know that this happens, particularly in these Asian countries with close proximity to China. This is very common.

In our contract, we say, you will give the guard a coat. We don't say what kind of coat, quality of coat, anything like that. So to us, the fraud wasn't really committed against us. The contractor was giving the guard a coat. We didn't know what the coat was. So there wasn't really any fraud against us.

Now, we are more than happy to call our own Inspector General when we think there is something untoward in our contract, but we didn't ask the contractor to provide a certain brand or a certain quality. We just specified the item.

Senator MCCASKILL. OK. So I want to make sure that I understand this. If the U.S. Government is not seen as the victim of a financial crime, there is no interest in looking at for fraud purposes activity of a contractor that could, in fact, be criminal? Is that what you are testifying, Mr. Moser?

Mr. MOSER. Now, Senator McCaskill, I am not sure if I can really answer that question. All I can do is talk about what we did in this case, and what we did was the person was removed from the contract. We weren't really affected by the counterfeit goods and we didn't do anything further on this.

Senator MCCASKILL. Well, I have to tell you, I am surprised. I think most people would be surprised that if you knew that someone that was a contractor for the U.S. Government, that someone who was a major acquisitions personnel within that contract, if you found out that they were buying counterfeit goods from their wife and it was \$380,000 worth of goods, even if it was a fixed-price contract, it would seem to me that somebody would go, we need to ask some questions here because it may be that we have got criminals working for us.

Mr. MOSER. Well, we did take appropriate action in terms of having that individual removed from the contract.

Senator MCCASKILL. Are you confident that this particular company was no longer used in terms of buying things from this company as the contract moved forward? Did you make inquiry in that regard?

Mr. MOSER. We felt that the problem was resolved after the person involved was removed. And we also felt that they gave us an adequate explanation of what was going on. But I will be honest with you, Senator McCaskill. The RSOs, looking at the goods that the guards have, are not going to know whether they are counterfeit or not. That is just realistic.

Senator MCCASKILL. I am more worried about the relationship between the procurement official in this contract and the person they bought the stuff from. I mean, do we have no responsibility to make sure that the people who are working for us are following basic guidelines in terms of following the law?

Mr. MOSER. Senator McCaskill, this is what I would say, is that the person that my contracting officer has a relationship with is the company. The company informed us that this activity was going on and that they needed to investigate it. They took appropriate action by dismissing the employee involved in this.

Senator McCASKILL. Well, I guess what I am saying is—

Mr. MOSER. We felt that our interest in it—

Senator McCASKILL [continuing]. Maybe appropriate action was sending that person to prison. How do we know they took appropriate action if you never asked the question?

Mr. MOSER. Well, I can't answer that.

Senator McCASKILL. All right. Finally, Mr. Moser, this contract is going to be renewed, correct?

Mr. MOSER. Our intention is to renew this contract.

Senator McCASKILL. OK.

Mr. MOSER. Or not actually to renew. What it is is actually exercise the second option year.

Senator McCASKILL. And was this a close call?

Mr. MOSER. Senator McCaskill, it wasn't really a close call this year and this is the reason why. The contractor has, as I have said today, done a reasonable job in providing security for the embassy and we have been satisfied with that performance. When there haven't been enough men at posts, and we do have, let us say, redundant coverage to make sure that the manning never endangers the security of our personnel on the ground in Kabul, that we have been able to make up for that through using our redundancy to make sure that the manning was covered. The security has been sound.

The things that we have asked for them to correct, the deficiencies that are outlined voluminously in our contract files, have for the most part been corrected except for the one deficiency regarding the training weapons and we feel that will be resolved going into the next year.

Now, weighing that against the risk that we would undertake for our employees in Afghanistan if we went to another contractor, we think that exercising the next option year is really the best alternative.

Senator McCASKILL. Would it change your opinion as to whether or not you would want to renew an option year if you knew the contractor didn't want to work under this contract anymore?

Mr. MOSER. Well, Senator McCaskill, if the contractor doesn't want to work under the contract anymore, he should give us a formal notice that he doesn't.

Senator McCASKILL. OK. Thank you, Mr. Moser.

Mr. MOSER. Sure.

Senator McCASKILL. Senator Collins is no longer here.

Thank you very much for being here today. I also want to just briefly mention that I think that you have tried diligently to provide us with documents. I know that you didn't have months to prepare. But I would just put on the record that I think there is still some work to be done in terms of how responsive the State Department is to requests for information because it has been a little bit of an arm wrestle.

Mr. MOSER. Senator McCaskill, if I can say one thing on that, the document release or the process of document release is not something that I am responsible for in the State Department, but I will say that in the contracting authority, there is virtually no document that we are unwilling to share because the contracting officer's best friend is transparency. And, in fact, we think an honest dialogue with the members of the Legislative Branch is to our benefit and we are more than happy to share the documentation with you. But we do have a process in the State Department.

Senator MCCASKILL. And I think that is a question for another time and it is something I would like to get into with the State Department—

Mr. MOSER. Yes, ma'am.

Senator MCCASKILL [continuing]. Because it is my understanding that based on an independent analysis, there are FOIA requests that are a decade old at the State Department, and that, for somebody who has just used the word "transparency," I am proud of our State Department, but for anybody who works there, I can't imagine an excuse that could be valid for FOIA requests languishing as long as they do in many instances. And unfortunately, for purposes of most members of the Senate, if you are not the Chairman of a Subcommittee or a Committee, your request for information at the State Department is treated the same as any person off the street. Now, I am not sure that is a bad thing as long as the person off the street is getting the service they deserve.

But I would certainly send you back to the State Department with encouragement that we are going to continue to look very closely at how easy it is to get information and how quickly we can get information out of the State Department and ask you to send the word out that that needs some work over there.

Mr. MOSER. Senator McCaskill, the person that is in charge of that function is another one of the deputy assistant secretaries in the bureau I work in, in the Bureau of Administration, and I am sure she would be happy to talk to you about this issue at any time.

Senator MCCASKILL. We will do that.

Mr. MOSER. It is something she is very passionately concerned about.

Senator MCCASKILL. Thank you for being here today.

I want to put on the record that Mr. Moser has indicated that he will come back to the table, if necessary, for follow-up questions after the testimony of Mr. Brinkley. I haven't been here a long time. I am not really sure about this, not being at the same table at the same time and where that comes from. I don't get it. But it is what it is.

So welcome, Mr. Brinkley. You are the Vice President for Homeland and International Security Services of Wackenhut Services, Incorporated. As I indicated to Mr. Moser, it is the custom of this Subcommittee to swear in all witnesses and would ask if you would stand.

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

Mr. BRINKLEY. I do.

Senator MCCASKILL. We welcome your testimony. Your entire testimony will be put in the record. We ask that you try to limit your testimony to 5 minutes. Thank you.

TESTIMONY OF SAMUEL BRINKLEY,¹ VICE PRESIDENT, HOMELAND AND INTERNATIONAL SECURITY SERVICES, WACKENHUT SERVICES, INC

Mr. BRINKLEY. Thank you, Madam Chairman. I know that Ranking Member Collins has left, but—

Senator MCCASKILL. She will be back.

Mr. BRINKLEY. I am looking forward to seeing her return.

I am here at the request of the Subcommittee to discuss the U.S. Government's contract to provide the protective force for the U.S. Embassy in Kabul.

As background, I am the Vice President for Homeland and International Security Services. I have previously served as a Marine infantry officer for 20 years. I have commanded from platoon through battalion levels. I was the WMD policy advisor in the Office of Counterterrorism in the Department of State for over 3 years, including on September 11, 2001, and I have been a professional staff member on the 9/11 Commission. I have over 35 years of experience in security, special operations, and force protection.

This past year, Wackenhut Services, Inc. (WSI) came to own ArmorGroup North America, often called AGNA, the prime contractor for the Kabul Embassy contract. Now, the events that led to this acquisition are somewhat circuitous, so let me go through that.

In May 2008, our parent, G4S, purchased the parent of AGNA, ArmorGroup International, in a friendly take-over on the London Stock Exchange. G4S purchased ArmorGroup International for the purpose of acquiring ArmorGroup's profitable operations in other parts of the world, not for any reason having to do with AGNA. AGNA was a troubled part of the broader ArmorGroup enterprise and they came along with the acquisition of ArmorGroup International.

At the time of G4S's acquisition of ArmorGroup in May 2008, ArmorGroup North America was subject to a notice to cure 16 deficiencies and weaknesses that had been issued by the Department of State on April 30, 2008. WSI has a strong reputation for effective performance of guard service contracts at U.S. Government facilities and our parent, G4S, asked WSI if we would take responsibility for assessing ArmorGroup North America's problems at the Kabul Embassy contract and for ensuring that whatever needed to be done was done to come into full compliance with contract requirements.

With the concurrence of appropriate U.S. Government officials, ownership of the stock of ArmorGroup North America was transferred to WSI in November 2008.

Now, within WSI, I was given the responsibility of overseeing ArmorGroup North America's corrective action and bringing AGNA into contract compliance starting in May 2008 and I have total re-

¹The prepared statement of Mr. Brinkley with an attachment appears in the Appendix on page 35.

sponsibility operationally for AGNA's performance of the Kabul Embassy contract. During the past year, we have, one, worked very hard to correct the inherited deficiencies in AGNA's performance of the contract.

Two, we have brought to bear the extensive experience of WSI acquired over many years of successful performance of guard services contracts for the U.S. Government.

Three, I personally worked with the forces on the ground at the Kabul Embassy and with the responsible parties at State Department to address each deficiency and weakness.

Four, WSI has made appropriate personnel changes and has thoroughly redone AGNA's internal processes and procedures to attain and sustain contract compliance.

We are proud to say that now we have addressed each weakness and deficiency in the performance of the contract and that today, AGNA is in full compliance with staffing and major requirements of the contract. The Kabul contract has been fully staffed since January 2009.

There are only two issues that we see remain open. We are awaiting the manufacture of certain training weapons, and that has been discussed with the previous panel member; however, I would like to point out that no training has been missed because we were using government-furnished training weapons versus the ones the contract required.

We also have a requirement for a relief or a back-up armorer. That armorer completed training yesterday and we will be deploying that person to Kabul. However, the contract requirement of having an on-scene armorer at post is filled.

I have submitted my written testimony. In that written testimony is a chart that shows the timing of our acquisition of ArmorGroup and the ownership chain and some of the key contract events since May, and you have that as an attachment to the written testimony.¹

I would like to emphasize four areas. Upon arrival, we immediately took steps to assess the situation, both on the ground and here in the United States. We sent a senior management team into Afghanistan to get a firsthand view of the situation. We were most concerned that the security of the embassy was impaired. While there, we walked the ground with our leadership, talked with the Department of State customer to get their view of the operational status. Back here, we brought in staff expertise to examine export control compliance, finance, and contract administration.

What we found was, first, the protective force operations on the ground were executed well and in good standing, according to the RSO. There were significant contract compliance and administrative issues. The Department had issued a cure notice with 16 deficiencies on April 30. The Department did not believe that AGNA's contract noncompliance rose to the level to impair the security of the embassy. We agreed with the Department's perspective that the embassy was secure.

Second, we moved to quickly develop a comprehensive corrective action plan that would bring the contract into compliance. We sub-

¹The chart referred to by Mr. Brinkley appears in the Appendix on page 41.

mitted a new comprehensive plan to address each deficiency and weakness on June 12, 2008. We implemented within AGNA and onto the contract proven WSI processes to staff the project with talented, reliable U.S./ex-pat and Gurkha guard force. Staffing, of course, was the major weakness of contract compliance. We changed and strengthened the ArmorGroup North America headquarters and in-country leadership.

Third, while we take the contract deficiencies seriously, we still see the embassy secure. The contract has been fully staffed since January 2009. There are several items left to be closed on the original 16 deficiencies. We found nothing inconsistent with DOS's views that the embassy is secure.

Finally, to attain and sustain contract compliance, financial resources have been spent. WSI and G4S are losing about \$1 million a month in the execution of this contract. In 2006, which has been discussed with the previous panel member, Assistant Secretary Moser, we bid on this contract. We lost to AGNA. The Department did determine that our bid was not technically correct, but I will tell you that our proposal price was significantly higher than ArmorGroup's.

Ironically, we now own AGNA and are having to execute this contract with what we believe is an unreasonably low price. After a year, I have become convinced that the services within the statement of work cannot be provided with ArmorGroup North America's proposed price. Let there be no doubt. Regardless of the negative financial impact that WSI has had, WSI is dedicated to mission one, the security of the U.S. Embassy.

In conclusion, I am most proud of the AGNA and the WSI employees who have worked so hard over the past year, both here and in Kabul, to make this contract right and to keep this embassy secure. They, in fact, are true professionals.

With that, I will be glad to answer your questions.

Senator MCCASKILL. Thank you, Mr. Brinkley.

Let me start with what is obvious here. Did you send a notice to the State Department that you did not wish to participate in the third year of the contract?

Mr. BRINKLEY. We have not.

Senator MCCASKILL. And why have you not done that?

Mr. BRINKLEY. Well, I look at this in two ways. We are a guard company that prides itself in doing missions well. We have worked very hard over the last year to make this contract compliant. We are very proud of that. We can do this job. So from that perspective, operationally, we are proud to do that and proud to make it right.

On the other hand, there is the financial business side. I would prefer to do it and not lose money. So that is where we are at this point in time.

Senator MCCASKILL. Well, I am confused. If you are losing \$1 million—did you say \$1 million a month, you are losing?

Mr. BRINKLEY. That is correct.

Senator MCCASKILL. Well, if you are losing \$1 million a month, why wouldn't you tell them you don't want the contract again and they would have to rebid it?

Mr. BRINKLEY. Well, it is my understanding that it is the government's decision to execute the option and I just heard Assistant Secretary Moser's testimony that we have the option and we will take that under advisement.

Senator MCCASKILL. OK. You have testified that in January of this year, the contract was fully staffed and even over-staffed according to the requirements of the contract. But yet a few months ago when the State Department did a verification of that, there was, in fact—it was determined there were 18 posts vacant. If you were fully staffed, was that just negligence?

Mr. BRINKLEY. It was an issue associated, Senator, with break time with the guard force. The guard force has a requirement that on several times a day—in the morning, at lunch, and in the afternoon—to break personnel on post. The personnel on post were improperly relieved. They were actually on embassy property and were in the break room. Were the posts open? Yes. Were the personnel on the embassy grounds and able to respond? Yes. The deficiency was based upon the supervisors that were immediately over them and that they did not ensure that break occurred properly.

Senator MCCASKILL. Could you shed any light on the situation with the counterfeit purchases and the procurement officer buying almost \$400,000 worth of goods from his wife?

Mr. BRINKLEY. Madam Chairman, that happened before our acquisition of the company. I have the same knowledge of the documents that the Committee has and I don't have any—

Senator MCCASKILL. Is that individual working for you?

Mr. BRINKLEY. No.

Senator MCCASKILL. And do you buy anything from his wife's company?

Mr. BRINKLEY. No.

Senator MCCASKILL. Let us talk about the language issue. You are now representing that you have all of your folks in compliance with the language requirement of the contract?

Mr. BRINKLEY. That is correct. And if I might, let me explain the process that—what we inherited and the process we are doing to ensure that the personnel that are at the embassy have their language requirements and maintain, if you would let me.

One, there were a number of personnel prior to our acquisition that did not have the language capability in which the contract mandates. As we acquired the company, there at that time was a full-time English instructor in Kabul on the contract teaching English to fill that gap. That instructor certified all the personnel at that time at the level two English, in accordance with the requirement.

Now, we noticed that this is obviously a problem for the long-term, so as we go now to recruit Gurkhas as replacements, we give them full language tests in Kathmandu to even qualify them to be a part of this guard force. And so we certify that with an independent instructor in Kathmandu outside of those that would do the actual recruiting. So we have an independent assessment of their capability and then we have that documentation.

Additionally, we currently have a full-time English teacher in Kabul in Camp Sullivan that has language classes every week with the current force. Additionally to that, we are in the process of hir-

ing a second language instructor to go in to augment that current instructor to increase the number of hours that we have capable. So all the current guard force have certifications of which they are level two or level three, as required, and we are going to increase the capability to sustain that with language instructors on the contract.

Senator MCCASKILL. And finally, before I defer to Senator Collins, you are receiving around \$37 million a year on this contract?

Mr. BRINKLEY. I would have to look at the exact numbers. It is whatever \$190 million is divided by five, I guess, whatever one-fifth of that might be.

Senator MCCASKILL. And the third-country nationals are making about \$5.35 an hour?

Mr. BRINKLEY. They have a set rate of about \$800 a month, yes.

Senator MCCASKILL. And the local nationals, which you have some working on this contract, make \$2 an hour?

Mr. BRINKLEY. That is correct.

Senator MCCASKILL. Thank you. Senator Collins.

Senator COLLINS. Thank you.

Mr. Brinkley, I want to go back to the letter that the Chairman mentioned that was sent on March 30 of this year, so this is when the obligations are at this point firmly under WSI's control, talking about the Kabul staffing issues and listing the areas where there appeared to be vacant guard posts over a period of, I guess it is just 2 days. Now, it is evident that the 19 posts that were identified were not vacant all at the same time, correct?

Mr. BRINKLEY. That is correct.

Senator COLLINS. But what is disturbing to me is this was a spot check over 2 days and it found so many vacancies. So to me, what you have here is a pattern that is disturbing and it isn't as if these guard posts were vacant just for a few moments. They were vacant for long periods of time. For example, in one case, they are vacant from 11 p.m. to 2:30 a.m., 210 minutes. In another case, they are vacant for 76 minutes. So it is not as if just for a few minutes these were vacant. And while I understand that not all 19 were vacant at the same time, to me, it is more troubling that there was a pattern each day of vacancies. Has this problem been remedied?

Mr. BRINKLEY. Senator Collins, the answer to that is yes. We were disturbed with that, as you would think we would be. We obviously debriefed and have talked to the actual inspector. We have made sure we understood clearly how it was done and the problems, and where we needed to take corrective action with supervisors that was necessary, they have been removed from their post and different supervisors have been placed. I have personally talked to the program manager about that issue and we know that they have taken corrective actions and we believe that that will not be a reoccurring theme.

Senator COLLINS. I discussed with Mr. Moser the initial award of the contract to AGNA and he told me that WSI had bid on the contract but that you had not been found to be technically acceptable. Is that accurate?

Mr. BRINKLEY. I was not in the debrief of WSI from the selection. I was part of the operations advisors on building the contract, or on our submittal. So I believe from my perspective I was most fo-

cused on the price difference. If there was a technical part of the proposal in which WSI was found not technically acceptable, I am unaware of what exactly what that might be.

Senator COLLINS. I would like you to get back to me on that issue because your testimony says that it was a matter of cost, not technical qualifications. Mr. Moser says that it wasn't a difference in the price but rather that WSI was not found to be technically acceptable. So I am going to ask both of you to get back to me on that issue.

Mr. BRINKLEY. Yes, ma'am. We will take that for the record and we will get back.

Senator COLLINS. You have mentioned in your testimony and confirmed to Senator McCaskill that you are losing \$1 million a month on this contract, which does raise the issue of why you would want to continue the contract in the next option year. That seems very odd to me. Could you expand on your answer on that?

Mr. BRINKLEY. Yes, Senator. As I described to the Chairman, it falls into two areas. Operationally, we take great pride in being able to perform very complex, complicated contracts and doing them very well, and we have a long history of being able to do that in WSI. We bid on this contract because we knew we could do this contract and we knew we could do it well. We now have assumed this contract and it has been difficult, not without a lot of work by some very hard-working professionals, we have become contract compliant. And so from that perspective, it would be very difficult for me to sit here, knowing how hard everyone has worked to get here, to say we would not want to continue to do it and do it well.

On the other side, from the business side, of course, we would like to get paid for what it costs us to do it well. And as my testimony indicates, I am convinced after a year that we cannot do it contractually compliant and meet the statement of work requirements with the initial bid.

Senator COLLINS. Which I guess gets me back to the issue I raised with Mr. Moser about the statutory requirement that is clearly well intended—I hope I don't find out later that I actually wrote it— [Laughter.]

That says that it ought to be the lowest bid of the technically acceptable contractors. That makes perfect sense. We want competition. We want the lowest price. But it looks to me like there was a pattern here of underbidding to try to secure the contract in the first place and then a failure to perform.

Is WSI financially secure enough to fulfill the contractual obligations, such as providing all of the necessary, legally obligated equipment, staffing, supplies, training, for the employees who are working on this contract and continue to lose \$1 million a month?

Mr. BRINKLEY. Senator, I can assure you that we are financially capable of fulfilling all of the requirements of this contract.

Senator COLLINS. Thank you.

Senator MCCASKILL. Well, let me just step back and take a broad view. We have thousands and thousands of men and women in uniform in Afghanistan. We all know the challenges Afghanistan represents in terms of our military mission. We know that the option of hiring local nationals was not an option because of the issues of security surrounding local nationals.

You are a former Marine, and thank you for your service. I am looking at a security contract where we are paying some people as little as \$2 an hour to guard the embassy. The majority of the people guarding the embassy are making a little over \$5 an hour. And the company that is providing this is telling the U.S. Congress that they are losing \$1 million a month on the deal. I don't want to impugn in any way your company's integrity. I am sure you have every intention of complying with this contract over the year, but losing \$1 million a month is pressure.

I am asking you now, should we be hiring private contract firms such as yourself to guard embassies in this situation or should we as a Nation begin to contemplate the notion that when we are in theater, the embassy in theater should, in fact, be guarded by our own military?

Mr. BRINKLEY. I will defer the answer on the latter to the force capabilities for the Department of Defense to determine whether or not they have the resources to do that or not and their view of that. Can we as private security do this job? Oh, yes, absolutely. There is not an issue here. I mean, we are doing it now and we are doing it well. Some of the issues associated with the cost issues are really based upon how the proposal itself was structured.

There are two issues, as you would know, in a firm-fixed price—let me put it this way. In some competitive markets, the requirements that people think are necessary to get the work can drive people to do things that are unreasonable in the price and they will lose money on it. People make bad business decisions. In this case, we know that it takes more than this proposal was initially bid for, not necessarily because of the price for the salaries, but how it was structured—the manning factors, the number of people that it takes to actually meet the contract requirements. So the structure of the contract or the bid itself is significant in what the losses are.

We have applied all the resources necessary to ensure that we are fully contractually compliant, can handle people on emergency leave, can handle people that are delayed coming back from R&R. That takes additional manning on the ground. Many of those cases that financially drive are the U.S. personnel that are required on this contract because they are not \$800 a month people.

Let me go to the \$800 or the \$2 an hour person. The local nationals, as anyone would know, and I am sure even on the ground at the embassy, are getting paid prevalent wages that are for that particular area. I will tell you, because I have been on the ground and I have talked to the senior local national that is our interpreter and works with all the local nationals, the pay that we give them makes some of those local nationals some of the higher-paid people in Afghanistan. They are loyal. They have been with this contract for a long time. They come to work every day and they are very dedicated to doing this well.

The \$800 that we pay the Gurkhas, and that is the minimum level for a guard. That is not the leadership. That number is significantly different for the senior guy who is a retired sergeant major of British Army Gurkha experience. This is a prevalent wage. It is competitive. That wage itself is higher than we pay for the guards, the Gurkha guards, that are in the embassy in Bahrain. It is higher than the Gurkha guards that are standing duty

on the Naval Support Activity in Bahrain. And it is competitive with the salaries according to the Gurkhas that are protecting the British Embassy in Kabul. And many of those Gurkhas have been out there for any number of years. It is competitive. They are very talented, dedicated people who come to work every day and do their jobs very well.

So it is difficult for me to, at times, make you think that it is the cost per hour versus it is the problem that we are not getting value for the people that we pay those wages to, because that is not correct. And in that, we should not be, in my view, using as the standard from which we judge the security of the embassy.

Senator MCCASKILL. OK. The contracts you just referred to, does your company have all those contracts?

Mr. BRINKLEY. I have oversight of the security for the Naval Support Activity in Bahrain.

Senator MCCASKILL. And for the British Embassy in—

Mr. BRINKLEY. The British Embassy does not fall under my responsibility, but it does fall under a part of Group 4 Securicor (G4S).

Senator MCCASKILL. So it is your company?

Mr. BRINKLEY. The parent company on the latter.

Senator MCCASKILL. OK. So are those contracts profitable?

Mr. BRINKLEY. I am not clear. I don't know the answer to that. The Naval Support Activity in Bahrain, the answer is yes. I have that contract, so I know that contract is profitable.

Senator MCCASKILL. Well, I would be interested—and you can take this question for the record—I would be interested in your answer as to why the contract that you have in Bahrain, why it is profitable and why this one isn't and what are the differences between the two contracts that make one profitable and one not.

I am going to continue to be troubled by the notion that you can be fully compliant on a contract that you are losing significant money on. I think we have got to figure out a way to resolve that because there are two more years of options on this contract. So are you signing up to lose \$12 million a year for the next 3 years? And if so, I just think that defies common sense, and generally when we are defying common sense, something happens that shouldn't happen.

So I would like you, Mr. Brinkley, to go back and take a look at that proposition and give us some information for the record comparing these contracts that your company has where you are essentially providing third-country national guards for the U.S. Government for security purposes so that we can try to get to the bottom of it from an oversight perspective.

Mr. BRINKLEY. We will be glad to do that, Senator.

Senator MCCASKILL. Thank you very much.

Senator COLLINS. I have no further questions.

Senator MCCASKILL. I thank you and Mr. Moser and the State Department for the hearing today. I think we have learned some things about contract oversight as it relates to guarding our embassy in theater. I think we have some issues that we need to talk about in terms of going forward. I greatly appreciate the cooperation that was shown to the Subcommittee and I look forward to

even greater cooperation, and maybe I can talk you guys into sitting at the same table next time.

Thank you all very much. This hearing is adjourned.

[Whereupon, at 4:02 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Opening Statement of Senator Susan M. Collins

Allegations of Waste, Fraud, and Abuse in Security Contracts at the U.S. Embassy in Kabul

Subcommittee on Contracting Oversight Committee on Homeland Security & Government
Affairs

June 10, 2009

In government procurement, ensuring the best value for the American taxpayer is important under the best of circumstances, but it is crucial when our nation is at war and our fellow citizens are serving in harm's way in Iraq, Afghanistan, and in other overseas locations.

Federal employees and contractors working in these hostile environments should feel secure within the walls of our embassies. While safety cannot be guaranteed, our nation owes Americans, and the foreign nationals that serve by their sides, a reasonably secure safe haven from those who would do them harm.

Our embassies depend on private security contractors to supplement Marine security detachments or other federal security officials. The vast number of these security contractors perform admirably for the U.S. Government. Unfortunately, however, the Government Accountability Office, Inspectors General, and other investigative bodies have found numerous examples where private security contractors have failed to uphold their contractual obligations and have left their government partners vulnerable to failure or attack.

To improve private security contractors and to protect federal interests, the federal government needs to have precise contract requirements, and diligent program management and oversight by all federal agencies.

Today's hearing will examine this very issue in a specific context - security at the American Embassy in Kabul, Afghanistan.

We will examine the State Department's role in writing a clear, performable contract and its ability to provide consistent and responsible contract management and oversight.

We will examine the steps State took to identify the deficiencies in performance by ArmourGroup North America (AGNA) and how State held AGNA accountable for poor performance.

In the end, we hope that the lessons learned from this hearing will improve contract administration and lead to better security for our embassy staff.

I am particularly concerned that the Department of Defense Security Service (DSS) and the State Department failed to coordinate effectively concerning the ownership of the American subsidiary AGNA by its UK-based parent, ArmourGroup plc.

DSS's mission is to oversee the protection of US and foreign classified information that a contractor may be required to possess in performance of its contractual duties. In yearly reviews of contractors, DSS routinely examines financial solvency and independence, leadership, fiscal obligations such as pledges, mortgages or debts, and the sale or disposal of a company's assets. For companies with an overseas parent, DSS also ensures that an appropriate firewall exists between the operations and management of the U.S. subsidiary and its foreign parent.

Based on the information provided to Committee staff, it appears that AGNA's performance progressively worsened each year. AGNA's DSS performance rating started at a "superior" rating in 2006 and dropped to a "satisfactory" rating by November 2008. DSS currently has no obligation to communicate these performance ratings to the sponsoring agency - in this case the State Department - unless the rating falls to "unsatisfactory." Had the State Department been aware of this decline, it may have served as an additional red flag that AGNA might be struggling to fulfill its contract obligations.

I look forward to exploring this issue with the State Department and regret that a representative of the Defense Security Service could not attend the hearing despite our invitation.

The performance by AGNA under the Kabul Embassy contract provides a prism by which we may begin to view some important and critical questions:

- If we choose to deploy private security contractors, what oversight is necessary to ensure appropriate safety and security at our embassies?
- Are federal agencies incorporating appropriate requirements into security contracts, and are they providing adequate oversight?
- How can we be certain that adequate screening, training, and performance reviews are part of the private-security contracting process?
- How can we provide for inter-agency sharing of contractor performance, best practices, and lessons learned regarding the use of private security contractors?

These and other questions need better answers that I hope our witnesses today will be able to provide.

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Opening Statement
of
William H. Moser
Deputy Assistant Secretary of State for Logistics Management

Chairman McCaskill, Ranking Member Collins and Members of the Committee, thank you for the opportunity to appear before you today to discuss the Department of State's management of contracts to provide security services at the U.S. Embassy in Kabul, Afghanistan.

The Department of State has extensive experience with procuring services to protect our overseas diplomats and facilities. Diplomatic activity is ever-changing to meet the needs of our country amid evolving world events.

In today's testimony I will address the performance of ArmorGroup, North America as the provider of static guard services for our Embassy in Kabul as well as the State Department's oversight of this contract.

Because of the dangerous and unique environment, acquiring guard services for our mission in Kabul is challenging. However, by staying focused on the number one priority, the security of the embassy, complemented by effective contract management, the Department of State has successfully balanced its security requirements and contract compliance.

Indeed, improving the world wide program for procuring guard services is a Department priority. The Department established an embassy guard branch in the Office of Logistics Management to consolidate, streamline and regionalize these contracts previously administered individually by posts. We believe that these complicated contracts should be centralized so that they receive the attention from procurement professionals that they deserve. We have grown to administer 53 contracts worldwide.

This transition has not been without some growing pains, including a backlog of price adjustments and change management with posts. However, we already see that centralizing of the contracting program has achieved results that individual posts could not achieve.

I would like to go into more detail about security services at our U.S. Embassy in Kabul, Afghanistan. We have met with your staffs three times in the past three weeks. We believe these meetings have been extremely productive. The Department presented historical background, described the on- the- ground conditions in Kabul, and outlined the many steps taken to ensure appropriate oversight of the ArmorGroup, North America contract.

Prior to the award of ArmorGroup, North America, the Department had terminated a contract with MVM due to the contractor's failure to meet contract requirements. In March 2007, a new guard contract was awarded to Armor Group, North America. As required by law, this contract was awarded based on the lowest price, technically acceptable offer. The award was for one base year and four option years. The Department is currently in the first option year.

As with all guard contracts, there is constant communication with and collaborative efforts by the contracting officer and Diplomatic Security in Washington, and the Regional Security Officer on the ground in Kabul. For the ArmorGroup, North America contract, weekly meetings, and at times, daily meetings are held on contract performance. At the end of the first contract year, Diplomatic Security and the contracting officer completed a thorough evaluation. In addition, the Bureau of Diplomatic Security has

conducted 14 program management reviews since contract award. Through this constant oversight, the Department identified several issues and deficiencies and worked to correct them with Armor Group, North America. However, at no time was the security of American personnel at the U.S. Embassy compromised. Indeed, one of my priorities in traveling to Afghanistan last week was to have discussions with the Regional Security Officer and Senior Post Management to confirm this fact.

During the 2007 transition to ArmorGroup, North America the Department identified deficiencies in personnel, training, equipment, and performance. The contracting officer and the program manager issued several deficiency letters, a cure notice, a show cause notice and carefully monitored ArmorGroup, North America's corrective action plans. During this monitoring, we discovered other deficiencies concerning reporting, invoicing, and weapons for training. The most serious of our concerns were manning deficiencies that the contractor covered by the use of overtime hours. The Department always took appropriate deducts from its payments to ArmorGroup, North America to ensure that the U.S. Government was compensated for less than full compliance with contractual terms. At the same time, we worked with ArmorGroup, North America to correct these problems.

Through this difficult period of contract administration, we have always remained focused on what counts the most – the security of our personnel and facilities in Kabul. The Regional Security Officer in Afghanistan has always reported that despite the contractual deficiencies, the performance on the ground by ArmorGroup, North America has been and is

sound. The Regional Security Officer and senior officials in the Kabul Embassy reaffirmed this to me last week.

Effective contract administration in a war zone is challenging. However in this case, we feel we found the right balance of enforcing contract compliance without losing sight of protecting our people and facilities in Kabul.

I look forward to your questions and thank you for the opportunity to address the members of the committee.

**Testimony of Samuel Brinkley
Vice President, Homeland and International Security Services,
Wackenhut Services, Inc.**

Chairman McCaskill, Acting Ranking Member Collins, Members of the Subcommittee, I appear before you today at the request of the Subcommittee to discuss performance of the contract to provide the protective force for the U.S. Embassy in Kabul, Afghanistan (the "Kabul Embassy Contract" or "Contract").

This past year, our company, Wackenhut Services, Inc. ("WSI"), came to own ArmorGroup North America, Inc. ("AGNA") – the contractor on the Kabul Embassy Contract. The events that led to our owning AGNA are circuitous. In May 2008, our parent, G4S plc ("G4S"), purchased the parent of AGNA, ArmorGroup International plc ("ArmorGroup") in a friendly takeover on the London Stock Exchange. G4S purchased ArmorGroup for the purpose of acquiring ArmorGroup's profitable operations in other parts of the world – not for any reason having to do with AGNA. AGNA was a troubled part of the broader ArmorGroup enterprise that came along with the acquisition of ArmorGroup.

At the time of G4S's acquisition of ArmorGroup in May 2008, AGNA was subject to a notice to cure certain deficiencies and weaknesses that had been issued by the State Department on April 30, 2008. WSI has a strong reputation for effective performance of guard services at U.S. Government facilities – and our parent asked WSI if we would take responsibility for assessing AGNA's problems on the Kabul Embassy Contract, and for ensuring that whatever needed to be done was done to come into full compliance with Contract requirements. With the concurrence of appropriate U.S. Government officials, ownership of the stock of AGNA was transferred to WSI in November 2008 – and we inherited AGNA and its problems.

Within WSI, I was given this responsibility for overseeing AGNA's corrective actions and bringing AGNA into Contract compliance. I now have total operational responsibility for AGNA's performance of the Kabul Embassy Contract.

During the past year, we have worked hard to correct the inherited deficiencies in AGNA's performance of the Contract. We have brought to bear the extensive experience of WSI acquired over many years of successful performance of guard services contracts for the U.S. Government. I personally have worked with the forces on the ground at the Kabul Embassy and with the responsible parties in the State Department to address each weakness and deficiency. WSI has made appropriate personnel changes and has thoroughly re-done AGNA's internal processes and procedures to attain and sustain Contract compliance.

We are proud to say that we now have addressed each weakness and deficiency in the performance on the Kabul Embassy Contract – and that today AGNA is in full compliance with the staffing and other major requirements of the Contract. The Kabul Contract has been fully-staffed since January 2009. Only two issues remain open: we are

awaiting manufacture of certain training weapons that AGNA was to provide (AGNA used Government-provided weapons for training rather than contractor-provided weapons); and a “relief” or “back-up” armorer is completing training and soon will be deployed to Kabul.

Included as Attachment A to my written testimony is a chart that shows the timing of our acquisition of AGNA, the ownership chain, and the timing of key Contract events since May 2008 when we stepped in to correct the weaknesses and deficiencies in AGNA’s performance.

I will address briefly our assessment of Kabul Embassy Contract performance by AGNA, our remedial measures, and how all of this relates to Contract compliance and to the security of the Embassy.

A. WSI Made an Independent Assessment of AGNA’s Performance of the Kabul Embassy Contract

In May 2008, WSI sent a senior management team to Kabul to make an on-the-ground assessment of Kabul Contract performance. WSI’s assessment team was comprised exclusively of non-AGNA employees, and was tasked with developing an objective assessment of performance, performance deficiencies, and the measures needed to become Contract compliant.

In CONUS, WSI reviewed AGNA’s export control compliance, financial status and Contract administration. We reviewed a March 2008 internal assessment that had been conducted by ArmorGroup. We also gave special attention to deficiencies and weaknesses identified previously by the State Department in its cure notice of July 19, 2007. In addition, WSI used as a punch list for our assessment the allegations made in a lawsuit filed by two former AGNA employees – who were the in-country program manager and deputy program manager during the transition period (*i.e., before* AGNA’s assumption on July 1, 2007 of responsibility for security of the Kabul Embassy).

WSI also contacted the DOS customer. We heard from the Regional Security Officer in Kabul that guard force operations were “executed well” and that AGNA was in “good standing” from the perspective of guard force operations. Thus, we came to understand that a distinction was being made between the operational security of the Embassy and compliance with all Contract requirements. The State Department was very dissatisfied with AGNA’s Contract compliance. AGNA was not complying with various requirements of the Contract. However, the view of the State Department was that AGNA’s non-compliance with these Contract requirements had not risen to the level of impairing protective force operations to the degree that the Embassy was not secure.

The State Department’s view that the Embassy was secure was an important part of our assessment. We had concerns about potential adverse effects on security because in the June 2007 cure notice (issued the year prior to our acquisition of AGNA) the State Department stated:

AGNA underestimated the difficulty that it would encounter accomplishing several tasks necessary to ensure full compliance with the contract terms and conditions as of July 1, 2007. This failure, as already addressed in this letter, places the U.S. Embassy at some additional security risk since AGNA is not fully compliance with all terms and conditions of the contract at this time.

However, this cure notice had to do with inadequacies in AGNA's transition of the contract prior to taking over security of the Embassy on July 1, 2007 – and left open a question as to whether the suggestion that there might be “some additional security risk” meant that security at the Embassy in fact had been impaired.

We were comforted to learn during our assessment in May 2008 that the State Department did not believe that AGNA's non-compliance with contract terms and conditions rose to the level of impairing operational security at the Embassy.

Our independent assessment confirmed that there were significant contract compliance deficiencies, and that AGNA's administration of the Contract was unsatisfactory. WSI also noted numerous structural and maintenance problems at Camp Sullivan (the Government-owned camp housing the Embassy's guard force).

In their April 30, 2008 notice, the State Department identified sixteen specific deficiencies and weaknesses under the Contract. We confirmed that the situation with regard to each of these was not good. The sixteen Contract deficiencies and weaknesses were as follows:

1. Failure to provide an armorer
2. Failure to provide relief guards
3. Failure to submit Moderate Risk Public Trust (MRPT) packages for new hires
4. Failure to obtain clearances for watch keepers/standers
5. Failure to provide required amounts of ammunition
6. Failure to provide deliverables on time and continued late submission of deliverables
7. Deficient employee DS/IP/OPO forms
8. Deficient staffing of open posts
9. Overuse of dog handlers
10. Provision of weapons for re-qualification and training
11. Deficient gym equipment
12. Deficient generators at Camp Sullivan
13. Leaky roofs at Camp Sullivan
14. Deficient invoicing
15. Failure to provide relief guards for posts stood up on Nov. 1, 2007
16. Failure of all guards to meet required language level

B. WSI Acted Promptly to Remedy the Identified Deficiencies and Weaknesses – and Has Successfully Brought AGNA to Contract Compliance

During our May 2008 assessment, we reviewed a corrective action plan that had been submitted by AGNA to the State Department. We were not impressed. We requested State Department permission to withdraw the corrective action plan and submit a new one – which we did.

On June 12, 2008, we submitted a new, comprehensive corrective action plan. We proceeded immediately to address each deficiency and weakness – and, more broadly, to make the changes on the ground in Kabul and at AGNA headquarters in the United States that were necessary to bring the company into Contract compliance.

We implemented, within AGNA and onto the Contract, approaches that WSI has developed – and that have proven effective – over WSI’s many years of providing high-quality guard services at U.S. Government facilities. Specifically:

- We changed and strengthened leadership on the ground in Kabul and at AGNA headquarters. In-country, I and other senior managers engaged directly with the guard force to define expectations. We underscored WSI’s commitment to professionalism and integrity – and provided training and practices with regard to the high level of performance that is expected of our people. Where appropriate, we made personnel changes to ensure a proper commitment to our high standards. We completely restructured AGNA management at its headquarters.
- We changed completely AGNA’s process and procedures relating to AGNA’s execution of the Kabul Contract – including: reporting, personnel forecasting, recruiting, and clearance processes.
- Staffing was a major problem on the Kabul Embassy Contract. In this area, we implemented WSI’s proven recruiting, screening and training procedures – and had certain of these functions performed by WSI who are experienced in recruiting quality personnel for projects of this nature. Screening and hiring of reliable personnel are essential to reduce turnover and ensure that those who are employed at the Embassy have personal characteristics and commitment that are consistent with static guard services work.

During the past year, we have met with the State Department frequently – usually weekly – to report on our progress in bringing AGNA into compliance with Contract requirements. These efforts have not been pleasant. The State Department has been diligent – even forceful – in holding AGNA accountable for Contract performance – and has given WSI little or no tolerance even though we came to the Contract only in the past year and have worked hard to set things right.

Since January 2009, the Kabul Contract has been fully staffed – even over-staffed according to the requirements of the Contract. We have additional personnel ready if needed – which creates the ability for guard force members to take unpaid leave when necessary. In addition, we have taken all steps necessary to close out the remaining two open issues.

- The armorer position is fully staffed. AGNA has a relief armorer in training, which will allow the full-time armorer to go on rest and recuperation. Training is scheduled to be complete by June 10, 2009.
- AGNA has obtained all government licenses and approvals (e.g. U.S. export, Afghani import, ATF, etc.) necessary for acquisition, transportation and deployment to Kabul of weapons used for training and re-qualification. Previously, AGNA has used Government-provided weapons for training. AGNA has an order pending with the manufacturer that will enable the contractor to provide training weapons. Weapons manufacture is subject to the Defense Priorities and Allocations System – and Department of Defense acquisitions may be given priority over AGNA's pending order. At present, manufacture is scheduled for August 2009.

As we understand it, the State Department recognizes that we have been successful in bringing AGNA into Contract compliance. This past April, the State Department assented to our corrective measures.

Our people have worked smart and hard both here and in Afghanistan. As their leader, I want to express how proud I am of what they have accomplished in bringing the company into Contract compliance.

C. To WSI's Knowledge, the Contract Non-Compliances Did Not Impair Guard Force Operations Such that the Embassy Was Not Secure

In no way do we minimize the significance of AGNA's non-compliance with the Contract. AGNA's compliance with and administration of the Contract was inadequate. Corrective measures were necessary – and important.

At the same time, it is important to recognize that AGNA's non-compliance with Contract requirements did not result, to WSI's knowledge, in impairment of guard force operations. Guards were equipped and on-post getting the job done. To our knowledge, at no time was the Embassy not secure.

During WSI's involvement with the Contract, we have found nothing that is inconsistent with the State Department's statement to us in May 2008 that guard force operations were sufficient to maintain security – notwithstanding the many frustrating Contract non-compliances and AGNA's ineffective Contract administration.

During the months that followed, much work has been done to increase manning in accordance with Contract requirements – and to otherwise ensure that performance was in accordance with all Contract requirements. Throughout the correction of the Contract deficiencies and weaknesses, however, never to our knowledge was there not an adequate presence of well-equipped guards at their posts to keep the Embassy secure.

D. WSI and Its Parent Are Incurring Losses of Approximately \$1 Million Per Month to Ensure Security of the Kabul Embassy

An irony of the current situation is that WSI submitted a proposal for the Kabul Embassy Contract – and was not selected for award because WSI's price was substantially higher than the price offered by AGNA. Now, WSI has come to own AGNA, and WSI is incurring huge losses as a result of AGNA's unreasonably low price.

We feel we can safely say that adequate guard services for the Kabul Embassy cannot be provided for the Contract price. AGNA proved that it could not provide adequate services for the price. In our year on the Contract, I have become convinced that we cannot provide the services required by the Contract for the Contract price.

The Contract is structured such that the contractor bears the risk of any costs incurred above the Contract price. The Government pays a fixed price for day-to-day guard services (*i.e.*, Standard Services) – that is calculated by multiplying fixed hourly labor rates by a fixed number of hours (as set forth in Exhibit A to the Contract). The Government also pays a fixed monthly rate for operation, maintenance, repair, food services, medical services, vehicles and ammunition.

WSI's costs for providing the services required under the Contract are exceeding the Contract price by approximately \$1 million per month – \$12 million per year with no profit.

Each continuing year of the Contract is awarded by means of the State Department exercising an option for that year. The option is the Government's – not WSI's. If the State Department exercises an option, AGNA must perform.

WSI and G4S have dutifully corrected the inadequacies in AGNA's performance – and we dutifully continue to perform notwithstanding the mounting losses on the Contract. However, we would welcome any help that the Subcommittee might be able to provide to enable the Government to pay a more reasonable price for security for the Embassy.

Thank you. I would be pleased to respond to any questions.



Professionalism with Integrity

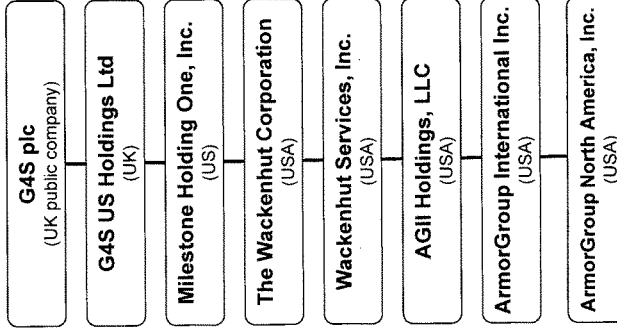
Ownership and History

Acquisition(s)

- Spring 2008 – G4S plc acquires ArmorGroup plc in friendly takeover on London exchange
- AGNA was a small part of larger acquisition – operated pursuant to Proxy Agreement in US
- G4S asks WSI Proxy Holders to consider acquiring AGNA
- May 2008 – WSI undertakes to resolve difficulties related to AGNA performance of Kabul Embassy Contract
- November 2008 – WSI (through AGIL Holdings, LLC) acquires stock of ArmorGroup International Inc. (parent of AGNA)
- December 2008 – DSS terminates AGNA Proxy Agreement; AGNA comes under WSI Proxy Agreement

Kabul Embassy Contract

- May 2008 – DOS notice issued in April 2008 was pending; AGNA submitted corrective action plan
- WSI asks DOS to withdraw AGNA's corrective action plan
- WSI conducted review
- June 2008 – AGNA submits new corrective action plan
- July 2008 – DOS awards first option year to AGNA
- Worked with DOS to address DOS-identified deficiencies and weaknesses
- Sep 2008 – DOS sends "show cause" letter regarding staffing
- Jan 2009 – staffing compliant
- Apr 2009 – DOS assents to corrective action plan



**United States Department of State**

Washington, D.C. 20520
www.state.gov

June 19, 2007

Mr. Karl Semancik, President
ArmorGroup North America Incorporated
1420 Spring Hill Road, Suite 300
McLean, VA 22102

Subject: Cure Notice Issued Per FAR 49.402-3 /
Contract No. S-AQMPD-07-C0054

Dear Mr. Semancik:

The purpose of this letter is to advise you that I consider the contract deficiencies addressed below to endanger performance of the contract to such a degree that the security of the US Embassy in Kabul is in jeopardy and that failure to correct the deficiencies immediately could result in termination of the contract for default and award of the contract to the next in line offeror. Therefore, ArmorGroup North America (AGNA) is requested to submit a corrective action plan (CAP) to me within the next ten (10) calendar days, and the CAP should address how each of the deficiencies listed in this letter will be corrected immediately and precluded from reoccurring in the future.

The CAP should address the reasons for each deficiency, the actions taken to immediately correct the nonconformance act, the date which the deficiency will be corrected and the actions taken to preclude the specific deficiency from reoccurring in the future. Furthermore, I ask that AGNA once again carefully review the contract requirements and provide me a self assessment evaluation addressing whether there are any additional terms and conditions of the contract which AGNA is in noncompliance at this time.

Hopefully, AGNA's CAP will convince me and others that AGNA can correct these deficiencies in a timely and efficient manner; and at the same time reduce performance risk to a minimum level during the initial and subsequent performance periods. If the CAP is executed in a timely and efficient manner, it should minimize performance risk as well as provide AGNA with the means of identifying potential noncompliance acts. This in of itself will enhance the overall security posture of the U.S. Embassy. Assuming that all of the aforementioned actions occur and no other major deficiencies occur during the initial performance period of July 1, 2007 through June 30, 2008, the Contracting Officer's Representative (COR) should be able to make a favorable recommendation to me to exercise the 1st Option Year provision in the contract. These deficiencies will be addressed in AGNA's next performance evaluation, whether annual or directed.

It goes without saying that AGNA worked extremely hard from date of award of the contract and the issuance of the notice to proceed (NTP) to be able to assume full responsibilities of all guard duties on July 1, 2007. However, it is clear from the numerous meetings and conference calls conducted over the past several weeks that AGNA underestimated the difficulty that it would encounter accomplishing several tasks necessary to ensure full compliance with the contract terms and conditions as of July 1, 2007. This failure, as already addressed in this letter, places the U.S. Embassy at some additional security risk since AGNA is not fully compliant with all terms and conditions of the contract at this time. We are taking all possible actions to expedite the processing of Moderate Risk Public Trust (MRPT) packages, and I ask that AGNA once again review its internal process for reviewing resumes and MRPT packages before they are submitted to the Department of State. A significant number of the new hires have had security clearance denials, and I am fairly confident that the majority of these individuals failed to adequately address financial problems/issues by providing an addendum sheet which provides detailed information about questionable financial transactions.

I strongly encourage AGNA to take a very detailed look at its Quality Assurance / Quality Control (QA/QC) plan to determine why some of the deficiencies noted below as well as other topics of concern voiced by members of the Office of Overseas Protective Operations (DS/IP/OPO) were not identified and corrected in sufficient time that AGNA could have been fully compliant with all terms and conditions of the contract on July 1, 2007. We approved your request to change several Key Personnel in weeks leading up to the July 1, 2007 date, and we understand that these individuals had minimum time to complete critical tasks before this date. However, this action did not relieve AGNA of its responsibilities to be compliant with all terms and conditions of the contract as of this date.

The U.S. Government has the right to demand strict compliance to the terms and conditions of the contract, and all terms and conditions must be met unless waived by the Contracting Officer. Therefore, AGNA should anticipate the U.S. Government taking deductions in accordance with Exhibit C (Quality Assurance and Surveillance Plan) for failing to perform in accordance with the terms and conditions of the contract. These deductions could be substantial since the deduct rate is \$89.00 per hour for certain deviations from the contract requirements. Therefore, AGNA is once again encouraged to take all necessary actions to correct the deficiencies addressed in this letter immediately. Unless specifically authorized by the Contracting Officer in writing and/or verbal instructions with written follow-up documentation, AGNA is not authorized to work any member of the Embassy Security Force (ESF) who does not meet all contract terms and conditions of the contract such as not having a security clearance. Should AGNA elect to disregard this guidance, the U.S. Government will not only take deductions in accordance with Exhibit C for specific deviations from the contract requirements, it will also not reimburse AGNA for services performed by an individual who does not meet all contract requirements for his/her labor category.

On numerous occasions since the award of the contract, I advised you as well as other members of your staff that it would be difficult to convince me as well as others that a waiver should be granted for any period of time. Furthermore, I routinely asked to be advised of potential problems and corrective actions being taken by AGNA. However, members of the Office of Overseas Protective Operations, staff of the Regional Security Officer (RSO), and I were not always kept apprised of potential noncompliance issues in writing. This in some part may have

been attributed to our hosting daily conference calls with you and others during the past several weeks. Therefore, I once again ask that you keep me advised in writing of any potential performance issues and actions which AGNA is taking to correct them.

In the following paragraphs, I will address the deficient areas of performance that must be corrected immediately:

- ArmorGroup North America (AGNA) failed to provide the Armorer as required by the contract. Specifically, AGNA failed to have a fully qualified Armorer in country as of July 1, 2007. (See Section C.1.2.13.3 ARMORER-WEAPONS MAINTENANCE TECHNICIAN (U.S. or EXPAT.) Not only was this individual not in country as of July 1, 2004, he was not scheduled to attend the 120 hours of mandatory training required for each member of the Embassy Security Force (ESF) until after July 4, 2007. The Department of State understands that AGNA retained the Global Armorer as a second Armorer to support the contract; however, this individual does not meet the contract requirements. As previously addressed, AGNA cannot bill the U.S. Government for this individual services until he meets all contract requirements, and the U.S. Government will exercise its right to take a deduction for this contract breach.
- On July 1, 2007, AGNA failed to provide the food services required by Section C.3.1.3.2.2 FOOD SERVICES. This contract breach was acknowledged by the Project Manger, Mr. Nick Du Plessis, during several telephone calls with representatives of the Office of Overseas Protective Operation (DS/IP/OPO) during the period of July 2 – 6, 2007. OPO's representative on site also confirmed that there were many complaints and a number of individuals got sick after eating this food. The complaints voiced by members of the ESF centered on the limited variety of items, overcooked chow and lack of beverages such as juice, milk, or ice tea.

During one of the first meetings with AGNA, you stated that you had some concerns about RAI's ability to provide food services equal to that of Supreme Foods. A representative of DS/IP/OPO addressed this topic at this meeting and AGNA stated that it would closely monitor this situation. The contract specifically states that the Contractor is expected to understand the complexity of this requirement and have sufficient knowledge, experience, and capability to provide food services to their personnel as well as "guests" staying in Camp Sullivan.

Furthermore, the contract states that the Contractor shall prepare menus that provide nutritionally balanced, appetizing and healthy meals. Clearly, AGNA failed to take appropriate actions during the weeks leading up to July 1, 2007 to ensure that RAI was prepared for the transition. Your response to this letter should provide dates which representatives of AGNA met with RAI to review their operational plan as well as sampled food products that would be served by RAI. Without a doubt, these two actions should have taken place. If they did not, one can easily make the argument that AGNA failed to take all necessary and prudent actions to ensure that RAI was prepared to begin serving meals on July 1, 2007.

During the week of July 2-6, 2007, the Mr. Nick Du Piessis provided daily updates at each conference call, and he as well as OPO's representative reported that RAI took immediate actions to correct the food problem. It is my understanding that AGNA is currently serving food that meets the terms and conditions of the contract. Your response to this letter should address what actions AGNA took to remedy this situation and what actions AGNA has taken or will take to ensure that RAI continues to serve nutritionally balanced, appetizing and healthy meals.

- During the conference call held on Monday, July 2, 2007 with members of the OPO staff, AGNA representatives, and post personnel, AGNA acknowledged that it did not provide the relief guards required by the contract. Subsection C.3.1.2 RELIEF GUARDS states "The Contractor shall provide the security personnel at the Exhibit A posts with COR/RSO approved, fully trained, and qualified (See Section H), relief personnel to allow for comfort, personal needs, stress, meals, or other required or requested absences from the assigned post. Additionally, H.5.4 ALERTNESS reads: "The Contractor shall provide a 15-minute break once every four (4) hours during an employee or subcontractor's tour of duty to allow for comfort, personal needs, stress, or other required or requested absences from Exhibit A assigned post. Meal breaks shall be scheduled at appropriate times during a tour of duty and shall be at a minimum 30 minutes in length (See Section C.3.1.2). Breaks shall not run consecutively."

It is very disturbing that AGNA did not fully understand this contract requirement, and it planned to use the Compound Rovers depicted on Exhibit A (Guard Posts and Schedule of Guard Coverage) as relief guards. Clearly, this action is not authorized by the contract, and AGNA must immediately provide the relief guards required by the contract. AGNA is asked to address in its response to this letter how it will immediately remedy this situation as well as accomplish all other contract requirements as it relates to manning requirements. If AGNA elects to use the Compound Rovers depicted on Exhibit A to accomplish relief duties until it is able to recruit and train approximate 60 additional guards as reported by the Project Manager and Vice President of Operations, the U.S. Government will take deductions in accordance with Exhibit C for AGNA failure to provide Compound Rovers. If AGNA elects to continue to provide Compound Rovers as required by Exhibit A at the expense of not allowing other individuals to take their required breaks, the U.S. Government will not reimburse AGNA for 1 hours of service rendered daily by each ESF member standing post since this service was not in accordance with the terms and conditions of the contract (i.e., No failure to follow General and/or Post Orders). The maximum allowable number of deviations from performance standard is 2 per month.

- AGNA's failure to submit Moderate Risk Public Trust (MRPT) packages in a timely manner for new hires has created an operational problem which greatly concerns the U.S. Government. First and foremost, it appears that AGNA does not have sufficient personnel resources in country to meet the contract requirements without working U.S. Citizens and EXPATs more than 54 hours per week and/or 12 hours per day. The Contracting Officer's Representative (COR) can extend each of these hourly limitations for emergency purposes. However, this action has occurred because AGNA failed to process resumes and MRPT packages in a timely and efficient manner. Therefore, I ask

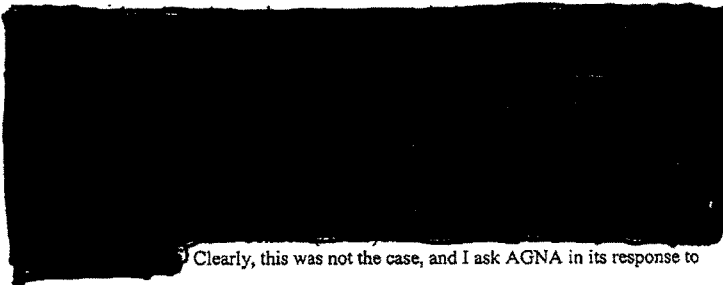
that AGNA explain why these documents were not processed in a timely manner and what actions AGNA has taken to resolve this matter in the future. Furthermore, I want to know how AGNA is going to meet its contractual obligations as it relates to manning guard positions until it can hire and train additional personnel to replace those individuals which have been denied an interim or final MRPT (i.e., favorable security clearance determination).

- The contract specifically states that interim clearances/Moderate-Risk Public Trust determinations shall be granted before reporting for duty at Camp Sullivan. It is my understanding that new hires without interim clearances are currently staying on Camp Sullivan. Please address why AGNA failed to advise the Contracting Officer of this breach of the contract in writing and why AGNA failed to follow the terms and conditions of the contract. Should I determine that your response is unacceptable and/or non-responsive to this question, I may ask AGNA to remove these individuals from Camp Sullivan. Therefore, I ask AGNA to address in its response to this letter the operational impact that this action (i.e., Contracting Officer directing uncleared personnel to depart Camp Sullivan immediately.) would have on daily operations as it relates to overall security and the welfare of the members of the ESF.
- In accordance with Contract Section H.5.2.2 – Clearances, both AGNA and post were advised during the week of June 25-29, 2007, that no new employee could stand post without first being granted a security clearance. It is my understanding that the Regional Security Officer (RSO) authorized AGNA to work 12 new personnel without clearances. Clearly, the RSO acting as the Contracting Officer's Representative (COR) does not have the authority to waive the terms and conditions of the contract. Since AGNA was specifically advised that no new personnel were authorized to start performance under this contract without a clearance, I ask that AGNA explain why it disregarded my verbal instructions as well as the terms and conditions of the contract. The U.S. Government can only award contracts to Contractors which they determine to be responsible in accordance with FAR 9.104-1 General Standards. This favorable determination was made by me before making the award; however, willful disregard of the terms and conditions of the contract as well as verbal instructions of the Contracting Officer demonstrates a lack of integrity and business ethics. Additionally, a Contractor must be able to comply with the required or proposed delivery schedule. AGNA is having significant difficulty meeting the required delivery schedule as it relates to having the required number of qualified personnel in country to meet all contract requirements. This is quite troublesome to me, the Office of Overseas Protective Operations and members of the RSO staff. As previously addressed, AGNA must take immediate action to remedy this situation.
- AGNA's proposal stated that it would provide armored vehicles for the safety and security of their troop movement and shift change. As of July 1, 2007 AGNA had three (3) of seven (7) armored vehicles available for use. The remaining four (4) armored vehicles remain in the custody of the Afghanistan Customs at Kabul International Airport. It is our understanding that heavy vehicle driver training will not be completed until July 15, 2007 and these armored vehicles cannot be put into use until appropriate movement training has been scheduled and completed. Otherwise, the individuals being

transported will not have been provided the necessary training which prepares them to exit the vehicle under hostile and/or dangerous conditions. Therefore, AGNA is in breach of the contract, and this noncompliance action places individuals at an unacceptable risk level. Your response to this letter should advise me as to what actions AGNA is taking to correct this deficient performance as well as address what caused this situation. I am interested in knowing whether this noncompliance action could have been reasonably been precluded and what actions AGNA took to minimize the time needed to remedy this noncompliance action.

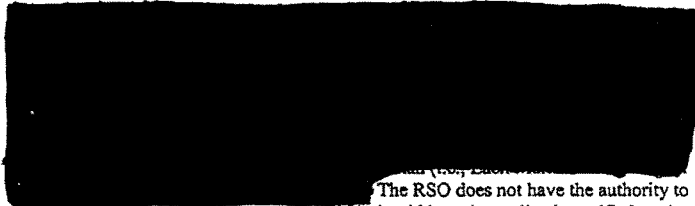
- AGNA failed to provide each individual the required amount of clothing items. During our telephone conference on July 2, 2007, the Project Manager stated that he was not sure whether there are not enough uniforms to provide everyone six as required by the contract. Furthermore, the Project Manger stated that he did not want to issue all six sets of uniforms at one time since some of the guards may elect to leave within the first few weeks of contract performance and this action would necessitate the issuance of previously issued uniforms to new personnel. While one might believe that this rationale is reasonable and prudent, it is not supported by the terms and conditions of the contract. When the Contractor believes that there is a need to deviate from the terms and conditions of the contract, the Contractor is required to address this issue in a timely manner with the Contracting Officer. This was not the case in this instance and constitutes a contract breach.
- At the time of award, the U.S. Government elected to exercise the contract option for ammunition. The contract (see B.3.10 Option - Ammunition) reads: IF THIS OPTION IS EXERCISED BY THE GOVERNMENT - (See Section C, H and Exhibit D.) The Contractor shall provide the ammunition, by the type shown below for the base period of the contract, starting on the date stated in the Notice to Proceed, or Notice to Exercise Option, and for the rest of the Base Year.

According to AGNA's Program Manager's email dated July 3, 2007 to me, the minimum storage levels do not meet the requirements in Exhibit D (CONTRACTOR-FURNISHED PROPERTY). Furthermore, it is my understanding that AGNA had to borrow ammunition from Post in order to have sufficient ammunition to stand-up the ESF on July 1, 2007.



Clearly, this was not the case, and I ask AGNA in its response to

this letter to address what planning factors were not adequately addressed in AGNA's execution plan. Additionally, I ask AGNA to provide a date which it will be compliant with the ammunition requirements of the contracts as well as identify in writing any ammunition storage concerns that it may not have adequately planned for in its proposal.



The RSO does not have the authority to change the contract requirements, and AGNA should have immediately notified me in writing (See FAR Part 43.104) when the RSO directed them not to travel to a specific range and/or ranges which had been scheduled for use by members of the ESF. Clearly, the RSO can advise AGNA of post's concern about traveling to a specific location; however, neither the RSO nor any other post personnel can direct AGNA not to travel to a specific location in the performance of the contract requirements. Therefore, AGNA's response to this letter should advise me as to when AGNA will be able to man the ERT Guard/Marksman positions with the weapon required by the contract.

- In accordance with Section F.6: DELIVERABLES OR PERFORMANCE, AGNA failed to provide the following deliverables:
 - (18) List of employees and /or subcontractors bio-data for security clearances. - (H.2) Due 25 days after contract award.
 - (19) Employee Forms submitted to Regional Security Officer and /or DS/IP/OPO for Vetting - (H.2) Due 30 days after contract award.
 - (20) For his or her final approval (see Section H) RSO receives final package from Contractor which contains DS/IP/OPO clearance plus medical certification & etc. from Exhibit R. Provided to RSO 10 days prior to employee being assigned to guard duties.
 - (21) Revised Quality Assurance Plan -- (E.5). Due 10 days after contract award.
 - (26) Ground Maintenance Plan -- (Exhibit N). Due 30 days after NTP issued.
 - (27) Revised Comprehensive Maintenance and Execution Plan -- (Exhibit N). Due 30 days after NTP issued.
 - (44) Explosive Ordinance Detection (EOD) Working Dog Certification. Due within 5 days of beginning performance

Your response to this letter should address when AGNA will deliver each of these deliverables as well as why they have not been provided to date. Furthermore, your response should state what actions AGNA is going to take and/or has taken to date to ensure that other deliverables are provided in accordance with the terms and conditions of the contract.

If you believe any action of the U.S. Government precluded AGNA from meeting the delivery schedule, please address this in your response. Please note that I am aware that AGNA was not provided an updated Exhibit R for each position until June 14, 2007. However, I previously addressed this topic at one of the post award meetings, and AGNA should have prepared a draft Exhibit R when validating each member's qualifications. Otherwise, AGNA would not have known that the individual was qualified for the position which he/she was being nominated. Even if the Department of State had provided AGNA with updated Exhibit-Rs several weeks earlier, AGNA would not have been able to submit them in accordance with the delivery schedule since most individuals only completed their training requirements and/or received a clearance within a few days of July 1, 2007 start date.

- On numerous occasions during the past several weeks, representatives from OPO have asked AGNA to address how it is going to recover one of the large transport vehicles should it become inoperative and cannot be pushed and/or pulled to an alternate location for repairs by another transport vehicle. During the week of July 2-6, 2007, the Program Manager stated that he had coordinated the use of an Embassy vehicle for this recovery mission. Clearly, this is not an acceptable response to the Department's question, and AGNA must provide an acceptable recovery vehicle and/or recovery method which poses minimum risk to those involved in the recovery mission. Your response to this letter should state why AGNA's planning to date did not adequately address this issue and when AGNA will submit to the Department of State a recovery plan for review and comment.
- Recently, it came to the Department of State's attention that AGNA did not have an adequate maintenance facility for the newly acquired transport vehicles. It is my understanding that AGNA is in the process of contracting for such a facility to be constructed on Camp Anjuman. Therefore, we are interested in knowing why AGNA would have placed an order for transport vehicles which could not be maintained at Camp Sullivan as addressed below. It clearly appears that AGNA failed to take into consideration the limitations of the existing maintenance facility at Camp Sullivan before purchasing the current transport vehicles. Vehicle requirements are listed in Exhibit D (CONTRACTOR-FURNISHED PROPERTY) and per Subsection H.13 VEHICLES; the Contractor shall provide all vehicles necessary to support the operations, maintenance and repair services. Furthermore, this subsection states that the Contractor shall use the vehicle maintenance facility on-site to maintain and repair vehicles. Additionally, we would like to know whether RAI was consulted about the purchase of the vehicles and whether they voiced any concerns about the lack of a proper maintenance facility. Since AGNA cannot maintain the transport vehicles at Camp Sullivan, it needs to request authorization to maintain them at Camp Anjuman at no additional cost to the U.S. Government. Furthermore, AGNA needs to address in its response to this letter whether this action (i.e., maintenance of transport vehicles at Camp Anjuman rather than Camp

Sullivan) will have any negative operational impact on contract performance. It has been previously stated to me that you, Mr. Semancik, would build a proper maintenance facility without any cost to the Government. Please outline where this facility will be placed and when the structure will be completed.

- It is clear from our conversations with the Program Manager during the past week that he is not thoroughly familiar with the terms and conditions of the contract. Knowledge of the contract by the Deputy Program Manager is unknown. Additionally, it is clear that the Vice President of Operations is not as familiar with the terms and conditions of the contract that one would have reasonably thought since he has been serving as the Transition Manager. Clearly, the Program Manager and Transition Manager have significant responsibilities. Therefore, it is reasonable to believe that they would have a fairly large administrative staff to assist them in their daily activities. Your response to this letter should identify the names, duties/functions of each administrative staff member supporting this contract as well as the date which each was assigned to work in support of this contract. Furthermore, we ask that AGNA explain why its QA/QC plan failed to adequately ensure that all contract requirements were met in a timely and efficient manner. If major revisions to this plan have been made or needs to be made, please address this in your response as well as provide us an updated copy when updated.

In summary, the deficiencies noted above are very troublesome and endanger performance of the contract to the extent that I must seriously considering drastic action if the above deficiencies are not properly addressed and rectified. Therefore, I ask that AGNA provide me a CAP and a response to each deficiency listed above within the next 10 calendar days. This response should address each of the deficiencies noted above as well as any other contract noncompliance action which AGNA is currently aware and/or anticipates will occur in the near future. Furthermore, your response must be detailed and responsive to each request for information. Each deficiency must be corrected as soon as possible, but no later than 30 calendar days after receipt of this letter. The CAP should state what corrective action has been taken and/or will be taken to resolve each breach of the contract as well as address how similar deficiencies will be precluded from occurring in the future. Finally, AGNA should take all possible and prudent actions to mitigate performance risk during this correction action period.

If AGNA fails to properly address the above and the Department of State is forced to terminate this contract for default and award the contract to the next in line offeror, the U.S. Government will require AGNA to pay any additional re-procurement costs associated with this default action. Furthermore, I would be compelled to notify each Embassy and/or Consulate receiving guard services from AGNA or ArmorGroup (i.e., U.S. Defense Systems LLC/ArmorGroup/Defence Systems Equador Cia. Ltda or US Defense Systems LLC) that I have terminated the contract for default. Each Contracting Officer would be required to consider this action when making his/her determination as to whether it is in the U.S. Government's best interest to exercise the next contract option. This determination is required by FAR 17.202 (Use of Options).

Please acknowledge receipt of this notice in writing within 24 hours of receipt. If you have any questions about this letter, please do not hesitate to call me. I can be contacted at (703) 875-7320 or via email at RodgersJS@state.gov.

51

Sincerely,

James S. (Steve) Rogers
Contracting Officer

Copy: Mr. Martin Kraus, Regional Security Officer, Kabul, Afghanistan
Mr. Douglas J. Brown, Department of State, Office of Overseas Protective Operations
Ms. Polly Donnelly, Department of State, Office of Procurement Executive
Mr. Vince Chaverni, Department of State, Office of Acquisition Management
Ms. Justine Sincavage, Department of State, Office of Overseas Protective
Operations
Mr. Joseph Bopp, Department of State, Office of Overseas Protective
Operations
Mr. Scott Gallo, Department of State, Office of International Programs

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United States Department of State
Washington, D.C. 20520

January 23, 2008

Mr. James Gordon, Director of Operations
ArmorGroup North America Incorporated
1420 Spring Hill Road, Suite 300
McLean, VA 22102

Subject: Deficiency Notice - Use of GFE Weapons for Training
Purposes, KESF Contract No. S-AQMPPD-07-C0054

Dear Mr. Gordon:

It has come to my attention that ArmorGroup North America (AGNA) has been using, since contract inception, U.S. Government issued [REDACTED] for training and re-qualification purposes in Kabul. The sole purpose for these Government Issued weapons is operational – not for training, unless otherwise specified. This requirement is stated in several places within the contract as indicated below:

H.5.5.5 FIREARM TRAINING. Contractor is responsible for furnishing all weapons, training, and necessary supplies.

H.5.5.2 BASIC FIREARM TRAINING. The Contractor shall furnish all material necessary for the training including classrooms, firing range, targets, target holders, ammunition, and weapons.

Exhibit D – Contractor Furnished Property
6. Training Weapons – The contractor is responsible for providing all weapons, ammunition, and training material for initial weapons qualification.

Exhibit E – Government Furnished Property
1. Weapons:

The Government will furnish the operational weapons required under this contract.

z. Requalification on weapons:

- a) ERT Members shall requalify on USG weapons individually issued.
- b) All other members of the ESF shall requalify on Contractor provided weapons.


Given that the contract is over six months old, that AGNA made no effort to inform the U.S. Government that this was occurring, and that AGNA failed to request a waiver from the Contracting Officer, the U.S. Government can only conclude that this was an intentional, deceptive action.

ArmorGroup North America shall, by 3:00pm, January 25, 2008, inform the U.S. Government, namely the Contracting Officer and the Program Office, DS/IP/OPO, directed to Heidi McMichael, in writing of the following:

- A full explanation as to how and why the GFP Weapons are being utilized for training purposes;
- A full explanation as to why the Contracting Officer and Program Office was not notified of this violation of the contract; and,
- AGNA's Corrective Action Plan as to how this situation is to be rectified as the earliest possible date.

As usual, AGNA may submit questions, concerns and/or comments to either me at RogersJS@state.gov or Heidi McMichael at McMichaelH2@state.gov.

Sincerely,


James S. (Steve) Rogers
Senior Contracting Officer
U.S. Department of State

Copy: H. McMichael – DS/IP/OPO/FPD
D. Brown – DS/IP/OPO/OSD
Contract File



United States Department of State

Washington, D.C. 20520

March 10, 2008

MEMORANDUM
SENSITIVE BUT UNCLASSIFIED

TO: A/LM/AQM – James S. Rogers
Contracting Officer

FROM: DS/IP/OPO – Heidi McMichael
Contracting Officer’s Representative

SUBJECT: Ongoing Concerns Regarding Armor Group North America’s
Performance

References: A. Contract No. S-AQMPD-07-C0054 (Kabul Embassy
Security Force)
B. Cure Notice issued to AGNA dated July 19, 2007
C. AGNA’s Corrective Action Plan dated August 3, 2007

A Cure Notice (Ref B) was issued to Armor Group North America (AGNA) on July 19, 2007. Since that time, the USG has worked with AGNA to ensure that all concerns were addressed according to AGNA’s Corrective Action Plan (Ref C). Instead of being resolved in a satisfactory manner, there are a number of issues that remain open and a number of new ones too. This information is provided for your action as you deem appropriate.

Recurring/Unresolved Issues Identified in Cure Notice

(NOTE: numbering corresponds to numbers used in Cure Notice.)

#1: Continued late submission of deliverables. From the time the Cure Notice was issued, this has remained unresolved. A Contracting Officer (CO) letter was issued to AGNA on January 7, 2008 reminding AGNA again of the contractual requirement of timely submission of deliverables. As recently as March 5, 2008, DS/IP/OPO provided a list of outstanding deliverables to AGNA.

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- 2 -

#4: Failure to submit Moderate Risk Public Trusts (MRPT) in a timely manner for new hires. The Cure Notice stated that this failure had created operational problems as AGNA was unable to meet staffing requirements in a timely manner. AGNA's Corrective Action Plan (CAP), 4.4 stated that this problem would be addressed by ensuring that the HR Director would have a staff of seven and three (domestically and in Kabul). DS/IP/OPO does not believe that AGNA has provided these personnel to assist with ongoing HR concerns despite repeated assurances to the USG that they would do so. AGNA also stated in the CAP that the issue of MRPTs would be resolved by September 30, 2007. Instead, this issue continued through the January 2008 training class, delaying individual deployments by 2 – 4 weeks.

#13: Vehicle maintenance facility. The facility was not provided at Camp Anjuman as promised in AGNA's initial proposal. AGNA asked for and received permission to renovate a facility for this purpose on Camp Sullivan. AGNA's CAP stated that the renovation would be completed by August 30, 2007. The facility was completed on December 20, 2007, more than three months later than promised.

#14: Lack of thorough familiarity with terms and conditions of contract by Program Manager and other senior operations personnel. Given AGNA's repeated failure to meet various contract terms and conditions outlined above and below, it is reasonable to believe that this issue remains unresolved.

CN#: AGNA's failure to provide relief guards in accordance with contract requirements. AGNA's CAP 3.4 notes again that the HR Director will be given seven and three personnel ensuring that this matter is not overlooked again and that adequate staff are available to provide sufficient relief guards. AGNA did not resolve this issue and in fact was unable to provide proper relief guards from December 2007 – February 2008, as well as the timeframe addressed by the Cure Notice.

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- 3 -

Other Concerns

Staffing/Personnel: While AGNA had some difficulty in properly staffing positions during the transition period of the contract, the problem has become increasingly troubling.

- There are continued problems with open posts due to US/Expat shortages (nearly 90% of the incumbent US/Expats left within the first six months of contract performance).
- There has been a 75% shortage of EMTs from December 2007 – March 2008.
- The EDD (subcontracted dog handlers) worked 31 days per month July – December 2007 with no relief.
- AGNA has been unable to fill posts with resume-qualified individuals, to include the Key Personnel positions of Deputy Program Manager, Supervisory and ERT positions, including ERT and DDM positions.
- There have been extended periods of time when the Armorer, Radio Technician and Medic positions have been vacant.
- AGNA is unable to maintain an accurate personnel roster.

Contractor Furnished Equipment: Despite stated intentions in the proposal, and repeated assurances that equipment will be delivered “very soon”, there are several significant equipment issues that AGNA has failed to adequately address.

- AGNA is required to provide [REDACTED] for requalification and training purposes in Kabul. During the transition period the government allowed AGNA to use its weapons for the purposes of expediting the transition process. In January 2008, the government became aware that AGNA had not even ordered their own training weapons, were continuing to use the government’s weapons without requesting a waiver/authorization to do so, and had not informed the government of the situation. A CO letter was issued to AGNA on January 23, 2008 addressing this matter. At that

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- 4 -

time, the government was informed that the weapons would be ordered immediately. Upon further questioning recently, the government learned that the weapons were in fact purchased on February 29, 2008. AGNA failed to notify the government that there was a delay or to provide a satisfactory explanation for the situation. AGNA advised that it may be another 180 days before the weapons arrive.

- AGNA supplied armored troop transport vehicles for movement of guards to and from the Embassy compound. AGNA initially provided armored escort vehicles for convoy security, but were not satisfied with those vehicles. AGNA has been using USG provided armored escort vehicles to enhance the safety of the guards. AGNA has advised the government for months that its vehicles would be delivered shortly. The latest estimate for shipment date is March 28, 2008 meaning that AGNA has used the government's vehicles, without providing consideration to the government, for eight months.
- AGNA is responsible for providing uniforms, including boots, for the guards. AGNA ordered winter boots for the guard force that were issued on February 13, 2008, well in to winter in Kabul and months later than promised.
- AGNA was authorized by the USG in November 2007 to purchase replacement gym equipment. AGNA stated at that time that this was a priority for the morale of the guard force. As of March 5, 2008 RSO personnel advised that they have signed for only a fraction of the authorized gym equipment (to clear through customs). On March 6, 2008 AGNA was unable to provide any additional information.
- AGNA advised in the January 23, 2008 weekly meeting that it had reason to believe that the Logistics Manager in Kabul was improperly procuring items to be used on the Kabul Embassy Security Force contract and further that some of the items may be counterfeit. AGNA stated that the logistics manager would be removed from the procurement process immediately pending an investigation. AGNA advised that a complete report would be provided to the USG upon completion of the investigation. In early February, AGNA advised the USG that the logistics manager had resigned, but that the investigation was ongoing. At a meeting on February 20, 2008 AGNA was asked the status of the new logistics manager and advised that

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- 5 -

one had not been selected yet, but that everyone in Kabul was “pitching in” to assist. On February 25, 2008 AGNA President advised USG that the items were indeed counterfeit and a report would be forthcoming. On February 27, 2008 based on information received from Post, USG asked AGNA if the logistics manager was still working and they confirmed that he was, but not on procurement. Asked why the USG was informed he resigned, AGNA had no response. On March 5, 2008 AGNA informed USG that the logistics manager is no longer working for AGNA. The USG has still not received written documentation of any of this and AGNA could not advise when this information might be forthcoming.

Camp Sullivan: Although the camp is USG leased, AGNA is contractually responsible for Camp Sullivan’s Operations and Maintenance (O&M).

- There are five generators that provide power for the camp, at least three must be running at once to ensure an adequate power supply to the camp. AGNA has continually had at least one, and at times two or three, generators down for maintenance or repair. On September 4, 2007, USG provided \$29,570 to repair the generators, stating that going forward AGNA would be responsible for all repairs. AGNA has stated that it believed the continued maintenance issues were due to improper installation or maintenance by the previous contractor, meaning the USG would be liable for replacement or repair. USG asked that AGNA have factory certified engineers/inspectors look at the generators to make a determination as to the cause of the problem. AGNA had engineers inspect the generators in December 2007. In February 2008, AGNA submitted a letter stating that the USG was indeed responsible and presenting several options for replacing the current generators. The letter included a one page report on plain paper (no company letterhead) and typed stating the conclusion that the generators should be replaced. They did not definitively state what caused the issue in the first place. The letter included maintenance records up to June 26, 2007, but contained none from the time period that AGNA has been responsible for the camp (July 1, 2007 – present). In short, there was not sufficient documentation to evaluate AGNA’s request for USG to pay for replacement generators. USG explained in detail what was required to make a determination. AGNA has failed to provide any further information. AGNA has advised that two generators are currently down for repairs.

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- 6 -

- AGNA requested and received authorization to implement several physical security and other improvements at the camp. AGNA significantly delayed implementation of any improvements due to its inability to present a thorough proposal. Each project was completed months after its original completion date. One project in particular, repairing trailer roofs within the camp was critical given the winter weather in Kabul. AGNA used its subcontractor to complete the project. AGNA advised that the roof work was completed in December 2007. In late January 2007, AGNA advised that there were some trailers that had leaky roofs. Despite repeated requests for a thorough report detailing the problem and AGNA's proposed solution, the USG received no further input from AGNA until March 7, 2008. AGNA submitted a letter stating that all roof work was complete, that the RSO had signed off on the work, and that the issue would be readdressed in the spring.

Invoices: Contract performance began on July 1, 2007 yet AGNA failed to submit an invoice until September 2007. At that time, they were unable to gather proper documentation to submit a complete invoice and instead submitted several invoices for one month. In an effort to assist AGNA in receiving payment, the USG advised that through December 2007, AGNA was authorized to submit two invoices, one for fixed cost items and one for all other charges. Despite discussing invoice issues in the majority of weekly meetings and having several separate meetings to address only invoice concerns, AGNA continues to have significant difficulties submitting timely, accurate invoices complete with appropriate supporting documentation.

- AGNA consistently submits invoices up to 30 days after the end of the previous month.
- AGNA has had numerous invoices rejected due to billing for personnel who had been denied MRPTs, over-billing, billing for personnel unqualified for positions filled, billing for overhead personnel, and lack of correlation between timesheets, SSI build up, guard schedule sign-in sheets, and summary sheets.
- The December invoice was rejected twice by USG. The third submission was accepted, but still resulted in significant errors and short pays.

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- 7 -

Contract Non-compliance: Aside from the obvious concern of staffing non-compliance, AGNA is deficient in several other areas.

- AGNA is required under the contract to comply with all applicable licensing and registration requirements, both within the U.S. and Afghanistan. AGNA ships weapons from the U.S. to Kabul and trains foreign nationals on the use of these weapons. To legally undertake these activities, an ITAR certification is required. AGNA failed to realize that its license had expired and did not have it renewed for approximately 45 days.
- AGNA has failed to provide guard orders for all posts established on November 1, 2007 and has failed to provide guard orders translated in to Nepalese on many posts.
- The contract requires that the TCN guards be able to speak English at a level 2 or level 3 depending on their position. Because AGNA failed to account for relief guards, it severely understaffed the TCN guards at the beginning of the contract. At AGNA's request and with thought given to the well-being of the current TCN guards, the USG authorized AGNA to hire 37 TCNs that did not meet the level 2 language requirement. AGNA requested and was given a waiver of 120 days in which the guards must be trained and reach the level 2 standard. On March 3, 2008, upon the expiration of the waiver, AGNA informed the USG that it would not be able to meet the terms of the waiver, in fact none of the guards had reached the required level. AGNA proposed that the current labor rate for a guard be discounted 30% and stated that they would meet the language requirement within another 12 weeks. AGNA also verbally told the USG that the language instructor that was to have been conducting language training over the four month period, was only in Kabul for two weeks in January. No other training was conducted.

Please do not hesitate to contact me if you require additional information.

cc: A/LM/AQM – Paul Desilets
DS/IP/OPO – Doug Brown
File

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United States Department of State

Washington, D.C. 20520

www.state.gov
April 30, 2008

Mr. Jerry Hoffman
President
ArmorGroup North America Inc.
Tysons Dulles Plaza I
1420 Spring Hill Road Suite 300
McLean, VA 22102

Subject: Continued Weaknesses and Deficiencies in Performance

Refs: (a) Contract No. S-AQMPD-07-C0054 (Kabul Embassy
Security Force)
(b) Cure Notice issued to AGNA dated July 19, 2007
(c) AGNA's Corrective Action Plan dated August 3, 2007

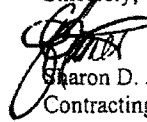
The purpose of this correspondence is to provide you with the Government's assent to ArmorGroup North America's commitment to cure performance under contract SAQMPD-07-C0054. Assent is based on your meeting the specified commitments outlined in the corrective action plan submitted on August 3, 2007. However, to date, ArmorGroup has failed to provide a permanent solution to a number of the outstanding deficiencies which have been an impediment to good contract performance. Since you have failed to perform services under Contract No. SAQMPD-07C-0054 as required by its terms, and cure the conditions endangering performance under Contract No. SQMPMD07C0054, the government is considering whether or not to exercise the option period on July 1, 2008. Pending a final decision in this matter, it will be necessary for you to correct all outstanding deficiencies in your Corrective Action Plan of July 19, 2007 as well as new deficiencies noted in the attachment by May 31, 2008. Accordingly, you are hereby given the opportunity to present, a final Corrective Action Plan that entails a detailed status of each deficiency and milestones with percentages towards completion/resolution within 7-10 calendar days of this notice.

As the cognizant Contracting Officer responsible for contract oversight and administration, I strongly urge you to take this final opportunity to demonstrate to the United States Department of State that ArmorGroup North America can provide permanent resolutions to outstanding contract deficiencies to favorably support the decision to exercise the 1st Option Year provision of the contract.

Please acknowledge receipt of this notice in writing within 24-hours of receipt. If you have any questions about this letter, please do not hesitate to call me. I can be contacted at (703) 875-7320.

Attachment: as stated

Sincerely,



Sharon D. James
Contracting Officer
U. S. Department of State

Copy: Ms. Heidi McMichael – U.S. Department of State, Office of Overseas Protective Operations
Mr. Douglas Brown, U.S. Department of State, Office of Overseas Protective Operations
Mr. Bruce Mills, Regional Security Officer, Kabul Afghanistan
Ms. Justine Sincavage, Department of State Office of Overseas Protective Operations
Ms. Polly Donnelly, Department of State, Office of Procurement Executive
Mr. Vincent Chavcrini, Department of State, Office of Acquisition Management

Armor Group North America	Cure Notice Deficiencies	Kabul, Afghanistan	S. Rogers letter, 7-19-07-S-AQMPD-07-C-0054
Deficiency	reference	recurring/ongoing	new/ 3/10/2008 DoS ltr
Failed to provide Armorer	C.1.2.13.3	X	
Failed to provide food services	C.3.1.3.2.2	X	
Failed to provide relief guards	C.3.1.2	X	
Failed to submit Moderate Risk Public Trust Packages	none cited	X	
Failure to obtain clearances for watch standers	H.5.2.2	X	
Failure to provide 3 of 7 armored vehicles required for safe movement of personnel	none cited	X	
Failure to provide required (6 uniforms) amount of clothing items	none cited	X	
Failure to provide required amounts of ammunition	B.3.10	X	
Failure to provide Guard/ [redacted] for the ERT Team-not using required weapon	H.5.1.4.10E	X	

Armor Group North America	Cure Notice Deficiencies	Kabul, Afghanistan	new 3/10/2008 DoS Itr
Deficiency	reference	closed	recurring/opening
Failed to provide the following deliverables (on time or as at all): List of employee bio data	F.6 H.2	X	X
Employee DS/DOFO forms	Exhibit R	X	X
Revised QA plan	E.5	X	X
Ground Maintenance Plan	Exhibit N	X	X
Revised Comprehensive Maintenance and Execution Plan	Exhibit N	X	X
EOD Working Dog Certification	none cited	X	X
Failed to provide recovery vehicle or recovery method for disabled transport vehicles	none cited	X	X
Failure to provide adequate maintenance facility	H.3	X	X
PM is not fully knowledgeable of the terms and conditions of the contract-QA/QC plan with the deficient	PM	X	X
Continued late submission of deliverables		X	X
MPMT documents for new hires		X	X
Vehicle Maintenance Facility		X	X
PM familiarly with the contract		X	X
Providing extra gears		X	X
Staffing of open posts		X	X
Overuse of dog handlers		X	X
Acceptable Key Personnel for DPM, Supervisory and ER/IDDM		X	X
for request and training		X	X

Cure Notice Deficiencies				Kabul, Afghanistan	
Deficiency	reference	closed	recurring/ongoing	new/ 3/10/2008 DoS ltr	
Timely provision of uniforms		X			
Morale and Welfare issues- gym equipment				X	
Procuring counterfeit or improprieties in procuring items report and corrective action taken		NOT A DOS ISSUE			
Camp Sullivan Generators				X	
Leaky roofs- Inaccurate proposals and missed target dates of completion			X		
Submission of timely accurate invoices with supporting documentation			X		
Staffing - compliance with local and stateside registration and licensing requirements/current ITAR cert		X			
Failure to provide relief guards for posts stood up on 1 Nov 07 and failure to provide appropriately translated general orders for those posts					X
Failure of ALL guards to meet required language level per language waiver expiration					X



United States Department of State

Washington, D.C. 20520

www.state.gov

August 22, 2008

Mark Carruthers
 Vice President
 Armor Group North America
 1420 Spring Hill Road, Suite 300
 McLean, VA 22102

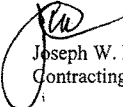
Subject: SAQMMPD-07-C-0054; Contingency Planning

1. Upon reviewing AGNA's most recent response to the Corrective Action Plan (CAP) discussion and in view of the ongoing relief guard deficiency, the Government has serious concerns regarding AGNA's ability to respond in the aftermath of a mass casualty incident or an extreme loss of personnel due to mass resignation, hostile fire, or loss of manpower due to illness. The Government is primarily concerned that AGNA has not effectively planned for such contingencies and does not have adequate staffing levels and resources should the aforementioned incidents occur. AGNA should not assume nor expect the U.S. Government to be in a position to be the source of relief due to a lack of planning and preparation for such contingencies. This is not the intended course of action, nor has it ever been implied as such. Therefore, AGNA needs to come quickly to terms with contract requirements especially in light of the current incidents occurring in and around Kabul and the corresponding threat environment they pose.
2. As a minimum AGNA should be considering, planning for, and then providing evidence to the Government that such planning is being or has been implemented for the following TCN, US/Expat and EDD handler positions:
 - a) Minimum number of personnel required to staff all current Exhibit A positions, assuming loss of personnel due to hostile fire or mass resignation.
 - b) Contingency plans and duration in the event AGNA were forced to extend the hours of remaining guards,
 - c) Level of co-ordination with Embassy personnel and western military forces such as ISAF Camp KAIA (for medical services, etc) and Govt. of Afghanistan entities such as MOI Police etc, already accomplished, in the planning for such incidents.
3. The plan should incorporate an analysis of possible incidents that may be encountered and the corresponding steps and time needed to get back to full staffing levels, (i.e. vetting, visas and entry into the Afghan nation). The plan should also include a build-

up chart (one per situation and category) addressing the required time to recover and re-staff by day, week, and month, to full compliment. If AGNA is considering a pre-positioned force, provide details of how that force will be used, including trip wires, if possible, to initiate deployment. If no pre-positioned force is considered AGNA must provide a clearly thought out and detailed plan as to how it will be able to respond in the absence of such force.

4. Additionally, given AGNA's inability to staff fully the Physician Assistant, and EMT positions, the Government is further concerned that should a mass casualty incident occur, AGNA would be unable to provide even a minimum acceptable emergency medical response. AGNA must therefore provide a fully detailed plan along with a buildup chart detailing operational capability and response time in the event of such an incident. The plan should include an analysis of the current situation on the ground (lack of a full time PA and sufficiently manned EMT positions) as well as AGNA's analysis of the same mass casualty incident once the current situation on the ground is resolved through staffing of the aforementioned positions. The analysis should be separated into sections to consider incidents at Camp Sullivan, the Embassy or CAFÉ compound, along the convoy route between Sullivan and the Embassy /CAFÉ compounds, incidents at all locations simultaneously and any other location AGNA deems appropriate. AGNA should assume normal battlefield conditions, including med-evac scenarios in the presence or absence of hostile fire.
5. Due to the current environment, it is imperative that this tasking be given the highest priority and preparation begins immediately with completion in the shortest period possible. Coordination with the Government should be ongoing while the plan is in progress. If deemed necessary, AGNA should request meetings to resolve questions of concern before finalizing any section of the plan.
6. If you have any questions or concerns please do not hesitate to contact me at (703) 875-5237 or DeChiricoJW@state.gov.

Sincerely,


Joseph W. DeChirico
Contracting Officer



United States Department of State

Washington, D.C. 20520

www.state.gov
September 21, 2008

Mr. Mark Carruthers
Vice President
ArmorGroup North America Inc.
Tysons Dulles Plaza I
1420 Spring Hill Road Suite 300
McLean, VA 22102

Subject: Show Cause Notice for Continued Weaknesses and Deficiencies in Performance
Under Contract No. SAQMPD-07-C0054

Refs: (a) Contract No. S-AQMPD-07-C0054 (Kabul Embassy
Security Force)
(b) Final Cure Notice of April 30, 2008
(c) WSI Letter of May 16, 2008
(d) AGNA CAP Submission of June 12, 2008
(e) CAP Discussions June 27, 2008 through August 15, 2008
(f) AGNA/DoS Meeting of September 3, 2008
(g) AGNA Requests for Extended Hours of July 11, 2008, July 30, 2008

Dear Mr. Carruthers:

Since Armor Group North America (AGNA), Inc., has failed to cure the conditions endangering performance under Contract No SAQMPD-07-C0054, as described to you in the Government's letter of April 30, 2008, and ongoing discussions of your June 12, 2008 Corrective Action Plan submission, the Government is considering terminating contract SAQMPD-07C-0054 under the provisions for default of this contract. AGNA's inability to permanently correct personnel staffing shortages has negatively impacted the security posture of the Local Guard Program for the U.S. Mission to Kabul. Insufficient staffing of the guard force has also affected mission planning and capabilities for contingencies which may place both personnel and property at an unacceptable level of risk that would otherwise been avoided if full staffing levels were provided and continuously maintained in conformance with the terms and conditions of the contract. Over the past sixty days, the staffing situation has further deteriorated to a level that necessitates extended working hours for the existing guard force which gravely endangers performance of guard services in a high-threat environment such as Afghanistan.

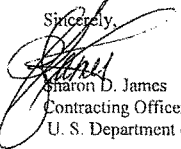
Pending a final decision in this matter, it will be necessary to determine whether your failure to perform arose from causes beyond your control and without fault or negligence on your part. Accordingly, you are given the opportunity to present, in writing, any facts bearing on the

WSI-SEN000872

question to me within 10 business days after receipt of this notice. Your failure to present any excuses within this time may be considered as an admission that none exist.

Your attention is invited to the respective rights of the Contractor and the Government and the liabilities that may be invoked if a decision is made to terminate for default. Any assistance given to you on this contract or any acceptance by the Government of delinquent goods or services will be solely for the purpose of mitigating damages, and it is not the intention of the Government to condone any delinquency or to waive any rights the Government has under the contract.

Please acknowledge receipt of this notice in writing within 24-hours of receipt. If you have any questions regarding this notice please do not hesitate to contact me at (703) 875-7320 or jamesgd@state.gov.

Sincerely,

Sharon D. James
Contracting Officer
U. S. Department of State

Copy: Mr. James Lemarie, U.S. Department of State, Office of Overseas Protective Operations
Ms. Heidi McMichael, U.S. Department of State, Office of Overseas Protective Operations
Mr. Niall Mcchan, Regional Security Office, U.S. Embassy Kabul, Afghanistan
Mr. Douglas Brown, U.S. Department of State, Office of Overseas Protective Operations Regional Security Officer, Kabul Afghanistan
Ms. Justine Sincavage, Department of State Office of Overseas Protective Operations
Ms. Polly Donnelly, Department of State, Office of Procurement Executive
Mr. Vincent Chaverini, Department of State, Office of Acquisition Management
Mr. Jeff Morrow, G4S Wackenhut Services International
Mr. Sam Brinkley, Wackenhut Services International

WSI-SEN000873

ARMORGROUP

ARMORGROUP NORTH AMERICA, INC

January 24, 2009
Serial 09-016

U. S. Department of State
Office of Acquisition Management
(A/LM//AQM/WWD/LGP- Attn: Ms. Sharon James)
P. O. Box 9115, Rosslyn Station
Arlington, VA 22219

Subject: Remedy of Staffing Issues

Reference: (a) DoS letter dated December 30, 2008; Subject: AGNA Response to Show Cause Notice of September 21, 2008
(b) AGNA letter dated January 2, 2009; Subject: Affirmation of Contract Compliance
(c) USE Kabul LGF Contract S-AQMPD-07-C0054

Dear Ms James,

ArmorGroup North America (AGNA) is pleased to inform you that, as of 24 January 2009, our staffing on the USE Kabul Guard Force Contract is fully contract compliant.

With the addition of 14 new personnel, who stood post today, all posts are manned and there is a reserve of personnel on site who are able to replace short notice departures. We have 41 personnel undergoing training and an additional 23 qualified personnel awaiting positive MRPT determinations from previous training classes.

We continue to secure the USE Kabul and thank the Government for their continued support and co-operation.

If additional information is required please feel free to contact me at (703) 584 9609.

Sincerely,



Mark Carruthers
Vice President
ArmorGroup North America

Address: Tysons Dulles Plaza I, 1420 Spring Hill Road Suite 300, McLean VA 22102, USA
Tel: +1 703-356-0002 • Fax: +1 703 356 0559

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WSI-SEN002966



United States Department of State

Washington, D.C. 20520

March 30, 2009

Mr. Mark Carruthers
Vice President
Armor Group North America, Inc.
Dulles Plaza I., 1420 Spring Hill Rd
Suite 300
McLean, VA 22102

Subject: Continued Corrective Action Plan Discussions

Refs: a) AGNA letters of March 10 & 13, Serial No:
09-032 & 09-040

Dear Mr. Carruthers:

Attached herewith please find the Governments response to your letters of February 10 and 13, 2009, pertaining to our continued discussion of the AGNA CAP. We wish to move forward with finalizing the discussion process by asking that you once again review our comments in the attachments provided herein and provide responses to the discussion no later than Wednesday, April 1, 2009.

The Government fully anticipates being able to assent to your full Corrective Action Plan and move forward with closing out the fifteen weaknesses and deficiencies and appreciates your continued cooperation and support.

Sincerely,

A handwritten signature in black ink, appearing to read "Sharon D. James", written over a circular stamp or mark.

Sharon D. James
Senior Contracting Officer

WSI-SEN000958

Armor Group North America, Inc.
Local Guard Contract No. SAQMPD07C0054
Corrective Action Plan Discussion
March 10-13, 2009

CAP Review and Discussion:

Below are discussion points from our review of your CAP submissions of March 10 & 13, 2009, regarding deficiencies 2 and 10. To date the Government has not been able to assent to the overall Corrective Action Plan, due to the concerns with identified material weaknesses found in your approach to permanently resolving these deficiencies. As soon as the Government is satisfied with the corrective action plan for these two deficiencies, we can provide you with assent to your plan and move forward with the goal of monitoring and closing out each of the 15 deficiencies accordingly. Therefore it is our desire to move forward with finalizing the discussion process by asking that you once again review our comments delineated below and provide responses to the discussion no later than Wednesday, April 1, 2009.

Deficiency 2: Failure to provide Relief Guards:

In our previous discussion of March 4 and your subsequent response of March 10, we agreed to the following:

Site and Shift Supervisors: Based upon the existing contract language in Section C.3.1.2 which permits certain labor categories and positions to self break, such as the ERT and GFC, our position on this issue is that Shift and Site Supervisors could similarly self break without any significant degradation in performance, provided they remained in radio contact, on site, geared up, and able to monitor and respond to any and all issues or incidents, and that the breaks by all supervisors were staggered to ensure no break in supervisory coverage. However, they would always be a fully engaged supervisor, with the others able to respond immediately if needed.

Dispatchers:

Based upon the current arrangement of the base station radios in the TOC and the collocation of the Shift and Site Supervisor's Desk in that TOC, these personnel could

generally provide sufficient coverage of the dispatcher position without a disruption of performance. This however, would require that any relief supervisors be resume approved for the Dispatcher position and if the Dispatcher left the TOC for part of his break, both the Shift and Site Supervisors should be there, as in the event of an incident the Shift Supervisor is usually on the phone with ARSO or Camp Sullivan while the Dispatcher is dealing with guard force communications.

Senior TCN Dispatcher - Only a Senior TCN Guard, dispatcher approved, can break the Senior TCN Dispatcher, due to the language requirement set forth in the contract.

Based on these comments and review of your recommendations we hereby offer the following proposed language to contract Section C.3.2.1 Relief Guards as delineated in the attachment.

However, the Government has been recently made aware of and has grave concerns of a relief guard issue found during our recent visit to Kabul. Therefore, at our recent meeting on 3/25/09, we conveyed these concerns directly to AGNA at an expanded sidebar as follows:

Kabul Staffing Issues:

- MARCH 14 SAT (1114-1230) 3 of 3 Lima Positions (C-18A, C-19, C-19A; also called Lima 1,2,3) Not observed on Post. TCN supervisor stated Lima 2 and 3 at lunch, Lima 1 not on duty Saturdays due to CA being closed on Sat. Zero Alpha Site Supervisor checked and signed log book during this absence with no note of the open positions.
- MARCH 14 SAT night (2300-0230) 4 of 5 Romeos (R1-R5) Not observed on Post. No log books to verify status/site supervisor check.
- MARCH 15 SUN (1205-1443) 3 of 5 Romeos (R1-R5) Not observed on Post 1205, and at 1443 hrs 2 of 5 not observed. R5, TCN supervisor stated all were at lunch. Sierra 1 and QA/QC guard/supervisor notified.
- MARCH 15 SUN (0130-0215) 5 of 5 Romeos (R1-R5) Not observed on Post --8 TCNs in TCN Breakroom CAFE side

MARCH 16 MON (2125-2321) 4 of 5 Romeos (R1-R5) Not observed on Post.

Therefore, before executing a contract modification that would change the language in the contract, at C.3.2.1 Relief Guards, we would like an explanation of the issues conveyed above, as well as how these issues will be permanently resolved in your corrective active plan for relief guards. The Government would therefore like to see a corrective plan that mitigates the risk of recurring relief guard issues.

DEFICIENCY 10:

In a letter dated March 13, 2009, AGNA provided additional discussion and clarification of its position with regard to the use of GFE weapons as follows:

ArmorGroup North America (AGNA) purchased [REDACTED] in June of 2008, and, after a protracted import licensing process, [REDACTED] were delivered in Kabul in late February 2009.

However, upon further analysis we do not believe that [REDACTED] of each weapon system is sufficient to meet the bi-annual qualification requirements on the [REDACTED] for the Gurkhas. This is due to limited availability of suitable ranges, limits on the time line allowed for firing and the condensed nature of the Gurkha bi-annual testing. Additionally, only having [REDACTED] in Kabul leaves no spare capacity if [REDACTED] of the weapon systems malfunctions. We have ordered an additional [REDACTED] and [REDACTED] weapon systems, of which we will send [REDACTED] and [REDACTED] to Kabul. This will be sufficient to meet our training needs and we anticipate a seven month delivery process with the weapons being on the ground by September 2009.

Based upon your additional clarification and information it appears that your plan to obtain additional weapons is satisfactory. However, the Government wishes to remind you that AGNA will continue to be charged for the USE of GFE weapons as stipulated and agreed upon until such time that AGNA is able to provide CFE weapons in accordance with the terms and conditions of the contract.



United States Department of State

Washington, D.C. 20520

April 1, 2009

Mr. Mark Carruthers
 Vice President
 Armor Group North America, Inc.
 Dulles Plaza I, 1420 Spring Hill Rd
 Suite 300
 Mclean, VA 22102

Subject: TCN Senior Guards Resume Approval

Refs: a) AGNA letters of March 9, 2009, Serial 09-035
 b) CO letter dated 3/12/2008
 c) CO letter dated 11/2/2007

Dear Mr. Carruthers:

This letter is in response to your letter of March 9, 2009, regarding the resume approval status of Gurkhas who have been standing post as Senior Guards on the USE Kabul Guard Force.

First of all I would like to point out that the Government identified this gross oversight, which impresses upon the need for ArmorGroup North America, Inc. (AGNA) to improve upon your internal quality assurance/quality control plan. It is a matter of record that failure to meet language requirements under the contract is a recurring issue. Therefore, I strongly urge AGNA to act responsibly in directing its immediate attention to address and bring final resolution to systemic issues that has caused the failure to meet language requirements set forth in the contract.

Secondly, at the start up of contract performance, the former Contracting Officer (CO) granted a general 90-day waiver regarding MRPTs, language requirements, and other training requirements for incumbent guards in order to support AGNA's endeavor in meeting its contractual obligations in the first year of performance under the contract. Subsequently, on November 2, 2007, the former CO granted a waiver for the level 2 language requirements for thirty-eight (38) Gurkhas for one-hundred twenty (120) days. Furthermore, on March 12, 2008, the former CO issued a second letter due to AGNA's inability to meet the level 2 language requirements for these thirty-eight 38 Gurkhas. AGNA responded proposing the U.S. Government would only have to pay for 60% of the Gurkhas' hourly rate, as stated in Section B of the contract. The March 12, 2008 letter also defined the Government's right under the contract to enforce deducts for each unqualified Gurkha and further levied a severe deduct schedule since AGNA did not live up to its promise to meet the 120-day waiver timeframe to rectify the language requirement deficiency. If the level 3 language requirement goes back as far as contract award then certainly there has been more than

enough time to have addressed and finally resolved any level 2 or level 3 language requirements.

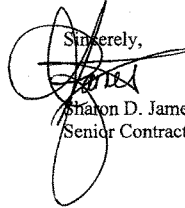
While the Government is however sensitive to the morale issues this might create and further understands that these Gurkhas are among the most experienced of your Gurkha guard force, we are quite dismayed to learn that after nearly two years of contract performance AGNA still has language deficiencies among the Gurkha guard force. The Government also must wonder when this issue would have been discovered and addressed by AGNA, had the Government not brought it up.

Therefore, at this juncture, the Government will not grant AGNA a waiver due to AGNA's inability to effectively establish and maintain quality control measures that would support its endeavor to fully meet contractual requirements. AGNA took a huge risk in placing these individuals in positions for which they did not meet the full qualifications, had more than enough time to satisfy the requirement for level 2 or level 3 language training and must act immediately to finally correct this deficiency.

The Government hereby takes the position that while these personnel may continue to serve in the capacity of TCN supervisors, contractually it would be improper for AGNA to bill for and be compensated at the TCN guard supervisory rate in section B of the contract until such time these employees fully satisfy level three language requirements. Furthermore the Government draws your attention to and request that you immediately provide responses to the following concerns:

- What is your corrective action plan to have these employees fully meet level three language requirements? In your letter you state that additional language training has been implemented since 2007, and that you have recruited another English teacher, but you do not state how many hours per week these TCN supervisors attend English classes as well as when you expect them to meet the level three language requirements.
- How many hours these personnel have worked on the contract after 10/01/2007 (90 days after contract performance start up).
- Where are these TCN Senior Guards currently posted?
- We also request a copy of AGNA's current Quality Assurance/Quality Control Plan for Employee Training and continuous skills maintenance and improvement.

The Government hereby directs AGNA to fully address the TCN Senior Guard issue and requires a response to the aforementioned concerns by written correspondence no later than April 6, 2009, 5:00 p.m. Eastern Time. Please contact me directly at (703) 875-7320 or jamesd@state.gov if you have any questions or concerns.

Sincerely,

Sharon D. James
Senior Contracting Officer



United States Department of State

Washington, D.C. 20520

April 29, 2009

Mr. Mark Carruthers
Vice President
Armor Group North America, Inc.
Dulles Plaza I., 1420 Spring Hill Rd
Suite 300
McLean, VA 22102

Subject: TCN Senior Guards Resume Approval

Refs: a) AGNA letters of March 9, 2009/Serial 09-035
b) CO letter dated 3/12/2008
c) CO letter dated 11/2/2007
d) CO letter dated 3/31/2009
e) AGNA letter of 4/10/2009/Serial 09-049

Dear Mr. Carruthers:

This letter is in response to your letter of April 10, 2009, regarding the resume approval status of Gurkhas who have been standing post as Senior Guards on the USE Kabul Guard Force. In an effort to resolve this matter, there are several concerns that require further clarification and discussion.

To the discussion, pursuant to the terms and conditions of the contract there are two non compliance areas identified as follows:

1. Failure of AGNA to have any guards resume approved for the Senior TCN guard positions.
2. Failure of AGNA guards working in these positions to meet the level 3 English language requirement.

Further there are inconsistencies and discrepancies in your letter of April 10, 2009, that require further clarification and explanation. For example, while your letter of April 10, 2009 states that resumes are pending approval, the Government currently has no resumes in its possession subject to approval for the TCN Senior Guard position. Your letter also states that AGNA did not bill Senior TCN guard hours for January and February 2009 which is correct, however, AGNA did not bill these hours as TCN guard positions as your letter states. Moreover, the Government has no way to verify the claim that 28,556 hours were billed for Senior TCNs who did not meet level 3 language requirements, per the contract. We therefore request that AGNA provides the methodology used to support the number of hours calculated. We will also

need to understand how your methodology supports the calculation for the hours in the base and option years. This information will be critical to the determination of the amount of credit due the U.S. Government.


Additionally, the Government hereby requests that AGNA provide a list of all unqualified (non-language compliant) TCN senior guards that have worked on the contract to date. Given that AGNA provided different numbers in correspondence submissions of 2/24/2009 and 3/9/09 is it confusing and unclear to the Government whether the full list of names is two or six individuals or more. Subsequently, AGNA stated that 22 out of 37 total Senior TCN guards were not language compliant. We are therefore confused and request a complete list in order to bring full resolution to the Senior TCN Guard issue.

Ultimately, within the April 10, 2009 correspondence AGNA makes three statements that appear to be contradictory and therefore require further clarification and explanation as follows:

1. "We expect to be fully compliant by 15 May 2009." (regarding language level 3 compliance)
2. "With effect from 11 April 2009 all incumbent personnel who do not meet the level three requirements have been removed from post."
3. However, the following TCN senior guard posts have recently been manned with incumbent personnel who do not meet the level three language requirement...."

The Government hereby requests that you fully address the TCN Senior Guard issue to include whether AGNA is contract compliant at this time and if not, when this issue will be permanently resolved. Please provide your response to the aforementioned points by written correspondence no later than close of business May 4, 2009. Please contact me directly at (703) 875-7320 or jamesd@state.gov if you have any questions or concerns.

Sincerely,


Sharon D. James
Senior Contracting Officer



Corrective Action Plan Weekly Update

Contract #: S-AQMPPD-07-C0054

**US Embassy Kabul
Local Guard Services**

ArmorGroup North America, Inc.
1420 Spring Hill Road, Suite 300
McLean, VA 22102

Updated as of 6 May, 2009

Corrective Action Plan Weekly Update as of 6 May 2009

Corrective Action Items		Status	Action Plan
1.	Failed to Provide Armorer	OPEN- One armorer is currently employed on this contract.	We are in the process of recruiting a second armorer, however, the primary armorer will remain on post until a replacement arrives. One armorer currently retained by AGNA and undergoing recertification. A second potential armorer has been identified on the guard force and AGNA is looking at potential course dates for him to attend.
2.	Providing Relief Guards	CLOSED- Each expatriate and Gurkha shift has sufficient resume approved, and cleared, personnel to provide break relief as per the USE Kabul Guard Force contract.	Maintain manning levels to ensure that sufficient personnel are in country to ensure the provision of break relief. Maintain sufficient depth of resume approved and cleared personnel to cover break relief for all posts requiring break relief.
10.	CFE for Re-qualification and Training	OPEN - Two of each weapon system are in Kabul and can cover ERT training and qualification. However, we believe that it is not operationally sufficient due to the number of Gurkhas that need to qualify bi-annually with the constraints of available days at the range.	We have on order an additional [redacted] and [redacted] weapon systems, or which [redacted] will be sent to Kabul. We expect these to arrive in September, 2009—in time for the October qualifications. The request for an import license from the Afghan Government has been approved and we are preparing the export license for submission to DDTC. We request the use of [redacted] weapon systems for eight range days between late April and early June 2009 for the Gurkha proficiency shoot.
13.	Leaky Roofs- Inaccurate Proposals and Missed Target Dates for Completion	CLOSED- Roof repairs completed on 27 March 2009. Repairs completed to the four structures.	
16.	Guards to Meet Required Language Level Per Language Waiver Expiration	CLOSED- Unqualified guards recruited in November 2007 have been replaced by qualified guards as of 30 May 2008.	Personnel are language qualified prior to deployment. Ongoing sustainment training occurs in country, with each individual undertaking 1.5 hours of weekly instruction from a language instructor.

Corrective Action Plan Weekly Update as of 6 May 2009

ID	Corrective Action Items	Status	Action Plan
		<p>In January 2009 it was identified that not all of the Senior Gurkha Guards were level three language compliant and did not have resume approval for the Senior Guard post. All Gurkha Senior Guards now meet the level three language requirement.</p>	



**United States Senate
Committee on Homeland Security & Governmental Affairs
SUBCOMMITTEE ON CONTRACTING OVERSIGHT**

**NEW INFORMATION ABOUT THE GUARD FORCE
CONTRACT AT THE U.S. EMBASSY IN KABUL**

**Majority Staff Analysis
Prepared for Chairman Claire McCaskill**

Executive Summary

On March 12, 2007, the State Department awarded a \$189 million contract to provide security services at the U.S. Embassy in Kabul, Afghanistan, to ArmorGroup North America, Inc. ("AGNA"), a subsidiary of the British-owned ArmorGroup International. Under the contract, AGNA is required to provide "a highly-trained, professional security force" to "protect life and property, prevent unauthorized access, maintain order, and deter criminal activity in and around the U.S. Mission in Afghanistan."

At the request of Chairman Claire McCaskill and Acting Ranking Member Susan Collins, the Subcommittee initiated an investigation into the management, oversight, and performance of the Kabul embassy contract. In the course of the investigation, the Subcommittee has received 3,166 pages of documents from AGNA and four binders containing official contract correspondence from the State Department. All information cited herein is based on documents provided by the State Department and AGNA in response to the Subcommittee's May 19, 2009 Requests for Information. Subcommittee staff has also met several times with the State Department, ArmorGroup and Wackenhut officials, and former contractor employees. This staff analysis summarizes the information received by the Subcommittee.

The Kabul embassy contract can be viewed as a case study of how mismanagement and lack of oversight can result in poor performance. The record before the Subcommittee shows that AGNA's performance on the Kabul embassy contract has been deficient since the start of the contract in July 2007. The result is that, at times, the security of the U.S. Embassy in Kabul may have been placed at risk.

- In July 2007, the State Department contracting officer issued a cure notice, a formal advisory that the contractor had failed to meet major contract requirements. The contracting officer told AGNA: "I consider the contract deficiencies addressed below to endanger performance of the contract to such a degree that the security of the US Embassy in Kabul is in jeopardy."
- In September 2008, AGNA's performance problems had grown so severe that the State Department advised AGNA that the State Department was considering terminating the contract. According to the State Department, AGNA's failure to provide sufficient guards "has negatively impacted the security posture of the Local Guard Program for the U.S. Mission to Kabul. ... [T]he staffing situation has further deteriorated to a level that ... gravely endangers performance of guard services in a high-threat environment such as Afghanistan."
- In March 2009, the State Department informed AGNA that it had "grave concerns" relating to AGNA's continuing failure to provide sufficient guards. In inspections of the guard force operations, the State Department observed that at least 18 guards were absent from their posts at the embassy. In response, AGNA stated that the guards' absences were due to "supervisory personnel negligence."

Documents and information received by the Subcommittee also show that AGNA acquired over \$130,000 in counterfeit goods from a company owned by the AGNA logistics manager's wife.

In meetings with Subcommittee staff, the State Department has insisted that the U.S. Embassy in Kabul was never in any actual danger. State Department officials informed staff that the Department's security officials in Kabul provided diligent oversight of the contractors at all times and determined that the embassy's "operational" security has never been at issue. The State Department and AGNA have also advised that the contractor is now fully compliant with requirements relating to staffing.

Background

At most U.S. embassies around the world, the embassy security force is recruited from the local population. In certain high-risk threat environments, including Iraq and Afghanistan, the State Department has determined that the embassy guard force should be comprised of Americans and third-country nationals.

On March 12, 2007, the State Department awarded a contract to provide security services at the U.S. Embassy in Kabul, Afghanistan to ArmorGroup North America, Inc. ("AGNA"), a subsidiary of the British-owned ArmorGroup International. The contract was awarded for one base year and up to four additional option years, with a potential value of \$189.3 million for all five years.¹ Under the contract, AGNA is required to provide "a highly-trained, professional security force" to "protect life and property, prevent unauthorized access, maintain order, and deter criminal activity in and around the U.S. Mission in Afghanistan."²

AGNA's responsibilities include program management; recruiting, managing and training the guard force, including relief guards; operating and maintaining the guards' living quarters at Camp Sullivan, a facility located approximately 3 miles from the embassy; and transporting the guards from Camp Sullivan to the embassy.³

In early 2008, Danish-owned security giant G4S acquired ArmorGroup. In May 2008, Wackenhut Services, Inc., a U.S.-based G4S subsidiary with federal contracts to provide guard services, told the State Department that it had taken over responsibility for AGNA's Kabul embassy contract. The G4S/Wackenhut acquisition was completed in November 2008.⁴

Inadequate Contract Performance

Documents and information received by the Subcommittee show that AGNA's performance on the Kabul embassy contract has been deficient since the start of the contract in July 2007. At times, AGNA's failure to meet contract requirements was so severe that the security of the U.S. Embassy may have been placed at risk.

AGNA assumed responsibility for the Kabul embassy guard force on July 1, 2007. On July 19, 2007, the State Department issued a cure notice, a formal advisory that the contractor's deficiencies were endangering the performance of the contract. In the cure notice, the State Department contracting officer addressed 14 performance deficiencies, including the failure to provide adequate guards, relief personnel, and armored vehicles.⁵

¹ Contract No. S-AQMPD-07-C0054 (March 12, 2007).

² Contract No. S-AQMPD-07-C0054 (March 12, 2007).

³ Contract No. S-AQMPD-07-C0054 (March 12, 2007).

⁴ Wackenhut Services, International/ArmorGroup North America Briefing for Subcommittee Staff (June 2, 2009).

⁵ Letter from James S. (Steve) Rogers, Senior Contracting Officer, U.S. Department of State, to AGNA President Karl Semancik (July 19, 2007) (incorrectly dated June 19, 2007).

The deficiencies were so severe that the contracting officer warned that the contractor's failure placed the U.S. Embassy at additional security risk.⁶ According to the contracting officer:

I consider the contract deficiencies addressed below to endanger performance of the contract to such a degree that the security of the US Embassy in Kabul is in jeopardy.⁷

In the year following the cure notice, the State Department found numerous other problems with AGNA's performance, including lack of English language proficiency among the guard force and lack of a contingency plan. AGNA also failed to correct many of the deficiencies from the cure notice, including those relating to staffing and training.⁸

On April 30, 2008, State sent AGNA a letter summarizing the contractor's ongoing problems with performance. An attachment listed 15 recurring or ongoing deficiencies since the start of the contract and 4 additional deficiencies that arose after the July 19, 2007 cure notice. The State Department informed AGNA that, due to its continued weaknesses and deficiencies, the Department was considering whether to exercise the contract's first option year.⁹

Despite AGNA's continuing problems, in July 2008 the State Department decided to exercise the contract's first option year. In a performance evaluation submitted on June 12, 2008, the State Department noted that, based on satisfactory meetings with the incoming G4S/Wackenhut managers, it was "reasonable" to expect that all performance problems would be corrected by October 1, 2008.¹⁰

On August 22, 2008, however, the State Department told AGNA that it questioned the contractor's ability to provide security for the embassy in the hostile environment of Afghanistan.¹¹ According to the State Department:

[T]he Government has serious concerns regarding AGNA's ability to respond in the aftermath of a mass casualty incident or an extreme loss of personnel due to mass resignation, hostile fire or loss of manpower due to illness. The Government is primarily concerned that AGNA has not effectively planned for such contingencies and does not have adequate staffing levels and resources should the aforementioned incidents occur. ... Therefore, AGNA needs to come

⁶ *Id.*

⁷ *Id.*

⁸ Letter from Sharon James, Senior Contracting Officer, U.S. Department of State, to AGNA President Jerry Hoffman (April 30, 2008).

⁹ *Id.*

¹⁰ U.S. Department of State, Contractor Past Performance Evaluation for Contract No. S-AQMPD-07-C0054 (June 12, 2008).

¹¹ Letter from Joseph W. DeChirico, Contracting Officer, U.S. Department of State, to AGNA Vice President Mark Carruthers (Aug. 22, 2008).

quickly to terms with contract requirements especially in light of the current incidents occurring in and around Kabul and the corresponding threat environment they pose.¹²

By September 2008, AGNA's performance problems had grown so severe that the State Department felt it had no option other than to issue a "show cause" letter. This letter advised AGNA that the State Department was considering terminating AGNA's contract due to AGNA's persistent failure to correct the various deficiencies identified during the first year of performance.¹³

The State Department told AGNA that its failure to remedy the staffing deficiencies for the guard force had endangered the performance of the contract and created an "unacceptable level of risk."¹⁴ According to the State Department:

AGNA's inability to permanently correct personnel staffing shortages has negatively impacted the security posture of the Local Guard Program for the U.S. Mission to Kabul. ... [T]he staffing situation has further deteriorated to a level that ... gravely endangers performance of guard services in a high-threat environment such as Afghanistan.¹⁵

Since the "show cause" letter, the State Department and AGNA have worked together to resolve many of the contractor's deficiencies. In recent months, AGNA has made significant improvements to its performance. With respect to some of the deficiencies, however, the contractor is now in compliance only because the State Department changed the contract's requirements.¹⁶ According to the State Department, the contractor has only three remaining deficiencies: the lack of a secondary armorer; inadequate English language proficiency among the guard force; and the lack of one variety of training weapon for the guard force.

Because of the continued problems with staffing and other deficiencies, the State Department deducted \$2.4 million from AGNA's payments in 2007 and 2008.¹⁷

¹² *Id.*

¹³ Letter from Sharon James, Senior Contracting Officer, U.S. Department of State, to AGNA Vice President Mark Carruthers (Sept. 21, 2008).

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See, e.g. Contract No. S-AQMPD-07-C0054, Modification 4 (reducing hourly requirements for one ERT team from 24/7 to 12/7); Contract No. S-AQMPD-07-C0054, Modification 12 (eliminating an LN/Screening position); Contract No. S-AQMPD-07-C0054, Modification 13 (replacing one Senior Guard with one Guard position); Contract No. S-AQMPD-07-C0054, Modification 16 (eliminating two Emergency Medical Technician positions).

¹⁷ U.S. Department of State, Briefing for Subcommittee Staff (June 4, 2009).

In meetings with Subcommittee staff, the State Department has insisted that the U.S. Embassy in Kabul was never in any actual danger. State Department officials informed staff that the Department's security officials in Kabul provided diligent oversight of the contractors at all times and determined that the embassy's "operational" security has never been at issue.¹⁸ As detailed above, however, the Department's own statements call these conclusions into question.

Additional information regarding two recurring problems with the embassy guard force contract is below. These problems include:

- **Failure to Supply Adequate Number of Qualified Guards.** Documents and information received by the Subcommittee show that AGNA failed to provide an adequate number of qualified guards to meet the requirements for the embassy guard force. Despite assurances from the State Department and AGNA that all deficiencies were resolved in early 2009, the Subcommittee has learned that deficiencies with staffing have persisted until as recently as May 2009, the latest date for which documents have been produced.
- **Failure to Provide Sufficient Training for Guards.** Under the contract, AGNA is required to provide training for the entire guard force, and to supply weapons and ammunition for the training. AGNA has been unable to provide adequate weapons for training the guard force and instead has relied on government-furnished weapons since the beginning of the contract. AGNA has also failed to meet requirements relating to ammunition and weapons maintenance and repair supplies.

Failure to Supply Adequate Number of Qualified Guards

Documents and information received by the Subcommittee show that AGNA failed to provide an adequate number of qualified guards required for the Kabul embassy guard force. AGNA has failed to provide relief guards; failed to ensure that guards have clearances; failed to provide specialized personnel; and failed to provide guards with adequate language skills. Some of these failures have persisted as late as May 2009.

The Kabul embassy contract requires that the contractor provide a sufficient number of trained professionals to fill 153 positions, approximately 47 of which are reserved for Americans or "Expats," individuals from a small list of approved countries including Canada and New Zealand. Nearly all of the remaining positions have been filled by Gurkhas from Nepal. A small number of local Afghans work in positions which do not require a weapon.¹⁹

Under the contract, no guard may work for more than 12 continuous hours per guard shift, including mandatory break periods, or for more than 60 hours per week.²⁰ In addition, all the embassy guards must undergo a background investigation and meet the State Department's

¹⁸ U.S. Department of State, Briefing for Subcommittee Staff (June 4, 2009).

¹⁹ Contract No. S-AQMPD-07-C0054, Exhibit A (March 12, 2007).

²⁰ Contract No. S-AQMPD-07-C0054, § H.6.2 (March 12, 2007) (limiting Americans and Expats to 54 hours per week).

“Moderate Risk Public Trust (MRPT)” standard or, in the case of the senior management positions, qualify for a security clearance. The contract also requires that members of the embassy guard force have an adequate knowledge of English.²¹

In the first months of the contract, the State Department found a number of deficiencies relating to staffing, including:

- *Failure to provide relief guards.* The contract requires relief guards to allow the duty guards to take regular breaks, including breaks for meals, to ensure that the guards stay alert throughout their shift. The State Department advised that it was “very disturbing” that AGNA had not provided sufficient relief guards.²²
- *Failure to ensure guards have clearances.* The State Department told AGNA that its failure to submit MRPT packages for new guards had created an “operational problem” which greatly concerned the government. The State Department added that AGNA’s failure meant that the company did not have sufficient guards to meet the contract requirements without working the Americans and Expats longer than the contractual limit of 54 hours per week and/or 12 hours per day. The State Department also warned AGNA that it could not deploy guards who had not yet obtained their clearances.²³
- *Failure to provide guards with adequate language skills.* At AGNA’s request, the State Department gave the contractor a temporary waiver to use guards who could not meet the language requirements of the contract. AGNA was given 120 days to bring the guards’ language skills up to the required level of proficiency.²⁴

In March 2008, the State Department found that AGNA had not resolved the issues relating to relief guards, clearances, and language proficiency. The State Department also reported a number of other concerns relating to staffing, including:

- “There are continued problems with open posts due to US/Expat shortages (nearly 90% of the incumbent US/Expats left within the first six months of contract performance).”
- “AGNA has been unable to fill posts with resume-qualified individuals, to include the Key Personnel positions [...]”

²¹ Contract No. S-AQMPD-07-C0054, Exhibit A (March 12, 2007).

²² Letter from James S. (Steve) Rogers, Senior Contracting Officer, U.S. Department of State, to AGNA President Karl Semancik (July 19, 2007).

²³ *Id.*

²⁴ Letter from James S. (Steve) Rogers, Senior Contracting Officer, U.S. Department of State, to AGNA Director of Operations James Gordon (Nov. 2, 2007).

- “There have been extended periods of time when the Armorer, Radio Technician and Medic positions have been vacant.”²⁵

On September 21, 2008, the State Department advised AGNA that it was considering terminating the contract due to AGNA’s continued performance problems. In particular, the State Department told AGNA that its failure to remedy the staffing deficiencies for the guard force had endangered the performance of the contract and negatively affected contingency planning and capabilities, which “may place both personnel and property at an unacceptable level of risk.”²⁶ According to the State Department:

AGNA’s inability to permanently correct personnel staffing shortages has negatively impacted the security posture of the Local Guard Program for the U.S. Mission to Kabul. ... [T]he staffing situation has further deteriorated to a level that ... gravely endangers performance of guard services in a high-threat environment such as Afghanistan.²⁷

On November 13, 2008, the State Department stated that it had concerns about AGNA’s policy of working guards for longer than the 12-hour limit required by the contract. The State Department acknowledged that it had little choice in the matter, however, since AGNA could not provide enough guards without using overtime. The State Department told AGNA: “the decision to disapprove any extension of the use of overtime hours to augment staffing is not in the best interest of [the State Department RSO] and his attempt to maintain a secure Embassy.”²⁸

On January 24, 2009, after requesting and receiving multiple extensions from the State Department, AGNA declared that it was fully compliant with the contract’s requirements relating to the numbers and qualifications of the guard force.²⁹

On March 30, 2009, the State Department informed AGNA that it had “grave concerns” relating to AGNA’s continuing failure to provide sufficient relief guards. In inspections conducted earlier in March, the State Department noted that at least 18 guards were absent from their posts at the embassy.³⁰ In response, AGNA stated that the guards’ absences were due to

²⁵ U.S. Department of State, *Memorandum: Ongoing Concerns Regarding ArmorGroup North America’s Performance* (March 10, 2008).

²⁶ Letter from Sharon James, Senior Contracting Officer, U.S. Department of State, to AGNA Vice President Mark Carruthers (Sept. 21, 2008).

²⁷ *Id.*

²⁸ Letter from Joseph W. DeChirico, Contracting Officer, U.S. Department of State, to AGNA Vice President Mark Carruthers (Nov. 13, 2008).

²⁹ Letter from AGNA Vice President Mark Carruthers to Sharon James, Senior Contracting Officer, U.S. Department of State (Jan. 24, 2009).

³⁰ Letter from Sharon James, Senior Contracting Officer, U.S. Department of State, to AGNA Vice President Mark Carruthers (March 30, 2009) (attaching Corrective Action Plan Discussion March 10-13 2009).

“supervisory personnel negligence and not because of manpower shortages,” adding that all the supervisors had since undergone counseling.³¹

On April 1, 2009, State denied AGNA’s request for a waiver to meet contract language proficiency obligations, the third request of its kind.³² The State Department said:

[W]e are quite dismayed to learn that after nearly two years of contract performance, AGNA still has language deficiencies among [its] guard force. The Government also must wonder when this issue would have been discovered and addressed by AGNA, had the Government not brought it up. ... Therefore, at this juncture the Government will not grant AGNA a waiver due to AGNA’s inability to effectively establish and maintain quality control measures ... to fully meet contractual requirements. AGNA took a huge risk in placing these individuals in positions for which they did not meet the full qualifications³³

On May 6, 2009, AGNA reported to the State Department that the deficiencies relating to language and relief post personnel issues had been resolved.³⁴ The State Department has informed Subcommittee staff that AGNA is currently fully staffed.³⁵

Failure to Provide Training Weapons for Guards

The Kabul embassy contract requires AGNA to provide weapons training for the guard force.³⁶ The contractor is responsible for providing the training weapons and ammunition. Documents and information received by the Subcommittee show that AGNA has failed to provide the required training weapons and instead has used the government’s weapons to provide training to the guard force.

The State Department first learned that AGNA was using the government’s weapons for training in January 2008. At that time, the Department raised concerns that AGNA had failed to provide training weapons at any time since the beginning of the contract in July 2007, despite the contract’s strict requirements that they do so and without seeking a waiver from the Department.³⁷ According to the State Department:

³¹ Letter from AGNA Vice President Mark Carruthers to Sharon James, Senior Contracting Officer, U.S. Department of State (April 1, 2009).

³² Letter from Sharon James, Senior Contracting Officer, U.S. Department of State, to AGNA Vice President Mark Carruthers (April 1, 2009).

³³ *Id.*

³⁴ AGNA Corrective Action Plan Weekly Update (May 6, 2009).

³⁵ U.S. Department of State, Briefing for Subcommittee staff (June 4, 2009).

³⁶ Contract No. S-AQMPD-07-C0054, Exhibit D (March 12, 2007).

³⁷ Letter from James S. (Steve) Rogers, Senior Contracting Officer, U.S. Department of State, to AGNA Director of Operations James Gordon (Jan. 23, 2008).

Given that the contract is over six months old, that AGNA made no effort to inform the U.S. Government that this was occurring, and that AGNA failed to request a waiver from the Contracting Officer, the U.S. Government can only conclude that this was an intentional, deceptive action.³⁸

AGNA responded that it had used the weapons with the knowledge and consent of the State Department Regional Security Officer in Kabul.³⁹ AGNA also stated that it would immediately order weapons.⁴⁰ AGNA later informed the State Department that the weapons had been ordered on February 29, 2008, and might take as long as 6 months to arrive.⁴¹

On May 11, 2009, AGNA acknowledged in a letter to the State Department that it was still using the government's weapons to provide training for members of the guard force. Although AGNA had purchased some training weapons, additional weapons required or the guards were not expected to be delivered until late August or early September 2009.⁴²

The State Department and AGNA have not yet resolved how much money (if any) will be charged to AGNA for its past and continuing use of the government's weapons for training.⁴³

Product Substitution

On January 23, 2008, AGNA informed the State Department that it was conducting an internal investigation into allegations that the company improperly procured counterfeit goods for the embassy guard force.⁴⁴ Documents received by the Subcommittee indicate that boots, winter jackets, and gloves purchased by AGNA at a cost of more than \$130,000 were in fact counterfeit.⁴⁵

³⁸ *Id.*

³⁹ Letter from AGNA Vice President Mark Carruthers to Sharon James, Senior Contracting Officer, U.S. Department of State (May 11, 2009).

⁴⁰ U.S. Department of State, *Memorandum: Ongoing Concerns Regarding ArmorGroup North America's Performance* (March 10, 2008).

⁴¹ *Id.*

⁴² Letter from AGNA Vice President Mark Carruthers to Sharon James, Senior Contracting Officer, U.S. Department of State (May 11, 2009).

⁴³ U.S. Department of State, Briefing for Subcommittee Staff (May 21, 2009).

⁴⁴ U.S. Department of State, *Memorandum: Ongoing Concerns Regarding ArmorGroup North America's Performance* (March 10, 2008).

⁴⁵ E-mails between AGNA President Jerry Hoffman and AGNA Director of Operations James Gordon (Feb. 15, 2008); E-mail from Jeff Jones, Altama Footwear, to AGNA Director of Operations James Gordon (Feb. 15, 2008).

AGNA's investigation also revealed that the AGNA logistics manager had acquired the counterfeit goods from a company owned and managed by his wife.⁴⁶ In total, the logistics manager purchased a total of \$380,000 worth of equipment from his wife's company.⁴⁷ According to the AGNA program manager in Kabul, the State Department was aware of this arrangement.⁴⁸

On January 24, 2008, the State Department requested that the logistics manager be removed from the contract.⁴⁹ In early February 2008, AGNA informed the State Department that the logistics manager had resigned.⁵⁰ On February 27, 2008, however, based on information received from State Department officials in Kabul, the State Department learned that the logistics manager was in fact still working on the contract in Kabul.⁵¹ One week later, AGNA told the State Department that the logistics manager was no longer working for AGNA.⁵²

Conclusion

The record before the Subcommittee indicates that the Kabul embassy contract can be viewed as a case study of how mismanagement and lack of oversight can result in poor performance. AGNA's performance on the Kabul embassy contract has been deficient since the start of the contract in July 2007. The result is that, at times, the security of the U.S. Embassy in Kabul may have been placed at risk.

⁴⁶ ArmorGroup North America, *Memorandum: Investigation of Clothing Procurement USE in Kabul* (Jan. 30, 2008).

⁴⁷ E-mail from James S. (Steve) Rogers, Senior Contracting Officer, U.S. Department of State, to AGNA Director of Operations James Gordon and Heidi McMichael, Contracting Officer's Representative, U.S. Department of State (Jan. 24, 2008) .

⁴⁸ E-mail from AGNA Project Manager Nick Du Plessis to AGNA President Jerry Hoffman and AGNA Director of Operations James Gordon (Jan. 23, 2008) .

⁴⁹ E-mail from James S. (Steve) Rogers, Senior Contracting Officer, U.S. Department of State, to AGNA Director of Operations James Gordon and Heidi McMichael, Contracting Officer's Representative, U.S. Department of State (Jan. 24, 2008).

⁵⁰ Letter from AGNA Logistics Specialist Sean Garcia to AGNA Project Manager Nick Du Plessis (Feb. 5, 2008).

⁵¹ U.S. Department of State, *Memorandum: Ongoing Concerns Regarding ArmorGroup North America's Performance* (March 10, 2008).

⁵² *Id.*

**Senate Committee on Homeland Security and Government Oversight
Subcommittee on Contractor Oversight**

**Statement of the National Security Archive
On
The Freedom of Information Act at the Department of State
June 8, 2009**

Introduction

Since 2003, the National Security Archive (the “Archive”) has regularly examined federal agency Freedom of Information Act (FOIA) processing times. The Archive is an independent non-governmental research institute and library located at The George Washington University and a leading user of the Freedom of Information Act, which it relies on to assemble collections of key records that document United States decision-making on national security, foreign, intelligence, and economic policy matters. In 1999, the Archive won the George Polk Award, one of U.S. journalism's most prestigious prizes, for—in the words of the citation—“piercing the self-serving veils of government secrecy, guiding journalists in the search for the truth and informing us all.”

Using responses to the Archive’s FOIA requests and statistics from the agencies’ annual FOIA reports submitted to Congress, the Archive has issued a series of eight innovative audit reports that evaluated agency responsiveness to FOIA requests.¹ Those audit reports, and the Archive’s groundbreaking “10-oldest pending FOIA requests” metric, became essential evidence behind congressional efforts to improve agencies’ administration of the FOIA that culminated in enactment of The OPEN Government Act of 2007 (“2007 FOIA amendments”). Annual reports submitted by the agencies for fiscal year 2008 are the first to require reporting under the 2007 FOIA amendments of the ten oldest pending FOIA requests, interagency consultations, and appeals, and to require reporting of average FOIA request processing times.

Under the FOIA, agencies are required to respond to FOIA requests with a determination within 20 business days.² The FOIA allows agencies to extend the deadline up to ten days in certain “unusual circumstances.”³ Under the 2007 FOIA amendments, if the request must be re-routed to the proper component of the agency, the 20-day time period may not start until ten days after the request arrives at the agency.⁴

Case Study: The Department of State

In preparing this statement, the National Security Archive gathered information reported to Congress by 88 agencies in their FY 2008 FOIA reports.⁵ Statistics collected for this analysis

¹ Available at <http://www.gwu.edu/~nsarchiv/nsa/foia/audits.htm>

² 5 U.S.C. §552(a)(6)(A)(i).

³ 5 U.S.C. §552(a)(6)(B)(i).

⁴ 5 U.S.C. §552(a)(6)(A)(ii).

⁵ Three agencies’ FY 2008 annual reports were not available as of the date of this statement (AID, CEQ, and FEC).

include average processing times for simple, complex, and expedited requests, and the 10 oldest pending requests and consultations at each agency that reported this information for FY 2008.

- **Simple Requests**

Simple requests are requests “that an agency using multi-track processing places in its fastest (non-expedited) track based on the low volume and/or simplicity of the records requested.”⁶ These are usually requests for a single document, a small number of documents, or a subject for which it is easy to conduct a search. Across the federal government, 324,493 simple requests were processed in FY 2008. The weighted average processing time for a simple request was 56.40 days.

According to its FY 2008 Annual Report,⁷ the Department of State processed 1,111 simple requests. The average processing time reported by the Department of State for simple requests in FY 2008 was 115 days. This is 104% times greater than the government-wide weighted average. (See Ex. A)

- **Complex Requests**

Complex requests are requests “that an agency using multi-track processing places in a slower track based on the high volume and/or complexity of the records requested.”⁸ These may involve a large number of documents, a broad subject that requires more search time, or classified information. Government-wide 241,328 complex requests were processed in FY 2008. The weighted average processing time for a complex request was 194.03 days.

In the complex queue, the Department of State reported that it processed 1,780 requests in FY 2008. It reported its average processing time for a complex request as 275 days. This is 42% longer than the government-wide weighted average. (See Ex. A)

- **Expedited Requests**

Expedited requests are processed on a separate track and are processed “as soon as practicable.”⁹ Requests are placed in the expedited track when the requester demonstrates a “compelling need” for expedition.¹⁰ These most typically will be requests by news media and other information disseminators when there is an urgent need to inform the public about government activity. In 2008, the State Department granted expedition to 12 of 44 requests. Although the law requires the agency to decide whether it will expedite within 10 days of submission of the request,¹¹ on average the State Department took 22 days to make a determination to grant or to deny expedited processing.

⁶ Department of Justice, “2008 Guidelines for Agency Preparation of Annual FOIA Reports,” FOIA Post (May 2008).

⁷ Available at <http://www.state.gov/documents/organization/117700.pdf>.

⁸ Department of Justice, “2008 Guidelines for Agency Preparation of Annual FOIA Reports,” FOIA Post (May 2008).

⁹ 5 U.S.C. §552(a)(6)(E)(iii).

¹⁰ 5 U.S.C. §552(a)(6)(E)(i)(I).

¹¹ 5 U.S.C. §552(a)(6)(E)(ii)(I).

At the Department of State, the average processing time for expedited requests was 201 days. This is 512% more than the government-wide weighted average of 32.84 days. This is only 74 fewer days on average than the average processing time for a complex request at the Department of State. (See Ex. A)

- **Ten Oldest Pending FOIA Requests**

In 2008, the oldest pending FOIA request at the State Department was dated February 23, 2000, and its tenth oldest request was dated October 23, 2002. Thus, at the end of FY 2008, the State Department had unanswered FOIA requests that had been pending for as long as eight years. Of the 74 agencies reporting their oldest pending requests, with the oldest of the old in the 74th place, the Department of State was in the 61st place. (See Ex. B and C)

Interagency consultations are “the process whereby the agency responding to a FOIA request first forwards a record to another agency for its review because that other agency has an interest in the document.”¹² Of the 26 agencies that reported their ten oldest interagency consultations in 2008, with the oldest of the old in 26th place, the State Department was in 19th place, with their ten oldest consultations ranging in date from May 16, 2003, to March 22, 2005. (See Ex. D)

* * * * *

Please contact Meredith Fuchs, General Counsel, National Security Archive, at (202) 994-7000 or mfuchs@gwu.edu, with any questions.

¹² Department of Justice, “2008 Guidelines for Agency Preparation of Annual FOIA Reports,” FOIA Post (May 2008).

Exhibit A: Average Processing Times, FY 2008

AGENCY	Simple Requests		Complex Requests		Expedited Requests	
	Number Processed	Average (Bus. Days)	Number Processed	Average (Bus. Days)	Number Processed	Average (Bus. Days)
Department of Agriculture	37	26	1529	112	94	93
Department of Commerce	1378	13	320	109	16	8
Department of Defense	48388	30	22856	190	396	21
Department of Education	1679	111	547	39	10	17
Department of Energy	1600	70	111	86	3	10
Department of Health and Human Services	48246	60	12869	300	59	110
Department of Homeland Security	40526	146	49304	280	127	58
Department of Housing and Urban Development	NR	NR	NR	NR	NR	NR
Department of the Interior	3499	19	696	59	11	8
Department of Justice	47991	43	6698	273	262	10
Department of Labor	13868	23	6980	16	122	17
Department of State	7171	175	1788	275	2	288
Department of Transportation	7183	37	3159	101	80	126
Department of the Treasury	3299	10	13280	23	8	4
Department of Veterans Affairs	0	N/A	98042	NR	2707	NR
Agency for International Development	NR	NR	NR	NR	NR	NR
American Battle Monuments Commission	3	9	18	12	0	0
Amtrak (National Railroad Passenger Corporation)	8	10	101	27	2	10
Broadcasting Board of Governors	9	10	0	N/A	0	N/A
Central Intelligence Agency	751	59	9947	179	NR	NR
Chemical Safety and Hazard Investigation Board	19	18	21	437	0	N/A
Commission on Civil Rights	41	6	0	N/A	2	2
Committee for Purchase From People Who Are Blind or Severely Disabled	0	N/A	35	16	0	N/A

Commodity Futures Trading Commission	151	24	0	N/A	0	N/A
Consumer Product Safety Commission	3358	12	479	85	0	N/A
Corporation for National Service	45	9	0	N/A	0	N/A
Court Services and Offender Supervision Agency	NR	NR	NR	NR	0	N/A
Defense Nuclear Facilities Safety Board	27	6	0	N/A	0	N/A
Environmental Protection Agency	11175	43	415	61	4	51
Equal Employment Opportunity Commission	13831	38	N/A	N/A	605	20
Council on Environmental Quality	NR	NR	NR	NR	NR	NR
Office of Management and Budget	142	26	0	N/A	0	N/A
Office of National Drug Control Policy	NR	NR	NR	NR	NR	NR
Office of Science and Technology Policy	15	51	4	359	0	25
Office of the United States Trade Representative	0	N/A	53	102	0	N/A
Export-Import Bank	39	16	55	118	3	45
Farm Credit Administration	28	9	0	N/A	0	N/A
Farm Credit System Insurance Corporation	6	10	0	N/A	0	N/A
Federal Communications Commission	730	21	0	N/A	0	N/A
Federal Deposit Insurance Corporation	516	9	254	15	10	16
Federal Election Commission	NR	NR	NR	NR	NR	NR
Federal Energy Regulatory Commission	44 *	20	6 *	69	0	N/A
Federal Housing Finance Board	36	5	0	N/A	0	N/A
Federal Labor Relations Authority	77	28	0	N/A	0	N/A
Federal Maritime Commission	2	24	0	N/A	0	N/A
Federal Mediation and Conciliation Service	107	8	0	N/A	9	2

Federal Mine Safety and Health Review Commission	59	8	0	N/A	0	N/A
Federal Open Market Committee	18	9	3	19	0	N/A
Federal Reserve Board	319	3	517	19	2	136
Federal Retirement Thrift Investment Board	34	25	0	N/A	0	N/A
Federal Trade Commission	986	8	192	33	0	N/A
General Services Administration	301	15	0	N/A	0	N/A
Institute of Museum and Library Services	44	11	0	N/A	1	1
Inter-American Foundation	6	12	0	N/A	0	N/A
Legal Services Corporation	8	16	1	N/A	1	N/A
Merit Systems Protection Board	351	9	16	48	0	N/A
Millennium Challenge Corporation	17	45	0	N/A	0	N/A
National Aeronautics and Space Administration	614	34	631	83	13	36
National Archives and Records Administration	12784	10	439	480	NR	NR
National Capital Planning Commission	4	1	0	N/A	0	N/A
National Credit Union Administration	122	12	29	31	2	19
National Endowment for the Arts	51	NR	0	N/A	0	N/A
National Endowment for the Humanities	16	21	8	67	0	N/A
National Indian Gaming Commission	76	10	24	26	4	12
National Labor Relations Board	4663	9	0	N/A	5	1
National Mediation Board	16	13	0	N/A	0	N/A
National Science Foundation	348	20	N/A	N/A	0	N/A
National Transportation Safety Board	49	13	140	29	0	N/A
Nuclear Regulatory Commission	332	13	28	56	0	N/A
Occupational Safety and Health Review Commission	73	9	1	28	0	N/A
Office of the Director of National Intelligence	73	107	0	N/A	3	104

Office of Federal Housing Enterprise Oversight	27	11	4	12	0	N/A
Office of Government Ethics	42	11	0	N/A	0	N/A
Office of Personnel Management	0	N/A	5536	51	0	N/A
Office of Special Counsel	25	4	48	28	23	5
Overseas Private Investment Corporation	50	26	N/A	N/A	0	N/A
Peace Corps	132	14	0	1	1	3
Pension Benefit Guaranty Corporation	0	N/A	1764	5	2	7
Postal Regulatory Commission	32	5	0	N/A	0	N/A
Railroad Retirement Board	82	13	0	N/A	0	N/A
Securities and Exchange Commission	15463	158	65	575	2	3
Selective Service System	55	4	0	N/A	0	N/A
Small Business Administration	2640	14	0	0	0	0
Social Security Administration	32586	30	2140	60	0	N/A
Surface Transportation Board	19	11	N/A	N/A	0	N/A
Tennessee Valley Authority	89	8	40	39	0	N/A
United States Copyright Office	45	14	0	N/A	0	N/A
United States International Boundary and Water Commission	24	17	0	N/A	0	N/A
United States International Trade Commission	65	16	0	N/A	2	10.5
United States Postal Service	1788	13	112	52	8	5
United States Trade and Development Agency	0	N/A	31	53	0	N/A
TOTALS	324493	56.40 (weighted average)	241328	194.03 (weighted average)	4611	32.84 (weighted average)

* FERC uses 4 tracks; this chart includes FERC Track 1, Track 3, and Expedited.

NR = not reported

N/A = not applicable

Exhibit B: Ten Oldest Pending Perfected Requests, FY 2008

Agency	Oldest Pending Request	10th Oldest Pending Request
AIR	April 9, 1997	January 3, 2002
Amtrak	March 3, 2006	July 1, 2008
Army	June 5, 1997	August 12, 2003
CFTC	June 20, 2008	September 19, 2008
CIA	May 1, 1992	January 26, 2001
CPSC	July 29, 2004	April 27, 2006
DHS	February 25, 2000	April 19, 2002
DIA	December 16, 1994	September 17, 1997
DOA	August 7, 2001	June 11, 2004
DOC	January 6, 2006	October 2, 2006
DOD	December 1, 1992	January 25, 1994
DOD - CEN	January 12, 2004	July 8, 2005
DOD - OSD	December 1, 1992	January 27, 1994
DOE	November 16, 1999	December 15, 2004
DOI	May 5, 1997	August 14, 2000
DOJ	February 13, 1995	March 26, 2001
DOJ-Criminal	February 13, 1995	April 16, 2003
DOJ-DEA	January 4, 2004	September 30, 2005
DOJ-FBI	February 15, 2006	October 4, 2006
DOL	July 4, 2006	November 26, 2007
DOL - Mine Safety and Health	October 18, 2007	June 23, 2008
DOS	February 23, 2000	October 23, 2002
DOT	June 5, 2003	February 14, 2005
DOT - Federal Motor Carrier Safety	September 27, 2007	December 31, 2007
DOT - Secretary	February 3, 2006	January 17, 2007
EDU ¹³	May 27, 2006	December 16, 2007
EEOC	April 19, 2007	May 15, 2008
EPA	June 13, 2003	July 9, 2004
EXIM	March 2, 2007	August 14, 2008
FAA	June 5, 2003	February 14, 2005
FCA	none	none
FCC	November 8, 2006	April 3, 2008
FDIC	July 29, 2008	August 27, 2008
FEC	n/a	n/a
FEMA	November 9, 2004	March 14, 2006
FERC	October 27, 2004	September 15, 2008
FMC	August 21, 2007	June 9, 2008
FRB	May 15, 2008	August 25, 2008
FTC	April 3, 2008	September 28, 2008
GSA	May 23, 2008	September 25, 2008
HHS	June 14, 1999	September 9, 2000
HUD	July 1, 2004	November 21, 2007
ICE	March 29, 2007	August 29, 2008
MSPB	June 3, 2008	September 30, 2008

¹³ The Department of Education provided this information as days old, rather than providing the date of the request.

NARA	September 21, 1992	March 14, 1994
NASA	June 14, 2004	November 13, 2005
NAVY	January 30, 1998	June 24, 2004
NCUA	September 9, 2008	September 29, 2008
NEH	July 1, 2005	September 15, 2008
NGA	June 8, 2006	July 7, 2006
NIGC	August 11, 2008	September 24, 2008
NIH	n/a	n/a
NLRB	August 11, 2008	September 4, 2008
NRC	May 17, 2008	September 11, 2008
NRO	July 15, 2004	March 30, 2007
NSA	January 5, 1993	May 16, 1993
NSF	August 27, 2007	September 17, 2008
NTSB	February 16, 2007	May 30, 2008
ODNI	October 2, 2006	March 8, 2007
OFHEO	September 15, 2008	September 30, 2008
OMB	September 16, 2008	September 25, 2008
OPM	August 28, 2001	September 5, 2006
PBGC	September 12, 2008	September 22, 2008
Peace Corps	n/a	n/a
RRB	February 2, 2005	September 22, 2008
SBA	December 19, 2007	September 17, 2008
SEC	August 1, 2005	May 18, 2007
SSA	November 13, 2007	February 12, 2008
TRE	March 1, 1994	March 13, 2000
TSA	October 27, 2004	February 16, 2006
TVA	April 1, 2008	September 17, 2008
USTDA	none	none
USTR	March 14, 2006	September 27, 2007
VET	March 26, 2003	February 3, 2005

Exhibit C: The Worst Performers: Backlogs Older than 5 Years Old, FY 2008
Requests Filed Before February 2004

Agency	Oldest Pending Request	10 th Oldest Pending Request
CIA	May 1, 1992	January 26, 2001
NARA	September 21, 1992	March 14, 1994
DOD	December 1, 1992	January 25, 1994
NSA	January 5, 1993	May 16, 1993
TRE	March 1, 1994	March 13, 2000
DIA	December 16, 1994	September 17, 1997
DOJ	February 13, 1995	March 26, 2001
AIR	April 9, 1997	January 3, 2002
DOI	May 5, 1997	August 14, 2000
Army	June 5, 1997	August 12, 2003
NAVY	January 30, 1998	June 24, 2004
HHS	June 14, 1999	September 9, 2000
DOE	November 16, 1999	December 15, 2004
DOS	February 23, 2000	October 23, 2002
DHS	February 25, 2000	April 19, 2002
DOA	August 7, 2001	June 11, 2004
OPM	August 28, 2001	September 5, 2006
VET	March 26, 2003	February 3, 2005
DOT	June 5, 2003	February 14, 2005
FAA	June 5, 2003	February 14, 2005
EPA	June 13, 2003	July 9, 2004
DOJ-DEA	January 4, 2004	September 30, 2005
DOD - CEN	January 12, 2004	July 8, 2005

Exhibit D: Ten Oldest Pending Consultations, FY 2008

Agency	Oldest Pending Consult	Newest Pending Consult	Notes
DOD	December 29, 1994	December 1, 1999	
DOE	June 11, 1998	July 20, 2004	
NSA	November 14, 1998	March 27, 2007	
CIA	May 3, 2000	February 11, 2005	
DOJ	September 28, 2001	October 12, 2006	
DOJ-Criminal	September 28, 2001	May 14, 2007	
DIA	December 17, 2001	January 6, 2003	
DOE	March 22, 2005	March 22, 2005	
DHS	July 1, 2004	January 28, 2008	
NGA	December 21, 2005	September 14, 2006	
EPA	January 30, 2006	September 16, 2008	
DOJ-DEA	May 2, 2006	June 13, 2007	
Army	September 14, 2006	November 6, 2007	
ODNI	May 29, 2007	July 18, 2008	only 3 pending consults
DOT	August 28, 2007	n/a	only 1 pending consult
DOT - Secretary	August 28, 2007	n/a	only 1 pending consult
DOJ-FBI	October 9, 2007	March 7, 2008	
FEMA	January 28, 2008	August 14, 2008	only 2 pending consults
DOJ-EOUSA	February 19, 2008	September 23, 2008	only 6 pending consults
NAVY	March 24, 2008	August 8, 2008	only 4 consults pending
DOD - OSD	July 3, 2008	July 28, 2008	
DOC	July 18, 2008	August 28, 2008	only 5 pending consults
DOD - CEN	July 30, 2008	August 22, 2008	only 5 pending consults
NRO	August 13, 2008	September 25, 2008	only 2 pending consults
ICE	September 11, 2008	September 11, 2008	only 2 pending consults
TRE	September 25, 2008	September 30, 2008	only 2 pending consults

**Questions for the Record Submitted to
Deputy Assistant Secretary William Moser by
Senator Mark Pryor
Senate Homeland Security and Government Affairs Committee
June 10, 2009**

Question 1a:

In your written statement, you mention that prior to ArmorGroup, North America (AGNA) entering into a contract with the State Department to provide security services at the U.S. Embassy in Kabul, Afghanistan the State Department terminated a contract with MVM due to failure to meet contract requirements. Since that time, AGNA has had significant problems with contract compliance which has taken two years to rectify.

A) What contract requirements were not met that warranted the termination of the contract with MVM?

Answer:

MVM's contract was terminated December 21, 2005, for failure to complete transition and commence full performance. The following deficiencies contributed to this failure, as outlined in the Department's deficiency letter dated December 2, 2005.

- Performance Risks for Third Country National (TCN) Guards
 - Inability to communicate, understand, and follow directions from supervisors and trainers resulting in lack of required training and completion of assigned duties.

- Performance Risks for Namibian Senior Guards
 - Inability to communicate with subordinates
 - Inability to communicate with Program Management
 - Inability to communicate with RSO Office
 - Unable to supervise current TCN workforce effectively

- Performance Risks for Emergency Response Team (ERT)
 - Potential catastrophic failure of ERT if composed of Namibian Personnel when the majority of the Namibian workforce doesn't

meet the mandated level 3 English speaking requirement as outlined in the contract.

- Performance Risks Associated with Weapons Qualifications
 - Guards unable to achieve necessary qualifications for the pistol, shotgun, rifle, automatic weapons resulting in the inability to handle weapons proficiently
- Performance Risks Associated with not providing necessary Logistical Support
 - Failure to provide sufficient training ammunition resulted in depletion of the RSO ammunition inventory.
- The guards' high failure rate in passing weapons qualifications resulted in a significant increase in required training ammunition.

Question 1b:

What types of non-compliance issues normally trigger the Department's termination of a contract?

Answer:

Any number of issues can trigger the Department's termination of the contract, but for default termination the issue must be a material breach, such as:

- Failure to make delivery of the supplies or perform the services within the time specified in the contract;
- Failure to perform any other provision of the contract; or
- Failure to make progress and that failure endangers performance of the contract.

Question 1c:

How long did MVM hold the contract before it was terminated? And how long were they given to correct deficiencies before the contract was terminated?

Answer:

MVM held the contract for approximately 6 months between July 7 and December 21, 2005, with MVM having never commenced full performance.

The original transition period of the contract was three months. MVM was given an additional three months to meet performance levels adequate to engage in full performance of the contract. MVM was not able to do so within this time frame and the Contracting Officer was forced to terminate.

Question 2:

In your testimony, you mentioned challenges to effective contract administration in a war zone.

- Can you outline some of those challenges of effective contract administration in a war zone?
- What metrics do you use to determine whether or not contract administration in a war zone is “effective?”
- How are these metrics different to determining effective contract administration in non-war zones?

Answer:

Effective contract administration is complicated when operating in a contingency war zone. We are always working to incorporate lessons learned and improve our level of contract particularly in conflict zones.

Some of the contract administration challenges include:

- Annual transition of Contracting Officer’s Representative (CORs)
- Determining the optimal level of oversight required for contractor personnel in a war zone, including on and off duty.
- Coordination to meet contract action turnaround timeframes with personnel involved in the contracting process in different time zones
- Working with foreign governments to facilitate required support to contractors as mandated by 22 U.S.C.
- Constantly fluctuating security environment
- Attracting qualified personnel willing to live and work in a dangerous and volatile environment.

The local guard contract includes specific performance-based elements and requirements: schedule C Quality Assurance and Surveillance Plan (Q&A), quarterly Program Management Reviews (PMR) which are conducted by Diplomatic Security, and annual reviews of contractor past performance. While these requirements are also in non-war zone contracts there is increased level of

frequency of data reviews and reporting information to ensure the necessary level of oversight and management.

Some of the tools currently used for effective contract administration for local guard contracts worldwide include:

- Quality Assurance & Surveillance (Q&A) Plan - Exhibit C of the contract provides for a Q&A plan designed to provide our method to ensuring effective contractor performance. This exhibit provides the COR with a tool to monitor contractor performance, advise of the contractor of unsatisfactory performance, and notify the CO of weaknesses and deficiencies.
- Contractor Past Performance Reviews - This annual collaborative process allows the Government contract managers and contractor addresses quality, timeliness of performance, and business relations.
- Diplomatic Security Desk Officer Program Management Reviews (PMRs) - The technical reviews and inspections are conducted to support the operational effectiveness of guard services. They also enhance contract management by ensuring contractor staffing, training and requirements of the contract are fully achieved. PMRs are conducted quarterly
- Deliverables in the contract at section F are also used as metrics to determine effective contract management. For example, weekly summary reports are required by the Government. These reports are used by the COR as an effective tool for inspection/acceptance of services and overall contract administration. These reports are also used at weekly meetings between the COR, CO and contractor and include:
 - Personnel issues
 - Operational & Intelligence issues
 - Training Issues
 - Weapons Issues
 - Communication (Telecom) Issues
 - Equipment Issues
 - Variance

The Department of State is fully committed to providing effective and meaningful oversight necessary to meet the challenges of contracting in a war zone and will be looking continuously at improving our current practices, policy and procedures.

*Subcommittee on Contracting Oversight
Of the U.S. Senate Committee on Homeland Security and Governmental Affairs*

Responses of Mr. Brinkley to Questions from Senator Pryor

Q: Is it your view that non-compliance with the contract requirements did not result in the Embassy security being put at risk?

A: Yes – our view is that contract compliance is very important and that AGNA has an obligation to meet all contract requirements, but that AGNA’s failure to be fully contract compliant did not result in the Embassy ceasing to be secure.

Q: I’ve looked at the list of the 16 identified weaknesses and some of them seem like major violations to me such as failure to provide an armorer, failure to provide relief guards, failure to obtain clearances for watch keepers and failure to provide required amounts of ammunition. What criteria did you use to make the determination that the security of the Embassy was not jeopardized?

A: In May 2008 (at or about the time G4S plc completed its purchase of ArmorGroup plc), WSI performed an independent assessment of AGNA’s performance of the Kabul Embassy Contract. WSI sent a senior management team – comprised entirely of non-AGNA employees – to Kabul to make an on-the-ground assessment of the Kabul Contract performance. We also met with the Department of State customer in an effort to better understand their concerns. In addition, our assessment included a detailed review of each of the sixteen Contract deficiencies and weaknesses identified in the April 30, 2008 notice from the Department of State. Our independent assessment led us to the same conclusions as the Department of State – that is, that the security of the Embassy was never at risk but AGNA suffered from many contractual compliance issues.

Q: You stated that WSI’s cost of providing services required by AGNA under the Contract exceed the Contract price by about \$1 million per month. Unfortunately the issue of cost overruns for contracted services is not new. What services provided by AGNA at the Embassy in Kabul are costing more than expected? Where are you seeing the biggest losses?

A: Since the hearing, we have reviewed thoroughly the nature and causes of the cost overruns. As described more fully below, some of the cost overruns are attributable to inadequacies in the initial proposal and award process, others are attributable to subsequent changes in the contract, and other things. Hourly labor rates at contract award were unduly low. The hourly labor rates did not reflect the expense of a number of indirect costs such as training. In addition, AGNA calculated guard staffing incorrectly. Under the contract, the Department of State specified various guard posts, coverage for each post (e.g., 24/7), and minimum personnel requirements. AGNA proposed, and the awarded contract included, “loaded” hourly labor rates that included direct labor costs and an allocated share of indirect costs. These rates ineffectively took into account

manning requirements (e.g., the number of employees needed to man the posts for the specified number of hours). AGNA's use of a Department of State manning factor algorithm contributed to the miscalculation of contract manning. No proper price reasonableness/realism evaluation or technical review could have deemed these rates adequate.

In addition, there have been a number of changes to the scope of work of the contract. The current threat environment for the Embassy is much more perilous than anticipated at the time of award (which increases costs of recruiting and compensation and costs associated with higher attrition). Also, the market demand for protective force personnel has correspondingly increased – causing further increases to costs of recruiting and retaining personnel.

Finally, DOS strongly encouraged the retention of incumbents, which added costs incurred to retain them.

Q: Are these cost overruns due to the extensive corrective actions taken by WSI as a result of initial shortfalls? Or would the contract costs have exceeded the price regardless?

As indicated by the discussion above, contract costs would have exceeded contract price even if no corrective action had been required. However, the changes to the scope of work also have contributed materially to the increased cost of contract performance.