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DHS'S PROCUREMENT PROCESS REGARDING ITS CONTRACTS WITH SHIRLINGTON LIMOUSINE AND TRANSPORTATION, INC.

HEARING

BEFORE THE

SUBCOMMITTEE ON MANAGEMENT INTEGRATION, AND OVERSIGHT

OF THE

COMMITTEE ON HOMELAND SECURITY HOUSE OF REPRESENTATIVES

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HEARING ON DHS'S PROCUREMENT PROCESS REGARDING ITS CONTRACTS WITH SHIRLINGTON LIMOUSINE AND TRANSPORTATION, INC.

Thursday, June 15, 2006

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
SUBCOMMITTEE ON MANAGEMENT,
INTEGRATION, AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to call, at 12:03 p.m., in Room 311, Cannon House Office Building, Hon. Mike Rogers [chairman of the subcommittee] presiding.

Present: Representatives Rogers, King, Meek, Lofgren, Thompson, Jackson-Lee, and Pascrell.

Mr. ROGERS. [Presiding.] This hearing of the Committee on Homeland Security, Subcommittee on Management, Integration and Oversight will come to order.

Today, we are holding a hearing on the Department of Homeland Security's contract with Shirlington Limousine Transportation, Incorporated. We are going to examine the DHS procurement process and how these two contracts, valued at $25 million, came about. The goal of this hearing is to identify inadequacies and discuss concrete steps DHS can take to ensure that they are not repeated in the future.

Let me first welcome our witnesses, all of whom are very busy, and I appreciate each of them taking the time to be with us today.

Shirlington Limousine was established in Arlington, Virginia, as a limited liability company known as an LLC in 1990. The SBA certified the company as a HUBZone business on April 8, 2004. Yet just 2 1/2 weeks later, DHS awarded Shirlington Limousine a $1.6 million transportation contract. This later grew to $4 million and was extended to an additional 6 months on October 26, 2005.

On October 27, 2005, Shirlington was awarded a second contract for $4 million in the first year, with three 1-year renewal options for a total of $21 million. We will hear more about this timeline and the circumstances surrounding both awards from the department's chief procurement officer.

We will also hear from the director of DHS's Office of Small and Disadvantaged Business Utilization, and a senior official from the Small Business Administration.

We also invited the president and vice president of Shirlington Limousine to appear today, but they declined because of a federal

grand jury investigation. The company president, however, has responded in writing to questions that the ranking member and I have submitted. He has also responding to a second set of interrogatories that I sent yesterday. He has been completely cooperative.

On May 18, we held a hearing on the DHS security clearance process. We heard testimony that the department does not regularly conduct background checks on small business owners that have DHS contracts such as Shirlington Limousine Company. We also discussed other security concerns, such as the possibility of eavesdropping on sensitive conversations and potential terrorists who could infiltrate DHS buses.

In addition, our ongoing review of these contracts revealed that the department failed to learn critical information about Shirlington Limousine's past performance and its owner's background. The department's former inspector general called this process "textbook poor" because it "failed to turn up readily available information about Shirlington Limousine's finances and performance."

He advised us that given the department's ultra-sensitive mission, DHS should have background investigations conducted on contractors, as well as security investigations. I agree.

We also will examine why DHS has seven separate transportation contracts, which totaled almost $31 million and what steps are being taken to consolidate these transportation services and save taxpayer dollars. As I stated at the outset, we want to find concrete solutions to these deficiencies.

Therefore, I am particularly interested in discussing questions such as: How Shirlington Limousine became a HUBZone company? Why DHS decided to compete this transportation service contract as a HUBZone set-aside? Given the department's sensitive mission, are there plans to better address security concerns in the procurement process? And finally, whether the department will institute financial and criminal background checks on small business owners in the future?

We appreciate all of the hard work Ms. Duke has been doing to reform the process and improve the procurement process at DHS. I understand Ms. Duke is moving forward with a strategic source initiative which could result in more efficient and more effective department-wide transportation services. We look forward to working with you on this.

With that, I will now yield to the ranking member for any statement that he may have.

Mr. MEEK. Thank you, Mr. Chairman.

I want to thank our witnesses for coming before us today. I want to thank them for all of the meetings prior to this hearing today.

One of the major challenges for the Department of Homeland Security from day one was hiring and retaining qualified procurement staff. The Shirlington Limo case is a timely example of what can go wrong when you don't have enough experienced staff to do the job.

Whether there is any truth in the scandalous talk about Shirlington Limousine or not, we have a responsibility as a committee to be able to ask the tough questions. First, was the standard procurement process followed in the selection of Shirlington

Limousine, or did some powerful friend, may they be a member of Congress or an official in the executive branch, pull some strings?

The second question: How did department procurement staff investigate whether Shirlington Limousine was a responsible contractor? If so, why didn't the staff uncover the owner's bankruptcy and examples of Shirlington's past failures to perform, including the well-publicized incident in 2002 where a Shirlington Bus was repossessed in Atlanta, standing up the Bowie State football team, which was just a simple Yahoo search.

Any procurement official that learned about the Bowie State incident would have had serious concerns of whether Shirlington was responsible enough as a contractor to support the top officials of the Department of Homeland Security.

The third question: Why did the Department of Homeland Security award Shirlington Limousine a contract after all other bidders were deemed unqualified for consideration as a HUBZone? Why didn't the department re-compete the contract to assure that it had enough to be able to bring about the best value for the department?

Finally, how did the contract start at just over $1 million and balloon to over $21 million in just 1 year?

As you can see, I have a lot of serious questions about the procurement and I am pleased that Ms. Elaine Duke, DHS's chief procurement officer, has brought her staff who handled the procurement, here today, which I greatly appreciate. Hopefully, we can get some answers to these questions today.

More broadly, I believe that anything to be gained from this attention paid to the Shirlington contract is that the Department of Homeland Security needs a larger and better-trained procurement staff. If the Katrina contracting scandals were not enough to do it, I would hope that this one will show that those of us in Congress have to make sure that they have what they need to carry out their job.

One more positive note: I want to thank Chief Duke on her efforts for understanding that she has taken to learn more about transportation services in the Washington metro area. My understanding is that she will be issuing a request for information in the next week to get more information and look more closely at local and private industry that can meet the department's needs as it relates to transportation.

Once again, I would like to thank our witnesses for coming before the committee. I look forward to the fruitful testimony that hopefully we will be hearing. Thank you so very much.

I yield back, Mr. Chairman.

Mr. ROGERS. I thank the gentleman.

The chair now recognizes the chairman of the full committee, Mr. King, for any opening statement he may have.

Mr. KING. Thank you, Chairman Rogers. I want to thank you and Ranking Member Meek for the work you have done in bringing this matter this far and for having both the hearing we had last month and also the hearing today, and for the information you have managed to uncover.

To me, this hearing today is important on many levels. It is important on the basic level of what procedures were followed, what procedures weren't followed, why they weren't followed. There just

seem to be so many questions about the HUBZone, about why there weren't more bidders. Were other bidders discouraged from putting in applications? There is a question, as both Mr. Meek and Mr. Rogers have mentioned, about the prior record of Shirlington as far as its contracts with Bowie State, with Howard University.

There are the personal problems which the president of Shirlington has had, all of which to me should have sent up red flags if there was a proper vetting process done. That, to me, would raise enough questions by themselves. When you add to the fact, when you put this against the backdrop of where we first heard of Shirlington Limousine; the fact that Shirlington Limousine currently was under contract to Brent Wilkes at his company, a defense contractor who we understand has been named as an uninvited co-conspirator in the Duke Cunningham case; when we find out from newspaper reports that Mr. Wilkes had arranged various parties at the Watergate Hotel and others where this limousine service was used in some way.

I found out from seeing the affidavit of Mr. Baker that he says that Congressman Cunningham actually sent a letter of reference to the Department of Homeland Security recommending Shirlington Limousine for this contract. All of this could be a coincidence. It could be a coincidence having corruption, having the CIA, having defense contractors, having a congressman, a member of my own party who has pleaded guilty to doing worse possible offenses a member of Congress could commit, who sold his public office being the person who happened to recommend Shirlington Limousine to the Department of Homeland Security.

I would ask why? Why of all 435 members of Congress did Duke Cunningham send in this letter of recommendation? And then my understanding is that the Department of Homeland Security says it does not have this letter on file and has not turned it over to us. This is a very serious question as to was that letter sent, as was sworn to under oath; is it missing; why is it missing; why again did Congressman Cunningham send in this letter of recommendation?

I would also be interested, and I met with Ms. Duke last week and I know of her absolute dedication to do the right thing, so nothing that I am saying is in any way directed toward you, but it seems to me we are talking about a systemic problem. As a result of that systemic problem, when we have a scandal, which hopefully is just off to the side and not part of it, but it puts doubt over the entire department. It raises serious questions about whether all of this just happens to be a coincidence, or whether or not there was favored treatment here.

That, to me, is the real reason why we have to have better processes in place, because any time the proper procedures are not followed or there are not proper procedures available to be followed, and something does go wrong, people assume the worst. And maybe we should assume the worst. I don't know yet whether or not we should.

But I would be interested also as this hearing goes on to find out how seriously the people at the top of the department take this issue. I know there is a public information officer in the Department of Homeland Security who as far as I can see has never been

right yet on any issue he has spoken on. But he was saying, whether it is the subway situation in New York last October or now, where he has basically said Congress has to understand what happened here; that really everything was done right, and we just don't appreciate that.

Well, he is right. I don't appreciate that. From what I have seen here, almost everything that could have gone wrong, did go wrong, and it could be part of a much larger scandal. If it is not, it is only by luck. To me, the importance of this hearing, and I really commend Mr. Rogers and Mr. Meek for the work they have done, is to ensure that something like this does not happen again and the proper procedures are put in place, and the department takes it seriously.

You are in the trenches. You have the day-to-day work to do. Really, my heart goes out to you. I know that you are understaffed and all that you have to do and everything is thrown at you, and you have to try to make sense out of it. I would hope that the secretary, for instance, realizes how important this is; that he realizes the cloud that has been put over his entire department because of what happened here.

I really wonder: Has he contacted you? Has the under secretary contacted you? Have assistant secretaries contacted you to say this is a disgrace that should never be allowed to happen again? I really wonder, because I certainly have not seen anything coming from the department to indicate that they realize how serious this is. I am talking about the top levels.

You, again Ms. Duke, I want to again thank you for the meeting we had with you and the cooperation you have given to this subcommittee and committee. So nothing I am saying here is in any way directed toward you. Quite frankly, when we were talking to Shirlington, when talking to the ranking member, they have also cooperated.

So I think our problems may go higher than that, and I look forward to where this hearing is going to take us.

I yield back.

Mr. ROGERS. Thank you, Mr. Chairman.

The chair now recognizes the ranking member, Mr. Thompson from Mississippi.

Mr. THOMPSON. Thank you very much, Mr. Chairman.

Let me say from the outset that everything that has been said so far, I absolutely agree with. I want to talk about what Chairman King just recently talked about with respect to this letter from Congressman Cunningham. My staff asked for this same letter several weeks ago, and we were shocked to find out that the letter did not exist in the department's file, even though from my understanding Shirlington has admitted that they were aware of the letter and what have you.

I agree. It puts a cloud on this entire process. I would hope that we have fixed the systems so we retain whatever documents that are there. I would hope that somebody didn't go in the file and remove that letter just because a cloud was around.

But I also agree with Mr. King that Secretary Chertoff and Deputy Secretary Michael Jackson really need to come before this committee and at least give us their idea as to what they are doing to

prevent situations like this from occurring. We were in a hearing yesterday, as most of you know, and we saw an example of FEMA gone wild. What we had was a good mid-level person taking the heat for the department. We should have had at a minimum the deputy and optimally the secretary.

For that reason, just like Ms. Duke is here today, and Mr. Boshears and others, they do a good job, but the buck stops at the secretary. At some point, Mr. Chairman, I am absolutely convinced that we need to get the people who are responsible for the snafus and other things that have gone on before this committee, or else we will continue to hear about things in the press, and then get told by the public information officer that we don't know what we are talking about, which I take absolutely exception to.

The only other thing I want to add is, we are still not up as an agency to be fully staffed. We heard testimony yesterday where people have been working 7 days a week. We have gone on and allocated money for the department to ramp up and hire people, and we are still too far away from capacity. So I can understand what happens to people when they are overworked. They tend to make mistakes. I am not certain that the Shirlington is a mistake, but when you work people 6 or 7 days a week for months on end, you potentially set yourself up for problems.

So I am concerned about it. I would hope, Mr. Chairman, that somehow before we break for the July 4 recess that we can get the secretary in here. I think we have had him once this year, and that is not enough. Yes. So he needs to have a better relationship. There are too many questions out there, and for what we have to contend with in terms of the waste, fraud and abuse, he needs to be the person that we hold accountable, and then he can pass it on, but the buck stops with the secretary.

I look forward to the testimony today, but I also look forward at some point to getting a commitment that we can bring the secretary in and ask some of these questions of the person who is in charge of the agency.

I yield back.

Mr. ROGERS. I thank the gentleman.

The chair would also remind other members that they can submit opening statements for the record.

FOR THE RECORD

PREPARED STATEMENT OF THE HONORABLE SHEILA JACKSON-LEE, A REPRESENTATIVE OF CONGRESS FROM THE STATE OF TEXAS

Mr. Chairman and members of the committee, we have many important questions to answer today, and I welcome the testimony that our witnesses are here to present. Thank you, Ms. Duke, Mr. Boshears, and Mr. Jenkins for appearing today.

The purpose of this hearing is to determine the extent of Shirlington Limousine and Transportation, Inc's involvement in the corruption and on- going bribery scandal of former Representative Duke Cunningham. Shirlington is alleged to have been involved with transporting officials to and from hospitality suites where unseemly events occurred.

Questions have been raised regarding the process of awarding this contract, the qualifications of Shirlington as a contractor, and whether or not any shortcuts led to a lapse in official duty. In particular, I am interested in discovering where the blame should lie, and laying blame where it is due, rather than throwing allegations around to make everyone look equally guilty. Those who committed crimes or unethical actions must be held responsible for their actions. It is unfortunate that media attention can swell the appearance of culpability. We are not interested in anything

here but facts. Let us focus as much as we can today on how much responsibility lies with Shirlington, as opposed to the individuals and Departments that awarded and ran the procurement process and contract itself.

Let me also say that, as we proceed with this hearing, I ask that we consider the testimony careklly. I want to make sure that we are focusing correctly on the corruption, and not simply the company. Many very poor decisions were made during this fiasco, and I want to make sure that Shirlington, as the contracted business, is held responsible only for those actions it made directly that were inappropriate. I do not want, for instance, the personal difficulties of an individual's past discussed as relevant if these circumstances had no direct bearing on the situation at hand. I would like to once again thank the witnesses for their testimony today, and I look forward to the discussion. Thank you Mr. Chairman, and I yield the balance of my time.

We are pleased to have a distinguished panel with us today. I know this is going to be an enlightening set of opening statements. I would remind each of you that your full statement will be accepted for the record. If you would like to just summarize that statement within 5 minutes, that would leave more times for questions.

The chair now recognizes the panel and calls Elaine Duke, chief procurement officer of the U.S. Department of Homeland Security, for her statement.

Welcome, Ms. Duke.

STATEMENT OF ELAINE DUKE

Ms. DUKE. Thank you. Good morning.

Chairman Rogers, Congressman Meek and members of the committee, thank you for the opportunity to discuss the Department of Homeland Security acquisition program and our contracting procedures. I am a public servant, a career executive and have spent most of my 23 years of public service as an acquisition professional.

On January 31, 2006, I was selected as the department's chief procurement officer. Accompanying me today is Mr. Kevin Boshears, the director of the department's Office of Small and Disadvantaged Business Utilization. Mr. Boshears possesses a wealth of knowledge and experience with the small business program. He is also a career public servant and serves as the department's director, Office of Small and Disadvantaged Business Utilization.

As chief procurement officer, my top four priorities for the department's acquisition program are to establish an acquisitions system whereby each requirement has a well-defined mission and a management team that includes professionals with the requisite skills to achieve mission results.

Second is to build the DHS acquisition workforce. One initiative under this goal is improving and broadening the DHS fellows program. Under the fellows program, we recruit recent college graduates to ensure DHS has a qualified cadre of acquisition professionals to support its mission now and in the future.

Third is to strengthen contract administration to ensure product and services purchased meet contract requirements and mission need.

Fourth is to buy more effectively across the eight contracting officers within DHS through the use of strategic sourcing and supplier management.

Since our establishment in 2003, the department has seen significant growth in its acquisition program. Due to its dynamic mission requirements, DHS continually assesses and updates its re-

quirements and resulting contracts. In its first year, DHS obligated over $6.7 billion in contracts. Over the next 2 years, DHS grew and obligated over $17 billion, involving over 66,000 contract actions and 15,000 prime contractors.

Last year, 75 percent of DHS contract awards were competitive. As part of the DHS CPO strategic sourcing program, we recognized the department-wide need for fleet transportation services and targeted this commodity as a strategic sourcing initiative. To ensure we obtain the best value source to meet our need for department-wide transportation services in the Washington metropolitan area, DHS will be issuing a request for information within the week to obtain information from our industry partners on how the private sector can meet our department-wide transportation requirements.

The request for information will be posted on the federal government's public posting site, FedBizOpps. From that information, we will develop an acquisition strategy for the department's future transportation service requirements, including a potential 50,000 federal bus riders per month serving department components throughout the D.C. metro area.

Over the next quarter, we will gather that information from industry, analyze it and plan our procurement approach. We plan to announce the procurement and request proposals for industry for a department-wide solution by the end of the calendar year.

In closing, I would like to express my gratitude to Mr. Rogers, Mr. Meek, Mr. King and Mr. Thompson for working with me, Kevin and DHS to develop better business processes in the department. I look forward to continue working with the committee on developing solutions to current and future issues, including the one we are discussing today.

I am happy to take any questions, and thank you.

[The statement of Ms. Duke follows:]

PREPARED STATEMENT OF ELAINE C. DUKE

Chairman Rogers, Congressman Meek and Members of the Committee, thank you for the opportunity to discuss the Department of Homeland Security (DHS) acquisition program and our contracting procedures. Accompanying me today is Mr. Kevin Boshears, the Director of the Department's Office of Small and Disadvantaged Business Utilization (OSDBU). Mr. Boshears possesses a wealth of knowledge and experience with the small business program. He has served as a contracting officer, as the Department of Treasury's Director of OSDBU, and as Vice Chair of the Office of Small and Disadvantaged Business Utilization Directors' Interagency Council from FY 2001 through FY 2004. He joins me today to answer questions that this Committee may have concerning the Department's small business and socio-economic programs.

I am the Chief Procurement Officer for the Department of Homeland Security (DHS). I am a public servant, as a career executive, and I have spent most of my 23 years of service in the procurement profession. On January 31, 2006, 1 was selected as the Department's Chief Procurement Officer.

As the Chief Procurement Officer (CPO), I provide oversight and support to the following eight procurement offices within DHS: U.S. Customs and Border Protection (CBP), Transportation Security Administration (TSA); Immigration and Customs Enforcement (ICE); Federal Emergency Management Agency (FEMA); the Federal Law Enforcement Training Center (FLETC); United States Coast Guard (USCG); United States Secret Service (USSS), and the Office of Procurement Operations. In fiscal year 2005, these eight procurement offices obligated over $17 billion for supplies and services in support of the DHS mission. Given the mission these contracting offices support, the supplies and services purchased by these offices are often sophisticated and complex. For example, to support its mission of air passenger security TSA has purchased increasingly sophisticated screening equipment

for both personnel and carry-on and stowed baggage. We are also working with CBP, in support of DHS' mission to secure the nation's borders, to acquire the technologies to implement the Secure Border Initiative as well as Immigration and Customs Enforcement. The United States Coast Guard is in the midst of upgrading the entire offshore fleet of surface and air assets in the Deepwater program. This program is a critical multiyear, multibillion dollar program to integrate, modernize and replace the Coast Guard's aging ships and aircraft and improve systems for logistics and command and control. The Department is currently in the process of evaluating offers under our EAGLE and First Source programs which will become one of the Government's largest programs for Information Technology equipment and services. Efficiency and effectiveness of these mission critical procurements are facilitated through the use of performance based contracting principals and competitive contracting procedures.

My top priorities for the DHS program are:

First, to establish an acquisition system whereby each requirement has a well defined mission and a management team that includes professionals with the requisite skills to achieve mission results. The FY 2007 Budget request includes $7.8 million in improve acquisition operations.

My second goal is to build the DHS acquisition workforce. In the FY 2007 Budget, the Department requested $48.5 million to hire additional procurement personnel. In addition, we have created an initiative under this goal to improve and broaden the DHS Fellows Program. Under the fellows program, we recruit recent college graduates to ensure DHS has a qualified cadre of acquisition professionals to support its mission, now and in the future.

My third goal is to ensure more effective buying across the eight contracting offices through the use of strategic sourcing and supplier management.

My fourth goal is to strengthen contract administration to ensure products and services purchased meet contract requirements and mission need.

The accomplishment of these key objectives requires collaboration and strong working relationships with all DHS stakeholders, to include private industry, other federal agencies, and members of Congress, to ensure DHS meets its mission as effectively as possible. I am committed to continuing with fostering those relationships.

As the CPO, my primary responsibility is to manage and oversee the DHS acquisition program. I provide the acquisition infrastructure by instituting acquisition policies and procedures that allow DHS contracting offices to operate in a uniform and consistent manner. I ensure more effective buying across the eight contracting offices through the use of strategic sourcing commodity councils that allow DHS to secure volume discounts whenever possible. Commodity councils are cross departmental teams of subject matter experts that focus on developing the best strategy for acquiring groups of products and services. While I provide the infrastructure, the responsibility for properly planning and executing procurements rests with the components since, with the exception of the DHS's Office of Procurement Operations, each contracting office reports directly to the heads of the component it supports.

Because seven of eight contracting offices report to the heads of their components, I strive to achieve functional excellence among the offices primarily through collaboration. I use the DHS Chief Acquisition Officers Council, comprised of the heads of each contracting office, to integrate the contracting function while maintaining the components' ability to meet their customers' unique needs.

DHS Contracting Procedures

The contracting procedures DHS uses are those required by federal statute and by the Federal Acquisition Regulation. The federal procurement process is highly regulated and structured. Its purpose is to ensure that all federal government contracts are awarded fairly, vendors are treated equally in the selection process, and that the Government receives the best value for the American public. Although the FAR provides flexibility in how products and services are procured, the process is typically conducted in the following sequence:

Step One: Need Identified. The procurement process is initiated when a program or requiring office independently identifies a need. The need is then communicated to the contracting office.

Step Two: Market Capabilities Assessed. Upon identifying a need, the commercial market place is researched to identify products or services to meet the need as well as the availability of commercial sources (e.g., companies) to deliver.

Step Three: Acquisition Strategy Developed. With an understanding of the need and the market place, an acquisition strategy is developed. It is generally during this step that it is determined that the procurement will be competitive, sole source, or set aside for small businesses, service disabled veteran owned small busi-

nesses, HUBZone small businesses, or for eligible 8(a) businesses under the Small Businesses 8(a) program. Other decisions are also made including the duration of a contract, type of contract, and security related issues which need to be addressed. It is our goal to ensure that a majority of our acquisitions are competitively awarded and use performance based acquisition vehicles.

Step Four: Commercial Sources Solicited. At this step, the federal Government solicits offers (also referred to as quotes and bids depending upon the procurement method) from the commercial market. When required by the FAR, the Government announces its intention to solicit offers. This announcement is known as a synopsis and is issued before the release of the solicitation. The synopsis as well as the solicitation is posted publicly on FEDBIZOPPS, the Government's electronic bulletin board for announcing and posting solicitations. Step Five: Offers Received and Evaluated. Upon receipt of offers (also referred to as proposals, bids, or quotes depending upon the method of procurement), the Government begins the evaluation process. Offers are evaluated to ensure they meet the Government's requirements. Offers are evaluated according to the criteria stated in the solicitation. Offers failing to meet solicitation requirements maybe disqualified. Step Six: Source Selected. Upon concluding the evaluation of offers, the Government must then select the source for contract award. The basis upon which a selection is to be made is described in the solicitation. Often, the selection decision is based upon a best value analysis. This involves a trade off analysis between price and non-price factors such as performance or experience.

Step Seven: Contract Award/Debriefs Conducted. Following the selection of a source, the Government awards a contract. Unsuccessful offers are provided an opportunity to learn why their offer was not selected for award (referred to as a debrief). If an unsuccessful offer believes they were treated unfairly in the evaluation process, the FAR permits them to protest the agency's decision regarding the award of a contract. The venues for protests include the agency awarding the contract, the Government Accountability Office, Court of Federal Claims, and, when the size status or eligibility of a business is questioned, the Small Business Administration. A protest allows for a second look at the source selection procedures employed and the award decision to ensure it was proper.

Step Eight: Contract Administration. Upon award of a contract, the Government monitors contractor performance to ensure the product or service delivered meets contract requirements. We are currently implementing a policy that would require the use of Earned Value Management on all major development acquisitions. This would ensure we are consistent with federal requirements.

Step Nine: Contract Close-Out. Upon the satisfactory delivery, acceptance and payment, the contract is closed out.

Shirlington Limousine and Transportation, Inc.

Much has been written regarding the Department's decision to award contracts to Shirlington Limousine and Transportation, Inc., (SL&T) and the facts regarding the Department's decision to award contracts to Shirlington Limousine are as follows:

DHS has awarded two contracts for shuttle bus and executive sedan service to Shirlington Limousine. One contract (HSSCHQ–04-C–00688) was awarded on April 27, 2004 and the second contract (HSHQDC–05–C090036) was awarded on October 27, 2005. Both contracts were set-aside for HUBZone small businesses based on the market research we conducted and an assessment that HUBZone small businesses could meet our requirements. We followed the procedures of the Federal Acquisition Regulation in reaching this decision.

Contract HSSCHQ–04–C–00688

The first contract awarded to SL&T was contract HSSCHQ–04–C–00688. The Office of the Chief Administrative Officer identified a need for shuttle bus and sedan services. The DHS Fleet and Transportation Manager researched the market place. Based on the results of that research, it was determined that there was a reasonable expectation that two or more HUBZone firms would likely participate in the procurement. Therefore, as required by Federal Acquisition Regulation (FAR) Part 19.1305, the Contracting Officer set the procurement aside for only HUBZone firms. Further supporting the decision was the DHS Management Directive 0720.1, entitled, Small Business Acquisition Program, which established DHS policy for set-aside decisions. That Management Directive states in part, ″Consistent with our mission, DHS will provide maximum practicable opportunities in our acquisitions to small business, veteran-owned small business, service disabled veteran-owned small business, HUBZone small business, small disadvantaged business, and women owned small business concerns.″ On April 14, 2004, DHS publicly announced, through FEDBIZOPPS, its plan to compete the contract as a HUBZone set-aside

and on April 15, 2004, posted the solicitation on FEDBIZOPPS. Four companies submitted proposals in response to the solicitation. Upon receipt of proposals, DHS verified the designation of each vendor as being a HUBZone vendor based upon certifications provided by the contractors and information obtained from the Central Contractor Registration database. Two companies were determined ineligible for a HUBZone set- aside based on their small business status. The two remaining proposals were then evaluated following the evaluation criteria in the solicitation. It was after the completion of the technical evaluation that the Contracting Officer questioned the classification of the third company as a small business HUBZone company. Upon receiving additional information from the company, it was determined that the third firm was ineligible for a HUBZone award. At this point, Shirlington Limousine was the only remaining company eligible for award. Consistent with the Federal Acquisition Regulation, the Contracting Officer completed the evaluation of the price proposal and in conjunction with the technical evaluation results determined that Shirlington Limousine's proposal offered the best value based on Technical Capability, Capability of Shuttle Bus and Sedan Drivers, Past Performance and Price. Per FAR 19.1305(d) where ″... the contracting officer receives only one acceptable offer from a qualified HUBZone small business concern in response to a set aside, the contracting officer should make an award to that concern.″ The Contracting Officer also determined the company responsible confirming that the company was not listed on the Excluded Parties List System (EPLS), a web based system operated by GSA, and checking past performance references provided in the proposal. None of these sources revealed any issues or concerns with the company's capability to meet its obligations under this contract. Hence given that the Shirlington Limousine was determined responsible, its proposal represented the best value and that FAR part 19.1305(d) allows for the award of a single acceptable offer, on April 27, 2004, the Contracting Officer awarded contract HSSCHQ-04-C- 00688 to Shirlington Limousine and Transportation, Inc, for a base period of one year plus one additional option year.

I believe that the diligence with which the Contracting Officer awarded this contract is particularly noteworthy given that in April 2004 OPO was in its infancy, having been established only eight months earlier (August 2003) and severely understaffed. Fewer than 10 contracting professionals earnestly endeavored to meet the contracting needs of 35 new DHS program offices (such as Science and Technology and the US-VISIT program), which collectively spent about $2 billion annually. I commend the efforts of the OPO contracting staff given the very challenging environment in which they worked.

Contract HSHQDC–05–C–0036

Although Contract HSSCHQ–04–C–00688 (the first contract awarded to Shirlington Limousine) was awarded for a potential performance period of two years, the Contracting Officer elected not to exercise the option for the second year due to changes in DHS' need for shuttle bus and executive transportation service. To ensure the Department would receive the best value for the required transportation services, while providing a fair opportunity for offerors to compete, the Contracting Officer decided to recompete the requirement. Market research concluded that there was a reasonable expectation that two or more HUBZone firm would likely participate. Therefore, as required by procurement regulation, the Contracting Officer set the procurement aside for only HUBZone firms. On June 30, 2005, DHS issued a synopsis on fedbizopps publicly announcing its plan to compete the requirement as a HUBZone set-aside and on July 29, 2005, DHS issued the solicitation, publicly posting the document on fedbizopps. Proposals were received from three offerors. Upon receipt, the HUBZone designation of each vendor was verified using each vendor's representations and certifications and information obtained from the Central Contractor Registration database. After conducting an evaluation, the Shirlington proposal was determined to be the best value proposal received. Prior to award and in accordance with FAR part 9.104-1, an affirmative responsibility determination for Shirlington was performed. This determination was based on confirmation that the company was not listed on the Excluded Parties List System and the contractor's qualifications and experience successfully performing similar work for DHS and other federal Government clients. On October 27, 2005, DHS awarded contract HSHQDC-05-C-0036 for a base period and three option years. Subsequent to the award of the contract, DHS received two protests from one unsuccessful offeror regarding the award decision. One protest challenged the Department's selection decision and was subsequently withdrawn. The second protest challenged Shirlington Limousine's designation as a HUBZone small business. The SBA has jurisdiction over such matters and upheld that Shirlington Limousine met all of the requirements for a HUBZone small business.

Conclusion

In closing, thank you for the opportunity to testify before the Committee about DHS contracting procedures and I am happy to answer any questions you or the Members of the Committee may have.

Mr. ROGERS. Thank you, Ms. Duke, for your statement.

The chair now recognizes Mr. Kevin Boshears, director of the Office of Small and Disadvantaged Business Utilization of the U.S. Department of Homeland Security, for your statement. Welcome.

STATEMENT OF KEVIN BOSHEARS

Mr. BOSHEARS. Thank you, Mr. Chairman.

Chairman Rogers, Ranking Member Meek, and members of the committee, thank you for the opportunity to discuss the Department of Homeland Security's small business contracting program. I am a career federal public servant with 16 years of public service. I joined the Department of Homeland Security as a volunteer from the Treasury Department in May of 2003, and was appointed as the director of the DHS Small and Disadvantaged Business Office.

I previously served in the Treasury's small business office for 8 years, including the last 4 years as the director of that office. Prior to that, I was a contracting officer and small business specialist at the Justice Department's Federal Bureau of Prisons.

As the director of the DHS Small and Disadvantaged Business Office, in accordance with the Small Business Act, my charge from Congress and the secretary was to implement the Federal Small Business Procurement Program at DHS and use the Treasury Department's program as a blueprint. I was the first member of the small business team to arrive at DHS. We now have eight full-time employees, one part-time intern, and one contract employee.

Chairman Rogers, Ranking Member Meek and other members of the committee, Ms. Duke and I offered to conduct a DHS small business contracting event in your district. Our activities since inception included the following: in partnership with Ms. Duke's chief procurement office, creating the DHS Open For Business Web site at www.dhs.gov/openforbusiness; supporting all of the major small business program, including the 8(a) program, the HUBZone small business program, the service-disabled veteran small business program, the traditional small business set-aside program, subcontracting and the DHS MentorProtege program.

We have created an outreach program to meet personally with thousands of small business owners and representatives. This includes both DHS-hosted events and participation in a variety of events such as congressionally sponsored ones, trade association-sponsored events, and other federal agencies. In partnership with the DHS components, we identified operational small business specialists for each major DHS buying activity, created the DHS MentorProtege program, and each year we have prepared and published a forecast of contract opportunities to alert the small business community of upcoming opportunities.

Working with the Small Business Administration, we have established small business goals with SBA on a fiscal year basis, and developed a close working relationship with the resident SBA procurement center representative assigned to DHS. This individual is

physically located at DHS, where we identify small business opportunities on an ongoing basis.

In closing, thank you for the opportunity to appear before the committee about the DHS small business contracting program. I look forward to working with the committee and I am happy to answer any questions you or the members of the committee may have.

Thank you.

Mr. ROGERS. Thank you, sir.

The chair now recognizes Mr. Calvin Jenkins, deputy to the associate deputy administrator of the Small Business Administration, for your statement. Welcome.

STATEMENT OF CALVIN JENKINS

Mr. JENKINS. Thank you, Mr. Chairman.

Chairman Rogers, Ranking Member Meek, Chairman King, Ranking Member Thompson and members of the committee, I am Calvin Jenkins, the associate deputy administrator for the Small Business Administration's Office of Government Contracts and Business Development.

I thank you for extending to our agency the opportunity to discuss the matter now before you, the award of certain federal contracts to Shirlington Limousine Transportation, Incorporated. In addition to my testimony I am about to offer, I have supplied members of the committee with a hard copy timeline. This timeline would facilitate an understanding of the sequence of events with regard to Shirlington Limousine's participation in SBA's HUBZone program.

First, let me establish a general understanding of the Historically Underutilized Business Zone Program. Following that, I will go into the particular set of circumstances relating to Shirlington Limousine. The objective of the HUBZone program is to create employment opportunity and stimulate capital investment in economically distressed neighborhoods, or HUBZones, through the award of federal contracts.

Firms applying for the HUBZone certification must meet four basic eligibility criteria. To be eligible for the program, the concern must be a small business by SBA standards. It must be owned and controlled at least 51 percent by a U.S. citizen a community development corporation, an agriculture cooperative, an Indian tribe, or an Alaska Native corporation. Its principal office must be located within a historically underutilized business zone, which includes land considered Indian Country, military facilities closed by the Base Realignment and Closure Act, and at least 35 percent of its employees must reside in a HUBZone.

Public Law 105–135, the HUBZone Act of 1997 does not require review related to the character of the principal or financial history of the applicant concern. Once the SBA certifies a firm as a qualified HUBZone, SBA adds that company to the list that appears on the HUBZone Web site, and within this same timeframe activates an indicator signifying HUBZone status in the firm's electronic profile appearing in the central contracting register system known as CCR, which is used by all federal agencies.

This notice of certification is made available to all interested parties, including contracting officers via the Internet, using both our HUBZone Web site and CCR. A few brief strokes can ascertain within minutes whether a firm is indeed HUBZone-certified. Once this task of certifying the concern is achieved, the role of the SBA as it relates to the small business is largely reserved for three additional functions, which are resolving contract protests and appeals and showing continued eligibility through recertification, and conducting compliance reviews through program examinations.

The SBA makes status determinations whenever a HUBZone-certified concern is challenged in conjunction with a contract award. HUBZone-certified small business concerns are required to certify to the SBA their continued eligibility once every 3 years in order to participate in the HUBZone program. An online form is provided that electronically compares the latest company data against any data previously supplied in connection with the program participation.

The program exam is a full-scale compliance audit that requires a HUBZone-certified concern to verify to the SBA its continued eligibility through an online submission that is supplemented by collection of hard-copy documentation. A program exam can be purely random, or prompted as a result of a specific set of conditions that come to our attention. The SBA HUBZone program determines only whether an applicant concern meets the four HUBZone eligibility criteria, not whether a firm is capable of performing on a contract.

With regards to Shirlington Limousine, the firm submitted an online application on HUBZone status on March 10, 2004. Consistent with the agency's standards, SBA determined, based on that application, that the firm did meet the four eligibility criteria. Part of this review included a site-visit by HUBZone staff to the firm's principal office at 425 8th Street N.W. in the District of Columbia, to ensure and confirm that it was a fully functional business. The firm received a certification on April 8, 2004.

According to a recently updated record in the federal procurement data system, the U.S. Department of Homeland Security posted an announcement on April 14 in the online FedBizOpps alerting the contract community of the need for a HUBZone vendor to provide transportation services. The next day, April 15, 2004, the actual solicitation was posted as a HUBZone set-aside with a response date of April 19, 2004. The contract was signed on April 27, 2004, with the successful HUBZone offer identified as Shirlington Limousine.

No one protested the HUBZone status of Shirlington Limousine for that contract. As such, there was no reason for the SBA to be involved. The SBA did become involved in a subsequent HUBZone status protest that involved a DHS contract signed on October 27, 2005, and identified in the federal procurement data system as a HUBZone set-aside. In this particular instance, there are two elements of Shirlington Limousine's HUBZone were questioned and reviewed: compliance with the principal office and 35 percent HUBZone residence requirement.

On December 23, 2005, the SBA denied the protest, finding that the evidence supplied supported Shirlington's assertion that it did

meet the HUBZone principal office and 35 percent residence requirement. The SBA decision was appealed. As acting deputy associate administrator for government contracts and business development, I denied the appeal on January 13, 2006, concluding that there was no error in processing the protest and that the SBA did not fail to consider any significant facts.

The second and most recent action regarding Shirlington Limousine's HUBZone status is a HUBZone program examination. This was prompted by a change in Shirlington Limousine's CCR profile that indicated that they may have exceeded the size standard to be considered a small business concern. The profile reflected changes that were made on April 27, 2006, and which came to the attention of our agency on April 28, 2006. The program examination was assigned to our SBA Washington, D.C., district office on May 1, and Shirlington was notified of its need to respond to the audit on May 4, 2006. The firm completed its submission to the SBA on June 8, 2006, and the agency review of that response is ongoing.

With regard to Shirlington Limousine and any other HUBZone contract, the SBA HUBZone office role is to verify that small businesses meet any and all of the four HUBZone eligibility criteria. With regard to DHS contracts signed on October 27, 2005, the SBA fulfilled its obligation to act on a protest to review the eligibility of the HUBZone program participant.

Thank you for this opportunity to testify. I would be happy to answer any questions you have.

[The statement of Mr. Jenkins follows:]

PREPARED STATEMENT OF CALVIN JENKINS

Good Morning Chairman Rogers, Ranking Member Thompson and members of theCommittee. I am Calvin Jenkins, the Deputy Associate Deputy Administrator for the SmallBusiness Administration's Office of Government Contracting and Business Development. Ithank you for extending to our Agency the opportunity to discuss the matter now before you,the award of certain Federal contracts to Shrlington Limousine and Transportation,Incorporated (Shirlington Limousine).

In addition to the testimony I am about to offer, I have supplied members of the committeewith a hard-copy timeline. This timeline will facilitate an understanding of the sequence ofevents with regard to Shirlington Limousine's participation in the SBAYs HUBZone Program.

HUBZone Program

First, let me establish a general understanding of the Historically Underutilized Business Zone(HUBZone) Program. Following that, I will go into the particular set of circumstancesrelating to Shirlington Limousine.

The objective of the HUBZone Program is to create employment opportunities and stimulatecapital investment in economically distressed neighborhoods, or HUBZones, through theaward of Federal contracts. Firms applying for HUBZone certification must meet four basiceligibility criteria.

To be eligible for the program, a concern must meet the following criteria:

It must be a small business by SBA standards;

It must be owned and controlled (at least 51 percent) by U.S. citizens, or a CommunityDevelopment Corporation, or an agricultural cooperative or an Indian tribe; or an AlaskanNative Corporation.

Its principal office must be located within a ″Historically Underutilized Business Zone,″which includes lands considered 'Indian Country' and military facilities closed by theBase Realignment and Closure Act; and

At least 35 percent of its employees must reside in a HUBZone.

Public Law 105-135, the HUBZone Act of 1997, does not require review relating to thecharacter of the principals or financial history of the applicant concern.

Once the SBA certifies a firm as a qualified HUBZone, SBA adds the company to the list thatappears on the HUBZone web site and, within this same timeframe, activates an indicatorsignifying HUBZone status in the firm's electronic profile ap-

pearing in the Central ContractorRegistration system, known as CCR, which is used by all Federal agencies.

This notice of certification is made available to all interested parties, including contractingofficers, via the Internet using both our HUBZone web site and CCR. A few brief keystrokescan ascertain within a minute whether a firm is indeed HUBZone certified.

Once this task of certifying the concern is acheved, the role of the SBA, as it relates to thesmall business, is largely reserved for three additional functions, which are: (1) resolvingcontract protests and appeals; (2) ensuring continuing eligibility through recertification; and(3) conducting compliance reviews through program examinations.1) HUBZone Status Protests and Appeals: The SBA makes status determinations whenevera HUBZone certified concern is challenged in conjunction with a contract award.2) Recertification: HUBZone certified small business concerns are required to recertify tothe SBA their continuing eligibility once every three years in order to participate in theHUBZone Program. An online form is provided that electronically compares the latestcompany data against any data previously supplied in connection with program participation.3) Program Examination: The program examination is a full-scale compliance audit thatrequires a HUBZone certified concern to verify to the SBA its continuing eligibility throughan online submission that is supplemented by the collection of hard-copy documentation. Aprogram examination can be purely random or prompted as a result of a specific set ofconditions that come to our attention.

The SBAYs HUBZone Program determines only whether an applicant concern meets the fourHUBZone eligibility criteria, not whether a firm is capable to perform a contract.

Shirlington Limousine Contract

With regard to Shrlington Limousine, the firm submitted an online application for HUBZonestatus on March 10, 2004. Consistent with Agency standards, SBA determined, based on thatapplication, that the firm did meet the four eligibility criteria. Part of ths review included asite visit by HUBZone staff to the firm's principal office at 425 8th Street, NW in the Districtof Columbia, to ensure and confirm that it was a fully functioning business location. The firmreceived its certification on April 8,2004.

According to a recently updated record in the Federal Procurement Data System, the U.S.Department of Homeland Security (DHS) posted an announcement on April 14,2004, in theonline FEDBIZOPPS alerting the contract community to the need for a HUBZone vendor toprovide transportation services. The next day, April 15, 2004, the actual solicitation wasposted as a HUBZone set-aside with a response date of April 19, 2004. The contract wassigned on April 27, 2004, with the successfkl HUBZone offeror identified as ShirlingtonLimousine. .

No one protested the HUBZone status of Shirlington Limousine for that contract. As such,there was no reason for the SBA to be involved.

The SBA did become involved in a subsequent HUBZone status protest that involved a DHScontract signed on October 27, 2005, and identified in the Federal Procurement Data Systemas a HUBZone set-aside. In this particulas instance, two elements of Shirlington Limousine'sHUBZone status were questioned and reviewed - compliance with principal office and 35percent HUBZone residency requirements.

On December 23, 2005, the SBA denied the protest, finding that the evidence supplied in thecase record supported Shirlington Limousine's assertion that it did meet the HUBZoneprincipal office and 35 percent residency requirements.Ths SBA decision was appealed. As Acting Associate Deputy Administrator forGovernment Contracting and Business Development, I denied the appeal on January 13,2006,concluding that there was no error in processing the protest and the SBA did not fail toconsider any significant facts.

The second, and most recent, action regarding Shirlington Limousine's HUBZone status is aHUBZone program examination. This was prompted by a change in Shirlington Limousine'sCCR profile that indicated they may have exceeded the size standard to be considered a smallbusiness concern. The profile reflected changes that were made on April 27,2006, and whichcame to the attention of our Agency on April 28, 2006. The program examination wasassigned to ow SBA Washington, DC district office on May 1, 2006, and ShirlingtonLimousine was notified of its need to respond to the audit on May 4, 2006. The firmcompleted its submission to the SBA on June 8,2006, and the Agency review of that responseis ongoing.

Summary

With regard to the Shirlington Limousine and any other KUBZone contract, the SBA'sHUBZone office role is to verify that the small business meets any or all of the fourHUlBZone eligibility criteria protested. With regard to the DHS contract

signed on October27, 2005, the SBA fulfilled its obligations to act on a protest to review the eligibility of aHUBZone program participant. Thank you for this opportunity to testify. I will be happy toanswer any questions you may have.

Mr. ROGERS. I thank you. I would like to start off with some questions.

The first question would be, particularly for Ms. Duke, but any of you could join in. Why did DHS designate this contract as a HUBZone contract set-aside as opposed to some other sort of set-aside, particularly given that the incumbent company was a woman-owned company that did not have the designation of HUBZone provider?

Ms. DUKE. We have talked with the persons involved in making the decision of deciding this was a HUBZone contract. Let me address the incumbent first. The incumbent was not considered as a potential offer on a follow-on contract principally because after the award of a contract and during its administration, we learned that the first incumbent was not certified by WMATA, the Washington Metropolitan Transit Authority, which is a requirement to run a shuttle bus service in the Washington, D.C. area, and they did not have the appropriate license. That was one of the decisions, one of the factors in deciding that we were going to do a re-competition.

So really in making this decision, we had a clean slate. The small business office at DHS consulted with the program office and the contracting officer and knew of the HUBZone company, at least one HUBZone company. Our oral records indicate that there were several known HUBZone companies. The regulations allow the contracting officer discretion in picking one socioeconomic program over another.

In the case of HUBZone for the Department of Homeland Security, that has been a goal that has been more difficult for us to meet. So we look for opportunities to set procurements aside for HUBZone. So the decision was made based on the likelihood that we would have two or more HUBZone contractors to offer.

Mr. ROGERS. Who makes that decision?

Ms. DUKE. The final decision is made by the contracting officer, in consultation with the small business representative.

Mr. ROGERS. Okay. I would like to talk with you for a minute about a timeline. We have, in Mr. Baker's affidavit, he sets out that on January 12, 2004, he submitted a written proposal for shuttle bus service that stated he was a qualified HUBZone provider. That was on January 12, at a time when DHS didn't have a request for proposals, and weren't looking for a contract. But he sends his in, and says he is a HUBZone-qualified provider.

You just heard Mr. Jenkins offer his timeline that points out Mr. Baker didn't even qualify as a HUBZone, didn't even submit his request until 2 months later to be designated as a HUBZone provider, and it wasn't until April 8, 3 months later, that he was designated as a HUBZone provider. And then 4 days after he is qualified as a HUBZone provider or designated, an RFP goes out by DHS for a contract, a bus and motor pool contract, and 2 weeks later he gets it, and he is the only bidder.

Tell me if that timeline bothers you?

Ms. DUKE. We do not believe the January proposal that you are referencing was submitted to DHS. I have talked with all the per-

sons involved in the process. The recommendation came from Kevin's small business office because the Office of Procurement Operations did not have a small business representative at that time.

The gentleman does know that we had conversations with Shirlington Limo, as well as they believe a couple of other contractors. We were under the belief that Shirlington Limo was a HUBZone-certified contractor, but we did not receive, according to all our records and memories, the January proposal. The department did talk with Shirlington Limo in January as part of market research, and that Shirlington Limo in preparation, hoping there would be a requirement that came out, did do some work on preparing a proposal, but that was not submitted.

Mr. ROGERS. This is a proposal that, again, Mr. Baker under sworn affidavit says that he gave your office. It went to the attention of a Mr. Steven Saucen. Are you familiar with him?

Ms. DUKE. Yes, I am.

Mr. ROGERS. Have you talked with him about whether he received this proposal?

Ms. DUKE. Yes, I have. He does not recall having that.

Mr. ROGERS. Okay. None of his records are available?

Ms. DUKE. He does have records. Yes.

Mr. ROGERS. But they don't include this request?

Ms. DUKE. That is what he has told me. I have not personally reviewed his records.

Mr. ROGERS. Okay. Can you think of any reason why Mr. Baker would lie under a sworn affidavit about sending that in in January?

Ms. DUKE. No, I can't.

Mr. ROGERS. Okay. My time is up. I will yield to the ranking member, Mr. Meek, for any questions he may have, and I look forward to my next round.

Mr. MEEK. Thank you, Mr. Chairman.

I must say that this must be a very painful hearing for many small and disadvantaged businesses because, Mr. Boshears, I am pretty sure that you can testify to the point that it is hard to have opportunities for small and disadvantaged businesses.

I must say for the record that there are some large businesses that are doing business with the Department of Homeland Security, DOD, that are not carrying out their actions, and they may have questionable information from people that are on their boards or at the head of their companies also.

I am making a statement. I don't want you to respond to it. But I just want to say that I don't think that this is the committee's attempt to shed a bad light on small and disadvantaged businesses at all. I think that we have some questions here that we have to ask, and we need answers to.

So I wanted to alleviate any worries that small businesses may have that there will be a lack of contracts designated for procurement opportunities.

With that, Mr. Chairman, I would like to yield the rest of my time to Mr. Pascrell from New Jersey.

Mr. ROGERS. The gentleman from New Jersey is recognized.

Mr. PASCRELL. Thank you, Mr. Chairman.

Mr. Jenkins, you say in your testimony that you identified the federal procurement data system, that this was a HUBZone set-aside. In this particular instance, two elements of Shirlington Limousine's HUBZone status were questioned and reviewed: compliance with principal office. Where is their principal office?

Mr. JENKINS. Yes, their principal office is within the District of Columbia, I believe 425 8th Street, N.W., District of Columbia.

Mr. PASCRELL. That was checked out to make sure that they do have an office there?

Mr. JENKINS. Yes.

Mr. PASCRELL. What kind of office do they have there?

Mr. JENKINS. It is a residential building.

Mr. PASCRELL. My second question is this, you say that in order to be HUBZone-qualified, eligible, you must have 35 percent of those folks working with you have residency within that area. Is that correct?

Mr. JENKINS. Well, within a HUBZone. It doesn't have to be the same.

Mr. PASCRELL. So that could come from another area into the area where the residency, the establishment is. Let me ask you this question, do you continue to monitor this to make sure that their principal office is there? And number two, they continue to have 35 percent of folks that work for them living in a HUBZone?

Mr. JENKINS. Yes. We have about four points that we check in terms of meeting the compliance, one at the initial eligibility review. Secondly, we do a program examination, which could get triggered for a number of reasons; or do part of our random check. Then we also have the recertification process in which we recertify all of the firms that are in the program.

Mr. PASCRELL. When were they recertified?

Mr. JENKINS. At this point, they have not been.

Mr. PASCRELL. I would like to know when they were recertified, and when was the last time you checked on the residency.

Mr. Jenkins, are you aware of the record of Mr. Baker?

Mr. JENKINS. No, I am not.

Mr. PASCRELL. Between 1979 and 1989, he was convicted of several misdemeanor charges including drug possession, attempted petty larceny, as well as two felony charges for attempted robbery and car theft, according to the D.C. Superior Court records. Are you aware of that?

Mr. JENKINS. No, I am not.

Mr. PASCRELL. You are not aware of that, but you examined the efficacy of whether this company is eligible for a government contract and you do not know what the owner of the company, what his past record or character is.

Mr. JENKINS. No, the SBA does not examine the company's ability to perform on the contract. We review the firm and determine whether or not the firm meets the four statutory requirements for entry into the HUBZone program.

Mr. PASCRELL. And you do examine what the record is of each of the drivers that works for that company, correct?

Mr. JENKINS. We only examine whether or not they reside in a HUBZone, but not their records.

Mr. PASCRELL. So anybody that drives for Shirlington could have a police record, that is driving around public officials from the DHS?

Mr. JENKINS. The Small Business Administration does not review the records of the individual drivers.

Mr. PASCRELL. You don't do that?

Mr. JENKINS. No, we don't.

Mr. PASCRELL. Okay. Ms. Duke, the contracting officer, you presented, determined the company is responsible, confirming that the company was not listed on the excluded parties list system. How robust is the excluded parties list?

Ms. DUKE. The excluded parties list is one element of determining responsibility. It only includes contractors or individuals that have gone through a formal process and then suspended or debarred.

Mr. PASCRELL. Ms. Duke, you do know the record of the Baker Company. They received small federal contracts in 1998, and fell into debt. In early 2002, Arlington Country Circuit Court ordered Shirlington's limousines to pay American Express travel-related services over $55,000. That summer, Howard University terminated a contract with Shirlington Limousine to supply shuttle bus service, citing poor service and their problems. In 2003 and 2004, the company received eviction notices for an office it maintained in a luxury D.C. apartment building.

My question to you is this: Do you know Brent Wilkes?

Ms. DUKE. No, I do not.

Mr. PASCRELL. Do you know Mitchell Wade?

Ms. DUKE. No, I do not.

Mr. PASCRELL. Mr. Jenkins, have you ever heard of those two people?

Mr. JENKINS. No, I have not.

Mr. PASCRELL. Never heard.

How about Mr. Boshears?

Mr. BOSHEARS. No, sir.

Mr. PASCRELL. You haven't heard of them. I will come back to my questions.

Mr. ROGERS. The gentleman's time has expired.

The chair now recognizes the chairman of the full committee, Mr. King, for any questions he may have.

Mr. KING. Thank you, Mr. Chairman.

Ms. Duke, I would like to ask you a line of questioning, beginning with the affidavit, which Mr. Baker has submitted. On page two of his affidavit, he specifically states that Congressman Cunningham sent a letter of reference to the Department of Homeland Security recommending him for this contract. Do you have any record of that in the documents?

Ms. DUKE. We have an e-mail sent by Shirlington Limo's chief operating officer, Lucretia Pearce, I believe is her name. It was sent from an AOL account, and it references sending the proposal forward, and it also says that Shirlington Limo is going to fax I believe it was four documents. And one of the documents listed in this e-mail?and I only have a hard copy of it, I don't have it electronically?says a letter of reference from Congressman Cunningham. However, we have looked through the entire contract

file and all our record and do not have a copy of that letter, only the e-mail referencing the letter.

Mr. KING. Has the department acknowledged before this e-mail reference to the letter from Congressman Cunningham?

Ms. DUKE. Not to my knowledge.

Mr. KING. My understanding is that the Department of Homeland Security is saying that Congressman Cunningham was in no way involved. To me, if there is an e-mail making a reference to a letter from Congressman Cunningham, that shows he is involved, and if that is the case, I don't think the department has been truthful with us. They may be being cute saying they don't have the letter on file, but if there is a reference to a letter, I think in the interest of basic governmental integrity that should have been made known to this committee.

Ms. DUKE. Yes, I agree.

Mr. KING. Who would be the custodian of the records?

Ms. DUKE. The contract file is within the Office of Procurement Operations, in the contracting office is the official contract file.

Mr. KING. Now, have you spoken to anyone in that office as to who has made a thorough search for this letter from Congressman Cunningham?

Ms. DUKE. Yes. Both the contracting officer looked through the file and then I had someone on my staff, a procurement analyst, look through the file to try to locate the record. We also actually did speak with Shirlington Limo, Mr. Baker, and asked him for the letter. He initially said he was going to provide it to us, and then after meeting with the committee he declined to provide it to us.

Mr. KING. Has anyone from Secretary Chertoff's office asked you about Congressman Cunningham or whether or not there was any involvement by him?

Ms. DUKE. I have not been asked, but we did have a brief discussion about it. I told them.

Mr. KING. With whom? Between you and who else?

Ms. DUKE. I believe it was Secretary Chertoff. I mentioned it at the end of a staff meeting, or one of his staff.

Mr. KING. When would that have been?

Ms. DUKE. It was at a senior staff meeting. I can get you the date. There is a daily staff meeting.

Mr. KING. Was this yesterday or last week or 2 weeks ago?

Ms. DUKE. It was probably within the last 2 weeks, but not this week.

Mr. KING. So at least a week ago, Secretary Chertoff knew there was a reference to Congressman Cunningham in the records. Mr. Chairman, if I may ask, have you been called at all by the secretary? Has anyone in this?

Again, you are the one who is sitting there, so let this go right by you. This is not you. I find it disgraceful that the secretary of homeland security knew that a convicted felon who was at the center of one of the worst scandals ever, with ramifications all over the city, has not said a word to us about the fact that there is a reference to him as far as this contract is concerned. And that to me is a gross dereliction of duty by Secretary Chertoff. I am saying that on the record and I appreciate your honesty in coming forward and telling us that.

I would just ask the subcommittee staff through the chairman if they would contact the department immediately and find out if there are any other references that Secretary Chertoff is aware of. I agreed with Ranking Member Thompson before that I think only Secretary Chertoff himself can explain to us why he didn't come forward.

This isn't just a person who happens to be a congressman. We are talking about a congressman who was involved in a major scandal, a congressman who was named and indicted and convicted and an unindicted coconspirator was Mr. Wilkes. Mr. Wilkes is the one who used this limousine company. Mr. Cunningham then recommends, according to the documents, this limousine company. And if Secretary Chertoff is wondering why there is a lack of confidence in the department, this is one of them.

Let me ask you one other question. Has the public information officer, Mr. Kinnock, has he discussed this with you at all?

Ms. DUKE. No, he has not.

Mr. KING. Has he discussed with you any of the procedures involving Shirlington Limousine Company?

Ms. DUKE. No, he has not.

Mr. KING. You are aware that he has gone public, though, in saying that everything was done properly and the Congress doesn't understand how well it was done. But as far as you know, he never spoke to you or anyone in your department before he went public defending the entire procedure here.

Ms. DUKE. We submitted sample Q&As to the public affairs office with the background of what went on in the contract. We submitted those to the public affairs office.

Mr. KING. Mr. Chairman, could they be made available to the committee?

Mr. ROGERS. Yes.

Mr. KING. I would ask, then, Mr. Chairman, that we call the Department of Homeland Security to make all those documents available as far as Q&A, as to what Mr. Kinnock knew and when he knew it before he went public and said everything has been done properly, and also did or did he not have the obligation to come forward and clarify the record once the secretary found out that Congressman Cunningham is mentioned in the records of the Department of Homeland Security, as far as this specific contract.

With that, I yield back.

Mr. ROGERS. The gentleman yields back.

I would like to go back just for a minute to the timeline referenced in our previous series of questions.

I am sorry. I notice Ms. Jackson-Lee has come in.

Are you ready to be recognized? I am sorry. The chair yields to the gentlelady from Texas for her questions.

Ms. JACKSON-LEE. I thought you were taking another round, Mr. Chairman.

Let me thank the witnesses for their presence here today. And let me just thank the chairman and the ranking member, and chairman and ranking member of the full committee, my colleagues.

I think we have some very difficult questions to answer. I would like to put on the record that whether or not we ask for the pres-

ence of the secretary or whether there is a necessity of a subpoena, which we have had a very congenial relationship with DHS, I do think it is crucial that we have the opportunity for Secretary Chertoff to be here, which emphasizes that this committee and this subcommittee means business.

But we also have a sense of understanding the facts. Ms. Duke, let me thank you for your service, and likewise let me thank Mr. Apse, if I have that correct. I am looking at it from a distance, and not looking at my sheet. We had an opportunity to review the facts, and I appreciate that.

Let me also thank you, Mr. Jenkins. You are with the SBA?

Mr. JENKINS. Yes.

Ms. JACKSON-LEE. Now, there is a lot that is fueling the fires, but I want to get to the facts. My understanding is that the present small contract on its performance, Ms. Duke, has been performing, this particular limousine service.

Ms. DUKE. That is correct.

Ms. JACKSON-LEE. Evidence of untoward activity has occurred basically in the press. Is there some other evidence that has come to your attention outside the press?

Ms. DUKE. No, just from the press and members of the committee.

Ms. JACKSON-LEE. Do you have any internal documents that may have been placed in your jurisdiction or the jurisdiction of the secretary that would speculate about any activities of this company?

Ms. DUKE. Since we have been learning the new events, we have been following up on them, and I have some new records of the results of following up on some of the news articles and recent allegations.

Ms. JACKSON-LEE. Would that include documentation that evidences names or members of Congress or otherwise?

Ms. DUKE. No, it does not.

Ms. JACKSON-LEE. Okay. My understanding, then, on this particular company, the choice against the then-incumbent was that the incumbent had not been certified. For most of us who have dealt with small and minority disadvantaged businesses, we realize, and I was a member of the Houston City Council and we did not have a city manager, so we ran the city, that there is that level of certification many times of a federal government or a state government that will look to that. Is that my understanding?

Ms. DUKE. Yes, it is.

Ms. JACKSON-LEE. So do you feel you were biased in not going to the then-existing incumbent?

Ms. DUKE. No. We did not go to them because they weren't properly licensed to do the work we needed.

Ms. JACKSON-LEE. Okay. You understand the outrage when you hear that there was a free-for-all, seemingly, with cars going back and forth to again what seems to be inappropriate places, and the overlying theory that being at DHS you have the unfortunate capacity to be, if you will, compromised. You understand that concern?

Ms. DUKE. Yes.

Ms. JACKSON-LEE. But tell me, do you have evidence of the drivers, both of the shuttle and the individual cars, of being engaged

in these activities, inappropriate activities, pornographic visits, whatever we are talking about at this point?

Ms. DUKE. No, we have no evidence, and we also have done background investigations on everyone involved in performing the contract, including the drivers.

Ms. JACKSON-LEE. You can find no iota of evidence that they were parked outside of the latest brothel that might be located in the surrounding area?

Ms. DUKE. No, I do not have that.

Ms. JACKSON-LEE. And do you distinguish between the drivers and the owner?

Ms. DUKE. In terms of background investigations, yes.

Ms. JACKSON-LEE. Okay. And so you have a clean slate of the drivers?

Ms. DUKE. Yes.

Ms. JACKSON-LEE. We are not under oath here, but you understand how serious this is? So you have a clean slate of the drivers?

Mr. ROGERS. Excuse me. Everybody is under oath. They signed an oath when they sign in. We just don't make them go through the swearing in.

Ms. JACKSON-LEE. Thank you for making that clear, Mr. Chairman. I think that is very important because Mr. King raised some very important issues here.

So therefore what you are saying to me, it has to beyond a reasonable doubt. The truth is that you have no, not in this new filings or paperwork that you have in your presence, because we are probably going to want to see that.

Ms. DUKE. Yes.

Ms. JACKSON-LEE. What I would simply say to the committee, I hope that we have the opportunity. This bears consideration, but my understanding is that a lot of what we have been talking about is an individual who is an owner, who has had some infractions. I use that term, and some people would want to expand it, violate the law or however they want to dictate. I don't have any problems with that.

But the fact is that that person was vetted for the timeframe of what you are dealing with, and that person is not in the driver's seat. They are not driving the car.

Ms. DUKE. Correct.

Ms. JACKSON-LEE. Okay. I would lay out on the record, and I assume we are going to have a second round, because I do have some more pointed questions, but let me just finish this thought. I hope as I look at Mr. Jenkins, and I hope people in the audience understand what HUB is all about, because I am here to embrace the Historically Underutilized Business. I am here to be the shield for any spears trying to get rid of that.

We do want in this country for people to pull themselves up by their bootstraps. We do want the opportunity for people to be able to get work, barring the direct violations of the law pursuant to the business at hand that the government wants them to do. So I just want to make it clear that I am not here to destroy HUB, to destroy the process, or to undermine an owner who unfortunately went the wrong direction, but I believe has come back to the right direction. But I am here to take an attack or to take a look very

keenly and closely at a procurement system that many do believe is broken.

So as you think in the second round, please be keenly thinking of the answers you gave me so that if there is any documentation that speaks to laws being violated by this limousine service, we need to put it on the record. But otherwise, let my colleagues be aware that pulling yourself up by the bootstraps is no crime as far as I know in the American criminal justice system.

I yield back.

Mr. PASCRELL. Mr. Chairman, I must speak after that, if I may, in response to the statement that was just made.

Mr. ROGERS. The gentleman is recognized.

Mr. PASCRELL. No one is questioning the significant of a HUBZone. I was on that committee. No one is questioning it. And for anyone to say that this company has had appropriate records since this guy stopped having a rap sheet, which is 62 pages long, has not read the record on bankruptcies, on what Howard University had to say about this company. This did not just end in 1998. This company has a horrible record.

A felon at the head of the company means something to me. If we are going to have oversight, let's have oversight, and we should be able to answer anything we wish. In fact, if we don't get the answers, we ought to put people under oath.

Ms. JACKSON-LEE. Would the gentleman yield just for a moment?

Mr. ROGERS. Again, I want to re-state?

Ms. JACKSON-LEE. Let me get one sentence, Mr. Chairman. I appreciate your indulgence.

Mr. ROGERS. Every witness that comes down before this panel we have them sign an oath. They are under oath. I just don't go through the audible exercise, but do know, and that has been my practice since I took the chair of this subcommittee.

The gentlelady from Texas is recognized.

Ms. JACKSON-LEE. I appreciate the great respect for the distinguished gentleman from New Jersey, but let me be very clear. Nothing in my comments suggests that I don't want to get to the bottom of the crisis. What I want is that the facts are fair and that we talk about the performance of this contractor with DHS, which is who is under scrutiny. I have a list of failed contracts for DHS.

My last point is, an ex-felon.

I yield back.

Mr. ROGERS. I thank the gentlelady.

I would like to take a round of questions and visit briefly this timeline again. Then I want to talk more about some practices that maybe we can endeavor to pursue in the future that would prevent this. I am still puzzled by this written proposal that Shirlington sent in when you all weren't looking for a contractor. Is that common for you all to receive proposals for work that you are not inviting?

Ms. DUKE. We do get a lot of unsolicited proposals, people having ideas and they come to the department. So it is not totally unusual, but we do have a record of having discussions with Shirlington Limousines specifically about the upcoming need.

Mr. ROGERS. Before the RFP was sent out in April?

Ms. DUKE. Yes.

Mr. ROGERS. Okay. And although you don't show a record of this written proposal, your records do show there were some discussions with him?

Ms. DUKE. I didn't find a written record, but I did talk to the individuals involved and they remembered that.

Mr. ROGERS. Okay. Now, again this came in on January 12, saying he was a HUB, offering, volunteering he was a HUBZone-qualified. And it was 3 months later before he was actually HUBZone-qualified and within 4 days the RFP goes out and he is the only guy that bids and gets it, 2 weeks after that.

That strikes me as a very odd sequencing. Given that he, according to his affidavit submitted a letter of recommendation from Mr. Cunningham, who is not his congressman, not even in the same part of the country as him. It really raises concerns that maybe there was some manipulation of the process, particularly of whether or not this was going to be segregated as a HUBZone contract.

So my question would be, do you believe that the process is open to any kind of political manipulation that would set up a HUBZone designation to facilitate a particular company having an advantage in the bid process?

Ms. DUKE. I believe that the persons involved in making the decision thought that Shirlington Limo was a HUBZone-certified company from the initial discussion. I have no evidence that there was any type of outside influence on the decision to set aside the contract for a HUBZone. There is no record of senior persons even from within the department being involved. It appears from the record to be handled really at the working level, the decision.

Mr. ROGERS. Again, my question is, do you think the process could be politically manipulated?

Ms. DUKE. It could be, yes.

Mr. ROGERS. Okay. What I want to do is visit briefly this background check information that Mr. Pascrell visited. Is it your practice to ever do background investigations on the owners or officers and directors of small companies, or what would be designated small businesses when they make applications in response to your RFPs?

Ms. DUKE. Only if they were going to actually be performing work on the contract. It would need a DHS badge. Then we would do the background investigation on the owner.

Mr. ROGERS. So you just do the investigation on the company itself. The owner could be an Al Qaida individual, not even a U.S. citizen, who sets up an LLC or company, and then makes a request for proposal. As long as his business has not been in any trouble financially or criminally, you would have no way of knowing that the company was actually owned by a member of Al Qaida.

Ms. DUKE. There is no specific check. We have one certification requirement where the companies must certify about criminal records over the last 3 years.

Mr. ROGERS. For the company.

Ms. DUKE. For the company, yes.

Mr. ROGERS. But not for the owners or officers and directors. Which in my experience, and I practiced law before I came here, I set up many LLCs and many corporations, and most of them have just one individual that actually is the sole stockholder or the sole

member. If you don't look to that person's criminal or financial background, you really are not doing due diligence.

It seems to me that that is something that ought to look to as a change in policy with the department is to make it a practice, particularly on smaller companies, to look to those individuals and search their backgrounds both criminal and financial to ensure that they are of the character and quality that we want involved in these very important DHS issues.

I am going to pause right there, because I inadvertently jumped Mr. Pascrell on his 5 minutes of questions. He was just using the last 3 minutes of Mr. Meek's questions, and I apologize and yield to the gentleman from New Jersey for his 5 minutes.

Mr. MEEK. I think what we have, Mr. Chairman, if we can, just follow the normal process. When it comes around to Mr. Pascrell, he will get 10 minutes and he will probably take 12.

[Laughter.]

Mr. ROGERS. Good solution. Thank you, Mr. Meek.

The gentleman is recognized.

Mr. MEEK. I am just a chairman-in-waiting.

[Laughter.]

Mr. ROGERS. I hope he is waiting a long time.

[Laughter.]

Mr. MEEK. I just want to, Chief Duke, I want to ask you a question. How much money or procurement does your office handle? What is the ratio, when you break it down per a procurement officer, that they are handling and the ratio it should be at as it relates to the dollars that they are actually working on day in and day out of transactions by the department?

Ms. DUKE. In our last fiscal year, we handled about $17.5 billion in contracts. I don't have the exact ratios with me, but the ratio we think we should be operating is, it is called a cost-to-spend ratio, of 1.2 cents to spend a dollar, up to 1.9 cents. That is based on research we have done with industry and best practices. We are well below that right now, and I can get you the exact number, but well below the 1.2 percent, the lower threshold.

Mr. MEEK. When you say "well below," you mean well below as it relates to FTEs, individuals that should be handling a smaller amount of money?

Ms. DUKE. Yes.

Mr. MEEK. Can you just for the committee purposes, could you for the record purposes, can you describe the kind of insight that a procurement officer must have to make sure that they can evaluate a given contract appropriately? How much time, like for instance the Shirlington Limo contract, how much time would that usually take?

Ms. DUKE. I would think something of that size, Shirlington was large dollar-value, but not very complex. So I would say coming from the Department of Defense, that would have probably taken I would say 4 to 6 months on average.

Mr. MEEK. Okay. So I am pretty sure that when the department makes a decision that it wants to let a contract, or what have you, that pressure on procurement officer to move quickly is a great deal of pressure, a fair amount of pressure, or no pressure at all?

Ms. DUKE. Our contracting officers are under a great deal of pressure to meet the mission requirements.

Mr. MEEK. Okay. Has there been any requests, either the secretary's department or has anyone come down from the secretary's department and said, hey, you know, we have some problems here at the Department of Homeland Security as it relates to carry on our procurement function; do you need or have you sent any, when it comes down to budget time, have you sent any recommendations with what one may call upstairs on Nebraska Street? Are you located on Nebraska?

Ms. DUKE. No, I am at L'Enfant Plaza.

Mr. MEEK. I didn't think so. So have you sent it over to Nebraska Street, the headquarters, that you need more procurement officers to carry out the duty in a way that it should be carried out?

Ms. DUKE. We have. And we have several increases in the budget, the upcoming budget year for more contracting staff in many of our contracting offices, and in my own personal office.

Mr. MEEK. Okay. So you feel confident that that is going to happen and that life will get better as it relates to oversight and making sure that we carry out every function that we need to carry out?

Ms. DUKE. I think it is a first step. I think once we fill those vacancies, if we get the final budget for it, that we will be looking for more positions. It does not bring us to the level we should be at, but it is a step in the right direction?

Mr. MEEK. The average time for your procurement officers, how long do they stay, on average, by average?

Ms. DUKE. I do not have that information. I do know that we have a fairly, in the Office of Procurement Operations, we do have a fairly significant turnover rate in like the 20 percent range, between 20 percent and 30 percent of turnover of contracting officers.

Mr. MEEK. I want to personally commend you for the steps that you all have taken since we started this process of looking at the Shirlington Limo contract. I just would, definitely for Mr. Jenkins, I know that you are doing what this Congress has asked for you to do, look at those four statutory requirements.

But this committee's review may very well come about, may very well bring in the question or require the issue of character. The Department of Homeland Security, with you being a national security agency protecting the homeland, may have to go to the next level as it relates to looking at individuals that serve in a leadership capacity that may have influence over the employees of said contractor, or what have you.

I believe that this is a road that I think many individuals that have made youthful indiscretions in the past may push back against, because I am pretty sure that there are border directors that may make the person in question look like a boy scout in other companies, and there may be CEOs that may very well be scrambling around making sure that that is not enforced.

So I know that people make youthful indiscretions. I know that people do things they should not do, but I want to say that the CEO of this company, I personally feel that there are some questionable issues there around the issue of crime that may very well have the American people looking at this whole contract, since we

have individuals that are driving, people that are making national security decisions, that are making phone calls, that are having car meetings, that is sensitive information.

I do know from past meetings that you said these individuals do receive a background check who are driving. All these individuals have been cleared by the Department of Homeland Security, but this is something to consider in the future.

I don't know if I will have an opportunity to have another round, but I want to thank the witnesses for coming before the committee today.

With that, Mr. Chairman, I yield back.

Mr. ROGERS. I thank the gentleman.

The chair now recognizes the chairman of the full committee, Mr. King, for any questions he may have.

Mr. KING. Thank you, Mr. Chairman.

I would just like to follow up on what Mr. Pascrell said. In fact, I know that every member of this committee, if anyone, wants to strengthen the whole HUBZone process. We want to make sure it is done right, but this goes I think far beyond that, because again, to put this in some kind of perspective, so we don't get lost in the weeds here. We are talking about a losing company, owned by an individual with a criminal record, who also had a business relationship with a defense contractor who is named as an unindicted co-conspirator in one of the worse scandals to hit Washington in years.

That unindicted co-conspirator, a defense contractor, is a personal friend of the former number three man in the CIA. They were involved, and I am talking about the defense contractor, and also to some extent the number three person in the CIA, involved in, besides the corruption of the defense contractor as an unindicted co-conspirator, they were also involved in what appear to be sex parties, card parties at which the limousine service in whatever legal or lawful manner they may have been conducting themselves, were involved.

And then we find out that the congressman who was at the center of all this, who also was a member of the Intelligence Committee and received almost $2.4 million in bribes, sends a letter on behalf of this limousine company. Now, if that doesn't raise issues; if that doesn't look as more than just a series of coincidences, I don't know what does, especially against the background of what I think is a very questionable work record by this limousine company.

But Ms. Duke, let me ask you as a follow up to what Chairman Rogers was saying, Chairman Rogers brought out you can't inquire as to whether or not the owner is a U.S. citizen. You can't check whether the owner himself or herself has a criminal record. Do you know what the procedures are for the FBI and the CIA in similar contracts like this?

Ms. DUKE. We do have, for U.S. citizen we do have some requirements on that in the DHS, Homeland Security Act. But in terms of the CIA and the FBI, they do do some checks. They also on some of their contracts require what we call facility clearances, which require the whole company to be cleared. So it would depend on the severity of the contract.

Also, they may, for instance even within DHS, Immigrations and Customs Enforcement requires their drivers to be cleared, not just a background investigation, because they carry classified documents in the vehicles they use. So there are differing levels.

Mr. KING. In the Department of Homeland Security, as I understand it, this company would drive top executives. Other than the secretary and the under secretary, are they the only two that are not driven?

Ms. DUKE. The secretary and the deputy secretary are the only two.

Mr. KING. Deputy secretary, are the only two who are not driven.

Now, so we have a situation where you could have a company owned by an individual who could be in organized crime. He could be an Al Qaida operative. He could be any type of nefarious individual. We would have no idea, and yet his company, and even though he could have drivers who don't have criminal records, he could still pick people who may not have a rap sheet, but are loyal to him, driving around the very top executives in the department, being able to overhear whatever conversations might be going on. I know that top executives are told not to say things, but if you just read any of the criminal cases, you see that people talk, whether they should or shouldn't, human nature being what it is.

So you would be able to overhear conversations. You could very well know whom they are meeting with, where they are going, what they are doing. To me, this is a real serious deficiency if we are going to treat the Department of Homeland Security as our main bulwark in the fight against international terrorism.

So do you think that you need legislation? Do you want this committee to initiate legislation which would give you the opportunity to check into the backgrounds of owners of companies such as this? And to give you more leeway to decide who is going to get contracts and who is not?

Ms. DUKE. I look forward to working with the committee on that. I do believe that given the current case law that if we do have a new standard now that legislation would help move enacting that more quickly than going to strictly a regulatory process, yes.

Mr. KING. So you do believe that legislation could be both necessary and helpful?

Ms. DUKE. Yes.

Mr. KING. Okay. I would appreciate if you would pass that on to the secretary, and have him communicate us, too, how he believes this should be done. If any good can come out of this, it could be a wake-up call as to what I think could be a serious gap in our security procedures.

With that, I yield back and I thank you.

Mr. ROGERS. I thank the gentleman.

I would also remind everybody present that if you have a cell phone, please turn it to the off position or to vibrate. It is kind of disturbing the equipment up here when it goes off.

The chair now recognizes for 10 minutes my colleague from New Jersey, Mr. Pascrell.

Mr. PASCRELL. Thank you, Mr. Chairman.

Mr. Chairman, we are not developing material for a B movie here. We are talking about some serious stuff that provides sub-

stance for or responsibilities to have oversight, as I understand this. And that is why we ask the questions that we do.

I would like to ask Ms. Duke some further questions about that. If what the chairman was talking about is true, all of it true, not just speculation, if there was an arrangement between a defense contractor or contractors, with the owners of this company, with those defense contractors involved in bribery, admitted bribery, and an arrangement with some other service, and I don't want to even get into that because that is not really significant here. It is important, but not significant here.

Would that, Ms. Duke, be in your judgment bring about some questions about whether this person was a responsible bidder?

Ms. DUKE. Yes, it would.

Mr. PASCRELL. It would. Okay. So the public records indicate, Ms. Duke, that between 2002 and 2005, I just want to get some things clear here, that Shirlington had many financial difficulties and performance problems. They were in court on bankruptcy and a lot of other things. There were court actions for unpaid debts. Under federal procurement regulations, a vendor must be deemed a responsible bidder by the contracting authority.

Given its history of financial and performance problems, not to mention the criminal history of its owner, I think the fact that this contract was awarded shows absolute negligence on the part of DHS, not you. This happened really before you. Can you explain to us in simple language the past performance problems of Shirlington Limo, why that didn't prevent it from being deemed a responsible bidder, in your estimation?

Ms. DUKE. In my estimation, the contracting officer and the staff that awarded the contracts looked at the references that Shirlington Limo submitted with its proposal, and did not look to the other sources that have come to light recently. So based on the information provided within the proposal, it appeared that there was a satisfactory record of performance.

Indeed, we continue to look at the record of performance, and on other federal contracts, others are experiencing satisfactory performance also.

Mr. PASCRELL. Mr. Jenkins, thank you. I want you to explain to us what kind of internal oversight you do in the HUBZone program. For instance, in the last fiscal year, how many companies have been disqualified upon your examination?

Mr. JENKINS. I would have to get that number back to you in terms of how many that have been removed because of not meeting the qualifications.

Mr. PASCRELL. Well, let's go to the previous question, then. Could you explain what the internal oversight, what do you do?

Mr. JENKINS. Okay. As I mentioned earlier, there are, once a term has been certified into the program, 3 years outside of that certification they go through a re-certification process. There is also a random process that we have in our system which will randomly identify firms each year that we would do a program examination. In addition, we will also do program examinations where information has come to light.

We also review protests, when another interested party questions the HUBZone eligibility of a firm, the SBA will review that protest to see if the firm is actually still eligible.

Mr. PASCRELL. In January 2003, the SBA inspector general found that there are inadequate mechanisms to move disqualified firms from the HUBZone list. Can you explain the removal process to us? Give us an idea of how long it takes? And what have you done to improve the situation that was brought to light by the SBA inspector general?

Mr. JENKINS. Okay. We are currently in the process of reviewing the inspector general's findings.

Mr. PASCRELL. That was 3 years ago.

Mr. JENKINS. Right, and looking at how we implement the requirements. The inspector general has recently issued a report to us as well. They have done a subsequent review of the program.

Mr. PASCRELL. So has GAO.

Mr. JENKINS. Right. And there have been a number of improvements in the program in the sense of these kinds of processes that we go through now in terms of looking at the eligibility of these firms.

Mr. PASCRELL. Do you conduct site visits prior to any certification or re-certification?

Mr. JENKINS. In normal cases, we do not.

Mr. PASCRELL. You do not?

Mr. JENKINS. In this particular case, we did.

Mr. PASCRELL. What do you depend upon if you don't go to the site?

Mr. JENKINS. We base it on the application, the information submitted by the applicant in terms of the residency of the 35 percent of the employees, the actual location of the business.

Mr. PASCRELL. So basically you paper check?

Mr. JENKINS. Paper check, with supporting documentation.

Mr. PASCRELL. So in other words, those folks have to prove and provide you the addresses of the people that are working for them to prove that the individuals live in that HUBZone or live in another HUBZone designated by the Small Business Bureau?

Mr. JENKINS. That is correct.

Mr. PASCRELL. Is that correct?

Mr. JENKINS. That is correct.

Mr. PASCRELL. And you did have an on-site inspection of Shirlington?

Mr. JENKINS. Yes.

Mr. PASCRELL. When did that take place?

Mr. JENKINS. This took place on April 7, the day before they were found to be eligible.

Mr. PASCRELL. Of this year?

Mr. JENKINS. No, 2004.

Mr. PASCRELL. Have there been any other inspections, since this was the largest part of the contract of contracts that they have had in the past. Did you have anything since April of 2004 up until now? Since the stories broke long before we had these hearings, what did you do after the stories broke, because you knew questions were going to come as to how these folks even got here, and then what they did since they got here. What did you do?

Mr. JENKINS. Well, after we were given information that there were some concerns, of the information that the firm placed into the CCR system, whether or not they were actually a small business, we initiated a program examination. That is ongoing as we speak.

Mr. PASCRELL. The last time you had an on-site inspection was April of 2004.

Mr. JENKINS. That is correct.

Mr. PASCRELL. Is that correct?

Mr. JENKINS. That is correct.

Mr. PASCRELL. Thank you.

Mr. Boshears, let me ask you this question first. Can you tell us why Shirlington received a Department of Homeland Security small business achievement award for meritorious service in 2005? You are aware of that, aren't you?

Mr. BOSHEARS. Yes, sir.

Mr. PASCRELL. Can you explain to the committee what happened and why they got that award?

Mr. BOSHEARS. We met with our entire small business team prior to the event and decided that we would have an event and how it would be structured.

Mr. PASCRELL. Before what event?

Mr. BOSHEARS. Before the small business awards ceremony event that you described.

Mr. PASCRELL. That is a yearly event?

Mr. BOSHEARS. Yes, sir. Well, we would like to make it a yearly event. Our first one was in April of 2005.

Mr. PASCRELL. So your first event in 2005, one of the honorees is Shirlington.

Mr. BOSHEARS. Yes, sir. That is correct.

Mr. PASCRELL. Would you explain to us the things that they did to get to that event, and then you gave them an award?

Mr. BOSHEARS. Yes, sir. We have eight major buying activities at the Department of Homeland Security, and we asked each of our buying activities to submit the names of two small businesses that have done a good job in their respective contracts.

Mr. PASCRELL. Would you explain that to me, what you are talking about, buying activities?

Mr. BOSHEARS. Oh, yes, sir. At the Department of Homeland Security, we are divided into eight major procurement shops. For example, the Coast Guard, the TSA, Transportation Security Administration, the Federal Law Enforcement Training Center, the U.S. Secret Service, Customs and Border Protection, Immigration Customs and Enforcement, ICE, FEMA, and the Department of Homeland Security headquarters procurement shop.

So when say "major buying activities," we mean those eight.

Mr. PASCRELL. Okay.

Mr. BOSHEARS. Then working with our network of small business specialists, we asked each of our buying activities to nominate two small businesses that had done a good job.

Mr. PASCRELL. So in other words, those recommendations came out of those divisions that you just mentioned?

Mr. BOSHEARS. Yes, sir. That is correct.

Mr. PASCRELL. Where did this recommendation come from?

Mr. BOSHEARS. This recommendation came from the headquarters procurement operations shop.

Mr. PASCRELL. Who is that?

Mr. BOSHEARS. Who is that?

Mr. PASCRELL. Yes, who is that? Who is the chief? Who is the administrator? Who is the director? Who is in charge?

Mr. BOSHEARS. At the time?

Mr. PASCRELL. Is that clear?

Mr. BOSHEARS. Yes, sir. At the time, it was headed by Mr. Mickey Jones.

Mr. PASCRELL. Who is he?

Mr. BOSHEARS. He was the director of that office.

Mr. PASCRELL. Is he a political appointment?

Mr. BOSHEARS. No, sir. He was a careerist, now retired.

Mr. PASCRELL. He recommended Shirlington for this award?

Mr. BOSHEARS. His subordinate, Ms. Carolyn Smith, made the recommendation.

Mr. PASCRELL. On what basis?

Mr. BOSHEARS. On the basis of the company's performance.

Mr. PASCRELL. Performance with regard to?

Mr. BOSHEARS. With regard to their work.

Mr. PASCRELL. Traveling throughout the Washington, D.C., area, bringing DHS people wherever they wanted to go.

Mr. BOSHEARS. Yes, sir.

Mr. PASCRELL. What did they do that merited them an award?

Mr. BOSHEARS. According to the nomination form, they provided outstanding customer service?

Mr. PASCRELL. You know what I am thinking, but go ahead.

[Laughter.]

Go ahead.

Mr. BOSHEARS. —on their contract with us, and then subsequently, we received two small business recommendations from each of these buying activities, for a total of 16 companies, and Shirlington was one of the 16, and we hosted an awards ceremony in April of 2005 and that was how that came about.

Mr. PASCRELL. And they were presented the award. They showed up?

Mr. BOSHEARS. Yes, sir.

Mr. PASCRELL. They were there. They got the award, and now they are on even better terms.

Mr. BOSHEARS. Well, in terms of their contract performance, the recognition was that they had done a good job. Yes, sir.

Mr. PASCRELL. Okay.

So I think, Mr. Chairman, I am sorry I went over my time, I think what we take a look at, I think we should take a look at the performance, since there is question. Maybe we are wrong. Maybe this was the right company. Maybe they have an outstanding performance record, and can take a look at outside reviews of this company and how they performed. And maybe all the other things we know about the company are fallacious. Maybe.

And then I want to know, those people who made those decisions, whether they know any of these people, Mr. Wilkes or Mr. Wade, who are right in the center of the very scandal that the chairman

talked about earlier. I think we need to bring this to the committee and I think, and I trust you that you will do that.

Mr. ROGERS. I thank the gentleman. In fact, a set of interrogatories went out yesterday asking about all those individuals and any connections. So when we receive our second set of responses to interrogatories, we will then look to see if we need to do a third round, and whether or not we need to bring Mr. Baker in. But I will say again, he has been very cooperative in answering all the questions we submitted.

Now, I would go to the gentlelady from Texas, Ms. Jackson-Lee, for any additional questions she may have.

Ms. JACKSON-LEE. Did you say I had 12 minutes or 15 minutes? [Laughter.]

Mr. ROGERS. Five minutes.

Ms. JACKSON-LEE. The distinguished gentleman from New Jersey has asked a series of deliberate questioning that I think tracks the questioning of the full committee chair, and of course the ranking member of this subcommittee and the chairman.

So let me say for the record that if there is a terrorist threat in this room, with the oversight responsibility that we have, Mr. Chairman and in the absence of the chairman of the full committee, I am requesting a closed classified session to discuss some of the issues raised by Chairman King.

I agree with him that maybe legislative action needs to occur. But on the basis of an open session, we can't probe some of the not only murkiness, but the sheer ugliness of what may be in fact a terrorist, if you will, threat and/or, when I say "threat," undermining of important leadership.

So I don't argue or quarrel with that. I think in this open oversight hearing, however, we have to distinctively cut the line on information that has, as I understand it, these individuals are under oath, come subsequently to the following of the rules. So I am going to pointedly ask, I have to move quickly, so I need quick answers.

Mr. Jenkins, I have looked at your testimony each step of the way. You didn't interfere initially because there was no protest on their original filing. When there were protests, you looked at it. SBA followed their rules and subsequently determined there was no merit in the protest and proceeded on.

Now, you are in a review and an audit and you are waiting on their response or they are waiting on your response. I think the materials are in. Is that correct?

Mr. JENKINS. That is correct.

Ms. JACKSON-LEE. That is all I need. And you followed your basic regulations that you are governed in this current lifetime? Laws that the Congress gave you, and subsequent regulations that you abide by. Is that correct?

Mr. JENKINS. Yes.

Ms. JACKSON-LEE. Okay.

Ms. Duke, with respect to a lot of what the chairman has recounted about the CIA offices, et cetera, do you have any documentation to your knowledge, present in your possession, that speaks to these issues?

Ms. DUKE. No, I do not.

Ms. JACKSON-LEE. Okay. At the course of the selection of this individual, you believe you followed the rules?

Ms. DUKE. Yes, I do.

Ms. JACKSON-LEE. Okay. You understand our concern, however.

Ms. DUKE. Yes.

Ms. JACKSON-LEE. I will again put on the record that we rap sheets can tell a story, and I may yield to the idea that new criteria should go in for the ownership. What I would also argue is that there should be discretion when we talk about opportunities for small, disadvantaged and women-owned businesses, as we do for others, if that is the case.

That these are factors and elements that you take into consideration, but there is at least some discretion if some hard-working person has overcome their early failings in life and they have made good, we certainly should, outside of fighting the Al Qaida and others, have that as an element if we write legislation, because right now what you are suggesting is you had no facts to argue differently, except a glaring rap sheet raises a question that then translates into action.

Do you understand where we are going?

Ms. DUKE. Yes.

Ms. JACKSON-LEE. Okay. I just want to acknowledge that I understand that there was some comment about Howard University. I don't know their present status, but I understand that they had some complimentary things to say earlier about this owner. Is that not correct?

Ms. DUKE. Yes, that is correct. We called the contracting officer that had the contract for the first 3 years. She said that their performance was satisfactory and that the contract was taken away from her after 3 years, and things went down hill from there.

Ms. JACKSON-LEE. Let me throw these questions out so as the light turns red, I am okay.

Mr. Boshears, you have just thrown some people into what we say in the neighborhood, "in the grease" by suggesting that this person helped them get an outstanding award. Do you have any materials in your possession that would speak to CIA agents undermining of security, et cetera, that that person who gave some credence to the performance of this subcontractor would cause them to have not given them a performance award?

Hold your answer. Let me just say, Ms. Duke, you need to answer that. You had nine employees, I understand, when the decision was made in Shirlington, nine employees. You today have 92 in the procurement office. We need 127. It suggests to me that it is hard for you to do your job because you don't have the staff. Tie that to this final answer or question, and I am going to say on the record that we should be having hearings on the trailers that are still sitting in Arkansas and wondering why you gave that contract.

We should be having hearings on why you have given very few contracts to New Orleans, Louisiana residents, and Texas residents. With a first-hand view that I had of a bid conference where people were very disappointed, 400 people there and you did nothing for them. And then you pushing off blame on the Army Corps of Engineers with failed contracts in Louisiana dealing with blue roofs, dealing with picking up trash, contracts that never got down

to the local citizens. That is the procurement hearing that I hope that we will have that talks about a failed procurement system for small and medium, women-and minority-owned businesses.

I yield to Mr. Boshears.

Mr. BOSHEARS. Yes, ma'am. In answer to your question about having any of that type of information, I do not.

Ms. JACKSON-LEE. And did not?

Mr. BOSHEARS. And did not.

Ms. JACKSON-LEE. All right. And so nothing you think is in your documentation on this situation that we should go into closed session on?

Mr. BOSHEARS. No, ma'am, I don't have any information that would indicate that.

Ms. JACKSON-LEE. You would present anything if you had it?

Mr. BOSHEARS. Oh, yes, ma'am. Certainly.

Ms. JACKSON-LEE. I suspect that you are under oath and you know that.

Mr. BOSHEARS. Yes, ma'am. Certainly.

Ms. JACKSON-LEE. Ms. Duke?

Ms. DUKE. Your numbers are correct on the Office of Procurement Operations. We have a vacancy, but we want to go to 127. We have actually asked to go in fiscal year 2007 to 220 people because of the very increasing workload in that office.

Ms. JACKSON-LEE. But underfundedness impacts on work product, does it not?

Ms. DUKE. It does.

Ms. JACKSON-LEE. All right. Do you want to talk about those last two points, the failed FEMA contracting down in the Gulf Coast Region.

Ms. DUKE. FEMA was in a similar situation staffing-wise. They had less than 40 people in FEMA contracts when Hurricane Katrina hit. And we are working towards that. We do have the new legislation on the local preference under the Stafford Act. It allows us to set aside business for local companies in disaster areas, rather than just have a preference. We really think that that, in addition to better planning, is going to allow us to respond better both quality-wise and getting business to the local companies quickly.

Mr. ROGERS. The gentlelady's time has expired.

Ms. JACKSON-LEE. I thank the chairman very much.

Mr. ROGERS. You are welcome.

I want to pick back up where I was with you before our last series ended.

The background checks, you don't do those on these officers and directors and owners. Would that be a desirable piece of information for you as a procurement officer to have available?

Ms. DUKE. I believe that knowing more is good. Right now, the regulations say that we are supposed to determine if there is a satisfactory record of integrity and business ethics. It defines it no further.

When this regulation was put in place at the federal level, there was an attempt to define what "integrity" meant. It went out for public comment that way. It actually got involved in a court case and there was so much public comment that they struck it from the

record. So it really puts a lot of undefined burden right now on the contracting officer to define "integrity."

Mr. ROGERS. So you may need some policy changes from us to clear the way for that kind of search to be done and maybe delegated to a third party?

Ms. DUKE. I think that would be helpful if the public policy decision is that we should be more thorough now because of our current world situation.

Mr. ROGERS. I think the sentiments exhibited from this committee today is we should be more thorough in our due diligence, particularly in an important area like this.

I would like to, the last question I will ask of you, and I know it is one you have been waiting for from me, is would it be more help to you if you had direct line authority over other procurement officers throughout DHS? Before that, do you currently have direct line authority over them?

Ms. DUKE. In one of the procurement shops, the headquarters one. The other seven I do not.

Mr. ROGERS. Would it be a help to eliminate these kind of problems if you could establish practices and procedures that you then had direct line authority to implement throughout the system?

Ms. DUKE. I do have the cooperation of the contracting shops, but it is more efficient, I believe, if I had direct line authority.

Mr. ROGERS. I thank you.

Mr. Jenkins, I wanted to ask you about Shirlington's principal office. I understand it is located in the Lansburgh, in a luxury apartment building in northern D.C.'s Penn Quarter neighborhood. The first impression is that that doesn't seem to fit what we are trying to accomplish with HUBZone status. Am I accurate in that impression?

Mr. JENKINS. Well, the HUBZones are defined by either the HUD Department or the Census Department or the Department of Labor. SBA basically takes those definitions and applies it to the HUBZone program. So we don't actually physically define it. Those locations are already defined.

Mr. ROGERS. But HUBZones generally are established to help under-economically developed areas grow with the help of government contracts.

Mr. JENKINS. Yes.

Mr. ROGERS. So the fact that this company is in a luxury apartment building does strike me as odd. Apparently, you are saying that is not inconsistent with what your criteria area.

Mr. JENKINS. Right. The criteria is a statutory criteria.

Mr. ROGERS. Okay. It is my understanding that SBA is currently conducting a program of review of Shirlington Limousine HUBZone status. What is the timeframe of the completion of that review?

Mr. JENKINS. We hope shortly, hopefully within a week or so. We have all the information in now from Shirlington Limousine and we are actually processing that information.

Mr. ROGERS. You have heard me talk with Ms. Duke about the need for, in my view, to complete due diligence, to have these background checks on individual owners and/or officers and directors of companies before these designations are assigned. Do you believe

that would be a benefit in your organization to have that information available?

Mr. JENKINS. Yes, it could be helpful. Yes.

Mr. ROGERS. Okay. And do you do any of those things now? Any due diligence background checks on criminal or financial background of individuals other than just the corporate entity or the company entity?

Mr. JENKINS. No, we do not do any background in terms of integrity of the owner of the business. We are limited to just those four eligibility criteria in statute.

Mr. ROGERS. Okay. Let me just throw this out to any one of you. What would be the overriding thing that you would like to see us change or see changed in the system that would prevent us having a problem like this one arise in the future?

Not all at once.

Ms. DUKE. I do believe that recognizing the changing in our world environment. It is one thing following the regulations, which in great part we did on these procurements, but then recognizing that with world changes, terrorism, those type of things, that there might be a need to change or to alter our processes to match our dynamic environment.

So I think that in the areas of security, rather than really the criminal piece, the security, the terrorism is of utmost concern to me.

Mr. ROGERS. Okay. Before I go to my other members for their final sets of questions, I do want to emphasize how much I appreciate how cooperative all of you have been. We are not meaning to beat up on you all. We are trying to beat up on the process that apparently allowed this contract to come into existence.

More importantly, to determine what we can do to make sure it doesn't happen in the future. We can do better not only in this area, but in a lot of areas of DHS, and that is what we are striving for, and that is the whole purpose of this vigorous oversight. I do want you to know you all have been very cooperative. We have had several meetings. We intend to continue to meet on a staff level to do what we can do to help you do your job better.

With that, I think I am being signaled. The gentleman from New Jersey?

Mr. PASCRELL. I was going to ask a question.

Mr. ROGERS. The ranking member is up for questions next.

Mr. PASCRELL. Can I clarify the record?

Mr. ROGERS. Yes, sir, you can.

Mr. PASCRELL. Thank you.

[Laughter.]

Mr. Chairman, you asked I think some very important questions. I just wanted to look back at the record. I want for my own clarification, and for all of our clarification. April 7, 2004, the HUBZone staff performed a site visit at the principal office. Going to visit, staff met with senior principals of the firm; April 8, approved participation in the HUBZone program; April 27, they were awarded the HUBZone set-aside.

If that isn't peculiar, I don't know what is. And by the way, when you talk about a review of these companies, you know what the review consists of? The company does not have to disclose. They can

show you whatever they want to show you in terms of the contracts that they want to show you, and they don't have to show you, they are under no obligation, Mr. Chairman, to show you all of their contracts. Am I not correct?

Mr. JENKINS. We do not review contracts at all.

Mr. PASCRELL. This is a charade, regardless of how you spell it; regardless. You can't even make it look good. You can't even make it look good. And we are talking about Shirlington. We could be talking about 50 other companies, I am sure. That is the point I want to make today.

Mr. ROGERS. And it is a very valid point.

The chair now recognizes the ranking member, Mr. Meek of Florida, for any additional questions he may have.

Mr. MEEK. Thank you, Mr. Chairman.

Ms. Duke, I wanted to ask you, how many of those procurement officers that you have now are contract officers versus employees of DHS?

Ms. DUKE. In the contracting shop, the far majority are federal employees. We do have some contract support and I can get you those numbers. Those numbers do not include the contractor support, though, so the number we gave you was federal employees. Of those, not all are contracting officers, but I can get you the specific numbers and the number that are contracting officers.

Mr. MEEK. So the individuals that are letting DHS contract or working on the procurement or the evaluation of DHS contracts, would it be fair to say 30 of them are procurement officers or contract officers? Maybe 20?

Ms. DUKE. The one that ultimately signs the contract is always a contracting officer. Anyone that makes a decision is a federal employee. Our contract support does not make decisions in terms of selecting contractors or any other decision.

Mr. MEEK. Okay. When you say "make a decision," let's say for instance contract support, which you are calling them, they go out and they do this "4-month" investigation, or what should happen, 4-month. And then they come to a DHS employee and the procurement officer works in your shop. And they look over that work and make a decision or what happens?

Ms. DUKE. That can happen. The far majority of the work is done by federal employees, though, and I can get you a ratio of the number of federal employees to the number of contractors. But contractors provide some support, but more administrative, more like you said, doing some of the legwork, but the majority of work is done by federal employees.

Mr. MEEK. I think, Mr. Chairman, what I may have to do, that I have done in the past, I have been out to the Nebraska office of the Department of Homeland Security, and I have said this before, Ms. Duke, I may need to go on a walkabout there in your office to kind of hear what people have to say, to see what they do. Because it is one thing for us to say: What are you all doing? Why aren't you doing this? Why aren't you doing that? And we have the power to do exactly. We don't have to ask you to do anything. We can pass it.

Mr. Chairman, I believe without even calling the secretary of homeland security and asking him should we do what you call a

"full case" investigation or full site investigation, that I believe you said the CIA does with their contracting, looking at everyone involved, everyone that has a business card in that company. That is not something that we must legislate on. The secretary can just say, hey, that is going to happen. And it will happen.

Or we can file a piece of legislation, Article I, Section 1 of the U.S. Constitution, pass it and say it should be done, with hopefully the help of the Senate and the president of the United States. I think what the American people are most frustrated with is the fact that this could happen, under all of this oversight, under all of this technology, for all the things that we talk about day in and day out about integrity and transparency. And there is not a secret, maybe I am by myself, that members of Congress don't write letters in support. And you have got them before, am I correct?

Ms. DUKE. Yes.

Mr. MEEK. And you probably have them sitting on your desk right now. If there is a hometown company that wants to do business with the Department of Homeland Security, with the Department of Defense, you name it, with the Department of Health and Human Services, they are going to get a letter from their local elected officials saying, from the mayor probably, that this is a good company and this is what they do.

What I was hoping at this hearing, and some information I did pick up, and established a record with some of the questions that needed to be asked, for us to legislative to bring about change, change in the right direction. Comprehensive change as it relates to procurement is just something that is well overdue at the Department of Homeland Security. I am of the opinion that we shouldn't have to ask permission to put forth good legislation that will be able to help all of you as it relates to your jobs being carried out.

So we are going to continue. In the record, I know the chairman is going to leave the record open for several days. Anything that any of you may have in support, because the chairman asked a burning question that I wanted to ask if you had any recommendations that we should follow up on. Sometimes it may be better outside of the committee room when you think about it, go back to the office and maybe talk with your colleagues about today's hearing, of some of those recommendations being forwarded to this committee because we will look at the procurement issue at the Department of Homeland Security and the input will be very, very helpful.

I would, Ms. Duke, hope that we could work out with my staff and your staff a time that I can come out and possibly, you know, if the other members of the committee have time to come out to ask the questions, talk to the individuals that deal with this every day around the water keg, what would be best practices to help us.

Like I said in the opening, it hurts me to be a part of this committee questioning a small disadvantaged business' integrity and performance when there are Fortune 100, Fortune 50 companies that are involved in the federal dollar, that have wasted and stolen money from the taxpayers of the United States of America, and there is no question about it. There is no oversight and no one calls anyone. No one subpoenas anyone in Washington.

So I am saying that by saying we want to make sure that we deal with this, but we hope through this process that we don't hurt small and disadvantaged businesses, veterans that come back from the war and open businesses, that they have the additional tier of scrutiny than the individuals that are being driven somewhere in New York City, no pun intended, and New York says, well, you are from Alabama. The chairman is gone. But being driven and looking at the stock reports as they move along.

So I want to thank you for coming before the committee once again, Mr. Chairman, and I thank members of the panel.

I yield back.

Mr. ROGERS. The gentleman yields back.

The gentlelady from Texas is recognized.

Ms. JACKSON-LEE. I thank you very much.

I wanted to, in light of where we are, simply echo what I heard from both the ranking member and the chairman of the subcommittee. As I indicated to the distinguished gentleman from New Jersey and the distinguished gentleman from New York, I want to make an official request to bring the secretary of homeland security, who has as you have noted as willingly appeared before this committee.

I would make a secondary request that if necessary, because of some of the intelligence that has been garnered in whatever manner it has, that it be a classified meeting, closed meeting. I say that because I agree with Mr. Meek that we need to distinguish the value of historically utilized business, small and disadvantaged businesses, and veterans and others where we have tried to spread the American dream from our fiduciary responsibility of getting at the truth.

That was my point that I was making. So I think it is important that we hear about the CIA and untoward activity and any compromising of our staff, making very particular decisions. At the same time, I am going to raise this question. Mr. Chairman, let me just put these in the record for these individuals to provide answers back.

Mr. Boshears, you need to be, if you might, a little more pointed and direct on the role of your office. Maybe people don't understand it, and what you have been doing to outreach to small and disadvantaged businesses, because I can assure you, as we travel across America, people are, Alabama, Florida, Texas, are outraged because they don't think they are getting a fair hearing.

I will say this on the record because maybe this will help me. It might hurt me. As a member of Congress, I seek no influence, but I am going to encourage my small and medium-size and other businesses, women-owned businesses, disadvantaged, to go forth. I am going to say to X, Y and Z, this is a good person. You will then have to perceive whether I have any stake or anything. I would hope that at all times you will find that there is no pecuniary interest whatsoever. But I am going to represent my constituents.

So you need to give that answer. Ms. Duke, you need to tell us whether, as you have acknowledged, the underfunding and the understaffing and maybe trying to do it, whether these deficiencies or what deficiencies do you believe exist in the procurement system. Because if we are going to be good, if you will, custodians of

this agency, then you need to give us a sense of what are your deficiencies.

It seems like you have it, because you operate in the rules, and we are here expressing outrage. And specifically, what deficiencies exist that can be fixed with the appropriate level of funding.

My last submission to the record is to say that I am going to particularly ask for answers. It may be a little expanded, but particularly ask for answers on your relationship, and you are on DHS, but your relationship between FEMA and the Army Corps. You have new change rules now. You are talking about contracting with local and state governments, as opposed to individual contractors. That is probably going to hurt a lot of small folk as well.

But just get a report back through FEMA, through you, on this existing field of trailers and the relationship between the Army Corps and FEMA and your DHS. So I just, as it relates to those sore points in New Orleans, big contracts to big guys, layering contracts where the big guys are getting primetime, the $28 to $30 per cubic yard for debris removal, which is what these little cities and parishes were complaining about. And then you layer it down to the small guys getting $6 to $10 per cubic yard.

It just looks like a big scandal to us, and the small guys are barely surviving; spending $3 million for 4,000 base camp beds that were never used; $33.3 million for security services at a rate of $950 per staff day; $10 million to renovate rooms in a military barracks that are only used to house six people; entering into a $236 million lease for cruise ships that were never fully occupied by evacuees; and failing to properly invest $66 million that was donated by foreign governments, thus losing $2.5 million in interest.

These are procurement or investment or contracting issues that may be long down the road, but I am going to ask for, if you will, answers on this. I simply conclude to say to you, I, too, thank you for your service. I thank you for a small business program because there are countless Americans, millions, who are experiencing the American dream because of it. We will give you the tools. You give us the truth. If we can't get the truth in an open public hearing, then we need to get the truth in a closed classified hearing so that any terrorist that thinks they can undermine us through a small business program will have something coming to them.

But right now, I am not going to malign the program based upon inadequate procedures. I thank my good friends and hope that we will continue the great work of this committee, two great leaders, and the chairman and the ranking member of the subcommittee.

I yield back.

Mr. ROGERS. I thank the gentlelady.

Again, I want to remind the panelists that the record will be left open for 10 days. I know that I have some additional questions that we will be submitting to you. I would ask that you respond to those in writing. I am sure some of the other members will probably have some additional questions as well.

Thank you again for your participation.

And, with that, we are in adjournment.

[Whereupon, at 2:03 p.m., the subcommittee was adjourned.]

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