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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

February 10, 2012

Patrick Kennedy
Under Secretary for Management
United States Department of State
2201 C Street NW
Washington, DC 20520

Dear Mr Kennedy:

I recently received a report from the State Department Inspector General regarding the Department's Worldwide Protective Services (WPS) contract for security services in high-risk areas, including Iraq and Afghanistan. In light of this report, I am writing to request additional information regarding the award, management, and oversight of the WPS contract.

I have previously raised concerns about the Department's contracts for security services. In June 2009, the Subcommittee held a hearing examining a contract for guard services at the U.S. Embassy in Kabul. The hearing revealed performance deficiencies by the contractor, ArmorGroup North America, Inc. (AGNA), which were so severe that State Department officials stated in internal documents that the security of the Embassy may have been placed in jeopardy.¹

In September 2009, I wrote to you again regarding AGNA's performance, including troubling allegations regarding guard shortages, hazing, alcohol abuse, and misuse of government property by AGNA employees in Kabul. These allegations raised serious concerns

¹ Senate Homeland Security and Governmental Affairs Committee, Subcommittee on Contracting Oversight, *Hearing on Allegations of Waste, Fraud, and Abuse in Security Contracts at the U.S. Embassy in Kabul* (June 10, 2009); See also Senate Homeland Security and Governmental Affairs Committee, Subcommittee on Contracting Oversight, *Majority Staff Analysis: New Information about the Guard Force Contract at the U.S. Embassy in Kabul* (June 10, 2009).

about AGNA's ability to perform its obligations and the Department's management and oversight of the contract.²

In December 2009, the State Department advised the Subcommittee that it would not be exercising its option to extend AGNA's contract for an additional year. However, AGNA continued to perform under the contract for almost six months after its second option year had ended in June 2010 at an estimated \$3.7 million a month. In January 2011, the Department again extended AGNA's contract, at a potential cost of over \$115 million.³

On September 29, 2010, the State Department awarded the WPS contract, a \$10 billion contract for global security services, to eight contractors: EOD Technology, Inc. (EODT), Aegis Defense Services; SOC; International Development Solutions; Torres International Services; Triple Canopy; Global Strategies Group; and DynCorp International. On September 30, 2010, the State Department awarded a \$273 million five-year task order to EODT under the new WPS contract to replace AGNA as the contractor for guard services at the Kabul Embassy.⁴

Less than six months later, on March 11, 2011, the Department terminated EODT's task order. Between award and termination of its task order, EODT was cited numerous times by the contracting officer for deficiencies in training curriculum, inadequacies in recruitment and screening procedures, and delays in submitting personnel information. According to the Inspector General, EODT was unable to meet the Department's January 1, 2011 transition deadline.⁵

² Letter from Chairman McCaskill to Patrick F. Kennedy, Under Secretary for Management, U. S. Department of State (Sept. 1, 2009).

³ E-mail from Department of State Bureau of Legislative Affairs to Senate Homeland Security and Governmental Affairs, Subcommittee on Contracting Oversight Staff (Dec. 7, 2009); Senate Homeland Security and Governmental Affairs Committee, Subcommittee on Oversight of Government Management, *Hearing on The Diplomat's Shield: Diplomatic Security in Today's World*, Ambassador Eric J. Boswell response to questions for the record submitted by Senator Claire McCaskill (Dec. 9, 2009); Department of State Office of the Inspector General, Audit of the Department of State Process to Award the Worldwide Protective Services Contract and the Kabul Embassy Security Force Task Order, AUD/SI-12-17 (Dec. 17, 2011).

⁴ Department of State Office of the Inspector General, Audit of the Department of State Process to Award the Worldwide Protective Services Contract and the Kabul Embassy Security Force Task Order, AUD/SI-12-17 (Dec. 17, 2011); EOD Technology, Inc. Task Order IDV PIID : PIID [SAQMMA10D0096](#) : [SAQMMA10F5213](#), Online at www.USASpending.gov (accessed Jan. 20, 2012).

⁵ Department of State Office of the Inspector General, Audit of the Department of State Process to Award the Worldwide Protective Services Contract and the Kabul Embassy Security Force Task Order, AUD/SI-12-17 (Dec. 17, 2011).

On March 14, 2011, I asked the State Department Inspector General to initiate a review of the State Department's award of the WPS contract and the Kabul Embassy Security Force (KESF) task order. In particular, I asked the Inspector General to examine whether the Department had adequately considered the past performance of contractors prior to awarding the contract.⁶ For example, a report by the U.S. Senate Armed Services Committee on Private Security Contractors in Afghanistan, publicly released in October 2010, detailed evidence of EODT's misconduct in fulfillment of a Department of Defense contract for security services in Afghanistan, including relying on local Taliban warlords to provide guards and hiring individuals who had previously been fired for sharing sensitive security information with Taliban warlords.⁷

I received the Inspector General's audit on December 21, 2011.⁸ A copy of this report is enclosed for your convenience. The Inspector General's report revealed inconsistencies and shortcomings in the Department's processes to rate past performance and technical approaches of offerors. Examples of these problems include the following:

- Although the WPS contract was supposed to be awarded to companies with both technical expertise and a record of good performance on other contracts, the Department awarded the WPS contract to companies with final past performance evaluations ranging from "marginal" to "unacceptable", including EODT, Triple Canopy, and DynCorp.
- Although the Department received information requests from the Senate Armed Services Committee regarding EODT in May 2009 and the Department contracting officer explicitly cited EODT's "5-year presence in Afghanistan" among the reasons for awarding the KESF task order to EODT, the Inspector General determined that Department officials were unaware of EODT's performance on Defense Department contracts in Afghanistan until the Senate Armed Services Committee's report was released to the public in October 2010.
- The Department awarded the KESF task order to EODT despite initially finding that EODT's past performance was "unacceptable." The Department later changed EODT's rating to "marginal." Other offerors had significantly higher ratings for technical

A settlement in June 2011 prohibited EODT from re-competing for the KESF task order, but allows EODT to compete for other task orders under the WPS contract and converts EODT's original termination for default into a termination for convenience. Aegis Defense Services LLC was eventually awarded the re-competed KESF task order on July 29, 2011. *Id.*

⁶ Letter from Chairman McCaskill to Harold Geisel, Deputy Inspector General, U. S. Department of State (March 14, 2011).

⁷ U.S. Senate Armed Services Committee, *Report: Inquiry into the Role and Oversight of Private Security Contractors in Afghanistan* (Sept. 28, 2010).

⁸ Letter from Harold Geisel, Deputy Inspector General, U. S. Department of State to Chairman McCaskill (Dec. 21, 2011).

expertise and past performance, including one company which was found to be “excellent” in both categories.

- Even after the public release of the Senate Armed Services Committee’s report containing information regarding EODT’s connections to the Taliban and warlords, the Department failed to take action against EODT until March 2011, over five months after release of the report. When the Department did terminate EODT’s contract, its stated reasons for doing so were unrelated to any of the findings in the Senate Armed Services Committee report.⁹

Although the Inspector General concluded that there was no violation of any law or regulation, the information contained within the reports suggests that there are serious problems with the Department’s procedures for awarding security contracts. As a result, I have no assurance that any of the contractors selected by the State Department have the capacity to perform the contract without jeopardizing the security of American personnel at the Kabul Embassy and other high-risk locations.

To better understand how the Department evaluated and awarded the WPS contract and task orders, I request that you provide information and documents sufficient to answer the following questions:

- 1) Did Department officials contacted the Department of Defense to request information about EODT past performance on Defense Department contracts in Afghanistan prior to award of the KESF task order? If so, what information was provided to the Department?
- 2) According to the OIG report, the technical evaluation panel assigned an initial past performance rating of “unacceptable” to EODT because of “concerns about problems in prior contracts, such as when EODT received a cure notice on one of its Department of Defense contracts.” Did the technical evaluation panel’s information about Defense Department contracts with EODT include any of the information contained in the Senate Armed Services Committee’s October 2010 report?
- 3) Has the State Department determined that any of the WPS contractors’ use of Third Country Nationals was in violation of existing policies, including vetting requirements? If so, which awardees were in violation of these policies? Are these awardees still eligible to receive task orders under the WPS contract?
- 4) Did Department officials review the past performance for the companies who formed the joint venture International Development Solutions prior to award of the contract?

⁹ Department of State Office of the Inspector General, Audit of the Department of State Process to Award the Worldwide Protective Services Contract and the Kabul Embassy Security Force Task Order, AUD/SI-12-17 (Dec. 17, 2011).

- 5) Which of the eight awardees on the original WPS contract are currently eligible to receive new task order awards under the WPS contract?

I also request that you provide the task order number, dollar value, and contractor for each task order currently being performed under the WPS contract, including all performance evaluations under current task orders. Please provide this information as soon as possible, but in no case later than **Thursday, March 1, 2012**. If you determine that you will be unable to make a complete production by this date, please contact Subcommittee staff to discuss possible modifications to this schedule.

The jurisdiction of the Subcommittee on Contracting Oversight is set forth in Senate Rule XXV clause 1(k); Senate Resolution 445 section 101 (108th Congress); and Senate Resolution 73 (111th Congress). An attachment to this letter provides additional information about how to respond to the Subcommittee's request.

I appreciate your assistance. Please contact Alan Kahn with the Subcommittee staff at (202) 224-3230 with any questions. Please send any official correspondence relating to this request to kelsey_stroud@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Chairman
Subcommittee on Contracting Oversight

cc: Rob Portman
Ranking Member
Subcommittee on Contracting Oversight

Harold Geisel
Deputy Inspector General
U. S. Department of State

Enclosures