

**FEDERAL PROTECTIVE SERVICE: WOULD
FEDERALIZATION OF GUARDS IMPROVE
SECURITY AT CRITICAL FACILITIES?**

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY

HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

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FEDERAL PROTECTIVE SERVICE: WOULD FEDERALIZATION OF GUARDS IMPROVE SECURITY AT CRITICAL FACILITIES?

Wednesday, April 14, 2010

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON HOMELAND SECURITY,
Washington, DC.

The committee met, pursuant to call, at 10:02 a.m., in Room 311, Cannon House Office Building, Hon. Bennie G. Thompson [Chairman of the committee] presiding.

Present: Representatives Thompson, Harman, Jackson Lee, Cuellar, Richardson, Kirkpatrick, Pascrell, Green, Himes, King, Smith, Lungren, Dent, Cao, and Austria.

Chairman THOMPSON [presiding]. The Committee on Homeland Security will come to order. The committee is meeting today to receive testimony on “Federal Protective Service: Would Federalization of Guards Improve Security at Critical Facilities?”

Since 2007, this committee has held three hearings on the Federal Protective Service. This small agency is a prime example of the kind of changes this Nation has undergone in the last 10 years. Once primarily concerned about protecting Federal buildings from theft, vandalism, and other minor crimes, the mission of FPS changed significantly after September 11.

This small agency of 1,200 employees must protect Federal employees stationed in 9,000 Federal buildings and countless members of the public seeking information or assistance. Their vigilance must match our vulnerability. They carry out this task every day, but they cannot do it alone.

These 1,200 FPS employees are supplemented by 15,000 security guards who are paid by private firms under contract with the Government. Every year, the costs of these contracts increase by 20 percent. For most people, the contract guards are the face of the Federal Protective Service. Unfortunately, the face has some disturbing features.

In 3 years, this committee’s oversight has uncovered FPS’ failure to pay its contractors; security firms hired by FPS who fail to pay their guards; FPS’ failure to require current and appropriate credentials for guards; FPS’ and the security companies’ failure to properly train guards; and FPS’ inability to mandate that Federal tenants comply with security upgrades. These problems have led to security vulnerabilities that allowed GAO testers to enter Federal buildings guarded by contract guards with knives and guns.

To be fair, FPS has tried to respond to each problem uncovered, and each challenge revealed by the GAO, inspector general, or this committee. DHS has put forward a transition plan to help resolve some of FPS' problem. But this cascade of issues pushes us to ask whether additional piecemeal patches will be sufficient. The solution to these problems will require resources, planning, and commitment.

In July 2009, the Office of Management and Budget directed each agency to consider the use of Federal employees in positions held by contractors. The Homeland Security Department identified about 3,200 contractor jobs that will be converted to Federal positions.

Despite numerous reports of security vulnerabilities, and the likelihood that Federal facilities may present attractive targets, none of the 15,000 positions held by FPS contract guards were considered for in-sourcing. Increased threats on Federal employees and recent attacks on Federal buildings demonstrate that safety in Federal facilities can no longer be taken for granted.

The Chair now yields to the Ranking Member of the full committee, the gentleman from New York, Mr. King, for an opening statement.

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

I welcome our witnesses, and I look forward to the hearing, because this hearing will provide another opportunity to discuss the challenges facing the Federal Protective Service, and various ways to address and to improve the security at Federal facilities.

The focus of the hearing is whether or not to Federalize the contract-guard force. Arguments have been made on both sides—persuasive arguments on both sides. I look forward to hearing from the witnesses to get their views on the issue, especially regarding the costs associated with the proposal, and what empirical studies, if any, have been conducted in this area.

Now, the Federal Protective Service is a vital component within the Department of Homeland Security, and has a critical mission. The constant threat of terrorism, along with the recent violent acts at Federal buildings underscores the need to improve the security of these facilities, and the safety of the employees that work in them. You know, as we know, the GAO has identified a number of security lapses within the Federal Protective Service. I look forward to hearing from the witnesses today about the agency's ability to protect the Federal buildings, to effectively oversee the contract guards, and to provide sufficient training to the guards; and to see what steps can be taken—if it involves Federalization—to address the security lapses.

I know that one of our colleagues, Congressman Dent, from Pennsylvania, is drafting legislation to address deficiencies identified by the GAO. I look forward to working with Congressman Dent on this bill.

Also, I would like to bring up the issue of the possible 9/11 Guantanamo trials.

Mr. Schenkel, when you testified at a previous hearing, you said that the FPS, "lacked the sufficient resources to secure the Federal buildings that will be related to the trials in lower Manhattan"—that there were not sufficient Federal Protective Service employees

for that trial. Yet, despite that testimony, President Obama's fiscal 2011 budget for DHS requested no additional resources for the Federal Protective Service.

Now, I am opposed to this administration trying the terrorists in civilian courts, certainly in New York. Having said that, if the trial should go forward, it is absolutely essential we have the security that is needed. I urge this administration to reconsider funding, as far as Federal Protective Service—as far as what needs to be done. Because, right now, it just does not appear either the State, local, or the Federal level has enough security in lower Manhattan for these trials.

So, with that—I look forward to your testimony.

Mr. Chairman, I thank you for holding the hearing. I yield back the balance of my time.

Chairman THOMPSON. Thank you very much.

Other Members of the committee are reminded that under the committee rules, opening statements may be submitted for the record.

[The statement of Hon. Richardson follows:]

PREPARED STATEMENT OF HONORABLE LAURA RICHARDSON

APRIL 14, 2010

Mr. Chairman, thank you for convening this very important hearing today examining the continuing challenges faced by the Federal Protective Service. I appreciate your commitment to this vital issue. I would also like to thank our witnesses for being here today.

The committee last examined the challenges facing the Federal Protective Services back in November. The Federal Protective Service (FPS) provides law enforcement and security services for almost 9,000 Federal facilities, 2 million people working and visiting in these facilities, and countless millions in Federal assets. The sheer scope of this kind of service means that we must do everything we can to ensure that the FPS has the resources and organizational structure in place to effectively do their job and keep our Federal buildings and employees safe in the face of any threats to their security.

As the representative of the 37th Congressional District in California, which is a target-rich area for terrorists due to its close proximity to the Ports of Los Angeles and Long Beach, I have a particular interest in ensuring that this agency has the resources and structure in place to not only adequately handle its duties but to excel. Therefore, it is of particular import to me that the Federal Protective Services is doing the best job it possibly can.

I am disappointed that Government audits, since 2006, have repeatedly exposed oversight and performance problems in the contract guard program. FPS is relying on almost entirely on contract guards, about 15,000 in total, to provide security at Federal facilities. Unfortunately, the findings of the Government Accountability Office (GAO) indicate many serious problems with FPS oversight of these guards.

For example, just recently a man flashed fake credentials and was permitted to reach the outer office of Health and Human Services Secretary Kathleen Sebelius. Security was breached because the guards at the front accepted his credentials without question. Now, more than ever, we need to make sure that the people in place to protect our Federal buildings and employees are well-trained, certified, complying with orders, and adequately performing their duties.

President Obama has stated that converting contractor positions to Federal positions is a priority. This conversion will allow the Government to provide better oversight, decrease costs, and ensure that the Federal Government is a key player in security decision-making. I would like to hear from Mr. Schenkel, Director of the FPS, as to the specific plans and details of making this conversion from contract guards to Federal employees.

I look forward to hearing the ideas and recommendations from the rest of our distinguished panel of witnesses on improving the Federal Protective Service to further secure our Nation against threats.

Thank you again, Mr. Chairman, for convening this hearing. I yield back my time.

Chairman THOMPSON. We will have two panels of witnesses today.

I welcome our first panel of witnesses.

Our first witness, Mr. Gary Schenkel, was appointed director of the Federal Protective Service in March 2007. Prior to joining FPS, he served as assistant Federal security director for TSA at Chicago-Midway Airport.

Our second witness on the panel is Mr. Mark Goldstein, the director of physical infrastructure issues at the United States Government Accountability Office. Mr. Goldstein is responsible for GAO's work in the areas of Government facilities and telecommunications.

Our final witness to this panel is Mr. Clark Kent Ervin, director of the Aspen Institute's Homeland Security Program. Before joining the institute, Mr. Ervin served as a first inspector general of the United States Department of Homeland Security.

We welcome all of our witnesses here today. We look forward to your testimony.

Without objection, the witnesses' full statement will be inserted in the record.

I now recognize Mr. Schenkel to summarize his statement for 5 minutes.

STATEMENT OF GARY W. SCHENKEL, DIRECTOR, FEDERAL PROTECTIVE SERVICE, NATIONAL PROTECTION AND PROGRAMS DIRECTORATE, DEPARTMENT OF HOMELAND SECURITY

Mr. SCHENKEL. Thank you, Chairman Thompson, Ranking Member King, and other distinguished Members of the committee. I am pleased to appear before you today to discuss the work of the Federal Protective Service.

As always, the Federal Protective Service shares the common goal of this committee of protecting Federal facilities and the proud men and women serving the country and the Federal Government, as well as the half a million visitors that visit our buildings every day.

The Department of Homeland Security has been working with—has been working to transform the Federal Protective Service from eleven regional organizations into one with its own operational and business practices, all into a single agency; and to improve the professionalism and performance of the Federal Protective Service and the contract workforce. That process has not been without its challenges. Nobody knows the hurdles that remain better than the men and women of the Federal Protective Service.

We have, however, been making considerable progress in the process and procedures to address GAO's recommendations and Congressional concerns by enhancing the ability of the FPS to proactively identify and address performance issues.

As your staff has seen in person, FPS now systematically measures the effectiveness of all FPS countermeasures through programs such as Operation Shield, which involves unannounced inspections to measure the effectiveness of contract guards in detecting the presence of unauthorized persons, potentially disruptive or dangerous activities in and around Federal facilities; and the abil-

ity of the guards to prevent the introduction of prohibited items or harmful substances into facilities.

In addition, FPS is now conducting covert tests; increasing the frequency of post inspections; implementing a National standard for post inspections; and requiring additional training in magnetometer and X-ray screening.

FPS has also developed a risk-assessment-management program known as RAMP, a web-based system that calculates facility risk; a computer-aided dispatch-information system, called CADIS. That will standardize our—that will standardize our reporting procedures, consolidate crime-and-incident reporting, and timestamp our operations; as well as the post-tracking system that will strengthen the accuracy of post staffing and billing, and will reduce the administrative burden on our inspectors.

What these examples demonstrate is that instead of executing cosmetic or knee-jerk patches, we are in the process of building permanent solutions that, once fully implemented, are designed to yield the results that Congress, GAO, and the Department want in the Federal Protective Service.

In addition, we have not ruled out the possibility of expanding our Federal workforce, or Federalizing or partially Federalizing the contract-security-guard workforce. We expect to complete the bottom-up staffing review currently underway, in time to inform the fiscal year 2012 budget request. In the interim, the Department remains committed to ensuring the organization is appropriately staffed, as evidenced by the 2009, 2010, and 2011 budget requests, which were all equal to, or exceeding the 1,200 full-time-equivalent staffing level directed by Congress.

I look forward to a healthy dialogue on how these efforts can and will provide the foundation FPS needs to start a new chapter in its history. I want to thank you for holding this important hearing, and for your continued support of our mission.

[The statement of Mr. Schenkel follows:]

PREPARED STATEMENT OF GARY W. SCHENKEL

APRIL 14, 2010

Thank you Chairman Thompson, Ranking Member King, and other distinguished Members of the committee. My name is Gary Schenkel, and I am the Director of the Federal Protective Service (FPS), which is now within the National Protection and Programs Directorate (NPPD). I am pleased to appear before you today to discuss the actions that the Department of Homeland Security (DHS) has undertaken to ensure the safety and security of Federal Government buildings.

FPS BACKGROUND

FPS is responsible for the security of more than 9,000 General Services Administration (GSA)-owned and leased facilities. FPS' primary tasks are to provide scheduled all-hazard, risk-based facility security assessments; recommend countermeasures; and implement the countermeasures approved by the Facility Security Committee representing each of the 9,000 facilities. FPS offers comprehensive physical security operations that include installing alarm systems, X-rays, magnetometers, and entry control systems; monitoring installed systems around the clock; providing uniformed police response and investigative follow-up; providing Protective Security Officers (PSOs); hosting crime prevention seminars tailored to individual agency and employee needs; conducting facility security surveys; integrating intelligence gathering and promoting information sharing; and completing more than 35,000 background investigations annually.

FPS conducts nearly 2,500 Facility Security Assessments annually and responds to approximately 1,400 demonstrations. In fiscal year 2009, FPS responded to 35,812 calls for service, including 1,242 protests and organized disturbances; made 1,646 arrests; conducted 1,115 criminal investigations; processed 272 weapons violations; and prevented the introduction of 661,724 prohibited items into Federal facilities.

This work is made possible by the more than 1,225 Federal law enforcement and support staff personnel, including 689 Law Enforcement Security Officers, who possess the authority and training to perform traditional police functions in connection with the protection of Federal facilities, including conducting Facility Security Assessments and implementing and testing security measures. The more than 15,000 PSOs are well-trained individuals who complement the work of the Federal personnel. PSOs are members of facility security forces and have the training, equipment, and appropriate certifications to perform a specific security function.

FPS IN TRANSITION

FPS was transferred from GSA to DHS in 2003. Since 2003, DHS has been working to transform FPS from 11 different regional organizations, each with its own business practices, into a single agency. To establish a systematic, strategic, and professional approach, FPS identified and shared best practices, developed standardized policies, identified problems, and developed solutions in its financial, administrative, and operational program areas. The transition also required a new strategic approach to the FPS protective mission, and the resulting FPS Strategic Plan focused on critical issues within the protective mission, including developing a sound strategic path forward focused on ensuring that facilities are secure and occupants are safe. Further, the transfer of FPS from U.S. Immigration and Customs Enforcement (ICE) to NPPD requested in the President's fiscal year 2010 budget provided DHS with a single component responsible for the comprehensive infrastructure security program. The integration of FPS into NPPD enhanced DHS' overarching strategy and mission to lead the unified effort to improve our Nation's security.

FPS has taken a number of steps to improve the professionalism and performance of its Federal and contract workforce. For example, FPS systematically measures the effectiveness of all FPS countermeasures. One of our most effective measurement programs is Operation Shield, in which FPS conducts unannounced inspections to measure the effectiveness of contract guards in detecting the presence of unauthorized persons; potentially disruptive or dangerous activities in or around Federal facilities; and the guards' ability to prevent the introduction of prohibited items or harmful substances into facilities. Operation Shield also serves as a visible, proactive, and random measure that may be used as a deterrent to disrupt the planning of terrorist activities.

Though FPS has robust security activities in place, FPS is focused on continual improvement. FPS has addressed the 2009 GAO report regarding contract guard oversight and lapses in screening procedures by determining the root causes of the lapses and taking the following measures to prevent recurrence:

- Increasing the frequency of post inspections of PSOs;
- Requiring additional training in magnetometer and X-ray screening including a contract modification requiring 100 percent contractor use of FPS-produced training that addresses screening for improvised explosive devices;
- Ensuring that all PSOs are contractually compliant with certifications and qualifications, by incorporating the certification system into the Risk Assessment Management Program (RAMP); and
- Developing and initiating a 16-hour magnetometer X-ray training program, provided to PSOs by FPS Inspectors, titled *National Weapons Detection Program*, which began in January 2010.

TESTING AND IMPROVING FACILITY SECURITY

As a result of a Covert Testing Working Group, FPS developed a Covert Testing Program, which enhanced and complemented the on-going overt efforts to improve oversight and promote the attentiveness and professionalism of the PSO. This program further achieves FPS strategic goals to effectively and efficiently ensure secure facilities and safe occupants. While the Covert Testing Program is a discreet investigative operation used to assess and validate the effectiveness of security countermeasures, Operation Shield is highly visible measure.

FPS takes an all-hazards approach to the Facility Security Assessment, which is at the core of the agency's mission requirement. FPS' new RAMP is a web-based system that calculates risks—including terrorist, criminal, geologic, or meteorological—into an equation that is then measured against countermeasures to mitigate

those risks. The Computer Aided Dispatch and Information System will standardize reporting procedures, consolidate crime and incident reporting, and time-stamp our operations, thus providing accurate data to support future staffing models. The Post Tracking System will strengthen the accuracy of post staffing and billing and will further reduce the administrative burden on our Inspectors, allowing them more time for conducting building security assessments, active patrol, and guard oversight.

The activities I have highlighted have helped accomplish the goal of improving the FPS workforce and the ability of that workforce to fulfill the FPS mission. As a testament to our progress, we have closed or recommended for closure nearly half of the recommendations made by the GAO.

FEDERAL-CONTRACT GUARD MIX

We believe that we can effectively secure Federal buildings with the current mix of Federal staff and highly trained contract guards. However, as the Department implements the full FPS transition to NPPD from ICE, NPPD leadership is completing a bottom-up review of FPS that includes consideration of Federalizing or partially Federalizing the contract security guard workforce. The study looks at several operational alternatives including the conversion options regarding the 15,000 contract guards to Federal positions. We expect to complete this study for inclusion in the fiscal year 2012 budget.

While we believe we can effectively secure Federal buildings with the current mix of highly trained Federal staff and contract guards, we have not ruled out the possibility of expanding our Federal workforce to enhance the ability of our men and women to fulfill the FPS mission. DHS is currently studying staffing levels to ensure that FPS has the appropriate level of staffing in the right locations to fulfill its mission. The Department took immediate action following the introduction of minimum staffing levels in the Fiscal Year 2008 Consolidated Appropriation Act, and the FPS budget requests in fiscal year 2009, fiscal year 2010, and fiscal year 2011 were all equal to or exceeded the 1,200 full-time equivalent staffing level directed by Congress, demonstrating the Department's commitment to ensuring the organization is appropriately staffed.

CONCLUSION

The Department will continue to work with public and private homeland security partners to ensure that Federal facilities are safe and secure.

Thank you for holding this important hearing. I would be happy to respond to any questions you may have.

Chairman THOMPSON. Thank you for your testimony.

I now recognize Mr. Goldstein to summarize his statement for 5 minutes.

STATEMENT OF MARK L. GOLDSTEIN, DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, GOVERNMENT ACCOUNTABILITY OFFICE

Mr. GOLDSTEIN. Thank you, Mr. Chairman, and Members of the committee. Good morning. Thank you for the opportunity to testify about GAO's work on the Federal Protective Service and the protection of Government facilities.

Over the past several years, GAO has produced a body of work reviewing the challenges faced by FPS and the Department of Homeland Security. We have discussed our work before this committee. To accomplish its mission of protecting about 9,000 Federal facilities, FPS currently has a budget of about \$1 billion, about 1,225 full-time employees, and about 15,000 contract security guards. FPS obligated \$650 million for guard services in fiscal year 2009.

This testimony is based on our report issued yesterday, April 13, 2010, and discusses challenges FPS continues to face in, No. 1, managing its guard contractors; No. 2, overseeing guards deployed

at Federal facilities; and, No. 3, the actions FPS has taken to address these challenges.

We have provided preliminary findings on some of these issues at hearings during the last 8 months. The report issued yesterday finalizes our report on these issues.

Our major findings are as follows: First, FPS continues to face a number of challenges in managing its guard contractors that hamper its ability to protect Federal facilities. FPS requires contractors to provide guards who have met training and certification requirements. FPS' guard contract also states that a contractor who does not comply with the contract is subject to enforcement action.

GAO reviewed the official contract files for the seven contractors who, as we testified in July 2009, had guards performing on contracts with expired certification and training requirements, to determine what action, if any, FPS had taken against these contractors for contract noncompliance. These contractors had been awarded several multiyear contracts totaling \$406 million to provide guards at Federal facilities in 13 States and Washington, DC.

FPS did not take any enforcement action against these seven contractors for noncompliance. In fact, FPS exercised the option to extend their contracts. FPS also did not comply with its requirement that a performance evaluation of each contractor be completed annually, and that these evaluations and other performance-related data be included in the contract file.

Second, FPS also faces challenges in ensuring that many of the 15,000 guards have the required training and certification to be deployed at Federal facilities. In July 2009, we reported that, since 2004, FPS had not provided X-ray and magnetometer training to about 1,500 guards in one region. As of January 2010, these guards had still not received training, and continued to work at Federal facilities in this region. X-ray and magnetometer training is important because guards control access points at Federal facilities.

FPS currently does not have a fully reliable system for monitoring and verifying whether its 15,000 guards have the certifications and training to stand post at Federal facility. As Mr. Schenkel has indicated, FPS developed a new risk-assessment-and-program-management system to help monitor and track guard certifications and training; however, FPS has experienced some difficulties with their system—until just a few days ago, temporarily suspending its use.

In addition, once guards are deployed to a Federal facility, they are not always complying with assigned responsibilities. Since July 2009, FPS has conducted a number of penetration tests, 53 of which were in the six regions we visited. In nearly two-thirds of those tests, some guards were not able to identify prohibited items such as guns and knives.

Third, in response to GAO's July 2009 testimony, FPS has taken a number of actions that, once fully implemented, could help address challenges it faces in managing its contract-guard program. For example, FPS has increased the number of guard inspections at Federal facilities in some metropolitan areas. FPS has also revised its X-ray-and-magnetometer training; however, guards will

not be fully trained until the end of 2010, although they are deployed at Federal facilities today.

Despite FPS' recent actions, it continues to face challenges ensuring that a \$659 million guard program is effective in protecting Federal facilities. Thus, GAO believes that, among other things, FPS needs to reassess how it protects the Federal facilities it protects, and rigorously enforce the terms of the contracts.

In GAO's report related to this testimony, we recommended, among other things, that FPS identify other approaches that would be cost-beneficial—protecting to the facilities. The Department of Homeland Security concurred with seven of GAO's eight recommendations. DHS did not fully concur with our recommendation to issue a standardized record-keeping format to ensure contract files have the required documentation.

This completes my testimony, Mr. Chairman. I would be happy to answer any questions that you and the Members have. Thank you.

[The statement of Mr. Goldstein follows:]

PREPARED STATEMENT OF MARK L. GOLDSTEIN

APRIL 14, 2010

GAO-10-614T

Mr. Chairman and Members of the committee: We are pleased to be here to discuss the results of our report on the Federal Protective Service's (FPS) contract guard program, issued April 13, 2010.¹ As you are aware, FPS—within the National Protection and Programs Directorate (NPPD) of the Department of Homeland Security (DHS)—is responsible for protecting the buildings, grounds, and property that are under the control and custody of the General Services Administration (GSA), as well as the persons on the property; authorized to enforce Federal laws and regulations aimed at protecting GSA buildings and persons on the property; and authorized to investigate offenses against these buildings and persons.² To accomplish its mission of protecting Federal facilities, FPS currently has a budget of about \$1 billion,³ about 1,225 full-time employees, and about 15,000 contract security guards (guards) deployed at about 2,360 Federal facilities across the country.⁴ In fiscal year 2009, FPS obligated \$659 million for guard services, which represents the single largest item in its budget.

FPS's contract guard program is the most visible component of its operations as well as the first public contact for individuals entering a Federal facility. FPS relies heavily on its guards and considers them to be the agency's "eyes and ears" while performing their duties. Guards are primarily responsible for controlling access to Federal facilities by: (1) Checking the identification of Government employees as well as members of the public who work in and visit Federal facilities, and (2) operating security equipment, such as X-ray machines and magnetometers to screen for prohibited materials, such as firearms, knives, explosives, or items intended to be used to fabricate an explosive or incendiary device.⁵ Guards do not have arrest au-

¹GAO, *Homeland Security: Federal Protective Service's Contract Guard Program Requires More Oversight and Reassessment of Use of Contract Guards*, GAO-10-341 (Washington, DC: April 13, 2010).

²40 U.S.C. § 1315.

³Funding for FPS is provided through revenues and collections charged to building tenants of properties protected by FPS. The revenues and collections are credited to FPS's appropriation and are available until expended for the protection of Federally-owned and -leased buildings and for FPS operations.

⁴While FPS does not use guards at the remaining 6,700 facilities under its protection, it uses other security countermeasures such as cameras and perimeter lighting to help protect these facilities.

⁵Title 41 CFR Sections 102-74.435 and 102-74-440 identify and list items that are prohibited by law from being introduced into a Federal facility except for law enforcement purposes and other limited circumstances. Those items are explosives, firearms, or other dangerous weapons. In addition, Facility Security Committees, which are composed of representatives of tenant

Continued

thority but can detain individuals who are being disruptive or pose a danger to public safety.

This testimony, based on our report, discusses challenges FPS continues to face in: (1) Managing its guard contractors, (2) overseeing guards deployed at Federal facilities, and (3) actions FPS has taken to address these challenges. Our methodology included site visits to 6 of FPS's 11 regions. To select these 6 regions, we considered the number of FPS guards, contractors, and Federal facilities, and the geographic dispersion of the regions across the United States. At each region, we observed FPS's guard inspection process and interviewed FPS's regional manager, contract guard program managers, inspectors who are responsible for conducting guard inspections; guards, and contractors. We also randomly selected 663 out of approximately 15,000 guard training records that were maintained in FPS's Contract Guard Employment Requirements Tracking System (CERTS) and/or by the guard contractor and validated them against the contractual requirements that were in effect at the time of our review. We also reviewed the contract files for 7 of FPS's 38 guard contractors. We selected these 7 contractors because our previous work showed that they had contract compliance issues. In addition, we analyzed a random sample of 99 FPS contractor evaluations to determine how FPS evaluated the performance of its contractors on an annual basis.

We also reviewed new contract guard program guidance issued since our July 2009 testimony and observed guard inspections and covert testing done by FPS in August and November 2009.⁶ Because of the sensitivity of some of the information in our report, we cannot provide information about the specific locations of the incidents discussed. We conducted this performance audit from July 2008 to February 2010 in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

FPS FACES CHALLENGES MANAGING ITS GUARD CONTRACTORS THAT HAMPER ITS
ABILITY TO PROTECT FEDERAL FACILITIES

Some FPS Guard Contractors Did Not Always Comply with the Terms of Contracts and FPS Has Not Taken Actions Against Them

FPS has not taken actions against some guard contractors that did not comply with the terms of the contracts. According to FPS guard contracts, a contractor has not complied with the terms of the contract if the contractor has a guard working without valid certifications or background suitability investigations, falsifies a guard's training records, does not have a guard at a post, or has an unarmed guard working at a post at which the guard should be armed. If FPS determines that a contractor does not comply with these contract requirements, it can—among other things—assess a financial deduction for nonperformed work, elect not to exercise a contract option, or terminate the contract for default or cause.

We reviewed the official contract files for the 7 contractors who, as we testified in July 2009, had guards performing on contracts with expired certification and training requirements to determine what action, if any, FPS had taken against these contractors for contract noncompliance. The 7 contractors we reviewed had been awarded several multiyear contracts totaling \$406 million to provide guards at Federal facilities in 13 States and Washington, DC.

According to the documentation in the contract files, FPS did not take any enforcement action against the 7 contractors for not complying with the terms of the contract, a finding consistent with DHS's Inspector General's 2009 report.⁷ In fact, FPS exercised the option to extend the contracts of these 7 contractors. FPS contracting officials told us that the contracting officer who is responsible for enforcing the terms of the contract considers the appropriate course of action among the available contractual remedies on a case-by-case basis. For example, the decision of whether to assess financial deductions is a subjective assessment in which the contracting officer and the contracting officer technical representative (COTR) take into

agencies at Federal facilities, have broad latitude in determining items in addition to those specifically prohibited by statute that can be prohibited in their facilities.

⁶GAO, *Homeland Security: Preliminary Results Show Federal Protective Service's Ability to Protect Federal Facilities is Hampered by Weaknesses in Its Contract Security Guard Program*, GAO-09-859T (Washington, DC: July 8, 2009).

⁷The Inspector General found that FPS does not always take deductions against a contractor for services that are not provided in accordance with contract requirements. Department of Homeland Security, Office of Inspector General, *Federal Protective Service Contract Guard Procurement and Oversight Process*, OIG-09-51 (Washington, DC: April 6, 2009).

account the value of the nonperformance and the seriousness of the deficiency, according to FPS contracting officials.

FPS Did Not Always Comply with Its Procedures for Completing Annual Performance Evaluations of Its Guard Contractors

FPS requires an annual performance evaluation of each contractor and at the conclusion of contracts exceeding \$100,000, and requires that these evaluations and other performance-related documentation be included in the contract file. Contractor performance evaluations are one of the most important tools available for ensuring compliance with contract terms. Moreover, given that other Federal agencies rely on many of the same contractors to provide security services, completing accurate evaluations of a contractor's past performance is critical. However, we found that FPS's contracting officers and COTRs did not always evaluate contractors' performance as required, and some evaluations were incomplete and not consistent with contractors' performance.

We reviewed a random sample of 99 contract performance evaluations from calendar year 2006 through June 2009. These evaluations were for 38 contractors. Eighty-two of the 99 contract performance evaluations showed that FPS assessed the quality of services provided by the majority of its guard contractors as satisfactory, very good, or exceptional. For the remaining 17 evaluations, 11 showed that the contractor's performance was marginal, 1 as unsatisfactory, and assessments for 5 contractors were not complete. According to applicable guidance, a contractor must meet contractual requirements to obtain a satisfactory evaluation and a contractor should receive an unsatisfactory evaluation if its performance does not meet most contract requirements and recovery in a timely manner is not likely.⁸

Nevertheless, we found instances where some contractors received a satisfactory or better rating although they had not met some of the terms of the contract. For example, contractors receiving satisfactory or better ratings included the 7 contractors discussed above that had guards with expired certification and training records working at Federal facilities. In addition, some performance evaluations that we reviewed did not include a justification for the rating and there was no other supporting documentation in the official contract file to explain the rating. Moreover, there was no information in the contract file that indicated that the COTR had communicated any performance problems to the contracting officer.

FPS CONTINUES TO FACE CHALLENGES WITH OVERSEEING GUARDS THAT RAISE CONCERN ABOUT PROTECTION OF FEDERAL FACILITIES

FPS Is Not Providing All Guards with X-ray and Magnetometer Training in Some Regions

As of February 2010, FPS had yet to provide some of its guards with all of the required X-ray or magnetometer training. For example, we reported in July 2009 that in one region, FPS has not provided the required X-ray or magnetometer training to 1,500 guards since 2004. FPS officials subsequently told us that the contract for this region requires that only guards who are assigned to work on posts that contain screening equipment are required to have 8 hours of X-ray and magnetometer training. However, in response to our July 2009 testimony, FPS now requires all guards to receive 16 hours of X-ray and magnetometer training. As of February 2010, these 1,500 guards had not received the 16 hours of training but continued to work at Federal facilities in this region. FPS plans to provide X-ray and magnetometer training to all guards by December 2010. X-ray and magnetometer training is important because the majority of the guards are primarily responsible for using this equipment to monitor and control access points at Federal facilities. Controlling access to a facility helps ensure that only authorized personnel, vehicles, and materials are allowed to enter, move within, and leave the facility.

FPS Lacks Assurance That Its Guards Have Required Certifications and Training

FPS currently does not have a fully reliable system for monitoring and verifying whether its 15,000 guards have the certifications and training to stand post at Federal facilities. FPS is developing a new system—Risk Assessment and Management Program (RAMP)—to help it monitor and verify the status of guard certifications and training. However, in our July 2009 report, we raised concerns about the accuracy and reliability of the information that will be entered into RAMP. Since that time, FPS has taken steps to review and update all guard training and certification

⁸As part of DHS, FPS is required to use the Department of Defense Contractor Performance Assessment System (CPARS) to officially document its performance evaluations. CPARS requires the use of an adjectival rating scale by evaluators that includes ratings of exceptional, very good, satisfactory, marginal, and unsatisfactory.

records. For example, FPS is conducting an internal audit of its CERTS database. However, as of February 2010, the results of that audit showed that FPS was able to verify that about 8,600 of its 15,000 guards met the training and certification requirements. FPS is experiencing difficulty verifying the status of the remaining 6,400 guards. FPS has also received about 1,500 complaints from inspectors regarding a number of problems with RAMP. For example, some inspectors said it was difficult and sometimes impossible to find guard information in RAMP and to download guard inspection reports. Thus they were completing the inspections manually. Other inspectors have said it takes almost 2 hours to log on to RAMP. Consequently, on March 18, 2010, FPS suspended the use of RAMP until it resolves these issues. FPS is currently working on resolving issues with RAMP.

FPS Continues to Have Limited Assurance That Guards Are Complying with Post Orders once They Are Deployed to Federal Facilities

Once guards are deployed to a Federal facility, guards are not always complying with assigned responsibilities (post orders). As we testified in July 2009, we identified substantial security vulnerabilities related to FPS's guard program.⁹ FPS also continues to find instances where guards are not complying with post orders. For example, 2 days after our July 2009 hearing, a guard fired his firearm in a restroom in a level IV facility while practicing drawing his weapon. In addition, FPS's own penetration testing—similar to the covert testing we conducted in May 2009—showed that guards continued to experience problems with complying with post orders. Since July 2009, FPS conducted 53 similar penetration tests at Federal facilities in the 6 regions we visited, and in over 66 percent of these tests, guards allowed prohibited items into Federal facilities. We accompanied FPS on two penetration tests in August and November 2009, and guards at these level IV facilities failed to identify a fake bomb, gun, and knife during X-ray and magnetometer screening at access control points. During the first test we observed in August 2009, FPS agents placed a bag containing a fake gun and knife on the X-ray machine belt. The guard failed to identify the gun and knife on the X-ray screen, and the undercover FPS official was able to retrieve his bag and proceed to the check-in desk without incident. During a second test, a knife was hidden on an FPS officer. During the test, the magnetometer detected the knife, as did the hand wand, but the guard failed to locate the knife and the FPS officer was able to gain access to the facility. According to the FPS officer, the guards who failed the test had not been provided the required X-ray and magnetometer training. Upon further investigation, only 2 of the 11 guards at the facility had the required X-ray and magnetometer training. In response to the results of this test, FPS debriefed the contractor and moved one of the guard posts to improve access control.

In November 2009, we accompanied FPS on another test of security countermeasures at a different level IV facility. As in the previous test, an FPS agent placed a bag containing a fake bomb on the X-ray machine belt. The guard operating the X-ray machine did not identify the fake bomb and the inspector was allowed to enter the facility with it. In a second test, an FPS inspector placed a bag containing a fake gun on the X-ray belt. The guard identified the gun and the FPS inspector was detained. However, the FPS inspector was told to stand in a corner and was not handcuffed or searched as required. In addition, while all the guards were focusing on the individual with the fake gun, a second FPS inspector walked through the security checkpoint with two knives without being screened. In response to the results of this test, FPS suspended 2 guards and provided additional training to 2 guards.

RECENT ACTIONS TAKEN BY FPS MAY HELP IMPROVE OVERSIGHT OF THE CONTRACT GUARD PROGRAM

In response to our July 2009 testimony, FPS has taken a number of actions that, once fully implemented, could help address the challenges the agency faces in managing its contract guard program. For example, FPS:

- *Increased guard inspections at facilities in some metropolitan areas.* FPS has increased the number of guard inspections to two a week at Federal facilities in some metropolitan areas.¹⁰ Prior to this new requirement, FPS did not have a

⁹As we testified in July 2009, each time they tried, our investigators successfully passed undetected through security checkpoints monitored by FPS guards with the components for an improvised explosive device (IED) concealed on their persons at 10 level IV facilities in four cities in major metropolitan areas. We planned additional tests but suspended them after achieving 100 percent test results, which highlighted the vulnerabilities Federal facilities face. A level IV facility has over 450 employees and a high volume of public contact.

¹⁰GAO-09-859T.

National requirement for guard inspections, and each region we visited had requirements that ranged from no inspection requirements to each inspector having to conduct five inspections per month.

- *Increased X-ray and magnetometer training requirements for inspectors and guards.* FPS has increased its X-ray and magnetometer training for inspectors and guards from 8 hours to 16 hours. In July 2009, FPS also required each guard to watch a Government-provided digital video disc (DVD) on bomb component detection by August 20, 2009. According to FPS, as of January 2010, approximately 78 percent, or 11,711 of the 15,000 guards had been certified as having watched the DVD.
- *Implementing a new system to monitor guard training and certifications.* As mentioned earlier, FPS is also implementing RAMP. According to FPS, RAMP will provide it with the capability to monitor and track guard training and certifications and enhance its ability to conduct and track guard inspections. RAMP is also designed to be a central database for capturing and managing facility security information, including the risks posed to Federal facilities and the countermeasures that are in place to mitigate risk. It is also expected to enable FPS to manage guard certifications and to conduct and track guard inspections electronically as opposed to manually. However, as mentioned earlier, as of March 18, 2010, FPS suspended the use of RAMP until it can resolve existing issues.

Despite FPS's recent actions, it continues to face challenges in ensuring that its \$659 million guard program is effective in protecting Federal facilities. While the changes FPS has made to its X-ray and magnetometer training will help to address some of the problems we found, there are some weaknesses in the guard training. For example, many of the 15,000 guards will not be fully trained until the end of 2010. In addition, one contractor told us that one of the weaknesses associated with FPS's guard training program is that it focuses primarily on prevention and detection but does not adequately address challenge and response.¹¹ This contractor has developed specific scenario training and provides its guards on other contracts with an additional 12 hours of training on scenario-based examples, such as how to control a suicide bomber or active shooter situation, evacuation, and shelter in place. The contractor, who has multiple contracts with Government agencies, does not provide this scenario-based training to its guards on FPS contracts because FPS does not require it. We also found that some guards were still not provided building-specific training, such as what actions to take during a building evacuation or a building emergency. According to guards we spoke to in one region, guards receive very little training on building emergency procedures during basic training or the refresher training. These guards also said that the only time they receive building emergency training is once they are on post. Consequently, some guards do not know how to operate basic building equipment, such as the locks or the building ventilation system, which is important in a building evacuation or building emergency.

FPS's decision to increase guard inspections at Federal facilities in metropolitan areas is a step in the right direction. However, it does not address issues with guard inspections at Federal facilities outside metropolitan areas, which are equally vulnerable. Thus, without routine inspections of guards at these facilities, FPS has no assurance that guards are complying with their post orders.

We believe that FPS continues to struggle with managing its contract guard program in part because, although it has used guards to supplement the agency's workforce since the 1995 bombing of the Alfred P. Murrah Federal Building, it has not undertaken a comprehensive review of its use of guards to protect Federal facilities to determine whether other options and approaches would be more cost-beneficial. FPS also has not acted diligently in ensuring that its guard contractors meet the terms of the contract and taking enforcement action when noncompliance occurs. We also believe that completing the required contract performance evaluations for its contractors and maintaining contract files will put FPS in a better position to determine whether it should continue to exercise contract options with some contractors. Moreover, maintaining accurate and reliable data on whether the 15,000 guards deployed at Federal facilities have met the training and certification requirements is important for a number of reasons. First, without accurate and reliable data, FPS cannot consistently ensure compliance with contract requirements and lacks information critical for effective oversight of its guard program. Second, given that other Federal agencies rely on many of the same contractors to provide security services, completing accurate evaluations of a contractor's past performance is critical to future contract awards.

¹¹ Challenge and response refers to being proactive instead of reactive to an incident.

Thus, in our report we recommend that the Secretary of Homeland Security direct the under secretary of NPPD and the director of FPS to take the following eight actions:

- Identify other approaches and options that would be most beneficial and financially feasible for protecting Federal buildings;
- Rigorously and consistently monitor guard contractors' and guards' performance and step up enforcement against contractors that are not complying with the terms of the contract;
- Complete all contract performance evaluations in accordance with FPS and Federal Acquisition Regulation requirements;
- Issue a standardized record-keeping format to ensure that contract files have required documentation;
- Develop a mechanism to routinely monitor guards at Federal facilities outside metropolitan areas;
- Provide building-specific and scenario-based training and guidance to its contract guards;
- Develop and implement a management tool for ensuring that reliable, comprehensive data on the contract guard program are available on a real-time basis; and
- Verify the accuracy of all guard certification and training data before entering them into RAMP, and periodically test the accuracy and reliability of RAMP data to ensure that FPS management has the information needed to effectively oversee its guard program.

DHS concurred with seven of our eight recommendations. Regarding our recommendation to issue a standardized record-keeping format to ensure that contract files have required documentation, DHS concurred that contract files must have required documentation but did not concur that a new record-keeping format should be issued. DHS commented that written procedures already exist and are required for use by all DHS's Office of Procurement Operations staff and the components it serves, including NPPD. We believe that the policies referenced by DHS are a step in the right direction in ensuring that contract files have required documentation; however, although these policies exist, we found a lack of standardization and consistency in the contract files we reviewed among the three Consolidated Contract Groups.

Overall, we are also concerned about some of the steps FPS plans to take to address our recommendations. For example, FPS commented that to provide routine oversight of guards in remote regions it will use an employee of a tenant agency (referred to as an Agency Technical Representative) who has authority to act as a representative of a COTR for day-to-day monitoring of contract guards. However, several FPS regional officials told us that the Agency Technical Representatives were not fully trained and did not have an understanding of the guards' roles and responsibilities. These officials also said that the program may not be appropriate for all Federal facilities. We believe that if FPS plans to use Agency Tenant Representatives to oversee guards, it is important that the agency ensure that the representatives are knowledgeable of the guard's responsibilities and are trained on how and when to conduct guard inspections as well as how to evacuate facilities during an emergency. Furthermore, while we support FPS's overall plans to better manage its contract guard program, we believe it is also important for FPS to have appropriate performance metrics to evaluate whether its planned actions are fully implemented and are effective in addressing the challenges it faces managing its contract guard program.

Mr. Chairman, this concludes our testimony. We are pleased to answer any questions you might have.

Chairman THOMPSON. Thank you for your testimony.

I now recognize Mr. Ervin, to summarize his statement, for 5 minutes.

STATEMENT OF CLARK KENT ERVIN, DIRECTOR, HOMELAND SECURITY PROGRAM, THE ASPEN INSTITUTE

Mr. ERVIN. Thank you, Mr. Chairman, Mr. King, and Members, for inviting me to testify today on this important topic.

Investigation after investigation and report after report, year after year, have documented in detail FPS' apparent inability to carry out its most critical mission—protecting Federal buildings

against the threat of terrorism in the post-9/11 age. In my judgment, the time has come to take the admittedly radical step of Federalization of the agency's contract-guard force. There are at least two good reasons to think that taking this step can make FPS more effective.

First, logic: It is inarguable that private contractors are primarily motivated by the desire to make a profit, and as much profit as possible. This is not a normative statement; it is a factual one. The way to maximize profit is to minimize costs. The less guards are paid in salary and benefits, and the less money is invested in their training, the more profit their contractor employees can make.

By way of contrast, the public's interest, needless to say, is in maximizing security. Security is costly. While not a one-to-one ratio, certainly, the better guards are paid and trained, the better they are at providing security, because they are more qualified and motivated to do so.

Second, experience: The reason we created TSA after 9/11 and Federalized the airport passenger-and-baggage-screener workforce was the recognition that, left to their own devices before the attacks, contractors put profit ahead of security. For all the problems that remain with screeners today, they are better trained, better motivated, and better paid than they were before the terror attacks.

Now, that said, let me hasten to add that Federalization in and of itself is no panacea. Likewise, both logic and experience make the case. First, logic: If other factors are equal, there is no good reason to think that merely exchanging a public paycheck for a private one will improve guard performance. Those relevant factors—salary and benefits, including promotion opportunities, training, and the degree of oversight exercised, and accountability obtained—matter enormously.

Second, experience: As telegraphed above, and as we all very well know, the Federalized TSA-screener workforce continues to have its challenges, to put it charitably. Recalling my own such reports during my time as DHS inspector general at the inception of the Department, I continue to despair every time I see another report that shows little to no improvement in screeners' ability to spot concealed weapons.

That said, the conclusion to be drawn from TSA's continued challenges, I would argue, is not that Federalizing the screener workforce was a mistake. Instead, the conclusion to be drawn is what I said a second ago—that Federalization in and of itself is not a panacea. I believe that Federalized screeners should receive even higher salaries and more benefits; more promotion opportunities; more intensive training; and more and better technology.

If this were to be done, in time, it would stand to reason that results would measurably improve; furthermore, TSA suffered greatly by the manner in which the screener workforce was Federalized. Because of Congressional pressure in the wake of 9/11 to do something quick, we didn't do Federalization smart. By that, I mean the process was so rushed that some 60,000 screeners weren't properly vetted, much less trained.

So I would urge that Federalization, if done with regard to FPS guards, be done deliberately, with due time for thorough planning, vetting, and training. I note in my prepared statement that a number of airport screeners were hired before their background checks were complete, only to learn, after the fact, that a number of them had been convicted of serious crimes. Even after learning that, TSA, in some instances, took months to dismiss those guards. So the ultimate size of the guard force should, needless to say, be driven by security concerns and not budgetary ones, which was not the case with TSA.

In short, and to conclude, Federalization, if done right, would not be cheap, quick, or easy. But with adequate resources, planning, and deliberation, and due oversight, it would likely result in making Federal workers safer at a time when we know that terrorists are working overtime to exploit security gaps. Thank you.

[The statement of Mr. Ervin follows:]

PREPARED STATEMENT OF CLARK KENT ERVIN

APRIL 14, 2010

Thank you, Chairman Thompson, Ranking Member King, and Members for inviting me to testify today on this important topic, "Federal Protective Service: Would Federalization of Guards Improve Security at Critical Facilities?"

Investigation after investigation, and report after report, year after year, have documented in detail FPS' apparent inability to carry out its most critical mission—protecting Federal buildings against the threat of terrorism in the post-9/11 age. In my judgment, the time has come to take the admittedly radical step of Federalizing the agency's contract guard force. There are at least two good reasons to think that taking this step can make FPS more effective.

First, logic. It is inarguable that private contractors are primarily motivated by the desire to make a profit, and as much profit as possible. This is not a normative statement; it is a factual one. The way to maximize profit is to minimize costs. The less guards are paid in salary and benefits and the less money is invested in their training, the more profit their contractor-employers can make. By way of contrast, the public's interest, needless to say, is in maximizing security, and security is costly. While not a one-to-one ratio, certainly, the better guards are paid and trained, the better they are at providing security because they are more qualified and motivated to do so.

Second, experience. The reason we created TSA after 9/11 and Federalized the airport passenger and baggage screener workforce was the recognition that, left to their own devices before the attacks, contractors put profit ahead of security. For all the problems that remain with screeners today, they are better paid, better trained, and more motivated than they were before the terror attacks.

Now, that said, let me hasten to add that Federalization, in and of itself, is no panacea. Likewise, both logic and experience make the case.

First, logic. If other relevant factors are equal, there is no good reason to think that merely exchanging a public paycheck for a private one will improve guard performance. Those relevant factors—salary and benefits (including promotion opportunities); training; and the degree of oversight exercised and accountability obtained—matter enormously.

Second, experience. As telegraphed above, and as we all very well know, the Federalized TSA screener workforce continues to have its challenges, to put it charitably. Recalling my own such reports during my time as DHS Inspector General at the inception of the Department and the transition from a privatized screener workforce to a Federalized one, I despair every time I see another DHS Inspector General, GAO, or media report that shows little to no improvement in screeners' ability to spot artfully concealed guns, knives, and explosives, and, sometimes, even barely concealed ones.

That said, the conclusion to be drawn from TSA's continued challenges, I would argue, is not that Federalizing the screener workforce was a mistake. Instead, the conclusion to be drawn is what I said a second ago—Federalization in and of itself is not a panacea. I believe that Federalized screeners should receive even higher salaries and benefits; more promotion opportunities; more intensive training (including

more frequent and more rigorous covert tests); and more and better technology. The quality of their work should be rigorously overseen by supervisors and managers, and those supervisors and managers, and ultimately the employees themselves, should be held strictly accountable for poor performance. If this were to be done, in time, it would stand to reason that results would measurably improve.

Furthermore, TSA suffered greatly by the manner in which the screener workforce was Federalized. Because of Congressional pressure in the wake of 9/11 “to do something quick,” we didn’t “do Federalization smart.” By that I mean the process was done so hurriedly that some 60,000 screeners weren’t properly vetted, much less trained. One of my earliest reports as DHS IG concerned the fact that some screeners had been hired by TSA before their background checks were complete, only to learn after the fact that they’d been convicted of crimes, in some cases, serious ones. And, in some instances, it took TSA some months even after learning of such instances to fire the screeners.

So, I would urge that Federalization, if done with regard to FPS guards, be done deliberately, with due time for thorough planning, vetting and training. And, the ultimate size of the guard force should, needless to say, be driven by security concerns, not budgetary ones.

In short, Federalization, if done right, would not be cheap, quick, or easy. But, with adequate resources; planning and deliberation; and due oversight, it would likely result in making Federal workers safer at a time when we know that terrorists are working overtime to exploit security gaps.

Chairman THOMPSON. Thank you very much.

I would like to thank all of the witnesses for their testimony. I will remind each Member that he or she will have 5 minutes to question the panel.

I now recognize myself for questions.

Mr. Goldstein, according to your testimony, with the exception of one item, FPS agreed with your finding?

Mr. GOLDSTEIN. Yes, sir.

Chairman THOMPSON. Mr. Schenkel, some of those findings were quite revealing. Can you tell the committee why, in those instances of contractor noncompliance, FPS took no action against them?

Mr. SCHENKEL. It was not a case that we did not take any action. It is that we took what we determined to be appropriate action. Those were deductions from the pay—invoicing of those contractors. What we have to do is deal with not only our perceptions and our paperwork, and our evaluations of the different contractors. We are also tied by the FAR. They have different—I wouldn’t say “different,” but let us say more stringent criteria for terminating contracts.

We have to look at the contractor’s performance as a whole. If the contractor performed on the positive side—on the exceptional side, to the right—then we would retain the contract. If it was not, then we would terminate the contract, which we had done probably eight or nine times in the last several years.

Chairman THOMPSON. Well, Mr. Goldstein, according to your report—and I could be corrected, but—you were unable to find any enforcement actions taken?

Mr. GOLDSTEIN. That is correct, Mr. Chairman.

There was a combination of no evidence in the files; and in our discussions with agency representatives who do contract management. We specifically asked whether there were any fines or deductions, or whether there were any other kinds of actions taken. Neither the individuals that we talked to, nor the files themselves supported any actions, which is how we drew the conclusion that no actions had been taken.

Chairman THOMPSON. Mr. Schenkel, you just said to us that you all took some money from people, and Mr. Goldstein said he asked you for the records, and they weren't in the records, so—anything like that. Can you help us out?

Mr. SCHENKEL. I certainly don't claim to be a contracting expert, sir, but what I can say is that perhaps we are not looking at the same records. The individual contracts that Mr. Goldstein looked at may not have had terminating action or deductions. There is a term called "benefit to the government" that I understand from the contracting people—that even if the contract, perhaps, is not complied with to its fullest, if the Government receives a benefit from it, we are still obligated to pay.

Chairman THOMPSON. Well, that is amazing that we are obligated to pay, even though people don't perform the contract.

Mr. SCHENKEL. To the extent that I am familiar with the FAR and the obligation on that—yes, sir.

Chairman THOMPSON. Okay. If you would, the testimony you just offered us about those contractors that have been reduced in contract amount—we would love to have them—for whatever period of time you are talking about.

I would hope the GAO would love to have it, too, since you asked for it and didn't get it.

Who manages the contracts, Mr. Schenkel?

Mr. SCHENKEL. Right now, we have the consolidated contract group that falls under FPS. However, the direction is now controlled by the Office of Procurement at DHS. Previous to that, it was the Office of Acquisition at ICE. FPS does not have direct control over it, sir.

Chairman THOMPSON. The fact that we have several hundred employees—contract employees—who have not met training requirements—does that cause concern on your part?

Mr. SCHENKEL. Yes, it does.

Chairman THOMPSON. How have you corrected it?

Mr. SCHENKEL. We have taken on—and to use a term that we have used over and over in these last several months—is we want to get it right, rather than "right now." So, consequently, we have developed some very detailed training programs.

The one that was described by Mr. Goldstein, the National Weapons Detection Program, which we have already initiated in the National Capital Region as of January of this year—this will ensure that FPS personnel inspectors actually provide the training to our contract employees. We have also instituted the National Countermeasures Program to ensure the consistency and accuracy, and the ability of our equipment to work properly and to coincide with the—

Chairman THOMPSON. So, before you did that, what accountability did we have for our contracts?

Mr. SCHENKEL. Prior to that, the documentation had to be provided by the contractor, as well as the obligation to provide the training still lies with the contractor. We have taken on that piece of training, internal to the FPS.

Chairman THOMPSON. But you would have to have some oversight on the contract to know that they are doing it. Is that FPS' role?

Mr. SCHENKEL. Yes, that is FPS' role.

Chairman THOMPSON. So did you take any personnel actions against FPS employees who had oversight responsibilities for the contract—that were in noncompliance?

Mr. SCHENKEL. Well, we took action against the contractors. A good case in point was the White Oak facility that the GAO had investigated during their audit. As a result of that, we terminated the contract with White Oak—

Chairman THOMPSON. That is good you did. But GAO found it, not FPS.

Mr. SCHENKEL. It was a combination. It was a combination that—GAO had identified guards without certifications. When National Capital Regional went in to further investigate, and investigate the post, they found that some of the people did not have the certification, but were not serving on positions that would require that specific certification.

As they dug deeper, they found even others that did not have the appropriate certifications for the posts. They were standing. They were immediately relieved. Consequently, we ended up terminating the contract.

Chairman THOMPSON. Mr. Goldstein—and you just heard Mr. Schenkel talk about White Oak. Is that your understanding of what happened?

Mr. GOLDSTEIN. We actually did not specifically investigate White Oak. That was something that they did themselves. We looked more broadly at the certification process.

We remain concerned about this process, as we indicate in our report, not only because we think it has been very difficult on a real-time basis for FPS to determine whether their guards are certified at any one point—in fact, the agency, as far as we understand, still is unable to certify—understand that some 6,000 of their guards are fully certified today, even though this issue has been outstanding now for nearly a year.

We found, in Operation Shield, when we accompanied FPS, that many of the contractors on site, when they have gone in and done these sweeps—many of the contractors are not certified; and one that we accompanied them—on a level-four building—only two out of 11 contract employees were certified at that point in time. So it remains a real problem.

Chairman THOMPSON. So of the 15,000 contract employees, you are saying it could be as many as 6,000 that we can't verify credentials?

Mr. GOLDSTEIN. That is correct.

Chairman THOMPSON. I yield back the balance of my time.

Ranking Member, for 5 minutes.

Mr. KING. Thank you, Mr. Chairman.

Mr. Schenkel, you know, considering the title of today's hearing, have you conducted any cost-benefit analysis as to what would be gained or lost by Federalizing the workforce?

Mr. SCHENKEL. FPS has conducted numerous bottom-up reviews of its own organization and restructuring. We have examined multiple ways of either expanding the Federal force or contracting the contract force. The answer is yes, sir. We have multiple options.

Mr. KING. Okay. What are the conclusions—you know, focusing on Federalization—have you reached any conclusions?

Mr. SCHENKEL. Regardless of who pays the—or who signs the paycheck—I think that there are some—some qualifying factors that have to be met. First of all is, the guards themselves have to have a very clear, concise understanding of the mission. To accompany that, they need an absolutely supportive training support. They have to receive the training necessary to perform that mission.

On top of that, we need a good quality supervision program in an operational construct that will keep them motivated, and keep those who would harm us off balance. There are cost benefits to staying with the contract-guard force. There are flexibilities that are built into staying with contract-guard force that may or may not be viable under Federalizing. But there is also benefits, as Mr. Ervin described, to the Federalizing of the guard.

Mr. KING. Are you in a position to make any recommendations?

Mr. SCHENKEL. We have offered several options to the Department, which are under review right now, sir.

Mr. KING. Is the Department giving you any indication when a decision will be made, if they are considering a decision?

Mr. SCHENKEL. They are considering a decision prior to the submission of the 2012 budget, sir.

Mr. KING. Okay.

When you conducted these analyses, did you reach out to TSA? Did you do any comparisons with TSA?

Mr. SCHENKEL. Yes, sir, as a matter of fact, we did. We work a lot with TSA. Their missions appear, on the surface, very similar to ours. Though, as you kind of drill down into those missions, though, they are significantly different. But there are some commonalities.

We did work with the TSA, and talk with the TSA about some of their experiences. When I was with the TSA, I was kind of on the tail end of the Federalization of that force.

Mr. KING. If I can get to the 9/11 trials—your testimony several months ago—you said that the Federal Protective Service would not have enough personnel to secure the perimeters of the court facilities in New York, if the trials were held. Has that situation improved at all?

Mr. SCHENKEL. We continue to work with the U.S. Marshals Service to evaluate where and when these trials may take place. As I testified previously, if they are protracted to the periods that we are being told now—up to 20 years—and if they run simultaneous trials in locations, whether it be New York or other locations, it would put a definite strain on the Federal Protective Service to accomplish its primary mission. So we would have to be augmented.

Mr. KING. Okay. But has the situation improved since your last—you know, since you testified here?

In other words, have you had any increase in personnel since you—

Mr. SCHENKEL. Sir, we remain at 1,225, sir.

Mr. KING. Okay.

Now, as far as the CIRG teams, which I understand would be used to fill in if there were shortages—these were the Critical Incident Response Teams—has there been any increase in them? Any increase in funding? Can you make better use of them now than you would have been able to 2 or 3 months ago?

Mr. SCHENKEL. I am very proud of our Critical Response Teams. Our inspectors and FPOs provide a service, I think, far beyond what other law-enforcement agencies can provide, just because of their training, their background, their dedication. But our budget remains the same, sir.

Mr. KING. So I assume the answer is that you do not have enough personnel to secure the trials. If the trials began tomorrow in New York, you would not have enough personnel to secure the perimeter of the facilities?

Mr. SCHENKEL. We would be strained after the initial 2 weeks, sir.

Mr. KING. After the initial 2 weeks?

Mr. SCHENKEL. Yes, sir.

Mr. KING. Okay.

Mr. Chairman, I yield back.

Chairman THOMPSON. Thank you very much.

Mr. Schenkel, are you aware of the \$200 million that is in the budget that has been allocated for GITMO trials?

Mr. SCHENKEL. It is my understanding, Mr. Chairman, though, that that is going to the States. It is in grant money. We, consequently, can't share any of that.

Chairman THOMPSON. Oh. Thank you.

Will you provide the committee with copies of those studies you referenced with Mr. King, that you have done to analyze whether FPS should stay Federalized—be Federalized, or not to be? We have, from committee—from staff—we requested some information relative to any research or studies. We have not been able to get it. But your testimony today says that you do have that information. We would like to have it as a committee.

The Chair recognizes the gentlelady from California for 5 minutes.

Ms. HARMAN. Thank you, Mr. Chairman, for holding this hearing.

Welcome to the witnesses, especially to my longtime friend, Mr. Ervin, who I always think speaks truth to power, and I appreciate it. I am not sure who has power, but I know he has truth.

I would first like to thank the FPS employees, and the contractors, who work with you, who try very hard to do their jobs right. Let us understand that mistakes are made. Some of the employees are undertrained. Some of them may even, for other reasons, not perform properly. But I would guess that most FPS employees and most of the contractors who work for you try to do a good job every day. Would you all agree with that?

Mr. GOLDSTEIN. Certainly.

Ms. HARMAN. So let us remember to say thank you to those who try very hard. I don't want them to get the message that we think the entire place needs to be scrapped.

Having said that—some very dangerous things have happened in the last year; you all know this. If James Von Brunn had actually

gotten into the Holocaust Museum, beyond the security perimeter of it, he could have shot and killed many innocent Americans and foreigners who visit that museum. Is that not correct? I am asking all of you. Does anyone disagree with that? No.

If Johnny Wicks, who opened fire with a shotgun in a Las Vegas Federal courthouse and killed one person, had gotten into that courthouse, he could have done the same thing. Is that correct?

Mr. ERVIN. Sure.

Mr. SCHENKEL. Absolutely.

Ms. HARMAN. If Andrew Stack, who flew his airplane into a Federal office building in Austin, and killed an IRS employee, had, perhaps, hit that facility differently, he could have killed a lot of people, too.

If these death threats against Members of Congress and others were actually carried out, a lot more people could die, right?

Mr. ERVIN. Right.

Mr. SCHENKEL. Right.

Mr. GOLDSTEIN. Right.

Ms. HARMAN. So it is critically important that we get this right.

I am rather moved by Mr. Ervin's point that if we Federalize the workforce right, we may get to a better place. But we are not going to do that tomorrow, and it won't be cheap, right?

Mr. ERVIN. Absolutely.

Ms. HARMAN. So, in the mean time, I think we have some work to do. I would like to suggest two areas, and make one final point.

In fact, let me make the final point now so I don't run out of time. That final point is to Mr. King.

I don't know exactly what the costs are for protecting court facilities in lower Manhattan, but I would like to put on this record that the track record for trying people convicted of terrorism-related crimes in U.S. Federal courts since 9/11 is exemplary. We have charged over 500 people. More than 320 have pleaded "guilty." Virtually 90 percent of those folks are incarcerated now in supermax prisons, where they are no danger to the public.

In contrast, we have used military commissions three times. Two of the people who were convicted are no longer incarcerated. So we have one conviction in military commissions. We better be careful before we abandon Article 3 courts as the remedy of choice, among other choices for trying people convicted of—or charged with terrorism crime—with related crimes.

At any rate—two of my points here—I think there are two things. One is better training. The second is better situational awareness. I think we all agree on better training. Situational awareness includes understanding what the threats might be, and in what form they would come. That requires sharing appropriate intelligence. That is the focus of my subcommittee on this full committee.

I want to ask you what your own recommendations are for making certain that our FPS employees and contractors have better situational awareness. Should we, for example, share, on a periodic basis, some of the materials that are prepared by the NCTC through the so-called ITACG, this group of law-enforcement professionals who come to Washington on a rotating basis and help advise us? Would that be helpful? Or would some other form of intel-

ligence-product sharing be helpful? Let me just leave that as a question for all three of you.

Mr. SCHENKEL. Do you want me to take that first?

Yes, ma'am. We totally agree with you. We do have a very robust intelligence and information-sharing program. We recognized that early on, with our paltry size. In 2007, we initiated the Regional Intelligent Agent Program, where we have a dedicated individual in each of our 11 regions. That regional intelligence agent has one of the more challenging jobs because he or she has to take the intelligence that—that we get from our 13-membered—we have a presence on 13 JTTFs directly related to our primary facilities. We also have membership on the National JTTF.

We collaborate with State fusion centers—any intelligence agency that we can draw information from, we draw through that regional intelligence agent. That regional intelligence agent then has to sanitize that based on the classification. We are able to get that threat information in a timely manner, and in a very specific and detailed target audience, whether it be a specific facility or a multiple facilities, or a metropolitan area.

So we are big believers in that concept.

Ms. HARMAN. Thank you.

My time has expired, Mr. Chairman, but could the other two panelists answer the question? Thank you.

Mr. GOLDSTEIN. Sure.

We have not specifically looked at this, ma'am. I can tell you that, in the course of our audit, we have heard from many inspectors out in the field that they did not feel that they received sufficient information to be able to adequately protect or understand the threats to the buildings they were responsible for.

I do think, over the last couple years, it has improved some, but it may not be sufficient yet.

Mr. ERVIN. Likewise, Ms. Harman, I would agree with that. I definitely think that NCTC should widely share its information with FPS. Only if they have access to that intelligence, can the guards there, whether they are Federalized or privatized, be aware of trends and patterns that are of note. I would finally note, as you know, that TSA has its own intelligence unit within itself, which works closely with DHS as a whole, and the rest of the intelligence community. I would urge the creation of something like that for FPS.

Chairman THOMPSON. Thank you very much.

The Chair now recognizes the gentleman from California, Mr. Lungren, for 5 minutes.

Mr. LUNGREN. Thank you very much, Mr. Chairman. I have great respect for my colleague from California, but I could not disagree with her more with respect to how we ought to try these individuals. If one thinks that the trial that took place in Virginia was a successful trial, given the circus that that was, and the threat to the people in the area, I would be amazed.

Secondly, with respect to Khalid Sheikh Mohammed and his comrades, they were prepared to plead "guilty" in the trial in Guantanamo. Our Government did not accept that. To suggest that is an appropriate place to bring them to New York City, to be tried in Article 3 courts, because we have to prove something about our

constitution, frankly, I think, is nonsensical. It is not a partisan thing. As I understand it, Mayor Bloomberg, Senator Schumer, the other Senator from New York, also oppose that occurring.

I don't understand this fixation with bringing them to Article 3 courts, and giving them a different level of justice than even our men and women in uniform would be if they were charged with some offense, when they go before military courts of their own.

I may be very sensitive about today's hearing because it talks about Federalization of guards, meaning that—the suggestion is the only way we can improve things—if we Federalize the workforce. I was just home in my district, where we have Federalized the student-loan program and the EdFund, which happens to be headquartered in my district has already laid off 75 people.

The private industry may lose as many as 31,000 employees as a result of our vote, just 2 weeks ago, Federalizing that program. There seems to be a fetish around here about Federalizing programs, despite the fact it causes people to lose jobs. When I find 75 have already lost jobs in my district—hundreds more may, and thousands across the country.

So let us also understand we have people who are working, doing a very good job for us, who are contractors, whose jobs would be lost if we Federalized the workforce, No. 1.

No. 2, I note that, for fiscal year 2010, in the President's budget request, he asks no additional resources for FPS. Now, I understand he understands we have got a tough budget situation. But I also understand every study that has been done about Federalizing this force we are talking about here would increase the cost per employee to the Federal budget.

So, perhaps what we should be focusing on is, since we have limited resources, how we utilize those limited resources in a better fashion. The testimony here is somewhat critical—at least, following the questioning of the Chairman—of FPS, and supervising the contractors. Those who supervise the contractors are Federal employees, are they not?

Mr. SCHENKEL. Yes, sir.

Mr. LUNGREN. How do we Federalize the Federalized employees, then? I mean, presumably, it is the question of proper performance on the job, whether you are a Federal employee or whether you are a contract employee. Perhaps we need to focus a little bit more on tightening up the oversight of the contract employees as opposed to saying, "We are just going to Federalize the employees, and that is going to solve all the problems."

When we have had these tests on TSA, as been pointed out by Mr. Ervin in the past, we have had some failures; and, in part, because we didn't have a rigorous-enough screening program or oversight program for those screening functions that they undertook, whether they were TSA employees or contract employees that we have at some of the airports. Isn't that correct, Mr. Ervin?

Mr. ERVIN. That is right.

So, you know, I agree with your point, Mr. Lungren. I said that in my statement—that Federalization in and of itself isn't a panacea. There has got to be training. There has got to be—

Mr. LUNGREN. Right.

Mr. ERVIN [continuing] Adequate salary and promotions. There has got to be due oversight.

I think it is telling, for example, that, if I may—

Mr. LUNGREN. Before you go there, I would just have to—I completely disagree with your point of view that something is essentially wrong with profit—that the profit motive essentially takes away from performance, and that, if we had Federal employees, they would do better because they are not contractors who work in the world of profit.

I just reject that notion that you stated on the record, absolutely. Frankly, we heard that argument on the floor of the House just 2 weeks ago, when we destroyed an entire industry, which facilitated Ugovernment loan—or facilitated college loans.

So I am sorry. I just disagree with that.

Mr. ERVIN. May I respond to that, sir? May I?

Mr. LUNGREN. Yes, sir.

Mr. ERVIN. I actually did not say that. I specifically said that by saying that, “the primary motivation of contractors is a profit motive—that is not a normative statement,” meaning, “That is not a judgment. That is not bad. It is just a factual”—

Mr. LUNGREN. Well, you went on to say, “Therefore, they are concerned about profit as opposed to doing the job.”

Mr. ERVIN. Right—that their primary motivation is profit, as opposed to security.

I think, for example, sir, that it is telling that we have a Federalized guard force for the White House, for DOD, for CIA, and for the Capitol itself. Why is that? I think, because the judgment has been made that the security of these facilities is so important that they ought to be overseen by Federal employees. So the question that that raises is: Why don’t we make the same judgment with regard to other Federal—

Mr. LUNGREN. So what does that have to do with profit?

Mr. ERVIN. The point is if the primary motivation of the employer is profit as opposed to security, then corners will be cut. I think we have seen that—

Mr. LUNGREN. Well—

Mr. ERVIN [continuing] Both in the pre-9/11—

Mr. LUNGREN. Well, I appreciate your suggestion—I appreciate your suggestion that the ultimate conclusion of profit is cutting corners. I disagree with that in terms of responsible individuals. Our economic system—our private economic system is based on profit. Some would suggest that is the reason why, in the past, we have had the most dynamic private workforce, with the greatest application of technology to perform jobs in the history of the world. But thank you very much.

Chairman THOMPSON. Thank you—gentleman’s time has expired. Gentleman from Texas, Mr. Green, for 5 minutes.

Mr. GREEN. Thank you, Mr. Chairman. Why don’t we just have a mercenary military? We can hire all of the persons who now serve us bravely and capably, and pay them a salary that contractors would, and somehow pass on to them? Why not the police department; mercenary police officers could work as well in all of our major cities?

I find a great deal of comfort in knowing that the person who comes to my home as a peace officer has the authority to arrest. My belief is that the contract employees do not have this authority. Mr. Ervin, is there some truth in what I have said?

Mr. ERVIN. That is right, Mr. Green.

Mr. GREEN. Do you find some degree in comfort in knowing that Federal officers have the authority to arrest and to detain, and to question, and to do so under the color of law?

Mr. ERVIN. Absolutely. There is no question about that.

Mr. GREEN. Do you also find that it is of benefit to have a military that is not mercenary? In fact, we didn't start out with militaries that were in the paradigm that we have today. Militaries, initially, were mercenaries. We found that it just wasn't effective to have mercenaries performing the duties of military officers.

Now, having said this, I want to make it very clear that we are not, in any way, implying that the contract workers are mercenaries. I am saying this just to make a point. Sometimes when you hear extreme rhetoric, you have to use extreme language to make a point so that people can better understand that we are at extremes. There is no need to be at these extremes.

Why not talk about corporate welfare? Corporate welfare—\$60 billion is what we were giving corporate institutions to, literally, manage a program and take dollars and pass them on to recipients—persons who were borrowers. This is not within your—the context of what you are talking about today. Quite frankly, it is not something that I would have brought up. But since we are now going to talk about this, let us put it in its proper context. It is corporate welfare.

Why do we support corporate welfare to this extent, which is, literally, a waste of money? Those who talk about eliminating waste, fraud, and abuse would support this kind of invidious corporate welfare. That is just a—simply a pass-through. That is all it was—a pass-through that we have eliminated. Now we will put some of this money at the Pell grants so that we can better educate people.

Corporate welfare—if corporate welfare is good, then welfare for some of the least, the last, and the lost, should not be attacked to the extent that it is.

Now, back to this hearing; and thank you for your indulgence.

Mr. Ervin, I want to give you an opportunity to vindicate your statements that you made earlier. My belief is that you were not given adequate time to state properly what you—restate properly what you stated earlier. So, if you would, please?

Mr. ERVIN. Well, thank you for that, Mr. Green. I want to emphasize—and as I say, I did emphasize it in the written statement that I read—that I am not against the profit motive. I am simply saying that—as between security and profit, a private contractor is more concerned with the latter, needless to say. Further, it is not just a question of logic. It is a question of experience. The whole reason there is a TSA is because we recognized after 9/11 that pre-9/11, contractors were putting profit ahead of security.

The final point I would make is the one that I made just a second ago. That is that I think it is telling that we think that certain Federal facilities—the White House, DOD, Central Intelligence Agency, and the Capitol itself, apparently, are important enough

that the security guards provided should be Federalized. What is the distinction to be drawn between those Federal facilities and other Federal facilities?

I think we have learned—or should have learned, after 9/11, and after these recent spate of domestic-terrorism attack, that all Federal facilities are at least, potentially, at risk.

Mr. GREEN. Thank you.

Because my time is nearly up, let me just summarize something and ask for a quick response.

In the GAO report, you have all of these findings. You indicate that none of the responsible parties, in terms of the contracts that were awarded—none of these contracts have been terminated notwithstanding the findings. It seems to me that if we should perform as we normally do in corporate America, and adhere to corporate principles consistently, somebody would have been fired—meaning a contract would have been terminated.

GAO—am I correct when I read that no contract was terminated notwithstanding findings?

Mr. GOLDSTEIN. Yes, sir. That is our finding; that no contract was terminated—even more so, that no action was taken against any of the contractors that we—

Mr. GREEN. A closing comment would be this: There ought to be consistency in your philosophy. If you want corporate standards, then let the corporate standards prevail consistently. That is what should happen. In corporate America, somebody would have been fired.

So we can't have it both ways—"When it is convenient, let us have corporate standards; and when it is inconvenient, then let us have some other standard that is, at best, quasi-corporate."

I thank you and I yield back the balance of my time.

Chairman THOMPSON. Thank you very much.

The Chair now recognizes the gentleman from Texas, Mr. Smith, for 5 minutes.

Mr. SMITH. Thank you, Mr. Chairman.

Director Schenkel, I would like to address my first question to you. Let me quote from your testimony: "We believe that we can effectively secure Federal buildings with the current mix of Federal staff and highly trained contract guards." I presume, then, that you don't necessarily think we ought to Federalize the entire guard staff.

Tell me why you think that current mix works—if you could, go into a little bit more detail.

Mr. SCHENKEL. I can't speculate on whether we should Federalize or go with the contracts. But I do believe that the clear mission, as I have described earlier, and the professional training that meets that mission requirement are the two key objectives. They coincide with what Mr. Ervin is saying, too. Regardless of who people work for, the standards, as Mr. Green just said, have to be established and upheld. I think that is the critical—

Mr. SMITH. Whoever does it, it needs—

Mr. SCHENKEL. Yes, sir.

Mr. SMITH. Correct.

Okay. Thank you, Director Schenkel.

Mr. Ervin, I wanted to follow up on a statement of yours in your testimony as well. Let me read two sentences from it. "Investigation after investigation, report after report, year after year, have documented in detail FPS' apparent inability to carry out its most critical mission—protecting Federal buildings against the threat of terrorism in the post-9/11 age. If other relevant factors are equal, there is no good reason to think that merely exchanging a public paycheck for a private one will improve guard performance."

I happen to agree with that. But I think your underlying basis for saying that is that it is possible to improve training and oversight without necessarily Federalizing the guards. If that is the case, do you want to elaborate on that?

Mr. ERVIN. Well, thank you for that, Mr. Smith.

I think the answer is it is possible to improve. It is just I am skeptical as to whether it would happen, in fact, based on experience. You know, we have had this present regime of contractors with Federal oversight for a number of years now. As I say, and as you know, report after report, investigation after investigation, shows that for whatever reason, the Federal Government seems incapable of getting the private sector to perform optimally.

Mr. SMITH. That they are capable or not—

Mr. ERVIN. Incapable—

Mr. SMITH. Incapable?

Mr. ERVIN [continuing]. Of getting the private sector to perform optimally.

Mr. SMITH. But go up on your correction a few minutes ago. You don't necessarily think that that is because of the profit motive. It is just that that is a fact of life.

Mr. ERVIN. Well, what I am saying is that the profit motive drives the contractor motivation, and—

Mr. SMITH. Right. But you don't see anything inherently evil in that?

Mr. ERVIN. Of course not; absolutely not.

But, I mean, the point is, who should be in charge of security for Federal facilities?

Mr. SMITH. Right.

Mr. ERVIN. It seems to me that the entity that should be in charge of that, that should pay the people, is the entity that has, as its primary, sole, motivation, security. That is the Federal Government.

Mr. SMITH. Yes, I would say that to some extent. But the problem—and this is a longer conversation, probably. The reason for the profit motive, and the reason that profit motive oftentimes works better than the Government is because it sort of increases efficiency, delivery of goods; it doesn't let excessive expenses or costs get out of hand—all of which can be inimical to the underlying mission of protecting lives and keeping buildings safe.

So I don't maybe think as much as you that the profit motive is necessarily going to prevent them from doing their job. I think it might actually enhance it.

When I say "This is part of a longer discussion," I could give you other examples. You look at the U.S. Postal Office. There are reasons why that, perhaps, should be a Government monopoly. But

there is no denying the fact that the private sector could do the same job less expensively and, perhaps, more efficiently.

Mr. ERVIN. But—

Mr. SMITH. I think that is what we are trying to get at here—is you might as well look at the overall picture and see how we can accomplish the same goal, perhaps, at less cost to the taxpayer. But please feel free to respond.

Mr. ERVIN. Well, thank you for that. I would welcome a lengthy discussion with you about that privately.

I guess the only thing I would say is—and I would be very brief—is I would distinguish between the mail service and security. I think we have seen the effects of the private sector on TSA—before the creation of TSA.

Mr. SMITH. Right.

Mr. ERVIN. We are seeing, now, the effects of private security with FPS. I think the results speak for themselves.

Mr. SMITH. Right.

I agree with that—one narrow distinguishing factor. But my overall broader point was that oftentimes the private sector can do the same job just as well, and perhaps less expensively, and perhaps more efficiently. That is my only point.

Mr. ERVIN. Right. I guess my point is that the experience shows that that is not the case as far as security is concerned.

Mr. SMITH. Oh. Well, now, that, I am not sure is the case. I think there are probably other instances—and we have seen the mix that we have heard from Director Schenkel—that, apparently, the private sector can do it as well, in some instances—perhaps in all, if you keep good oversight of the private sector—as you need to do with Government employees as well.

Mr. ERVIN. Look forward to the discussion, sir.

Mr. SMITH. Okay. Thank you.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you.

Mr. Schenkel, from the testimony the committee received, it indicated that the contracts are going up about 20 percent per year, with the private contractors. Have you made an analysis—or your staff—made an analysis of—why that 20 percent increase?

Mr. SCHENKEL. Mr. Chairman, we have not seen that 20 percent increase. Our contract-guard program remains fairly constant at just under \$800 million a year. That is for 111 contracts and, I think, it is 55 different contract companies.

Department of Labor establishes the wage rates in the various parts of the country. I am not quite clear where that 20 percent figure came from, sir.

Chairman THOMPSON. I will get it. I will get it to you.

The Chair now recognizes the gentlelady from California, for 5 minutes. Ms. Richardson.

Mr. RICHARDSON. Thank you, Mr. Chairman.

All of my questions will be directed to Mr. Schenkel. I have got 5 minutes. So we have got to go quick.

Mr. Schenkel, when the Chairman asked you the question, “Would you provide the analysis of the cost of Federalization of the guards?” You kind of looked, but I didn’t hear you say an affirmative, “Yes.” Was that, “Yes,” you would provide that report?

Mr. SCHENKEL. I have handed that to the Department. I believe the Department will have to provide that, ma'am.

Mr. RICHARDSON. What I saw there was the exchange that I thought. So are you committing to this committee—you still haven't answered the question. Are you going to supply this committee a copy of that report?

Mr. SCHENKEL. I have to have that through the Department, ma'am. I don't have the authority to hand it to you directly.

Chairman THOMPSON. Just a minute. I want you to check that, Mr. Schenkel, because unless there is something in there over and above that is covered, it is a public document. I think you ought to check that.

Mr. RICHARDSON. So will you check that and get back to the committee?

Mr. SCHENKEL. Yes, ma'am.

Mr. RICHARDSON. Okay. Thank you.

I thought I saw that. I wasn't sure.

Also, sir, the GAO found that the FPS has an inability to effectively evaluate their staffing responses. You have a draft workforce-staffing model that you intend upon using, that you haven't provided to Congress. Is it possible for you to provide that as well?

Mr. SCHENKEL. That is the staffing model that is under review at the Department level, and will be released, as I have been told, just prior to the 2012 budget.

Mr. RICHARDSON. Is it one and the same of the cost analysis, or is it something different?

Mr. SCHENKEL. No, ma'am. No, ma'am, it is not.

It is no secret on the cost analysis. The cost analysis runs roughly 30 percent higher for Federalizing the same workforce that we have—

Mr. RICHARDSON. Mr. Schenkel, I apologize, but I have now got 3 minutes.

My question is: Are there two different reports? Is there a cost-analysis report, and is there a staffing-model report? Are they two separate reports?

Mr. SCHENKEL. Yes, they would be two separate—

Mr. RICHARDSON. Okay. So the official request of this committee is that you would supply the committee with those two reports. As the Chairman mentioned, we believe that that information is available to this committee. So, if you would, come back forthright—I would think within 7 working days—to advise this committee if, in fact, you are able to supply the report.

Mr. SCHENKEL. Yes, ma'am.

Mr. RICHARDSON. Okay. Thank you.

No. 3: It is my understanding that FPS does not sit on committees. You can't demand FC tenants to implement recommendations. They can refuse things that we want to do. You talked about contract issues of—if people aren't doing—you know, fulfilling the contract—you don't really feel comfortable being able to terminate them.

Could you supply this to the committee—any recommendations that you might have of how we could do business better—that we could assist you with in possibly implementing?

Mr. SCHENKEL. Yes, ma'am, but the ISC has already taken steps in that direction—the Interagency Security Committee. They have created a working group with both the GSA and the Federal Protective Service as the co-chairs of that group—reason being is that our challenge is far different from the other 350,000 Federal facilities that the Interagency Security Committee covers.

Our 9,000 buildings are the only buildings that have what we call a multi-tenant facility—in other words, multiple agencies under one roof. So, consequently, that challenge is unique unto us.

Mr. RICHARDSON. So does that working group include the concerns that the GAO has brought forward?

Mr. SCHENKEL. Yes, ma'am.

Mr. RICHARDSON. Okay. So can you supply this committee with a full list of what those are that you are looking at?

Mr. SCHENKEL. Yes, ma'am.

Mr. RICHARDSON. Okay. Thank you.

No. 5—I want to talk about the RAMP program. Apparently, there are some issues with the RAMP program. Do you intend upon implementing that?

Mr. SCHENKEL. The Risk Assessment Management Program is not only meeting, but exceeding our expectations in many cases. I had heard that there were problems with the program early on. What I did was I held two town-hall meetings—one in the National Capital Region and one in Boston—to find out from the inspectors themselves what they thought of the program.

The program itself is functioning superbly. The challenge was the backbone that it was riding on—in other words, the infrastructure that had to not only download the information, but then pass it through our Toughbook computers. That has been significantly rectified as of yesterday. Whereas things used to take hours to download, it now takes minutes. Things that took minutes now take seconds.

Mr. RICHARDSON. Well, Mr. Schenkel, according to the report that we have in front of us, in addition to that problem, you also have a problem of 11 different regions using different processes for managing, collecting, and reporting of contract-guard information.

So, Mr. Goldstein has pointed out several issues.

Mr. Goldstein, have you been updated with what Mr. Schenkel is saying? Do you feel satisfied that the RAMP program can work?

Mr. GOLDSTEIN. We don't know that yet, ma'am. We are about to start an audit of the RAMP program, which this committee has requested. So we will be getting back to the committee with that information in the future.

Mr. RICHARDSON. Okay. What I would say to you, Mr. Schenkel, is that we cannot afford, in DHS—we have had way too many programs that we have paid millions and millions of dollars for that have not worked; and so it is critical, if we are going to make this investment, that it does.

Finally, my last question I have—Mr. Chairman, would you give me an additional—

Chairman THOMPSON. Yes.

Mr. RICHARDSON. Thank you.

Chairman THOMPSON. Yes.

Mr. RICHARDSON. It is my understanding, according to the GAO, that you—out of 15,000 contract guards, 8,600—you have not been able to verify their certification-and-training status. Is that still true?

Mr. SCHENKEL. That is not correct, ma'am. We now have 14,600-plus guards that have verified certifications in our RAMP system.

Mr. RICHARDSON. So you are saying you are almost at 100 percent?

Mr. SCHENKEL. We are 100 percent for what has put in there. That 15,000 figure is just the figure that—that mans the posts, or has historically manned the posts. We operate on guard posts. We have 6,250 guard posts. How the contractors staff those, whether they use two 4-hour shifts or one 8-hour shift is up to the contractor. So we are confident that the guards' standing posts meet the certification requirements.

Mr. RICHARDSON. Okay. I look forward to further information on that as well.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

Mr. Goldstein, you just heard Mr. Schenkel's response. I asked a question earlier about that same issue and was told that they had some 6,000 people out here who can't—we can't verify the credentialing. You remember that?

Mr. GOLDSTEIN. Yes, sir, I do.

Chairman THOMPSON. No, Mr. Schenkel just said that that number must be about 18—the number 18, given his numbers that he just quoted to the committee.

Mr. GOLDSTEIN. He said the number was about 14,000 and some odd, out of the 15,000—he believes have now been certified. Based on information that we have—and we discussed this recently with FPS—that wasn't the case. We will happily look at that again to be sure that that is the case.

I would add that we do have, and have had for some time, long-standing concerns, though, about the information that was going to be put into the RAMP system itself, because a lot of that information was based on old data. So we need to, as part of the work that we are doing on RAMP in the coming months for the committee—we will go back and be sure that the kinds of information put into RAMP are accurate.

Chairman THOMPSON. Yes. One of the reasons we asked is this notion of operational or fully operational—I don't want to get into how you define one versus the other. But the committee would expect a program to be up and running to its maximum capacity, and not just up, so to speak. We have a history of that.

But, Mr. Schenkel, I do want to say, again, a number of Members have raised a question about how the certification, the training, the retention of records, and the documentation of contract guards—that is a serious issue, because so much of how you test the system is based on what records you have. If the records are incomplete, then we have a problem. From what I have heard, up until your earlier response to Ms. Richardson's question, your testimonies to the committee is that those incomplete records are no longer incomplete. Is that correct?

Mr. SCHENKEL. That is correct, sir. We have taken great pains to ensure the verification and certification of our records to include implementing additional policies, where we go do a 120 percent inspection of the contractors' records, as well as the inspections—and when we do the guard-post inspections either through Operation Shield or just regular post inspections.

The system that we have developed operates on a benefit of the Government, if you will. It is the responsibility of the contractor to get the update and current certification information into our system. If, in fact, that individual does not, that individual will not be able to stand post. It is a go/no-go system at this point.

Chairman THOMPSON. Mr. Goldstein, how old is the report you are reporting on to this committee?

Mr. GOLDSTEIN. The report is—the one that was issued yesterday—some of the material, of course, was preliminary. However, when we put this report out, we just, several weeks ago, sat down with FPS and went through every single fact in that report and asked them to verify them. So as of a couple of weeks ago, it was our understanding that this information was still accurate.

Chairman THOMPSON. So, Mr. Schenkel, you see we have an issue of GAO reporting to us that there is significant issues relative to training and the reports. Your testimony is, within this short period of time, it was corrected. I just want us to be sure that we are getting accurate testimony before this committee.

Mr. SCHENKEL. Mr. Chairman, I will be more than happy to have someone come and give you a personal demonstration of the Risk Assessment Management Program, which includes the guard certification. I think you will be pleased.

Chairman THOMPSON. Mr. Goldstein, would you accept that invitation to attend that meeting?

Mr. GOLDSTEIN. Of course.

Chairman THOMPSON. Thank you.

The Chair now recognizes the gentleman from Louisiana for 5 minutes, Mr. Cao.

Mr. CAO. Thank you, Mr. Chairman.

My questions are directed at Mr. Ervin.

Mr. Ervin, I find somewhat of a discrepancy in your statement. On the one hand, you are saying that a Federal agency has a problem of overseeing a number of private contractors, in one statement. But, then, at the very next statement, now you are saying that a Federal agency would be able to have a better—would do a better job of overseeing potentially thousands of people.

So how, on the one hand, are you saying a Federal agency has problems looking over a few number of people and, now, doing a better job of overseeing thousands of people?

Mr. ERVIN. Right.

Mr. Cao, actually, there is no discrepancy. What I am saying is a number of things. First of all, I have made it clear that Federalization, in and of itself, is not a panacea. Implicit in my recommendation that there be Federalization is the notion that there be adequate supervision at the Federal level. We don't have that now in the private context. We would need to have that in the Federal context for Federalization to work.

But the point is that we are not talking about a significantly larger number of people. In theory, the very same number of private guards that we have now—15,000—could be Federalized.

Mr. CAO. What is the first thing that, if we were to implement what you just say—to oversee—you are saying that, right now, these Federal agencies—does not have the system of oversight, as you just mentioned. If we were to implement the system of oversight that you propose, over the private contractors, with the same result, would we get the same results?

Mr. ERVIN. We could get the same result if we don't do it properly. That is why I stressed that the TSA experience—

Mr. CAO. But if we were to do it properly, then we would get good results.

Mr. ERVIN. We would likely, yes, because, at the end of the day, it seems to me what matters a lot, and, perhaps, matters most—

Mr. CAO. So it seems to me that the problem is not in the private—at least, the private contractors are not doing its job. The problem seems to me that we lack, at the Federal level, of—a system of overseeing these people, as we will lack a system of overseeing the Federalized employees.

Mr. ERVIN. With respect, sir, I don't think it is a question of a system of oversight. The issue here isn't a system. It is a question of: What is the primary motivator of the entity that is employing the guard force?

If it is a private contractor, that primary motivator is profit. Therefore, there is an incentive built in to cut corners, not to pay people well; not to train them properly. Conversely, if the primary motivator is security, which, presumably, would be the primary motivator of the Federal Government, then we would likely get the kind of—

Mr. CAO. Now, you seem to be praising the TSA in your speeches and in your examples. I happen to have a lot of experience with the TSA. I fly in and out of the District of Columbia every week. I fly all over the country all year round. I have extensive experience with the TSA. My experience with the TSA has not been positive.

I find the employees to be rude. I find the employees to be inefficient. I find a lot of problems with TSA. At the same time, I also have had extensive experience with a private security firm in New Orleans. It is called the New Orleans Private Patrol. In comparing employees of the New Orleans Private Patrol with the employees of TSA, I find the New Orleans Private Patrol employees are a lot more professional. They greet and treat people with much more respect.

So how can you explain to me the differences in demeanor?

Mr. ERVIN. Right.

Well, a couple of things, sir—I have lots of experience with the TSA also. I was the first inspector general at the Department of Homeland Security, just right after the Federalization of TSA. I am not really talking about a question of demeanor and behavior. I say in my statement that there is a lot of work that—

Mr. CAO. No, but it goes into their—

Mr. ERVIN. But if I could just—

Mr. CAO [continuing]. Their effectiveness as being—in doing their security work.

Mr. ERVIN. I think the main point, sir, that I would stress to you is that we saw what the performance was when there was a privatized airport-screener workforce on 9/11. The reason we have TSA today is because of the recognition on the part of the Federal Government, of which the Congress is a part, obviously, that, left to their own devices, contractors will cut corners. That is why we have Federal—

Mr. CAO. Could I ask you a very quick question? Do you have the number of Federal dollars that goes into the TSA now, versus the number of Federal dollars that went into employing the Federal firms to provide security for—

Mr. ERVIN. I don't have the exact figures. I could certainly find them.

If the point that you are making is that Federalization can be more costly than a private system, I would concede that. I say at the conclusion of my statement that Federalizing security would not be quick, it would not be easy, and it would not be cheap. But security is not the thing that should be done on the cheap. I thought—I think we saw the effects of cheap security before 9/11. As I say, that is why we have TSA.

Final point I would make is—and there has been no response to my repeatedly saying, “There is presumably a reason why we have a Federal guard force for the White House, for DOD, for the Central Intelligence Agency, and for you and your colleagues here in the Capitol.” I think the reason for that is the recognition that properly supervised, properly resourced, properly trained Federal employees provide better security. That is all I am suggesting for FPS.

Mr. CAO. Well, I have issues with your recent statement also, but I see that I am out of time.

Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much. The Chair now recognizes the gentlelady from Arizona, Mrs. Kirkpatrick, for 5 minutes.

Mrs. KIRKPATRICK. Thank you, Mr. Chairman.

I want to thank the panelists for appearing today.

I represent a huge rural district in Arizona. So my first question is for Mr. Goldstein.

The GAO report reports that guard posts at rural Federal facilities are being neglected. This is a particular problem for a State like Arizona, which is mostly rural, yet contains the busiest trafficking routes from Mexico and Latin America, and also has been home to dangerous extremists, including the person directly responsible for the bomb in Oklahoma City.

Mr. Goldstein, can you elaborate on this assessment of rural facilities in your report?

Mr. GOLDSTEIN. I think, ma'am, it is mainly a question of resources for FPS. There, you have a limited number of officers who oversee all of these buildings across the United States. The regions that they have can stretch some distance. When we were out in the field on this work, we talked to many inspectors who said that they rarely got to visit the facilities they had—say, if they were in Bos-

ton, they rarely, if ever, got to Cape Cod, for instance—maybe once a year—to look at the Federal courthouse or other buildings in those areas. So it is a difficulty that they face geographically, and from a resource perspective.

We also found that most of the work that was being done to oversee these properties, whether it was inspection of the guard forces or other kinds of activities, were occurring only during business hours during—in 9 to 5, which, of course, are not the hours that terrorists necessarily keep—or other perpetrators.

We have recognized that FPS has, in recent months, tried to solve this problem which they face, in part, by having tenant-agency representatives help them out when inspectors can't get there. They have put together a new program which would use people at the agencies themselves to help overseeing guard forces where they can't get there. But we have some questions about how effective that program can be, since these are, frankly, mainly lay people who are being asked to fill these responsibilities. I am sure Mr. Schenkel could give you more information about that.

Mrs. KIRKPATRICK. Do you think those difficulties make those facilities more at risk?

Mr. GOLDSTEIN. I think it is hard for me to say whether they are more at risk. A terrorist or someone who is going to perpetrate a crime may or may not try to attack a level-four building in a major city for a symbol, or may try what would be called a "softer target." It is hard to know what they would try to focus on. It is based on the risk assessments that FPS and other agencies do. But, by and large, the majority of the Federal portion of FPS is located in, you know, major metropolitan regions. There is no question about that.

Mrs. KIRKPATRICK. Mr. Schenkel, what are you doing to improve the situation regarding the security of rural facilities?

Mr. SCHENKEL. When we started this testimony, we mentioned that we came from 11 different police departments, basically, with 11 different practices, both business and operational. What we have done is standardize the practices and ensured that everyone gets their just dessert, if you will, by implementing policies. There were no policies prior to 2008 that even dictated how many times a guard post was to be inspected.

Mr. Goldstein is correct. It is a challenge. It is a challenge, geographically, in many areas, to affect those guard-post inspections. Consequently, we have incorporated some—what we call "Agency technical representation," where we train an individual from the respective agency that resides in that facility to conduct observations, if you will, of the performance of the contract guards in that facility.

Mrs. KIRKPATRICK. Thank you. It still is a concern of mine. Maybe, we will work further on that.

My next question is for Mr. Ervin.

I understand that FPS plans to shift some of the oversight of contractors to the tenants' facilities they are guarding. Do you feel that these agencies have the appropriate experience and expertise to successfully monitor the performance of security operations, and can we expect officers with no security background to do this properly?

Mr. ERVIN. No, ma'am. I don't think it is logical to think that an agency that doesn't have any background in security can properly manage the guard force.

Mrs. KIRKPATRICK. If the tenants in the building can oversee the security contractors, as well as—well, what you are saying is they can't.

Mr. ERVIN. Unless they have security experience. In fact, most of these agencies don't.

Mrs. KIRKPATRICK. Well, I guess I wonder why we should even have FPS.

Mr. ERVIN. Well, we certainly need guards for Federal facilities. I think the issue is whether those guards should be Federalized or privatized. I am arguing that they should be Federalized for the reasons I have said.

Mrs. KIRKPATRICK. Okay. Thank you.

I yield back my time.

Chairman THOMPSON. Thank you.

The Chair now recognizes the gentleman from Pennsylvania for 5 minutes, Mr. Dent.

Mr. DENT. Thank you, Mr. Chairman.

My good friend, who is not here right now, Mr. Green, had mentioned that he feels that better knowing that—he felt better knowing that Federalized law enforcement has arrest authority. I would like to clarify that the Federalized TSA workforce has no such arrest authority. Like the FPS, they can detain only.

Also, I just wanted to comment, too, about the security contractors. You know, the White House is protected, as we know, by the Secret Service, and has been for 100 years. But contractors are responsible for security systems at the White House. The Capitol Police are a function of a special nature associated with a separate branch of Government, the legislative branch. However, contractors have designed and built many of the security capabilities in this Capitol complex, you know?

I don't think the contractors who provide security assistance to the White House and the Capitol are cutting corners on security just to save a buck. But I just think we need to be very clear about that. We have security contractors serving overseas in Iraq and Afghanistan as well. So I think we should be very clear about how we utilize private contractors in and around the White House and the Capitol, and elsewhere in the Federal system.

Mr. Ervin, my question is this: In the testimony before this committee, on November 14, 2007, as a DHS inspector general, you testified with regard to the TSA, that, "The sad fact is that for all the dollars and attention that has been focused on screener performance since 9/11, study after study shows that it is just as easy today to sneak deadly weapons past screeners as it was on 9/11."

To address this, you recommended extensive training and frequent re-training of screeners under simulated real-world conditions. If extensive training and re-training of screeners would help TSA employees, why won't it help the FPS guard force?

Mr. ERVIN. Mr. Dent, if you saw my statement, I talk specifically about that. I acknowledge that in my time as DHS inspector general, I noted a number of shortcomings and flaws in TSA as a Federalized workforce. I went on to say, though, that the reason for

that is that TSA hasn't properly been established as a Federal agency. There isn't adequate pay. There aren't adequate promotion opportunities, still. There isn't adequate training. There isn't the adequate deployment of technology. There isn't the requisite accountability and oversight that there should be. So there is a right way to Federalize, and there is a wrong way to Federalize. Needless to say, here, with regard to FPS, I am arguing that Federalization take place the right way.

Mr. DENT. So, in your role as the DHS inspector general, do you recall how much it costs the Federal Government annually to Federalize the TSA screeners—millions, billions?

Mr. ERVIN. I don't remember the figure, but, certainly, it was expensive. Federalizing FPS would likewise be expensive. I am sure it would be much more expensive than the present private system. My point is, though, that security can't be done on the cheap.

Mr. DENT. While I appreciate your testimony and your being here today, I need a little more than logic and experience to justify spending billions of taxpayers' dollars to create another 15,000 Federal jobs. You know? Just, you know—what empirical data do you have that supports your conclusion that Federalized FPS screeners would actually improve security—

Mr. ERVIN. Right.

Mr. DENT [continuing] At Federal facilities?

Mr. ERVIN. Well, I guess I would say a couple of things.

First, I don't know what there could be, other than logic and experience. Secondly, experience is empirical. What I am suggesting is that the experience of a privatized airport-screener workforce before 9/11 shows that those screeners failed. That is why we have TSA today.

I don't think anybody would suggest that we turn over the security-guard function. I think you cited equipment. No one would suggest that we turn over the guard function at the White House, at DOD, at the CIA, here at the Capitol, to the private sector. I don't think you are suggesting that. The reason for that is the recognition that these facilities are so important, so critical, that they ought to be guarded by the—by the Federal Government.

Mr. DENT. The only thing I would say is, before 9/11, there were a lot of failures that led to the attacks. You know? I mean, we can blame private contractors, private screeners. But there was intelligence failures. There were all sorts of reasons why we failed to connect the dots. I think we would be overly simplistic to suggest it was just the private screeners that failed on 9/11.

According to the GAO, TSA screeners have never caught GAO during a covert testing exercise. Why, then, would you recommend Federalizing the entire contract-guard staff based on similar GAO studies conducted on FPS contractors, when there appears to be no additional benefit to having a Federalized guard staff?

Mr. ERVIN. Again, Mr. Dent, I talked about that in my statement. The point is that TSA is still a work in progress. It is not properly resourced. There isn't adequate training. There isn't adequate supervision.

My argument, though, is that if there were those things, TSA would be a more effective agency than it is, and it would be far

more effective, and is more effective today, by the way, than the private system before 9/11.

Mr. DENT. Thank you.

I yield back. My time has expired.

Chairman THOMPSON. Thank you very much.

The Chair now recognizes the gentleman from New Jersey, Mr. Pascrell, for 5 minutes.

Mr. PASCRELL. Thank you, Mr. Chairman.

Mr. Chairman, the GAO report is pretty conclusive: In many areas, there are no standardized policies for the FPS.

I associate myself with your statement in the Post article that, for most people, "The contract guards are the face of the Federal Protective Service. Unfortunately, that face has some disturbing features," and it does.

We changed, I think, the TSA—having been on this committee from its very beginning—because we thought rent-a-cop didn't work for a lot of reasons. I think the main reason—and I know he is on the second panel—David Wright, who is the president of the national FPS union—but he said that, quote—if I might quote him—"The risk is too high to rely on guards who are guided by companies whose top priority is to increase profit to the shareholder."

So, Mr. Chairman, I think this is an important hearing, to protect not only the infrastructure of Federal buildings, but to protect Federal employees. In February, we saw an individual with an ideological bent, Joseph Andrew Stack—he flew a plane directly into the Federal building in Austin, Texas. He killed an IRS employee, injuring others, and causing massive damage.

In January, several individuals led by James O'Keefe fraudulently entered Senator Mary Landrieu's New Orleans office dressed as utilities employees and allegedly attempted to tamper with their phone system.

Then, most recently, numerous Congressional district offices have been vandalized and threatened with attack during the debate on our favorite subject, health care.

I worry that almost 15 years to the day, April 19, 1995, of the attack on the Alfred Murrah Federal Building in downtown Oklahoma City, which killed 168 Americans, we still don't take the threat of domestic terrorism nearly serious enough. I have talked about this with the Chairman. I think that this is something that we need to look into.

We almost started to look into this at the beginning of last year—remember, Mr. Chairman, in February—but all hell broke loose because the new appointee as director of Homeland Security happened to mention the growing evidence of growing domestic groups who seek to destroy the very fiber of this democracy; and that they are no less terrorists than the murderers of 9/11, by any stretch of the imagination.

My office in Patterson, New Jersey, is located in a Federal building, which also houses the IRS, the Social Security Administration, a Federal probation office, a naval recruitment office—all of which could, individually, be potential targets of an attack.

So, Mr. Goldstein, let me ask you this: Does the current system of protection for Federal buildings make sense to you?

Mr. GOLDSTEIN. We have not looked at the question of Federalization yet. We have a report that we have for this committee that we are about to start working on, looking at a variety of alternatives. Obviously, FPS has done so. We have not done that work yet. We are about to start it. So it is just too early for me to answer that question. There are clearly alternatives to the current scenario. We are looking forward to digging into that and getting some empirical evidence.

Mr. PASCRELL. Mr. Goldstein, we have the Federal Protective Services—that is under Department of Homeland Security, correct?

Mr. GOLDSTEIN. Yes, sir.

Mr. PASCRELL. But the security contractors are private, and the buildings themselves are operated by the GSA—the General Service Administration?

Mr. GOLDSTEIN. That is correct.

Mr. PASCRELL. Is that correct so far?

Mr. GOLDSTEIN. Yes, sir.

Mr. PASCRELL. Which means that the DHS can make homeland-security recommendations, as they have done, and the GSA can ignore them if they think it is too much work.

Mr. GOLDSTEIN. It is a little bit more complicated, in fact, than that, because the buildings are actually run—the security of them are run by security committees that the tenants sit on, and actually, in large part, control. Now, the ISC—the Interagency Security Committee—is making some suggestions and changes about how those committees ought to work.

But, at the moment—we have testified a number of times and have in a number of our reports that that system does not work well. It is broken. It is broken when you have three different entities, one of whom is represented by lay people with no security background at all, making decisions and actually being able to thwart security recommendations. It is a problem.

Mr. PASCRELL. Well, the environment is—Mr. Goldstein, the environment has kind of changed over the past 10 years.

Mr. GOLDSTEIN. Yes, sir.

Mr. PASCRELL. I think that, regardless of where you stand on the political spectrum, it has become a lot more dangerous—a lot more dangerous. So we see weapons coming into Federal buildings through these private contractors who are there. Many of them do a fantastic job. Many of them are not trained properly.

You admit this and—and responding in your overview. I think that this is very serious business.

I don't sense any urgency about this. When I see what has happened to my fellow mates in different parts of the country, I think we should be concerned. The life of a Congressman is no more valuable than the life of an ordinary citizen. But the fact is that it is no less than an ordinary citizen.

I need attention to these things—very important and very significant. Your report, I think, sheds some light on this.

Whenever my office has brought up these concerns to the GSA, all we have gotten is finger-pointing to other agencies, which bears out what you just said a few moments ago.

Mr. Chairman, thank you for having this hearing today.

Thank you.

Chairman THOMPSON. Thank you very much.

The Chair now recognizes the gentleman from Ohio, Mr. Austria.

Mr. AUSTRIA. Thank you, Mr. Chairman.

Thank you to our committee—our panel for being here today and testifying. I know many of my colleagues have expressed concerns about 15,000 jobs of private contractors going to the Federal Government. I think the No. 1 issue is safety and security of the Federal buildings. We all agree on that.

But, Mr. Ervin, let me kind of follow up a little bit on what Mr. Cao was saying earlier. You made a comment that there is incentives for shortcuts right now, for private contractors. Safety and security is the most important issue here. Do you have evidence of private contractors taking shortcuts? If so, you know, what corrections or actions were taken to correct those?

Mr. ERVIN. Right. Well, the evidence that I have, sir, is the evidence that we have in the GAO report, which is just the latest of a number of GAO reports over the years that have shown such problems. I think there is a reason why—

Mr. AUSTRIA. What actions were taken to correct those?

Mr. ERVIN. Well, I think Mr. Schenkel has described what FPS has done to date to try to address it, and I applaud him for it. I also want to underscore that, as a number of Members have pointed out, you know, the vast majority of FPS workers are doing their very best. But their very best, under these circumstances, is obviously not good enough. So that is why I am urging Federalization.

Mr. AUSTRIA. I guess my next question is: How much of that would you put towards—you know, and I don't know if you know the answer to this—not having the proper training or certification—

Mr. ERVIN. Yes, well, I can't quantify it, certainly. But there is no question but—that the lack of adequate training is a key part of it. So is the lack of adequate supervision. That has to happen whether we are talking about a private system or a Federal system. The question is: Which system is likely, overall, to produce a better result? I am suggesting, as I say, based on logic and experience, that the Federal system is likely to do that.

Mr. AUSTRIA. Director Schenkel, let me ask you a question. You mentioned that there is right now—was it 5,200 guard posts that—that you were aware of?

Mr. SCHENKEL. Sixty-two-fifty, sir.

Mr. AUSTRIA. Sixty-two-fifty.

How many do you expect the conductor—will that number increase in 2010, or remain approximately the same?

Mr. SCHENKEL. Actually, they will probably increase.

Case in point: We just increased by 1,000 temporary posts just for the IRS.

Mr. AUSTRIA. Okay.

Director, let me go back to—I know Mr. King talked about, and you discussed, the cost-benefit feasibility of this—a cost-benefit analysis. I believe you mentioned that—in your testimony—that you have—we have been working on this since 2003—approximately that you have three—DHS has been working on the transition—FPS, from different regional organizations, into one agency,

as well as establishing a systematic approach to developing standardized policies and identifying problems.

What I am trying to get at is the pros and cons of feasibility. Is it feasible to begin the process of Federalization while FPS is still transitioning into this new model, even though we haven't seen, you know, any end result to it or—nor had the opportunity to assess whether the model works or doesn't work?

Mr. SCHENKEL. The consistency and standardization of the organization is the priority. We have to have a baseline and stringent standards that we can hold people to, whether they be contractor, or whether it be Federal. We have made great strides in that in the last couple of years. We have standardized. We have published over 35 policies for the first time that are National policies and that have direct National impact.

Additionally, this new program that we have rolled out—the Risk Assessment Management Program—will further standardize many of our projects and programs. So the consistency of the individual or the—

Mr. AUSTRIA. I guess my question is on the cost-benefit analysis—is it feasible during this transition time period when we haven't seen that model yet?

Mr. SCHENKEL. Well, I can't speculate on that. But, as I said earlier, the cost runs roughly 30 percent more for a straight transition.

Mr. AUSTRIA. Director, are there any other options besides Federalization of the entire contract-guard staff that is being considered as another option to ensure safety and security of Federal buildings?

Mr. SCHENKEL. We have explored several options, to include increasing the number of our Federal officers, which we think is a very positive move in the right direction, as far as oversight and consistency and standardization.

Mr. AUSTRIA. Well, are you able to talk about any of the specifics as far as other options that are been—have been looked at?

Mr. SCHENKEL. I am not quite clear—

Mr. AUSTRIA. When you are looking at other options, what—a little more detail—

Mr. SCHENKEL. Oh. Well, what we did is we looked at the option of whether we Federalize the entire force or portions of the force, or do it by risk facilities, et cetera. I think our analysis is still under review at this point. However, we can go to just about any option that either Congress or the Department would desire.

Mr. AUSTRIA. Mr. Chairman, one last question, if I may: If you could, help me understand—how do FPS inspectors currently conduct risk assessments, you know, if RAMP is currently not operational? What is in place right now to conduct risk assessments?

Mr. SCHENKEL. Sir, risk-assessment management regarding RAMP is operational now. It was operational from the start of the backbone, the infrastructure, that it rode on. Basically, the pipe, if you will, was not serving it adequately. We made corrective actions. It is functioning extremely well.

The release was yesterday. So it is not a question that someone would have known this prior to. But the functionality has worked from the very beginning. I confirmed that with the inspectors in the field. It is a transition period. I believe in my last testimony,

in November, I said, “It will be a year to 18 months before we get all the bugs out.” However, at this point, it is functioning better than we expected.

Mr. AUSTRIA. That report was released yesterday?

Mr. SCHENKEL. That the release of the functionality—the backbone—increased its speed. That was the challenge for the Risk Assessment Management Program.

Mr. AUSTRIA. Thank you, Mr. Chairman.

Chairman THOMPSON. Thank you very much.

I thank our first panel of witnesses for their valuable testimony, and the Members for their questions.

Before being dismissed, I would remind our first panel of witnesses that the Members of the committee may have additional questions for you. We will ask you to respond expeditiously in writing to those questions. There have already been some commitments in terms of Mr. Schenkel getting back to the committee on a number of items.

We want to thank you again, witnesses. You have been very kind and generous with your responses.

I would like to ask the clerk now to prepare the witness table for our second panel of witnesses.

I now welcome our second panel of witnesses.

Our first witness is Mr. David Wright, President of American Federation of Government Employees Local 918. Mr. Wright is a 23-year veteran of the Federal Protective Service.

Welcome, Mr. Wright.

The final witness on the panel is Mr. Stephen Amitay. He is the Federal legislative counsel for the National Association of Security Companies, the Nation’s largest trade association for security companies. Welcome, Mr. Amitay.

We thank our witnesses for being here today. Without objection, the witnesses’ full statement, and a statement provided to the committee by the National Treasury Employees Union will be inserted into the record.

[The information follows:]

STATEMENT OF COLLEEN M. KELLEY, NATIONAL PRESIDENT, NATIONAL TREASURY
EMPLOYEES UNION

APRIL 14, 2010

Chairman Thompson, Ranking Member King, and distinguished Members of the committee, I would like to thank you for allowing me to provide comments on whether Federalization of contract security guards at the Federal Protective Service (FPS) would increase protection at Federal facilities. As President of the National Treasury Employees Union (NTEU), I have the honor of representing over 150,000 Federal workers in 31 Federal agencies and departments.

Mr. Chairman, recent events including the February 18 attack on IRS offices in Austin, Texas, and shootings at a Las Vegas Federal courthouse and the Pentagon have once again raised concerns about the vulnerability of Federal buildings and the safety and security of Federal employees who work in them around the country.

These attacks, in which two Federal employees were killed and several others were seriously injured, serves as a grim reminder of the great risk that Federal employees face each and every day in service to this country. They also have further heightened on-going concerns by many Federal employees that current safety and security standards at many Federal facilities are insufficient.

FEDERAL PROTECTIVE SERVICE

Mr. Chairman, as you know, the responsibility for ensuring the physical safety of Federal employees who work in roughly 9,000 Federally-owned and leased facilities is given to the Federal Protective Service (FPS), within the Department of Homeland Security. Part of that responsibility also includes ensuring the security of U.S. citizens who visit many of the Federal workplaces. On any given day, there can be well over 1 million people who are tenants of, and visitors to, Federal work-sites Nation-wide.

Unfortunately, recent reports by the Government Accountability Office (GAO), and numerous conversations with Federal employees represented by NTEU raise concerns that Government employees and members of the public are not receiving the proper level of protection from the FPS. In particular, NTEU believes that inadequate funding, staffing, and training at the FPS, as well as an over-reliance on outside contractors, have severely hampered its ability to carry out its core missions to protect facilities, to complete building security assessments in a timely and professional manner, and to monitor and oversee contract guards.

INADEQUATE STAFFING

According to the GAO, while the FPS workforce has decreased by roughly 15 percent from 1,400 employees in fiscal year 2004 to about 1,200 employees at the end of fiscal year 2009, the contract guard force has tripled from 5,000 to 15,000 over this same period. NTEU believes these drastic cuts to the FPS workforce and explosion in the number of contract security guards have led directly to shortfalls in contract guard management, performance, and has seriously impeded FPS' ability to ensure a safe environment in which Federal agencies can conduct their business.

While we understand that FPS has met a Congressionally-mandated staffing level of 1,200 employees, 900 of whom are required to be full-time law enforcement professionals, NTEU remains concerned that this number falls far short of the number of Federal law enforcement officers necessary to secure roughly 9,000 Federal buildings and maintain proper oversight of the large contract guard workforce.

That is why we were disappointed to see that the administration's budget request for fiscal year 2011 includes no additional funding for the FPS above the fiscal year 2010 level and proposes eliminating the minimum staffing standards previously established by Congress.

OVERRELIANCE ON USE OF CONTRACT SECURITY GUARDS

In addition to inadequate staffing and funding, NTEU is greatly concerned that FPS' overreliance on the use of contract security guards has severely hampered its ability to adequately protect Federal facilities. Of particular concern is a 2009 GAO investigation of the FPS which identified numerous concerns with FPS' use of contract security guards, including that:

- FPS does not fully ensure that its contract security guards have the training and certifications required to secure Federal facilities;
- FPS does not have a completely reliable system for monitoring and verifying contract guard training and certification requirements;
- FPS does not have specific National guidance on when and how contract guard inspections should be performed; and
- FPS inspections of contract security guard posts at Federal facilities are inconsistent, and the quality of the inspections vary across FPS regions.

Additionally, GAO's investigation identified substantial security vulnerabilities related to FPS's guard program, including instances where explosive materials were able to successfully pass undetected through FPS-monitored security checkpoints.

FPS officials have admitted there are serious problems with the use of contract security guards and that with limited law enforcement personnel, the agency is reduced to serving a reactive role, rather than a proactive force patrolling Federal buildings and preventing criminal acts. Currently, the majority of contract guards are stationed at fixed posts, which they are not permitted to leave, and they do not have arrest authority. FPS has also reduced the hours of operation for providing law enforcement services at many Federal buildings, resulting in a lack of coverage when employees are coming and going, and during weekend hours.

Mr. Chairman, it is clear that FPS' excessive reliance on the use of outside contractors, part of a larger Government-wide trend under the previous administration, has eroded their ability to carry out its core mission of protecting Federal facilities and effectively monitoring its contract security guard workforce.

IN-SOURCING CONTRACT GUARD POSITIONS

Mr. Chairman, in light of the many problems associated with FPS' continuing use and overreliance on its more than 15,000 contract security workforce, NTEU strongly believes that Congress should consider in-sourcing contract guard positions at the roughly 1,500 Security Level III and IV high-risk facilities located around the country. Replacing contract guards who lack law enforcement authority at these facilities with Federal Police Officers that possess the full authority and training to perform traditional police functions, and restricting contract guards to solely providing monitoring functions at lower risk facilities, will ensure FPS is better able to protect Federal facilities and the employees within them.

Mr. Chairman, the importance of providing adequate security at Federal buildings is of great concern to NTEU and our members who have repeatedly voiced their concerns about the safety of their workplaces, their own personal safety and that of the visiting public. NTEU strongly believes that by providing FPS with increased staffing and funding and addressing their overreliance on contract security workers we can ensure that they are able to carry out their mission of securing Federal buildings and ensuring the safety of the thousands of Federal employees they house daily.

FEDERALIZATION OF THE TRANSPORTATION SECURITY ADMINISTRATION

Mr. Chairman, as stated previously, NTEU believes FPS' excessive use of contract security guards has jeopardized its ability to protect Federal facilities and serves as a warning to other agencies as to the danger of an overreliance on the use of private contractors. Indeed, one look no further than the problems associated with the Federalization of the Transportation Security Administration (TSA) to see how a reliance on private contractors can hamper an agency's ability to carry out its mission.

After the 9/11 terrorist attacks, the U.S. Government sought to assure its citizens by changing the security screening programs at the Nation's airports. Legislation was passed to create a new agency, the Transportation Security Administration, and to "Federalize" the screeners at the airports. That legislation also allowed TSA to utilize the FAA's acquisition system as its own. It was exempt from complying with the FAR (Federal Acquisition Regulations). Contracts were let with little or no data on what would be required or what the cost would be. For instance, in February 2002, TSA awarded a contract to NCS Pearson Inc. to test, interview, fingerprint, medically evaluate and pre-certify candidates for the Federal screening jobs. The original contract was for \$104 million. In less than a year, the contract was costing \$741 million. The contract let for airport bomb-detection machines ballooned from \$508 million to \$1.2 billion. In a series of *Washington Post* articles in 2005, the TSA employee managing the contract for a state-of-the-art computer network for TSA said he picked the ceiling amount for that contract "out of the air". People within TSA said they knew the system would cost closer to \$3 billion, but didn't want to say so. In a 2004 report, GAO reviewed TSA's acquisition procedures and found them lacking. In another report in 2006, GAO found that TSA had signed contracts with Boeing for explosive detection systems without any sound estimates of maintenance costs for the machines. In addition, TSA had paid Boeing \$44 million in provisional award fees without any evaluation of Boeing's performance. A DHS Inspector General report from November 2009 found that problems persist today in TSA's management of its assets. The IG found that in some instances, new equipment is stored for years before TSA figures out where to send it. In 2007, the TSA Logistics Center received eight explosive detection systems units at a cost of about \$7 million. The report states, "As of January 2009, all eight explosive detection systems units remained in storage at the Logistics Center." They continued, "As of January 2009, TSA also had 345 explosive trace detection systems units, which cost about \$10.6 million, in storage for at least a year; some of these units had been in storage for more than 2 years." Congress reacted to the perceived shortcomings in the TSA procurement process and included a provision in Pub. L. 110-161, revoking TSA's exemption from the FAR.

Unfortunately, the contracts and equipment mistakes are not the only problems created by forming an agency on an emergency basis. While both the Bush administration and Congress seemed to say they were "Federalizing" the passenger screening system, a footnote placed in the Aviation Security Transportation Act provided carte blanche power to the head of TSA to create his or her own personnel system for these workers. TSA employees are only "kind of" Federal employees. They have no civil service protections. They are not on the General Schedule. They are prohibited by directive from collective bargaining. As a result of that footnote, we have a Government agency that is managed by fear and favoritism. TSA has one of the highest attrition rates in the Government. Transportation Security Officers are the

lowest paid professional staff in the Federal Government. TSA consistently ranks as the lowest in morale of all of Government. NTEU believes that it is time for these valuable employees to become part of the rest of the civil service, with the rights and benefits due them. We stand ready to work with this committee to see HR 1881 become a reality.

If the committee decides to Federalize the contractors now working for FPS, please do it right way. Bring those employees into the civil service. Don't try to create something out of whole cloth. The General Schedule adhered to by almost all of the Federal Government provides a fair, transparent, and credible system for Federal employees. That's where these employees should be placed, and that's where TSOs should be placed.

Chairman THOMPSON. I now recognize Mr. David Wright to summarize his statement for 5 minutes.

STATEMENT OF DAVID L. WRIGHT, PRESIDENT, NATIONAL FPS UNION

Mr. WRIGHT. Chairman Thompson, Ranking Member King, Members of the committee, my name is David Wright. I am president of Local 918, the National Federal Protective Service Union, affiliated with the American Federation of Government Employees. I have been a law-enforcement officer with the Federal Protective Service for over 23 years. I have seen this agency go from a proud, committed, mission-focused agency to one that seems more focused on saving money, rather than protecting the employees of, and visitors to, Federal buildings.

Mr. Chairman, my written testimony includes a detailed recounting of the history of how FPS came to rely so heavily on a contract-guard workforce that is inadequately monitored and, oftentimes, ineffective on the job. In order to save time, I will focus my remarks today on changes that need to be made to enable the FPS to effectively perform its mission.

It is evident to us that the Federal Government can no longer rely on private companies to provide private security guards, whose training and authority is determined by individual States and municipalities, to continue to protect high-profile and high-security Federal properties. The risk is too high to rely on an individual guard whose authority and perception of that authority is guided by local Government and his company's chain of command, whose priority is to minimize liability to a company.

As in the recent case of badly needed X-ray machine training, the massive effort needed to modify private security contracts covering about 15,000 guards for each new training requirement—is not feasible, and costs the taxpayers money they can ill afford.

It is AFGE Local 918's recommendation that the FPS use the model developed by U.S. Capitol Police. The officers that provide security to the Capitol and Congressional office buildings are Federal employees. They are law-enforcement officers trained at the Federal law-enforcement training center, and possess the authority of arrest on Federal property. Local 918 also recommends hiring of police officers for contract-guard monitoring, law-enforcement patrol, and response. Civilian-mission support staff should be hired and dedicated to the oversight of any remaining security contracts, removing those recurring administrative duties from the law-enforcement inspector.

It is AFGE Local 918's further recommendation that in-sourcing start with the critical weapons detection and roving patrol posts at

facility security level four's major Federal office buildings. Our unofficial estimate is that there are between 5,500 and 6,500 FTE-equivalent positions that provide weapons screening and roving patrol to our highest-risk facilities.

The cost per hour that FPS pays low-bid companies for the services that GAO found deficient approaches \$40 an hour, on average. Starting now with converting these positions with proper training and supervision is not cheap, as doing the right thing rarely is.

We estimate a total FTE of approximately 7,000, including proper supervision, real benefits, and professional training at a Nationwide cost increase of almost \$600 million. The incremental costs would be in the range of \$20,000 to \$25,000 for a full-time position. Now is the time to start this multiyear process, but it cannot be done at the expense of needed increases to our inspector and police officer ranks.

Therefore, after FPS FTE is initially increased by at least 300, an additional 100 FTE is needed in fiscal year 2011 to transition critical guard posts at 20 to 25 major Federal buildings. The rate would be increased to 200 in fiscal year 2012 and 500 a year thereafter, until the Secretary of DHS can certify all essential, critical, and high-risk facilities have implemented protection of Federal employees by Federal law-enforcement officers.

In conclusion, much has changed in the security of our Federal workers and workplaces in the last 20 years. Screening and roving patrol duties that were outsourced in the past no longer serve as an effective measure. In today's dynamic threat environment, our high-profile, high-risk Federal workplaces demand the investment required to use Federal law-enforcement officers to protect Federal properties. Now is the time to smart with a—now is the time to start with a small downpayment in fiscal year 2011, followed by increasing investment in future years.

AFGE would be delighted to work with Congress to make this happen.

Finally, I leave you with this thought: The recent high-profile threats to Congressional figures and Federal employees fall directly under the purview of Federal Protective Service. Making the necessary reforms to this agency and increasing the number of Federal police officers on duty are not a matter of responding to vague, unsubstantiated warnings. The threat and immediate danger is quite real. The writing is on the wall. I am available for questions.

[The statement of Mr. Wright follows:]

PREPARED STATEMENT OF DAVID L. WRIGHT

APRIL 14, 2010

Chairman Thompson, Ranking Member King, and Members of the committee: My name is David Wright. I am the president of the National Federal Protective Service Union affiliated with the American Federation of Government Employees. I have been a law enforcement officer at the Federal Protective Service for over 23 years. I have seen this agency go from a proud, committed, mission-focused agency to one that seems more focused on saving money than protecting the employees and citizens who work in Federal buildings.

GROWTH IN GUARD USAGE OVER TIME/REDUCTION IN OVERSIGHT

The ratio of Federal Protective Service law enforcement officers—with responsibility of monitoring and oversight—to private contract security guards has steadily decreased:

	No. of Guards	Guards per FPS Officer
Fiscal year 2001	5,000	6.3
Fiscal year 2003	7,000	8.1
Fiscal year 2010	15,000	18.3

When I entered the Federal Protective Service in 1986, GS-083 Federal Police Officers (FPO's) were pay grade GS-5 essentially the same grade as when buildings were guarded by Federal employees. Much has changed since then when these officers were responsible for the day-to-day monitoring of several thousand private contract security guards (CG's) while also responding to law enforcement and security calls for service. CG monitoring was a critical part of the day-to-day oversight which also included daily inspections of all CG personnel on duty during a given shift. Of course at that time there were less than 2,500 contract guards Nation-wide. Additionally, the year I arrived FPS was reduced over 800 positions to an equivalent of 1,170 in-service field staff—almost 200 more than today's minimum.

When guards were inspected each CG would have to provide evidence of being lawfully present—employed by a security contractor of the Federal Government, possessing of the appropriate law enforcement agency commission (city or State) and certification of firearms qualifications. Inspections also included determinations of the CG's knowledge of and ability to perform duties according to post orders. These included proper physical condition (asleep/intoxicated?), necessary equipment (weapon/equipment/keys), and contraband items (reading materials or the presence of a television). GS-083's were responsible to the command for documenting these findings usually on a daily, shift-to-shift basis—24 hours per day, 7 days per week. In general, the private security guards—CG's—were only used at GSA-owned Federal office buildings and complexes. The in-service staff, both security specialists and Federal Police officers was in marked decline in the years preceding the April 19, 1995 bombing of the Murrah Federal Building in Oklahoma City. The assumption was that Federal employees and buildings could be protected in the same manner as commercial property with contractors in “soft” uniforms. It was dead wrong then and it is wrong today!

After the Oklahoma City bombing, FPS' reliance on CG's increased dramatically in an attempt to adhere to the newly established DOJ Standards—the Security Assessment of Federal Facilities. FPS was responsible for implementing the standards in GSA-controlled buildings. The number of Federal Police Officers began to increase once again from 1996–1998, but despite a doubling of contract guards to 5,000, FPS never approached the 1986 levels. As attempts to institute a more professional FPO workforce increased, there was recognition that a better pay scale was needed to draw the needed professionals into the Agency—focusing so much responsibility on a GS 5 FPO was an anachronism. The world had changed, our criminal and terrorist enemies were developing ever more sophisticated strategies and tactics, and building security and law enforcement became more complicated to develop countermeasures to these threats.

Attempts to obtain Federal law enforcement status and increased pay for the overworked FPO's failed. In 1998, plans to combine the GS-083 Police Officer and the GS-080 Physical Security Specialist were started in order to retain and attract quality Federal employees to accomplish the myriad of security and law enforcement tasks. The result was the GS-080 Law Enforcement Security Officer (LESO or Inspector) series which resulted in a journeyman level GS-12 for our law enforcement officers that were to serve as community police officers providing both security and law enforcement services. They were to partner with FPO in medium and large cities who conducted around the clock patrols and response in conjunction with the Inspectors.

Instead, the increased responsibilities attendant with the higher pay grade demanded that the Inspector perform a significantly higher degree of physical security duties to include building security assessments and facilitation of the Building Security Committees (BSC's) along with CG monitoring/oversight/and administrative portions of Contracting Officer Technical Representative (COTR) duties. Based on the “jack of all trades” and “more bang for the buck” mentality of GSA and FPS management, they cut the FPO positions that are critical to a realistic community

policing strategy. The results of this idiocy speak for themselves—GAO report after GAO report has documented the inadequate protection of Federal employees and workplaces. Bottom line: the lack of adequate staff has led to the decline of effective security contract oversight. This decline coupled with the reliance on private/for profit businesses has directly led to the inadequate overall security screening and effectiveness at Federal properties.

Unfortunately, the concept was never properly resourced and meanwhile more and more contract guards were added creating a surefire failure point. GSA was clearly penny-wise and pound-foolish with their extreme out-sourcing initiatives, meanwhile the Congress, the White House Complex and the Pentagon continued use of FPO rather than contract guards. The Federal employees in those facilities have the full mantle of protection by other Federal employees—shouldn't the most critical high-risk GSA facilities be protected in the same manner? Absolutely they should!!!

The dangerous overreliance on contract guards also beget other issues including that contract security authority is regulated by State and municipal authorities in each locality. There is NO Federal standard for law enforcement or arrest authority of private security contractors in the United States. Consequently, a private CG's authority varies widely from State to State, city to city. In some States and cities, because of local regulation, the guards at Federal buildings can't carry the OC spray or expandable baton intermediate weapons mandated by National FPS requirements. Private security companies are also very concerned with civil liability of their company and employees. The result is a large workforce—without a vested interest in a Federal career—that varies in dedication to mission of protection of Federal properties, Federal employees, and visitors to those properties. It is not a rare occasion that CG's will abandon their duties due to non-payment by the guard company.

The effectiveness of Federal Acquisition Regulations in the administration of security contracts has suffered by the repeated failures to impose any meaningful penalty for contract deficiencies such as unmanned posts—posts “guarded” by uncertified guards, guards who were asleep, on no guard at all. All too often the only cost to a contractor for failing to provide a guard is they don't get paid the hourly rate. As you can expect causing them to save wage and benefit costs and forgo their profit provides little incentive to curtail the practice. A private company's ability to dispute and defeat any attempts at “cure” of a Federal contract failure have increased over the years as oversight has become ineffective and the companies learn to game the system as part of their “business plans”.

The resultant failures of an all contractor access control and patrol force at high-risk buildings were well-defined by GAO in the preliminary report to Congress in July 2009:

The GAO identified concerns with FPS' use of contract security guards, including the fact that CG's have authority only for detention—not arrest—of suspects. GAO also verified that FPS does not fully ensure that its contract security guards have the training and certifications required to secure Federal facilities; that there is not a reliable method for monitoring and verifying contract guard training and certification requirements; that FPS did not have specific National guidance on when and how contract guard inspections should be performed; and that FPS inspections of contract security guard posts at Federal facilities are inconsistent, and the quality of the inspections varies across FPS regions.

Findings of the GAO in the preliminary report also include reports of ill-trained security guards asleep on the job or inattentive to duties. Introduction and assembly of bomb-making materials into 10 security level 4 facilities across the Nation stunned Congress, the public, and the media.

There are approximately 750 street-level law enforcement officers responsible for all CG training, monitoring and oversight, law enforcement patrol, response to law enforcement/security calls for service and physical security administration duties. A schedule has been released to mandate regular inspections of CG's different security level facilities. These efforts are ineffective in that the schedule pertains to the facility guard post and is based only on the security level not the number of individual CG or even the number of posts at a certain facility. Thus some posts and guards will be inspected every week, while others may only be inspected two or three times a year. It is also conceivable that some CG's can evade inspection for years.

Efforts to provide more training to CG's in detection of bomb-making materials have become a quagmire. Time required for “train the trainer” efforts to instruct FPS Inspectors—who in turn will train other FPS Inspectors—in order to train CG's—is a luxury that the American public cannot afford. In order for the increased training to CG's occur, all private security contracts have to be modified before Agency policy can be modified. Bottom line—there has been significant training in a few regions but across the entire guard force the only training that has occurred since the GAO preliminary report in July 2010 is the mandated viewing of a new

video in bomb detection. And that took several weeks to negotiate and issue a contract modification. Here again the dysfunctional funding scheme of FPS comes into play. In order to increase the number of training hours and require all guards to be retrained on weapons detection FPS must get its DHS contracting section to determine what price each contractor will charge, FPS must change the building specific security charge to pay for the cost, and then (after much red tape and paper) the contracting officers can issue the modification and training can commence. If these critical guards were Federal employees the training would already be done.

The result of the mandate for increased monitoring/oversight by FPS law enforcement officers has also resulted in less proactive patrol, less law enforcement response capabilities, and less time for proper physical security assessments. Efforts by FPS to increase private security contracts and CG monitoring/oversight as result of the GAO findings have “robbed Peter to pay Paul”.

The Risk Assessment Management Program (RAMP)—a web-based program rolled out in November 2009 includes a guard management section that—to date—has been useless in CG monitoring and private security contract oversight activities.

The GAO’s documentation of the lack of effective oversight of security contracts speaks to the “jack of all trades” mentality of FPS management in decreasing manpower and combining distinct job duties into the Inspector position. This is all a direct result of the fee funding scheme mandated for FPS. Efforts to increase security fees in order to increase revenue are an exercise in futility.

WHERE DO WE GO FROM HERE?

It is evident that the Federal Government can no longer rely on private companies to provide private security guards—whose training and authority is determined by individual States and municipalities—to continue to protect high-profile, high-security Federal properties. The massive effort needed to modify private security contracts—covering about 13 to 15 thousand guards—for each new training requirement is not feasible and costs the taxpayer money they can ill afford.

The risk is too high to rely on an individual guard whose authority—and perception of that authority is guided by local government and his company “chain of command”—whose priority is to minimize liability and increase profit to the shareholder.

It is AFGE Local 918’s recommendation that the FPS use the model developed by the U.S. Capitol Police and the U.S. Secret Service Uniformed Division. The officers that provide security at the Capitol and Congressional office buildings are Federal employees. They are trained at the Federal Law Enforcement Training Center (FLETC) and possess the authority of arrest on Federal property.

A mandate of Federal GS-083 or GS-1801, grade 6/7 Federal Protective Officers at entry points of security level 3 and 4 GSA controlled buildings would provide an increased layer of protection by Federal law enforcement officers with the requisite authority, responsibility, and duty to intervene in law enforcement and security incidents. This agile force could rapidly adapt to change driven by the dynamic threat environment in which we operate. Changes in training and other requirements could be immediately implemented without worrying about the amount a company can gouge the Government with an “equitable adjustment”.

A mandate to increase the number of GS-083, grade 7 and 9 FPO’s would provide mobile patrol response and increased CG monitoring at significantly fewer security level 1 and 2 (lower profile) facilities.

That model would also provide a career ladder to Federal law enforcement officers of the FPS. Beginning at the GS-6/7 level, the FPO would compete for the higher-level positions whose duties would include proactive mobile patrol, response to law enforcement calls for service, lead/supervisory police duties and eventually an Inspector position. This concept would lend the added benefit of developing a single “FPS culture” which has been lacking since the inception of FPS.

Local 918 also recommends hiring of civilian security specialist COTR who would be dedicated to the oversight of remaining security contracts—removing those recurring administrative duties from the Inspector—thereby allowing the successful performance of increased law enforcement response and physical security duties.

In order to facilitate the hiring and maintenance of these personnel, it is important that Congress mandate a different approach to the funding FPS. The present system of funding by security fees is at best ineffective and counterproductive. At worst it is a serious hindrance to daily security of Federal buildings in this country. In the past, Agency and Union efforts to seek increased funding through direct appropriations have gone unheeded and have resulted in the dilemma that we see today—a reduction of dedicated civil servants in favor of a disjointed contract secu-

rity force with hundreds of private company personnel serving as the “chain of command” at each major Federal property.

HOW TO IN-SOURCE?

It is AFGE Local 918’s recommendation that in-sourcing start with the critical weapons detection and roving patrol posts at the major Federal office buildings at Facility Security Level 4 and some Level 3.

Our unofficial estimate is that there are between 5,500 and 6,500 FTE equivalent positions that provide weapons screening and roving patrol at our highest-risk facilities. The cost per hour FPS pays the low bidder companies for the service the GAO found deficient approaches \$40 an hour on average. Starting now with converting these positions with proper training and supervision is not cheap—as doing the right thing rarely is. We estimate a total FTE of approximately 7,000 including proper supervision, real benefits, and professional training at a Nation-wide cost of almost \$600 million. The incremental cost would be in the range of \$20k to \$25K per full-time position.

Now is the time to start this multi-year process, but it cannot be done at the expense of increases in our inspectors and police officers for increased service hours. Therefore after FPS FTE is increased by at least 300, an additional 100 FTE for fiscal year 2011 to transition-critical posts at 20 to 25 buildings would get us started on the road to proper protection of our dedicated Federal employees. The rate could be increased to 200 in fiscal year 2012 and 500 a year thereafter until the Secretary of DHS can certify all essential, critical, and high-risk facilities have implemented protection of Federal employees by Federal employees.

In conclusion, AFGE Local 918 asks this committee to seize this opportunity—before the next attack—to remedy the FPS dilemma.

Priority 1 is the introduction of the GS-083 FPO (GS 6/7) workforces that would take over responsibilities for daily weapons screening and roving patrols at all high security Federal office buildings.

Priority 2 is that the GS-083 FPO (GS 8/9/10/11) workforce must be reinvigorated to increase monitoring of the remaining CG workforce and to perform law enforcement patrols and response.

Priority 3 is the hiring of civilian personnel to reinstitute the District Contract Guard Program Manager with COTR duties—who would be responsible for the daily oversight of the remaining CG workforce and private security contracts.

In conclusion, much has changed in the security of our Federal workers and workplaces in the last 20 years. The screening and roving patrol duties that were outsourced in the past no longer serve as an effective measure. In today’s dynamic threat environment our high-profile, high-risk Federal workplaces demand the investment required to use Federal employees to protect Federal employees. Now is the time to start with a small downpayment in fiscal year 2011 followed by increasing investment in future years. AFGE would be delighted to work with the Congress to make this happen. The safety of our dedicated civil servants is too important to continue with a failed structure.

Chairman THOMPSON. Thank you for your testimony.

I now recognize Mr. Amitay to summarize his statement for 5 minutes.

STATEMENT OF STEPHEN D. AMITAY, FEDERAL LEGISLATIVE COUNSEL, NATIONAL ASSOCIATION OF SECURITY COMPANIES

Mr. AMITAY. Thank you, Mr. Chairman.

My name is Steve Amitay, and I am Federal legislative counsel of NASCO, the National Association of Security Companies. NASCO is the Nation’s largest contract-security trade association, representing private security companies that employ more than 400,000 security officers across the USA.

Today’s hearing asks the question of whether the Federalization of FPS contract security guards will improve security. The answer to that question is: No.

What will improve security, though, is better-paid guards and better training, oversight, accountability, management, and administration of guards. These improvements can be accomplished with-

out Federalizing FPS guards, in an efficient and an effective manner.

In the recently released draft OMB in-sourcing policy letter, OMB notes that building security is not inherently governmental in function, and should continue to be performed by contractors. In the GAO's numerous reviews of the contract-guard program, GAO has never inferred that the program's problems and poor guard performance is a symptom of the contractor nature of the guards.

Mr. Ervin and Mr. Wright, too, have made the argument for Federalization on the basis that because private contractors seek to make profits, they will seek to cut costs to maximize profits, and this translates into providing a lesser service—in this case, security. Mr. Ervin also asserts that Federalization of airport screeners was “in recognition that before 9/11, contractors put profit ahead of security.”

First, the inference that the use of private screeners at airports allowed for the tragedy of 9/11 to take place is not only wrong, but it is offensive. FAA regulations in place on 9/11 permitted the weapons the 9/11 terrorists used to take over the planes to be brought on board. The 9/11 Commission Report found that each security layer relevant to hijackings—intelligence, passenger pre-screening, checkpoint screening, and on-board security—were seriously flawed prior to 9/11.

Second, and more generally, to make the assertion that a private contractor's desire to make a private means a private security guard will not perform as well as a “nonprofit Federal security guard” is outright false. It is a dubious indictment of all Government service contractors and, for that matter, American capitalism.

While cutting costs is one way for a contractor to increase profits, what also increases a contractor's profits is providing excellent service in order to retain contracts and to expand one's customer base. Also, in the private sector, constant competition from other contractors create an incentive to perform well, employ best practices, and seek to constantly improve.

These performance drivers are not present in the Federal sector. The Federal workplace is beset with a host of performance and motivation issues.

One such issue is accountability, which Mr. Ervin noted, is key to better performance. I would note that an FPS contract guard can be removed immediately by FPS for poor performance. This is virtually impossible with Federal employees, and becomes even harder as time goes by.

As to the notion that contract guards would have less training than Federal guards—as it should be clear by now, it is the FPS who sets the training requirements for guards. A Federalized guard will only have the amount of training required by FPS to stand post. However, as is often the case, a contract guard has all the required FPS training, and additional training from his company, if deemed necessary for proper performance.

The impetus for today's discussion in—calls for Federalizing FPS contract guards is the admittedly dismal results of contract guards in the GAO covert-explosion-detection test. But would Federal guards have fared better in these tests? In 2007, several years after airports switched from private screeners to Federal screeners, GAO

conducted covert-explosion-detection tests on TSA Federal screeners that were virtually identical to the test that the GAO conducted on FPS contract security guards. The results were also identical and, perhaps, even more troubling, given the significant Federal investment in training TSA Federal—that have been invested in Federal screeners.

Mr. Ervin, though, argues that it would still be better than pre-9/11 screeners. But what about private screeners after 9/11? In fact, in 2007, TSA commissioned a study of the performance of private airport screeners, which are allowed to work at airports under the Screening Partnership Program.

The study found that private screeners' performance was "equal or better," than that of Federal TSA screeners. Perhaps TSA should be looking more to outsourcing to improve screener performance. In a more recent real-life comparison of contractor versus Federal security—in the last year, there were three incidents where an armed gunman entered a Federal facility and started shooting. In all three incidents, security personnel were able to neutralize the gunman before he could proceed any further. In two of the incidents, the security was contract security. In the other, it was Federal security.

In looking at the problems of guard performance, one must look at the root causes—inadequate FPS training for X-ray and magnetometers is frequently cited. If such training is poor, then it does not matter if the recipient of the training is Federal or private. The outcome will be the same. The same goes for supervision and management.

Federalizing FPS contract guards at Federal facilities would not only be a massive undertaking and come at a great expense, but it will create new workforce difficulties for FPS and, most significantly, as the TSA experience clearly shows, improvements in security, compared to using contractors could be non-existent.

Any cost-benefit analysis of Federalizing FPS guards should consider all the relevant factors and costs and be done on an equal basis.

Finally, NASCO fully agrees with the notion that the protection of Federal buildings should be driven by security concerns and not budgetary ones. We support the inclusion of higher performance-related standards and contracts to ensure that the quality of a company's training, personnel, management, and operational procedures are adequately considered during the procurement process. This will result in higher bids, but it will also result in better-trained and better-paid and better-motivated contract security officers who will be held strictly accountable.

Money should also be made available for more FPS inspectors and COTRs to provide the management, oversight, and training for guards, as the key to any successful program is management and oversight. Thank you.

[The statement of Mr. Amitay follows:]

PREPARED STATEMENT OF STEPHEN D. AMITAY

APRIL 16, 2010

BACKGROUND ON PRIVATE PERFORMANCE VERSUS FEDERAL PERFORMANCE

In the past year there have been three separate incidents where at the entrance of crowded Federal facility an armed gunman started shooting. The first incident was last July at the U.S. Holocaust Museum in Washington. The second incident was in January at the U.S. Court House in Las Vegas, Nevada. The third, and most recent incident, was in March at the Pentagon in Virginia. In all three incidents the gunmen opened fire at the security personnel stationed at the entrance. Tragically, in two of the incidents security personnel were killed by the gunman, but in all three incidents security personnel were able to neutralize the gunmen before he could proceed any further and without any additional loss of life.

At the Holocaust Museum, the security personnel who stopped the gunman were contract security officers. In Las Vegas, the security personnel were also contract security officers. At the Pentagon, the security personnel were Pentagon police officers.

However, while it can be shown that contract security officers can be as proficient in providing security at Federal facilities as Federal security/police officers; the impetus for today's hearing on the potential for Federalization of FPS contract security officers stems directly from the troubling results of GAO's 2009 covert explosive detection testing at FPS Federal facilities. In these tests, GAO investigators "with the components for an improvised explosive device (IED) concealed on their persons . . . passed undetected through access points controlled by FPS guards."¹ Based on the failure of the FPS contract guards in these tests, it has been suggested that just as private screeners at airports were Federalized to increase screener performance and security at airports, FPS guards should also be Federalized to increase performance and security at high-risk Federal facilities.

It has been estimated that the cost of replacing a contract security officer with a Federal officer will be on the magnitude of two to three times more expensive. But for the time being putting aside the massive increased cost per officer aside and other inherent management and workforce problems associated with converting contractors to Federal employees, today's hearing is about whether Federalizing security officers at FPS guarded facilities will improve job performance and thus security.

In 2007, several years after airports had switched from private screeners to Federal transportation security officers, GAO conducted covert explosive detection tests on the TSA officers that were virtually identical to the tests of FPS contract security. How did the Federal security officers fare? The results were that "GAO investigators succeeded in passing through TSA security screening checkpoints undetected with components for several improvised explosive devices (IED) and an improvised incendiary device (IID) concealed in their carry-on luggage and on their persons."²

These were not the first (or last) failed explosive screening tests by Federal TSA security officers, and in the wake of these and other failed tests, one of my fellow witnesses, Mr. Clark Kent Ervin, the former Homeland Security inspector general, told this very committee in November 2007 that,

"The sad fact is that for all the dollars and attention that has been focused on screener performance since 9/11 study after study—by the DHS Inspector General, the Government Accountability Office; news organizations, and, even, the TSA itself—shows that it is just as easy today to sneak these deadly weapons past screeners than it was on 9/11."³

The above examples of both exemplary and non-exemplary performance by Federal and contract security demonstrate that it would be inaccurate to assume that Federalizing security guards at FPS-protected facilities will lead to greater performance and security at the facilities. In fact, it bears noting that a 2007 TSA-sponsored

¹GAO, *Homeland Security: Preliminary Results Show Federal Protective Service's Ability to Protect Federal Facilities Is Hampered By Weaknesses in Its Contract Security Guard Program*, GAO-09-859T (Washington, DC: July 8, 2009).

²GAO, "Aviation Security: Vulnerabilities Exposed Through Covert Testing of TSA's Passenger Screening Process," Statement of Gregory D. Kutz, Managing Director Forensic Audits and Special Investigations; John W. Cooney, Assistant Director Forensic Audits and Special Investigations GAO-08-48T, November 17, 2007.

³Statement of Clark Kent Ervin before the House Homeland Security Committee November 14, 2007 Hearing "Did TSA Tip Off Airport Screeners about Covert Testing?"

study analyzing the performance of private contractor passenger screening at airports (permitted under the Screening Partnership Program) found that private screeners performed at a level that was “equal to or greater than” that of TSA Federal transportation security officers.⁴

THE PROBLEM OF POOR GUARD PERFORMANCE

In the GAO’s numerous reviews of the operation of the FPS “Contract Guard Program,” GAO has never inferred that contract security officers are incapable or unable to fulfill the security responsibilities of their posts or increase performance. As GAO accurately describes, “Guards are primarily responsible for controlling access to Federal facilities by: (1) Checking the identification of Government employees as well as members of the public who work in and visit Federal facilities, and (2) operating security equipment, such as X-ray machines and magnetometers to screen for prohibited materials such as firearms, knives, explosives, or items intended to be used to fabricate an explosive or incendiary device.”⁵

In commenting on poor performance by FPS guards, the GAO and other reports often cite weaknesses in the training of contract security officers in building access control procedures, and particularly in the obviously crucial area of magnetometer and X-ray machine training. The FPS has always had the responsibility to conduct training in this area. In its July 2009 report on the Contract Guard Program the GAO noted that in some cases the required X-ray and magnetometer training was simply not provided to contract security officers or in other cases it was inadequate.

Federalizing contract security forces will not change the outcome of poor training. When making decisions about Federalizing the force, one must look at the root causes of the current deficiencies and one root cause is poor training administered by the FPS, not necessarily the recipient of the training. What then is needed is what FPS has started to do, conduct more X-ray and magnetometer training with improved and consistent procedures across all regions of the country. The new “National Weapons Detection Training Program” will include 16 hours of standardized screening and detection training, and 8 hours annual refresher training. In the past such crucial training consisted of a total of 8 hours and it was not uniform, leading to further problems and confusion. In addition, through its new “Operation Shield” program, FPS has increased the number of internal FPS covert tests of contract guard performance. NASCO would also like to see greater development of well-written policies and consistent application of access control standards across the board (both intra and inter regional).

Again, quoting from Mr. Ervin’s 2007 testimony on airport screener performance; “There should be no mystery as to what it takes to improve screener performance significantly. The recommendations that my former office made four years ago remain as valid today as they were then. Screeners need to be trained regularly and stringently, under conditions that approximate real world ones as closely as possible.”

OTHER EFFORTS AND AREAS TO ADDRESS TO IMPROVE FPS SECURITY OFFICER PERFORMANCE

Training and standards for FPS contract guards (“protective security officers”) have also been updated and/or improved in other key areas besides detection (such as firearm qualification, equipment, physical requirements). These efforts are the result of a comprehensive “job task analysis” recently completed by the FPS to produce “validated” and “defensible” standards that have been carefully crafted and substantiated that will improve the performance of security officers. These FPS security officer standards could potentially be applied to contract security officers throughout the Federal Government.

NASCO believes the new training procedures and programs and other improvements currently being implemented by the FPS in partnership with the contract security community will increase performance given proper time and resources. FPS is also taking other steps beyond better training that will improve the contract guard program and lead to better guard performance. There are also some areas where more work involving FPS and contractors is still needed.

On the operational level, FPS’ new Risk Assessment Management Program (RAMP)—a centralized interactive database management system—potentially could

⁴ Catapult Consultants, Private Screening Operations: Business Case Analysis, Transportation Security Administration, Screening Partnership Program, December 14, 2007 SEE ALSO, GAO, “Aviation Security: TSA’s Cost and Performance Study of Private Sector Airport Screening” GAO-09-27R, January 9, 2009.

⁵ See July GAO report in Footnote 1.

provide for a big improvement over the current unreliable de-centralized CERTS system for collecting and monitoring training and certification data. RAMP should make the input and management of data more efficient and provide FPS with access to more up-to-date and reliable data in one location. However, contractors must also be able benefit from RAMP's improvements in data management. FPS has told contractors they will not provide information on the status of certifications of FPS security officers and that training must be provided by the company for all officers, even if such officers had previously received the training while working for a different FPS contractor. This will mandate higher prices for what could be unnecessary training and ultimately favor incumbents, who may not have the same high level of past performance delivery as an outside competing contractor but will have a pricing advantage. For its own potential benefit, FPS should share information related to the previous training and certification of officers when a contract is taken over by a new contractor.

There are other areas where more work can be done. The GAO noted that improvements in building-specific and scenario-specific training are needed and improvements in these areas could be very beneficial. More guidance is needed on the issue of arrest versus detain and post orders can be improved in this regard.

The GAO also called for better management and oversight of Contract Guard Program contracts and the need for more and better trained Contracting Officer Technical Representatives (COTRs). Efforts are underway to assign more COTRs. Underlying better management and oversight is the need for better communication between FPS offices, and between FPS and contractors. In some instances training has been affected by a lack of communication between FPS headquarters and the field. NASCO commends FPS efforts to ascertain the problems and concerns of contractors with information flow and efficiency issues that have caused delays and added expenses in the hiring and processing of officers.

Another issue that was recently the subject of a Congressional hearing and has been a persistent problem is how the security of individual Federal buildings is managed. Building security is managed by what is referred to as a Building Security Committee (BSC) made up of building tenant representatives, who more often than not do not have any security background. The BSC is commonly chaired by a primary tenant agency of the building and the FPS COTR may or may not be active in this committee. Often, the BSC is more interested in "customer service" than building security. This forces the security contractor to answer to two masters when the BSC does not want to cause any hindrance to the access to the building through the now more stringent access control processes as advocated by the FPS.

Improvements in contract oversight and management, data automation, standardization of policies and guidance, communication, and especially expanded and more frequent training will definitely improve performance of contractors and security officers in the Contract Guard Program. The flaws and weaknesses found in contractor performance by the GAO though also point to another area in which FPS can take action that will increase contractor and officer performance. NASCO strongly urges FPS to take all the necessary steps required so that in the contractor procurement process quality will play a primary role in the selection of a private security company and not cost. There are tangible reasons why higher quality security costs more. Being able to provide high-caliber officers means the company is paying higher salaries; better company training and screening costs more; strong company management and internal oversight are also factors. The FPS contract award process must continue to be improved to ensure that quality service and performance, in relation to cost, is properly considered.

NASCO is not alone in believing that awards allegedly based on "best value" are more realistically based on lowest cost, and technical capability and past performance are not being valued as they should. The FPS is now placing more emphasis on past performance rather than the "low bid" approach but price is still a deciding factor (the three evaluation criteria are now past performance, technical approach, and price). NASCO also supports the inclusion of higher performance-related standards in contracts, as well as taking steps to ensure that the quality of a company's training, personnel, management, and operational procedures—which result in a higher bid—are adequately considered during the procurement process. Companies should not be essentially penalized for going beyond the minimum training and management standards required by the contract.

BACKGROUND ON NASCO AND PRIVATE SECURITY

NASCO is the Nation's largest contract security trade association, representing private security companies that employ more than 400,000 security officers across the Nation who are servicing commercial and Governmental clients including the

Federal Protective Service (FPS). Formed in 1972, NASCO has strived to increase awareness and understanding among policy-makers, consumers, the media, and the general public of the important role of private security in safeguarding persons and property. NASCO also has been a leading advocate for raising standards at the Federal, State, and local level for the licensing of private security firms and the registration, screening, and training of security officers.

Nearly 2 million people are employed in private security domestically compared to fewer than 700,000 public law enforcement personnel. Approximately 75 percent of private security personnel work for contract security companies, with the balance serving as proprietary or "in-house" security. The vast majority of contract security firms employ many former law enforcement and military personnel in senior management. Private security officers are guarding Federal facilities, businesses, public areas, and critical infrastructure sites (of which almost 90% are protected by private security officers).

THE TRANSFER OF FPS FROM ICE TO NPPD

The transfer of FPS from under ICE to NPPD is a very positive move. The Federal infrastructure protection mission of FPS aligns with NPPD's mission to protect all critical infrastructure (of which Federal buildings is an important element). This alignment should lead to greater effectiveness for both NPPD and FPS. NPPD also chairs the operations of the Interagency Security Committee, which is the lead in the Federal Government for setting Government-wide security policies for Federal facilities.

CONCLUDING REMARKS

Under the leadership of Director Schenkel, and with the new initiatives within the Contract Guard Program in the last 18 months, FPS is making strides to rectify the problems with the program. FPS has come a long way since its troubled time within ICE, and with the continued partnering with quality private companies; the security of Federal buildings will continue to improve. The GAO covert tests and other field work related to contract security officers was conducted over a year ago, and much has already improved since then.

The proposition of "insourcing" FPS security officers at critical facilities would not only come at a great expense, impede the current efforts underway to improve contractor performance, and potentially create new difficulties for FPS, but as the TSA example clearly shows, the improvements in security could be marginal. With resources scarce and tenant agencies resistant to increased fees and security assessments, there is still much FPS can do within its budget or with modest realistic increases to improve the quality, selection, and training for FPS contract security officers to provide better security at Federal facilities. If more resources are available, an increase in the permanent number of FPS Inspectors could provide for better oversight and management of the contract security force, more training, more building assessments and inspections, and improvements in other related elements of the FPS mission.

Chairman THOMPSON. Thank you very much.

Mr. Dent has requested to go first because of another commitment. The Chair has decided to honor the request.

Mr. Dent.

Mr. DENT. Thank you, Mr. Chairman, and thank you for your continued courtesies. You are always a real gentleman here, and I appreciate your consideration once more.

My question is to Mr. Amitay. It is just one question.

GAO has issued several reports identifying weaknesses in the training of contract security guards. In your testimony, you cite additional steps that can be taken to improve security in Federal facilities provided by contract guards in light of the several GAO reports that have identified weaknesses in contract-guard training and oversight.

What are some examples of steps that can be taken to improve security at Federal facilities?

Mr. AMITAY. Well, I think one step that Director Schenkel has talked about is the fact that the X-ray and magnetometer training

now has gone from previously 8 hours to 16 hours and, also, an 8-hour annual refresher course. We also believe Operation Shield, which provides for red-teaming and covert tests—that also should be increased. Then, of course, there is obviously better oversight of guards, better contract management.

You know, for instance, these companies that are not performing due to the specifications of the contract, action should be taken against them, and, perhaps, their contracts—you know, they should not be awarded these contracts. There is a lot that can be done within the current system to improve performance.

Mr. DENT. Thank you.

I yield back, Mr. Chairman. I appreciate the consideration.

Chairman THOMPSON. Thank you very much.

The purpose of this hearing, at the full-committee level, was to look at Federalization as one option, given the GAO report we recently received. The other question is: Anything less than 100 percent success is something we have to work toward, if we don't have it.

The GAO found significant vulnerabilities within the present system.

Mr. Wright, as an FPS employee, are you any less in a position to protect a Federal building because you are in a union?

Mr. WRIGHT. No. I see that, especially in this case, the union is working towards improved security of Federal properties. We brought this issue to the committee in 2007. It is, quite frankly, my union employees that raised this issue.

The mere fact that we are a union is not a problem.

Chairman THOMPSON. Well, the reason I raised it is one of the questions that we have had to respond to from time to time is that, somehow, employees who belong to unions, if a crisis situation would occur or some other situation, the union contract would be more of a binding document in that particular situation.

The response has always been, "We have policemen who belong to unions. We have firemen. We have other professional people in law enforcement. That has never been an issue." Even in this situation, even though you are here to comment, your testimony comes back to say that you will do your job, regardless to whatever the circumstances.

Mr. WRIGHT. Correct.

I foresee no instance in an emergency situation, especially, or any—even exigent circumstances—where a Federal officer would stand on that union contract and not do his duties.

Chairman THOMPSON. Mr. Amitay, I would say to you the same question for contract employees—do you see that being a problem in the performance of their security role in Federal buildings?

Mr. AMITAY. No. Many of the FPS contract security officers are a member of security-officer unions. We don't—whether they are union or non-union, that is not an issue, in my opinion.

Chairman THOMPSON. Right.

The framework for the GAO report, we used as the main support for this hearing. Our question is it FPS' failure to provide the adequate oversight for private security personnel, or is it the private security personnel not providing oversight of the people they em-

ploy in performance of those contracts? In some instances, it works both ways.

We hold FPS directly responsible because they are the contracting agency. However, there is a responsibility to those contractors, just as you indicated, Mr. Amitay—that they have to perform. There is no question that if you have a contract, you have to do it.

Even though GAO and FPS was at odds in some of the analysis of the information—and staff will get to the bottom of it—they are at odds. I am concerned that there are still some gaps in training, there are still some gaps in certifying of employees, whether or not it is the collection of the data and documentation, or the fact that they exist. Both circumstances are totally unacceptable.

What we are trying to offer the public is that, at any time you enter a Federal building, that building is secured by the most professional individuals that we can identify, whether they are members of the Federal Protective Service or contract-guard individuals. We just want to make sure that the public is aware.

We have some challenges. I would say to both of you that this is our third hearing on this issue. We will look forward to working with both you and some other interested groups to try to make sure that whatever we come with, the public at large is protected. With that, I will yield to the gentlelady from Texas for 5 minutes.

Ms. JACKSON LEE. Thank you very much, Mr. Chairman. This is a very important hearing. I know that we have had representatives from the Federal Protective Service, the physical infrastructure issues of the Government Accountability Office and, of course, the director of the Homeland Security Program on the Aspen Institute—and familiar with their testimony. I wanted to probe these points.

Mr. Chairman, I am in a Federal building, and have utilized the security that is at that building. I would like to put on the record it is the Mickey Leland Federal Building in Houston, Texas. I want to pay tribute and compliment the individuals that are working hard there every day, and the diligence and attention to their position. However, at the same time, I know there are questions of hours, there are questions of compensation, questions of benefits, questions of having enough persons around the clock. I might say that there might say that there might be even questions of training.

I think we have to find a way to address those issues, because our job is to secure America. So I would like to pose a question to Mr. Wright, and then to Mr. Amitay.

One of the things that disturbs me is the idea that when you have a contractual relationship for securing a Federal building, those security personnel may be impacted by State and local laws—different State and local laws, which would also speak to the difficulty of having consistent training.

Mr. Wright, what do you think about the idea of Federalization—that it would cure the disparate laws that have to be utilized, and also maybe different standards, as it relates to training?

Mr. WRIGHT. Yes, I have said all along and I think Mr. Green alluded to it a bit earlier. The authority of private contract security

comes from State and local municipalities. There is no Federal standard for these certifications.

We have to rely on companies to comply with—I come from Kansas City. We have to rely on the companies to comply with Kansas City standards, and come to FPS and show us that certification. So I think that is a lot of the problem with the documentation going on in these files. It is not FPS working with the Kansas City Board of Police Commissioners. It is a private company working with the Board of Police Commissioners and, thereby, that information flows back to us. So that is a huge problem.

Ms. JACKSON LEE. In the Federalization, if that was to occur—because I worry about people’s jobs and hardworking individuals that I see working every day—in the Federalization, would we be able to recruit from those existing individuals?

Mr. WRIGHT. Yes, absolutely. I think that is really—given experience, that is the way to go. Please, this is not a denigration of our contract security officers at all. This is really a denigration of the lack of a Federal authority, the lack of State and local governments that send these individuals over to guard our Federal buildings.

I would like to clarify one other thing, earlier, in regards to oversight. We have been told—or the testimony was made at the committee that FPS supervises these security officers. We do not. We can supervise in an actually emergency situation.

Ms. JACKSON LEE. But not otherwise?

Mr. WRIGHT. Correct.

Ms. JACKSON LEE. Let me move to Mr. Amitay.

Thank you. I am glad you clarified that on the record.

Mr. Amitay, I think there are probably some very good contractors. I have worked with them. But we do find that the GAO found that contractors continued to send guards to stand posts without ensuring that they have had certification.

There may be a balance between Federalization and some contractors being used. But the key element is: How do you train and certify, and have you been inconsistent in your organization, or the contractors, with that training and certification?

Mr. AMITAY. Well, two points—first of all, the training requirements and certification requirements are set by FPS. A lot of these certification requirements and training requirements are pretty clear—you know, weapons training, vision certification, first aid certification. These are things that, objectively, can be obtained.

The problem is, though—you are right. Some of these contractors are not—they are not doing it correctly. I mean, maybe there is a problem with the system. But I think the GAO has made it pretty clear that there are instances where the contractors are not living up to the requirements that are set by FPS.

In those instances, corrective action should be taken and, if need be, these contractors should not be getting these contracts, especially not being then—you know, given them again, which is sometimes the case. There are plenty of FPS contractors out there who have very good records of performance, very good records of certification; very good relationships with FPS.

But if we have a contracting process that goes to the lowest bidder and we have an oversight process that is inadequate, then you are going to have these instances of faulty contractor performance,

just as, if there were all Federalized guards, and there wasn't adequate oversight, you could have instances of faulty Federal-guard performance.

Ms. JACKSON LEE. Mr. Chairman, let me, as I yield back to you, really thank Mr. Amitay for his straightforwardness and directness that there are some Achilles' heels and some failures on lack of training and certification. As you well know, we have the obligation of Federal buildings and securing them.

So I would just hope, as we go forward and we look at the legislation, that we take into consideration maybe there is a—as we do in other Federalization—there is probably a balance where there are some private contractors. Mr. Chairman, I just want to make sure that those who are working may have the opportunity to apply—that legislation includes the opportunity for those existing individuals to apply to the Federal system, because many of them are dedicated and committed to their profession and to their jobs.

With that, I yield back to the Chairman.

Chairman THOMPSON. Thank you very much.

As you know, the Department is proposing to in-source 3,500 contract jobs this fiscal year.

Ms. JACKSON LEE. Right.

Chairman THOMPSON. But none of them are with FPS. So, at this point, everything is as is. But I agree with you that, going forward, if in-sourcing would occur within FPS, those individuals who are private would, in fact, have some priority status for placement.

But I also would want to indicate to Mr. Amitay that his support of contractors doing what they contract for goes a long way with this committee.

Ms. JACKSON LEE. Yes.

Chairman THOMPSON. I raised it in the other panel that there is no substitute for doing it right. If we are not, as FPS, performing the necessary oversight on the contracts, shame on us.

Ms. JACKSON LEE. That is right. We have seen the loss of life.

Chairman THOMPSON. Absolutely.

So we will continue.

I would like to thank both gentlemen for their valuable testimony, and the Members for their questions.

Ms. JACKSON LEE. Mr. Chairman, this gentleman had his hand up. I don't know if you want to recognize him.

Chairman THOMPSON. Oh.

Mr. Wright.

Mr. WRIGHT. I would like to make a clarification to the record. The RAMP program is not working. The RAMP program has not worked since day one. The one program that is absolutely not working at this time is the contract-guard program—the certifications of contract guards. I would like that entered into the record.

We had a fix that came out yesterday—seemed to improve the speed—some downloading speed; but, other than that, about 10 to 1 on any real improvement of RAMP.

Also, in regards to the Interagency Security Committee—the Interagency Security Committee is not codified. It is a group that makes recommendations and recommended standards of—the

Interagency Security Committee has no teeth. That's my clarification for the record. I appreciate the time.

Chairman THOMPSON. Well, I appreciate your clarification.

Ms. Richardson raised a question of the RAMP program—committee has already asked GAO to look at it in its next review of FSP. I think they have agreed, based on what Mr. Goldstein said to the committee today.

So we will see what the facts present themselves on the RAMP program.

But also, I would again like to thank you for your testimony. If, in fact, there is additional information that the committee will need—that you will get it back to us in writing as expeditiously as possible.

There being no further questions, the committee stands adjourned.

[Whereupon, at 12:16 p.m., the committee was adjourned.]

APPENDIX

QUESTIONS FROM CHAIRMAN BENNIE G. THOMPSON OF MISSISSIPPI FOR GARY W. SCHENKEL

Question 1a. FPS has increased inspections at high-risk facilities in metropolitan areas, but rural areas often do not get inspected.

What are the major risks of not inspecting these facilities?

Answer. Rural facilities are inspected. As is the case with all Federal facilities, it is necessary to test the countermeasures utilized at these facilities to ensure that they are designed and functioning appropriately to mitigate vulnerabilities to the identified credible threats. If the countermeasures in place at these facilities are not tested, then it is more likely that technical, operation, or design problems will not be readily identified. As a result, the ability to provide appropriate recommendations for repair or replacement and oversee the implementation of those remedial measures through to completion would be inhibited.

Question 1b. What should FPS do to increase inspections in rural locations?

Answer. The Federal Protective Service (FPS) has already instituted an increase in both post inspections and file audits, and works to ensure that all Federal facilities are safe and secure. This responsibility includes numerous aspects of physical security and protective countermeasures to protect Federal employees. FPS achieves this goal through a risk-based approach to conducting security assessments, offering emergency planning services, and providing physical security to these facilities. The increase in the frequency of post inspections and file audits properly assesses contract performance, facility risks, and countermeasure effectiveness.

FPS has also increased the requirements of Directive 15.9.1.3, Contract Protective Security Force Performance Monitoring, for administrative audits of records from 10 percent of the files annually to 10 percent of the files monthly. This directive established organizational responsibilities for post, site, and administrative inspections by field representatives and annual contractor performance evaluations conducted by the FPS Contracting Officer's Technical Representatives (COTR). A 20 percent increase in these inspections took place across all facilities, including rural locations.

Question 2a. It is the understanding of this committee that, in rural areas, tenant agencies sometimes conduct post inspections.

How often does this happen?

Answer. FPS personnel conduct post inspections in accordance with Directive 15.9.1.3, Contract Protective Security Force Performance Monitoring. This Directive requires the inspection of all posts and shifts twice a year, including evenings, weekends, and holidays, to ensure contractor compliance. There are further requirements that prescribe that all posts and all shifts at Level I and Level II facilities receive inspections twice a year, that at least two posts at Level III facilities receive inspections every 2 weeks, and that at least two posts at Level IV facilities receive inspections every week.

At all of our facilities, tenants also have a high level of interaction on a daily basis with the security force personnel as they enter and exit their facilities. The tenants frequently provide feedback to FPS on the security force performance. At those locations where tenants have requested that FPS appoint an Agency Technical Representative (ATR) to assist the FPS COTR with limited on-site contract monitoring and administration, the ATR may conduct post inspections, but it is not required. As an employee of the tenant agency, an ATR may report to FPS anytime they observe problems associated with security posts on an as needed basis.

Question 2b. Do you believe that FPS should rely on tenant representatives for this task?

Answer. FPS does not and should not put the tenant agencies in the role of oversight support of the contract security force; however, as the daily "users" of the secu-

rity force services in the facilities, the tenants are a legitimate source of information for FPS on how the security officers perform their designated functions.

Question 3a. You found that RAMP is not fully operational and that it is not effective because it does not contain reliable information that is available on a real-time basis.

Why is the information in RAMP unreliable?

Answer. The information in the Risk Assessment and Management Program (RAMP) is reliable. RAMP is designed to provide real-time access to information that is constantly being modified and updated through an iterative process to ensure that the most up-to-date information is available. A challenge of this process is ensuring that the information is verified, and the method of verification will vary depending on the type of information. Accordingly, RAMP is functioning correctly by readily highlighting gaps in information that previously took extensive research to identify.

Accordingly, the Federal Protective Service (FPS) is working to institute a process for making corrections to information that will benefit the General Services Administration, FPS, and tenant agencies. Since RAMP incorporates a wide range of information into a single system, as FPS identifies needed corrections, it is taking appropriate action to determine, verify, and load the correct information.

Question 3b. In your opinion, should FPS continue to invest in RAMP or should it pursue another alternative?

Answer. Yes, FPS should continue to invest in RAMP. The system is now being implemented and is ahead of schedule in developing and instituting its planned functionality. As discussed above, RAMP is doing one of the major tasks it was designed for—fusing information from multiple sources to identify inconsistencies so that they can be corrected. As such, RAMP is proving itself as a solid solution to support FPS operations well into the future.

Before making the initial decision to invest in RAMP, FPS evaluated 200 other risk assessment tools, methodologies, and programs and none of them were able to meet even 20 percent of the stated requirements. This led FPS to determine that the best option was to invest in building the RAMP system to meet all of FPS’ requirements. In doing so, RAMP is the only tool available that adheres to FPS business processes, the baseline criteria for risk assessment methodologies in the National Infrastructure Protection Plan, and Interagency Security Committee standards.

Question 4. If FPS were to Federalize guards at the highest-risk facilities, approximately how many new Federal positions would this likely create?

Answer. At the Government Accountability Office’s suggestion, the Federal Protective Service (FPS) has explored several possibilities from converting the entire contract guard force of nearly 15,000 persons to Federal positions and numerous variations within that number. On average, conversion costs approximately 35–40 percent more, not including recruiting and hiring costs. FPS does not believe this would be an efficient use of resources. However, to be responsive, FPS estimates that to fully staff the high-risk facilities (level 3 and level 4) and replace contract guards with full-time Federal FPS employees, the following number of Federal positions would be created (the numbers below reflect a one-to-one replacement of contract guards with Federal positions:

ESTIMATED FULL TIME EQUIVALENT (FTE) TO REPLACE PROTECTIVE SECURITY OFFICERS AT LEVEL 3 AND LEVEL 4 FACILITIES

	Level 3 Facility	Level 4 Facility	High Risk Total
Federal Security Officers	1,341	7,007	8,348
Supervisors and Management	76	397	473
Mission Support and Compliance	105	577	682
Total Estimated FTE	1,522	7,981	9,503

Question 5. You found that in 53 penetration tests FPS performed since July 2009, guards failed to detect guns, knives, and fake bombs in 35 tests. What disciplinary action was taken against guards or their employers responsible for these failed penetration tests?

Answer. A variety of actions were taken in regards to the 35 failed penetration tests and the application of remedies varied as well, ranging from whether or not there was evidence of a systematic performance problem to the feasibility and success of the contractor’s submitted mitigation plans. The actions and remedies em-

ployed under these contracts included the revision of post orders in cases where inaccurate or ambiguous post orders may have contributed to the penetration; request and receipt of mitigation plans from the contractor by the Contracting Officer; documentation of inspection results in contractors' annual performance assessments; or in the most severe cases, the cancellation of a contract or an election not to exercise additional option periods.

QUESTIONS FROM HONORABLE CHARLES W. DENT OF PENNSYLVANIA FOR GARY W. SCHENKEL

Question 1a. One criticism of FPS is that it does not share training and certification information of previous contract guards when a contract is taken over by a new contractor.

Does FPS currently have any mechanism by which it can share training and certification information when a contract is taken over by a new contractor?

Answer. The Federal Protective Service (FPS) does not provide any training and certification information to new contractors. Protective Security Officers (PSOs) are employees of the contract security vendor. It is the contractor's responsibility to provide PSOs who meet the training, certification, and clearance requirements to work on the contract and maintain copies of the associated documentation. FPS does not maintain copies of the training and certification documents.

FPS has recently updated its National Statement of Work (SOW) to be included in all new PSO contracts. The updated SOW will require any out-going incumbent contractor to provide a successor contractor with personnel records of existing PSOs—such records will include but are not limited to training, medical, suitability, and security records. These records must be provided to the successor at least 45 days prior to the date of contract expiration. The contracts will stipulate that any failure to provide all records to the successor contractor as required may result in FPS withholding final payment to the out-going contractor until completion of this action and may also negatively impact the out-going contractor's performance assessment.

Question 1b. To what extent does FPS consider past contractor performance in awarding new contracts?

Answer. FPS' standard practice and policy is to evaluate past performance in all source selections. This is generally the most important factor of all non-price evaluation factors. When evaluating past performance, FPS considers the relevance and quality of past projects performed and reviews project data and responses to the provided questionnaires. In addition, the Federal Acquisition Regulation provides that the Government may consider information from any other sources when evaluating past performance, and FPS does so. This may include a review of performance assessments maintained in the Past Performance Information Retrieval System, the Federal Government's repository of contractor performance information, first-hand knowledge of the Source Selection Official, and communications with anyone with information concerning the contractor's past performance.

QUESTION FROM HONORABLE CHARLES W. DENT OF PENNSYLVANIA FOR MARK L. GOLDSTEIN

Question. What specific factors would you like FPS to consider when undertaking this reassessment?

Answer. Overall, we think it is important for FPS to consider other alternatives to protecting Federal facilities. For example, FPS could consider Federalizing the entire contract security guard workforce or guard posts at key Federal facilities.

Specifically, we think that FPS should consider the following factors when undertaking this reassessment:

- *Risk management*—A comparative analysis of risk across GSA's entire Federal facility portfolio, which FPS could use to guide resource allocation decisions.
- *Cost*—An understanding of the comparative costs of each alternative.
- *Coordination*—Outlining the steps needed to clarify roles and responsibilities and information-sharing mechanisms to ensure full *Federal agency coordination*.
- *Guard capability & training*—Evaluation of the guard capabilities needed and training requirements for each option.
- *Guard supervision*—Consideration of the types of guard supervision models needed to ensure effective oversight of contract security guards.
- *Technology*—Identification of other technologies to supplement and enhance contract guard workforce.

QUESTIONS FROM HONORABLE CHARLES W. DENT OF PENNSYLVANIA FOR CLARK
KENT ERVIN

Question 1a. Media reports last year criticized the TSA for having testing requirements that were too difficult, particularly when it came to identifying IED components in X-ray machines. Too many screeners were failing on their first test, though the vast majority ultimately passed. Some groups criticized TSA's testing processes as being overly burdensome.

What are your thoughts on TSA's statutorily required annual testing process for its transportation security officers?

Answer. Response was not received at the time of publication.

Question 1b. Is it too difficult?

Answer. Response was not received at the time of publication.

Question 1c. Should we consider extending it to FPS employees?

Answer. Response was not received at the time of publication.

Question 2. Some critics claim that FPS awards contracts to the lowest bidders and fail to reflect past contractor performance or higher wages and training some contract guard companies provide for their employees, thus making their bids much higher.

In your experience as Inspector General, did you find that FPS awarded contracts solely based on the lowest bidder?

Answer. Response was not received at the time of publication.

QUESTIONS FROM HONORABLE CHARLES W. DENT OF PENNSYLVANIA FOR DAVID L.
WRIGHT

Question 1a. In your testimony in November you recommend that FPS begin Federalizing contract guards at level IV facilities. In your testimony today you recommend that FPS also Federalize some Level III facilities.

In your view, what is the major benefit in having a Federalized guard staff at Level III and IV facilities?

Answer. Federal Police Officers have a predictable cost, standardized training, can be easily adapted to changing standards, can be held individually accountable by their supervisors, and are clearly mission-focused. This method has been chosen rather than contractors for the White House, Congress, and DOD Installations because it works and provides the best predictable level of protection.

Contract guards have constantly escalating costs, recent Service Contract Act wage adjustments have been as high as 20% in Washington, DC and other areas. Training is conducted by the company and has not been equal even among different branches of the same company (there have been cases of fraudulent certification). Adaptation to emerging threats requires contract modification, negotiation of "equitable adjustments" to pay the contractor for his differences, disciplinary requirements differ greatly between companies and they fear liability for wrongful termination, and most contract guards do not see the field as a career, resulting in excessive turnover.

With Federal Police Officers, the overall major benefit is improved protection and a much stronger likelihood that an attack will be deterred or detected before major loss of life or property.

Question 1b. Why not have Federalized guards at Level I and II buildings?

Answer. Local 918 believes that ultimately all guards should be Federalized. For example on Capitol Hill even the parking garage (non-Capitol Police) security are Federal. When one of our members asked one of these security staff if they were contractors, he replied "of course not security at any Congressional facility is too important to trust to a contractor". Eventually security at these lower-risk buildings should be considered for conversion, our position is to convert at the higher-risk facilities first.

Question 2. In your testimony you cite the need for Congress to provide a different approach to the funding of FPS. You claim that the present system of funding by security fees is ineffective and counterproductive.

In what way would a direct appropriation improve FPS operations and thus improve security in Federal buildings?

Answer. Currently, each Federal Agency must pay out of their appropriation, FPS Basic Security Charges, FPS Building Specific Security Charges and FPS Security Work Authorizations. FPS Basic Security Charges represent law enforcement and security services provided to all GSA Buildings.

The current arrangement would be similar to requiring the Allentown Fire Department, Public Works Department, Water Department, and Solid Waste Department each being required to pay the Police Department for law enforcement/security services. Under this scenario the Police Department would have to collect the

charges, while the other departments would be forced to pay the charge out of their operating funds. It would clearly undermine the ability of the Police Department to complete its support mission to these other departments and be very inefficient. It surely wouldn't make sense in Allentown and it doesn't make sense in the Federal Government either. In fact one of the major reasons for creating a DHS was to have a central point responsible for security—the current system undermines the very purpose of the Department.

FPS Operations would be improved because we could request specific resources matched to required security needs. This would prioritize law enforcement and security services to match criminal and terrorist threats, as opposed to a standard "charge" across all agencies. The security required to mitigate the risk of attack for each facility would be provided in one appropriation and the Department and FPS would be accountable to Congress, our supported tenant agencies and the public for protecting Federal buildings. Providing adequate funding based on specific requirements and priorities, rather than an intra-government funding scheme seemingly designed to diffuse responsibility and accountability, would provide clearer visibility of protection needs and shortfalls. This would be a clear path to properly protecting Federal facilities.

At a minimum, the actual operating costs for basic law enforcement should be appropriated followed by building specific security required by minimum ISC standards would enhance the protection of both Federal employees and buildings by providing these services on the same basis they are provided at all levels of government.

QUESTIONS FROM HONORABLE CHARLES W. DENT OF PENNSYLVANIA FOR STEPHEN D. AMITAY

Question 1. With regard to FPS contracts oversight and management, in your testimony you testify that quality should always play a primary role when selecting a private security company. You also cite tangible reasons why higher-quality security costs more money.

In your experience, does FPS accurately assess the quality of contract guard security by considering past performance or does FPS award contracts solely based on cost in awarding of contracts?

Answer. A typical FPS contract for guard service is awarded for a base period (or year) with four option periods (years). It therefore takes at least 5 years to cycle through a contract and if a poor performer is chosen on price, it is difficult to terminate that contract. However, it has recently been done here in the Washington Region (Region 11) on more than one occasion. The FPS procurement policy is evolving and they have made significant strides toward moving away from cost as the primary reason for award. However, as there may have been more importance put on price on contracts awarded in the recent past and some of those contractors may still hold their contracts. There is also the issue of regionalization. Not all FPS regions pursue quality with the same vigor and some may give more credence to cost (in comparison to quality) than others.

Question 2a. In your previous testimony you cited significant reductions in the FPS inspector and law enforcement officer force having exacerbated problems at FPS.

Given shortages in FPS staffing that remain uncorrected, going forward, do you believe FPS has the resources it needs to make strides to rectify the contract guard program?

Question 2b. If not, what increase in resources would you recommend?

Answer. With its current level of resources, FPS can take various actions and implement improvements to rectify problems of the contract guard program. Improvements can be made through better and more consistent training, better oversight and contractor management, full utilization of RAMP, better communication with contractors and in other ways that do not necessarily require increased resources to undertake. Additionally, taking more effective action in cases of underperforming contractors and completing required performance evaluations are ways to improve that are not dependent upon having more resources. However, it does seem that if more resources were available and could be used to hire more COTRS and inspectors, who are vital to procurement, oversight, and management of the contract guard program, that would lead to improvement. More resources could also provide for more awards (and higher contracts) to companies that can and will provide better-trained, -paid, and -qualified officers.