



STATEMENT

OF

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U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT

U.S. DEPARTMENT OF HOMELAND SECURITY

BEFORE THE

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS
AND EMERGENCY MANAGEMENT

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

U.S. HOUSE OF REPRESENTATIVES

“THE RESPONSIBILITY OF THE DEPARTMENT OF
HOMELAND SECURITY AND THE FEDERAL PROTECTIVE SERVICE
TO ENSURE CONTRACT GUARDS PROTECT FEDERAL EMPLOYEES AND
THEIR WORKPLACES”

JUNE 21, 2007

WASHINGTON, D.C.

INTRODUCTION

Chairwoman Norton, Ranking Member Graves and distinguished Members, thank you for this opportunity to appear before you today to discuss the Federal Protective Service's (FPS) responsibilities to ensure that contract guards protect federal employees and their workplaces, along with FPS's response to a recent situation within the National Capital Region (NCR) regarding the contract guard security company, STARTECH.

The contract guard program is a critical mission requirement of the FPS. Approximately 15,000 contract security guards stand post throughout the nation protecting federal facilities under the direction and control of FPS. FPS Inspectors monitor compliance with contract requirements each and every day. Guards are the front line of defense with their federal partners at FPS. We are proud of the progress we have made in the last year and we are thankful to Inspector General Skinner and his staff for their ongoing work with us in the management of this program. I hope that both I and Ms. Lewis will have an opportunity to share our progress and some of the challenges that still remain for FPS.

FPS remains committed to the highest level of security contractor compliance and we fully understand it is a critical component of our mission. Our Inspectors are actively monitoring compliance each and every day and we have made tremendous progress in the NCR and throughout the country within the last year. I wonder what would have happened if the recent events that bring us to this hearing had taken place one year ago,

before we had implemented some of the strong management controls put in place after the review by the Inspector General and our own restructuring. In that event, I am not certain that FPS would have had such a seamless transfer of responsibilities, ensuring that our posts were covered and that the men and women who work and visit those affected facilities were fully protected.

I wish to provide a high level review of some of the improvements that have been instituted over the last year within FPS. We established and strengthened the Centralized Contracting Group within FPS, strengthening those resources by adding 22 additional personnel. We addressed previous problems with delays in payments of invoices and completed the transition to a centralized invoicing process as of May 14, 2007. The average processing time from receipt of invoice to scheduled payment is now 13 calendar days, which has been consistent for the past three months. During this same period 940 of 1,000 invoices have been paid on time, and 57 total invoices had interest charges of approximately \$8,800, and we were able to realize \$24,000 in discounts during this same period due to early payments of the invoice.

Additionally, we have made Contracting Officer Technical Representative (COTR) training a priority, and trained over 180 Inspectors in the NCR and throughout the nation this last year. We have also just rolled out a new COTR guidebook for FPS Inspectors.

We want to work with the committee on other approaches to address the real systemic issues that we continue to uncover and address. We will review various approaches to

include certain certifications by companies and their principal officers and further reporting requirements related to changes within the company.

However, I would like to now focus on recent events that were of serious concern to FPS, to our partners in the security guard industry, and to this Subcommittee.

On Saturday, May 26th, the Regional Director FPS in the NCR was informed by U.S. Department of Agriculture (USDA) security personnel of a rumor concerning possible default of payment to contract guards within the NCR by STARTECH.

STARTECH is a contract guard company that provided security guards to 14 facilities in the NCR under five contracts administered by FPS. One of the contracts was awarded in July 2001; a second contract was awarded in September 2003. Both of these contracts were later extended by FPS by exercising pre-priced option periods. The other three contracts were issued by FPS between July 1, 2005 and April 6, 2006.

The FPS contracts with STARTECH called for 82 Guard Posts and 14 Supervisory Posts for a total of 96 Posts that were established in 14 locations throughout the NCR in Washington, D.C. and Maryland. STARTECH also had contracts with other federal agencies, including USDA, to protect facilities that operate under delegated authority and/or other real property authority.

FPS immediately reached out to STARTECH. On Sunday, May 27th, FPS heard back from STARTECH's Director of Operations for the NCR, Mr. Kevin Grandy. The Director of Operations stated that the company had internal accounting issues and that payroll funds had been sent to the wrong account. He stated further that the company was not going out of business and that he would contact his personnel to ensure that employees were paid and facilities were covered.

Despite the assurances of the Director of Operations, FPS took additional steps to monitor these facilities. Specifically, to gain situational awareness, we dispatched uniformed FPS personnel to monitor security on-site at each facility and confirm contract guard presence.

FPS also confirmed that all invoices and payments to STARTECH were up to date. The FPS Consolidated Contracting Group (CCG) also began to make numerous unsuccessful attempts to contact the President of STARTECH or other company officials at STARTECH headquarters to discuss the status of the company. At the same time, FPS Contracting staff reached out to the Department of Labor for assistance. FPS's NCR immediately developed contingency plans and contacted all affected agencies to brief them on the potential for contract default. The FPS NCR contingency plan provided for uniformed FPS personnel at all 14 NCR facilities to ensure continuity of all operations if STARTECH defaulted on its contract.

On Wednesday, May 30th, we were contacted by a staff member of the full committee through ICE's Office of Congressional Relations. The staff member wanted to inform FPS that this office received complaints from the union representing the contract guards and that the office believed that other irregularities might exist with STARTECH, which could possibly cause the company to go into default.

FPS continued to actively monitor the situation through May 31st. FPS was very concerned that no one in STARTECH management had been responding to our inquiries. Based on our personnel's conversations with the guards, it appeared that STARTECH management was being exceptionally quiet regarding any adverse situation that may have existed within its parent company even to its own employees.

The STARTECH security guards remained on post but all indications were that there were serious concerns related to actions within the company. After not receiving adequate communication in response to inquiries, the FPS Contracting Officer issued a Show Cause Notice to STARTECH on May 31, 2007, which covered FPS's five existing contracts with the company. This letter set forth the various issues that had been brought to FPS's attention and clearly advised that these matters were considered to be endangering contract performance. STARTECH was required to respond to FPS in writing not later than 4:00 PM EST on June 1, 2007. In a conference call, conducted at STARTECH's request at approximately 2:00 PM EST on June 1, 2007, in response to the Show Cause Letter, the President of STARTECH did not provide a reasonable response to questions presented to her by the FPS Contracting Officers.

On June 1st, at 6:15 p.m., I personally visited the Social Security Administration/Department of Education Building located at 500 E Street, SW, Washington D.C. to evaluate the situation. After this visit, I had sufficient information to make the determination that STARTECH was failing to comply with the terms of its contract.

On Friday evening, June 1st, FPS, after receiving an inadequate response to its Show Cause letter, again contacted the Department of Labor and secured an emergency withholding request, which allowed FPS to withhold payments from STARTECH. DOL immediately initiated an investigation of STARTECH for the alleged wage violations impacting security guards at the 14 facilities covered by FPS contracts.

During the weekend of June 2nd and 3rd, FPS scheduled uniformed FPS Inspectors to be on-site and observe STARTECH operations and to provide any security coverage needed in the event of STARTECH's failure to fulfill its contract. On Sunday, June 3rd, FPS terminated the STARTECH contracts for cause after STARTECH failed to staff five additional contracted guard posts over the weekend that were covered by FPS Inspectors.

At the same time, members of FPS's CCG issued an emergency contingency Request For Quotations (RFQ) seeking quotes for services covered by the STARTECH contracts in

the NCR. CCG staff reviewed the bids, and, working with ICE HQ, ensured that a new contract was in place by Monday morning, June 4.

FPS took action to actively assist the security guards previously employed by STARTECH. A great majority of STARTECH guards remained on post, dedicated to their mission and at personal financial risk. On Monday, June 4th, I personally spoke with the Chief Executive Officer of NASPSO, the major union representing STARTECH employees, to encourage him to have his members contact Frontier Contract Guard Company, the new contractor. Frontier pledged to do everything it could to ensure that the former STARTECH employees were hired onto its payroll as soon as possible with no lapse in service for the guards. The men and women of STARTECH who stood post did nothing wrong and we salute their dedication.

ICE/FPS Consolidated Contracts Group (CCG) officers are working tirelessly and very closely with the DOL to expedite the STARTECH investigation. FPS is engaged in this process to make certain that all affected federal customers receive the highest level of security and that these guards are treated with appropriate respect.

I know that we are on the right path to strengthening our contract guard program. I am proud of the very dedicated men and women of FPS and their proactive approach to addressing our recent concerns within the NCR. We remain committed to further

improving our contract guard program and look forward to working with this committee in that regard.

Thank you again, Chairwoman Norton and Ranking Member Graves, for holding this very important oversight hearing. I would be pleased to answer any questions.