

THE FEDERAL PROTECTIVE SERVICE: TIME FOR REFORM

HEARING

BEFORE THE

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS UNITED STATES SENATE

OF THE

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

—————
JULY 8, 2009
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Available via <http://www.gpoaccess.gov/congress/index.html>

Printed for the use of the
Committee on Homeland Security and Governmental Affairs



U.S. GOVERNMENT PRINTING OFFICE

51-791 PDF

WASHINGTON : 2010

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THE FEDERAL PROTECTIVE SERVICE: TIME FOR REFORM

WEDNESDAY, JULY 8, 2009

U.S. SENATE,
COMMITTEE ON HOMELAND SECURITY AND
GOVERNMENTAL AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 10 a.m., in room SD-342, Dirksen Senate Office Building, Hon. Joseph I. Lieberman, Chairman of the Committee, presiding.

Present: Senators Lieberman, Akaka, McCaskill, Burris, Collins, and Voinovich.

OPENING STATEMENT OF CHAIRMAN LIEBERMAN

Chairman LIEBERMAN. Good morning. The hearing will come to order. Thanks to everyone for being here.

The Federal Protective Service is the agency responsible for safeguarding 9,000 Federal buildings, the hundreds of thousands of Federal employees who work in them, and millions of people who come in and out of those buildings every year in cities all across America.

Two years ago, Senator Collins, Senator Akaka, Senator Voinovich, and I asked the Government Accountability Office (GAO) to tell us how the Federal Protective Service (FPS) is doing its job. The answer GAO gives us today is simply that FPS is not doing its job. Most jarring, we will hear today that GAO investigators were able to smuggle liquid bomb-making materials into all of the Federal buildings they tested—that was 10—all of them—past apparently unsuspecting guards who did not possess the equipment to detect it, how they were then able to build real bombs in those 10 cases in restrooms, and then move throughout the buildings unbeknownst to the guards.

GAO produced its first response to our request for an investigation of FPS last June, a broad analysis that concluded FPS lacked adequate financial and management practices, severely hampering its overall mission to keep Federal buildings and employees working within them safe.

GAO's second report, this time specifically on the management of FPS's private contractor guard staff, is actually due later this summer. But preliminary conclusions which the Committee received and which are being released today were so disturbing to us that we decided to air them immediately to accelerate and intensify the work of turning the Federal Protective Service agency around.

(1)

In short, GAO has found that the Federal Protective Service is not doing anywhere near enough to make sure that its 13,000 private contract guards, the first line of defense at Federal buildings, are qualified and trained for their jobs or are actually doing what they were hired to do. FPS contract guards are required to have more than 60 hours of training, including training on how to operate metal detectors and X-ray equipment, pretty basic stuff for a guard. GAO found that in many cases, guards received no X-ray or metal detector training at all.

The Federal Protective Service also requires guards to maintain certain certifications, for example, in cardiopulmonary resuscitation (CPR), first aid, firearms, and to provide proof that they have not been convicted of domestic violence. But GAO found that 73 percent of FPS contract guards lacked valid certifications in one or more of these critical areas.

The GAO report describes how, after new guards were hired, the Federal Protective Service did little to ensure that they complied with relevant rules and regulations. For example, FPS did not conduct inspections of guard posts after regular hours, but GAO did and discovered guards taking prescription medication while on duty and sleeping on an overnight shift.

In one truly unbelievable case, an inattentive guard allowed a baby to pass through an X-ray machine conveyor belt. That guard was fired, but he ultimately won a lawsuit against the Federal Protective Service agency because the agency couldn't document that he had received the required training.

The most shocking affirmation of these troubling findings was when GAO investigators were able to smuggle that liquid bomb-making material into 10 high-security Federal buildings around the country—10 of 10 tested—all without detection.

As we approach the eighth anniversary of September 11, 2001, and 14 years after the bombing of the Federal Building in Oklahoma City, it really is outrageously unacceptable that the Federal employees working within our Federal buildings and the citizens who pass through them are still apparently so utterly exposed to potential attack by terrorists or other violent people.

The fact is that the Federal Protective Service agency has suffered serious budget shortfalls in recent years which forced it to limit hiring, training, and overtime and to delay equipment purchases, all of which no doubt contributed to GAO's findings, but frankly don't explain them or excuse them.

I know the agency has begun making initial adjustments to close the vulnerabilities GAO has documented, but it has a long way to go and its leadership and the leadership of the Department of Homeland Security in which FPS is located must get there quickly.

Senator Collins.

OPENING STATEMENT OF SENATOR COLLINS

Senator COLLINS. Thank you, Mr. Chairman. As you mentioned, the Federal Protective Service is a key component of our Nation's security. Every day, FPS officers and the agency's contract security guards protect nearly 9,000 Federal facilities, the people who work in them, and the visitors who come to them to access vital government services. Unfortunately, the GAO's investigation, as well as

the recent report by the Department of Homeland Security's Inspector General, reveal alarming deficiencies in the Service's protective operations.

Indeed, the GAO's investigation exposed major security failings at every single one of the 10 Federal office buildings that it tested. At each one of these facilities, GAO investigators were able to enter the building with concealed components for a bomb, pass undetected through checkpoints monitored by FPS guards, and proceed to assemble these explosive devices. I share the Chairman's concern that in each case, the GAO was able to carry this penetration out. In this post-September 11, 2001, world that we are now living in, I cannot fathom how security breaches of this magnitude were allowed to occur.

The GAO also indicates that the FPS has failed to maintain effective oversight of its contract security guards. The GAO has indicated that in various regions, the contract guards had expired certifications, including very basic certifications for weapons, baton training, and CPR. We know from previous GAO reports that the FPS no longer proactively or routinely patrols Federal facilities to detect and prevent criminal and terrorism activities. FPS has also reduced hours of operation in many locations and has experienced difficulties maintaining security equipment, such as cameras, X-ray machines, and magnetometers.

As a result, government buildings, the Federal employees who work in them, and the public who visit them are at risk. We taxpayers are simply not receiving the security we pay for and should expect FPS to provide.

Symptomatic of these challenges, in the State of Maine, a large State, there are only two FPS inspectors to cover security at the Federal courts and to conduct the necessary inspections at the 24 ports of entry along the border. It is more than 300 miles from the Federal Courthouse in Portland, Maine, to the port of entry in Fort Kent, nearly 6 hours in driving time. With so few inspectors, FPS lacks the capacity to effectively respond to incidents at the thousands of facilities they are responsible for securing nationwide.

To address these staffing concerns, last year, I joined then-Senator Hillary Clinton and our Chairman, Senator Lieberman, in sponsoring an amendment to increase the number of FPS employees. The need for these trained staff has never been more apparent.

GAO's testimony reinforces the findings of an April report by the Inspector General (IG). From solicitation and award to contract management, the IG found critical failings in the FPS contract guard program. The contract guard sleeping at his post that GAO found illustrates the problems and the dangers. These findings raise a basic question that this Committee has wrestled with before: Should private security contractors be responsible for protecting our Federal facilities? Has the government become overly dependent on contractors to guard Federal buildings?

As we look to improve the Federal Protective Service, we should try to strike a better balance between the number of government employees and contractors performing this vital protective mission. When we do rely on private security contractors, it is imperative that the FPS have a sufficient number of well-trained staff to manage these contracts effectively.

The recommendations of the Inspector General include many concrete steps to improve the award of guard contracts and to increase the training and inspections necessary to strengthen their performance. As the Chairman indicated, there are so many examples of insufficient training. There are examples where there was no training for 5 years in the use of magnetometers and the X-ray machines, although, Mr. Chairman, I must say that I don't think it is a matter of training for a guard to realize that a baby should not be allowed to go through an X-ray machine. That, to me, shows that there are fundamental problems with the system.

The FPS must take immediate action to adopt the recommendations to pay more attention to GAO's findings and to remedy these serious and startling security failures. Congress, too, should move forward with additional security measures to help protect these facilities, our Federal employees, and the American public, and I look forward to working with the Chairman to accomplish that goal.

Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Collins.

Senator Voinovich, because you participated with us in requesting this investigation, would you like to make an opening statement at this time?

OPENING STATEMENT OF SENATOR VOINOVICH

Senator VOINOVICH. I think the two of you have covered the waterfront. Thank you.

Chairman LIEBERMAN. Thanks, Senator Voinovich. Thanks for your partnership in this.

The Senate will begin voting on two amendments around 11 a.m., so we thought we would ask Mr. Goldstein to testify and then we will go through questions. Hopefully, we will get that done before then and then we will go to Mr. Schenkel.

Mr. Goldstein is Director of Physical Infrastructure Issues for the Government Accountability Office. Thank you for your work and we welcome your testimony at this time.

TESTIMONY OF MARK L. GOLDSTEIN,¹ DIRECTOR, PHYSICAL INFRASTRUCTURE ISSUES, U.S. GOVERNMENT ACCOUNTABILITY OFFICE

Mr. GOLDSTEIN. Thank you very much. Good morning, Mr. Chairman, Senator Collins, and Senator Voinovich. We are pleased to be here today to discuss the preliminary findings of our review of the Federal Protective Service's contract security guard program.

There has not been a large-scale attack on a domestic Federal facility since the terrorist attacks of September 11, 2001, and the 1995 bombing of the Murrah Federal Building in Oklahoma City. Nevertheless, the recent shooting death of the guard at the U.S. Holocaust Museum, though not a Federal facility, demonstrates the continued vulnerability of public buildings to domestic terrorist attack.

Thus, one of the Federal Protective Service's most critical responsibilities is to effectively manage its guard program so that the over one million government employees as well as members of the

¹The prepared statement of Mr. Goldstein appears in the Appendix on page 39.

public who work in and visit the 9,000 Federal facilities each year are protected.

To accomplish its mission of protecting Federal facilities, FPS currently has a budget of about \$1 billion, about 1,200 full-time employees, and about 13,000 guards deployed at approximately 2,300 of the 9,000 Federal facilities across the country. While FPS does not use guards at the remaining 6,700 facilities under its protection, it frequently uses other security countermeasures, such as cameras and perimeter lighting, to help protect these facilities.

In our June 2008 report, we found that FPS faced significant challenges in ensuring the quality and timeliness of its building security assessments and in maintaining complete crime statistics. We also reported that its risk assessment process was partially flawed. FPS uses these tools to determine how to protect Federal facilities.

As of June 2009, FPS's guard program has cost about \$613 million and represents the single largest item in its budget. It is the most visible component of FPS's operations as well as the first public contact when entering a Federal facility.

In June 2008, we reported that FPS faced several funding and operational challenges, including oversight of its guard program, that hamper its ability to accomplish its mission of protecting Federal facilities and ensuring the safety of the occupants. We recommended, among other things, that FPS develop and implement a strategic approach to better manage its staffing resources, evaluate current and alternative funding mechanisms, and develop appropriate measures to assess performance. To date, FPS has not fully implemented these recommendations.

My testimony today is based on preliminary findings of our ongoing work and addresses. One, the extent to which FPS ensures that its guards have the required training and certifications before being deployed to a Federal facility; two, the extent to which FPS ensures that its guards comply with post orders once they are deployed at Federal facilities; and three, security vulnerabilities we identified related to the FPS guard program.

The summary of my findings are as follows: One, FPS does not fully ensure that its guards have the training and certifications required to stand post at Federal facilities. While FPS requires that all prospective guards complete about 128 hours of training, including 8 hours of X-ray and magnetometer training, FPS was not providing some of its guards with all of the required training in the six regions we visited. For example, in one region, FPS has not provided the required X-ray or magnetometer training to its 1,500 guards since 2004.

X-ray training is critical because guards are primarily responsible for using this equipment to monitor and control access points at Federal facilities. Insufficient X-ray and magnetometer training may have contributed to several incidents in Federal facilities where the guards were negligent in carrying out their responsibilities. For example, at a Level IV facility in a major city, an infant in a carrier was sent through an X-ray machine when a guard had disabled the machine's safety features and was not paying attention to post duties. FPS fired the guard, who then sued FPS for not providing him with the required training. The guard won the suit

because FPS could not produce any documentation to show that the guard had received the training. In recent discussions, FPS officials from that region could not even tell us whether the X-ray machine's safety features had been repaired.

We also found that FPS's primary system, Contract Guard Employment Requirements Tracking System (CERTS), for monitoring and verifying whether guards have the training and certification required to stand post is not fully reliable. We reviewed training and certification data for 663 randomly selected guards in six of FPS's regions and found that because it was not reliable, that we also had to use databases maintained by the regions or information provided by contractors. We found that 62 percent, or 411 of the 663 guards who were deployed at a Federal facility had at least one expired firearm qualification, background investigation, domestic violence declaration, or CPR or first aid training certification that was missing.

More specifically, according to the most recent information from one contractor, we found that over 75 percent of the 354 guards at a Level IV facility had expired certifications. Based on the contractor information for a third contract, we also found that almost 40 percent of the 191 guards at that Level IV facility had expired domestic violence declarations. Without a domestic violence declaration in place, guards are not permitted to carry a firearm, and FPS, of course, does require guards to carry firearms.

In addition, one of FPS's contractors allegedly falsified training records for its guards, an incident that is currently being litigated. FPS became aware of this alleged violation from an employee of the contractor, not from its own internal control procedures.

Our second major finding is that FPS has limited assurance that its guards are complying with post orders once they are deployed to a Federal facility. FPS does not have specific national guidance on when and how guard inspections should be performed. The frequency with which FPS inspects these posts also varied across the regions. For example, one region we visited required inspectors to complete five guard inspections each month while another region did not have any inspection requirements at all.

We also found that the inspections are typically completed during routine business hours and in metropolitan cities where FPS has a field office, seldom at night or on weekends. On occasions when FPS has conducted post inspections at night, it has often found instances of guards not complying with post orders. For example, at a Level IV facility, an armed guard was found asleep at his post after taking the pain killer Percocet.

Similarly, FPS has also found other incidents at Level IV facilities where guards were not in compliance. While a guard should have been standing post, he was caught using government computers to manage a private for-profit adult website. At another facility, a guard had either failed to recognize or did not properly X-ray a box containing semi-automatic handguns at the loading dock.

Our third principal finding is that we identified substantial security violations related to FPS's guard program. With components for an improvised explosive device (IED) concealed on their persons, GAO investigators passed undetected through access points controlled by FPS guards at 10 Level IV facilities in four major cit-

ies where we conducted covert tests. Our investigators used publicly available information to identify a type of device that a terrorist could use to cause damage to a Federal facility and threaten the safety of Federal workers and the general public. This IED was made with two parts, a liquid explosive and a low-yield detonator, and included a variety of materials not typically brought into a Federal facility by employees or the public.

Of the 10 Level IV facilities we penetrated, eight were government-owned, two were leased, and they included offices of a U.S. Senator and U.S. Representative as well as agencies such as the Departments of Homeland Security, State, and Justice. Once our investigators passed the access control point, they assembled the IED and walked freely around several floors of the facilities and to various Executive and Legislative Branch offices with the device in a briefcase.

In response to the security vulnerabilities we identified during our covert testing, FPS has recently taken steps to improve oversight of the guard program. Specifically, it has authorized overtime to conduct guard post inspections during non-routine business hours and is conducting its own penetration tests to identify weaknesses at access control points.

FPS has conducted limited intrusion testing in the past and has experienced difficulties in executing such tests. For example, in 2008, one FPS region conducted intrusion tests of a Level IV facility and successfully brought a fake bomb into the building through a loading area. During the test, however, FPS agents misplaced the box containing the fake bomb. It was picked up by a guard who took it to the mailroom for processing.

In March 2009, FPS also issued a policy directive intended to standardize inspection requirements across the regions. Implementing these new requirements may be challenging, according to FPS management and some of the regional staff to whom we talked. We will be reporting more fully on our findings with potential recommendations in September 2009.

This concludes my oral statement, Mr. Chairman. I will be happy to answer any questions.

Chairman LIEBERMAN. Thanks very much, Mr. Goldstein. I must say that in all the years I have been hearing GAO reports, that is about the broadest indictment of an agency of the Federal Government that I have heard and it is not pleasant to hear it. Obviously, we are going to try to work together with the agency—as will you, I am sure—to improve its performance.

Senator Collins and I, along with Senator Voinovich and Senator Akaka, will be introducing legislation to reauthorize the Federal Protective Service, but also to respond to some of the findings of your investigation to try to obviously change what exists now, because it is simply unacceptable.

The indictment is a series of findings. To the extent that you are able today, what would you say the problem is here? How could this have been allowed to happen at an agency with such critical homeland security responsibilities? Is it a failure of management at the top level? Is it a failure of supervision at the regional or building level? Is it simply that we are not demanding enough from the

private security firms that we are hiring to protect Federal buildings?

Mr. GOLDSTEIN. I think, Mr. Chairman, that it is all of the things you have just mentioned. Through the work that we have done last year and this year for this Committee, I think we would be able to say that FPS is essentially an agency in crisis. Over the last 5 years, since its transfer from General Services Administration (GSA) to Homeland Security, they have not received the resources and the staffing that would be required. In fact, they were on a downward path until the amendment that Congress passed last year.

There has been inattention at the highest levels of the Department of Homeland Security to the requirements for protecting Federal facilities. Actions by management over the last couple years to try to change and improve things have had some success, but in large measure have been difficult to achieve. A lack of resources has hampered them in not only having enough staff, but in having enough ability to improve the technology components of risk mitigation, as well.

That, combined with what is a relatively antiquated approach to securing Federal buildings through our Federal Building Security Committee Management System, where all Federal buildings have their own committee and help determine what the security levels for those buildings ought to be, has not helped create a structured and uniform process.

Chairman LIEBERMAN. Why don't you say a little more? That gives us a lot to work on, let us put it that way. Talk a little more about the last point you made. Why do the local building committees get in the way of efficient and effective security?

Mr. GOLDSTEIN. There are three tiers to how Federal buildings are protected. There is an Interagency Security Committee that promulgates standards that Federal buildings are supposed to abide by, but they are not mandatory. You also then have the Federal Protective Service, which uses some of its own funds as well as funds provided by tenant agencies to adopt various countermeasures. But the countermeasures need to be approved by Building Security Committees. Every single Federal building, particularly at the Level IV, which is the highest level of security outside of the White House and the Capitol, has a Building Security Committee made up of tenants, and usually the largest tenant of that building is the chair of that committee.

The people who are on that committee, frankly, may be good at the jobs they have at the Social Security Administration or the Internal Revenue Service (IRS) or whatever else, but they are lay people and do not have security backgrounds. So many of the decisions being made about access control and other kinds of security decisions, like the kind of countermeasures that could be adopted or the funding that would be provided to adopt them, are being made by people who, frankly, ought not be making those kinds of decisions.

Chairman LIEBERMAN. So you would say that those standards should be set nationally and uniformly applied to all the Federal buildings?

Mr. GOLDSTEIN. We certainly think it is appropriate for the Federal Protective Service and GSA to sit down and figure out whether the approach that has been adopted over the years is still applicable.

Chairman LIEBERMAN. Let me go to another part of your testimony and your findings. I take it you do feel that the cuts in funding for the Federal Protective Service are part of the problem here, but by no means the whole problem, that this is an agency in crisis.

Mr. GOLDSTEIN. That is correct, Senator. A lot of the management issues have nothing to do with level of resources per se. Not having national guidance and standards for when and how to inspect guards, not having better standards for knowing when guards' certifications have expired, things like that are not resource-based, in our opinion. I think there has been a lack of attention to this part of the protective requirements of Federal buildings.

One of the reasons over the years is the Federal Protective Service has also been pulled away from what many perceive as its principal duty, to protect Federal property, to do other kinds of things within the Department of Homeland Security—

Chairman LIEBERMAN. Such as?

Mr. GOLDSTEIN. To work on National Infrastructure Protection Plans and that kind of thing. Resource constraints clearly do affect the agency. In our last report, we showed that when there were major trials in one region that 75 percent of the Federal Protective Service workforce was shifted to cover a courthouse and essentially left the rest of the region without any protection.

Chairman LIEBERMAN. I will say to you that it was our judgment in terms of funding—you are right. Last year, we were able to hold the Federal Protective Service basically harmless on its funding. Our judgment was, based on your ongoing investigation, that though resources may be part of the problem, they are not the whole problem, and therefore in this budget currently on the floor of the Senate, we didn't push for an increase in funding for the Federal Protective Service agency until we solve the management problem here. We didn't want to just throw more money at the problem until we had hopefully fixed the agency.

Let me ask you to talk a little bit more about the failure to police the certifications that are required of the guards. I find that very troubling, beyond troubling, particularly when you think about expired firearms qualifications and domestic violence problems.

Mr. GOLDSTEIN. It is very troubling, Mr. Chairman. We found in examining the system that it is simply a faulty system that FPS doesn't use itself for the most part. And so they end up having to try to follow the certification process, because it is FPS at the end of the day that is responsible for ensuring that the guards on post are qualified to stand there, not the contractors. And so obviously those certifications are required for them to do so.

But the process they use is very paper intensive. You have essentially one person in each region who is responsible for putting information into a system and they are typically very far behind. So the system isn't used and they use their own back-of-the-envelope approaches.

So when we went to check on the system and found that it wasn't used and isn't reliable, we then went and pulled files ourselves and then talked to contractors to get the most up-to-date information on individuals, which might not have been—to avoid the issue of whether the actual certifications were in place but simply hadn't been recorded, and it turns out that 62 percent of the files we looked at had at least one expired certification.

The problem is, because the system doesn't work, that in almost all cases, FPS relies on the contractor to self-certify at this point in time and to simply say that their guards have the certifications, when in point of fact they often don't.

Chairman LIEBERMAN. A final question. I am over my time. Do the private security companies have a contractual obligation to certify their employees?

Mr. GOLDSTEIN. They are required by the State. The States require these certifications to be in place.

Chairman LIEBERMAN. So right now, effectively, no one is really doing it as comprehensively as it should be done?

Mr. GOLDSTEIN. That is correct. It is far less than comprehensively, Mr. Chairman.

Chairman LIEBERMAN. OK. Thank you, Mr. Goldstein. Senator Collins.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Goldstein, I would like to ask you more questions to understand the penetration tests that GAO carried out. First of all, did GAO use actual bomb components?

Mr. GOLDSTEIN. Yes, ma'am, we did. We did use actual bomb components, but they were at a level that would not actually set the bomb off. The concentration was below the trigger point.

Senator COLLINS. But this isn't a case where you were smuggling in fake bombs. These were actual components for an explosive device?

Mr. GOLDSTEIN. We brought in all the components that we needed to make a real bomb.

Senator COLLINS. And are these components readily available?

Mr. GOLDSTEIN. Yes, ma'am. They are all available through the Internet or through stores. It was under \$150 to procure the various components required.

Senator COLLINS. You see, that information is so disturbing, because it shows how easily a terrorist or a criminal could obtain these materials and smuggle them into a building. Is that a fair conclusion to reach?

Mr. GOLDSTEIN. That is absolutely correct, Senator.

Senator COLLINS. Are these materials, that are easily mistaken for legitimate materials, being brought in by a typical Federal employee?

Mr. GOLDSTEIN. One of the concerns we had, Senator, was that in a number of the locations, three or four of them, the guards were not even looking at the screens that would show the materials passing through. So if a guard had been looking, they would have seen materials that are ordinarily not brought into a Federal building and should have stopped our investigators and asked, why are you bringing these kinds of things into a Federal building? What is your purpose? But in really no case did that occur. In only one

instance did a guard ask about something that our investigator was carrying. A brief explanation. That guard let it go through.

Senator COLLINS. I bring that information out because it is in contrast to the tests that are done by Transportation Security Administration (TSA) periodically at the airport where they will try to smuggle through very sophisticated devices that are cleverly concealed. In this case, it sounds to me like GAO did everything but put the word "bomb making materials" on the packages that you were putting through the X-ray machine. But if no one is looking at the screen, it is going to be pretty easy to get materials that are clearly suspect through. Is that a fair conclusion?

Mr. GOLDSTEIN. Yes, Senator, it is. I think if people had been paying more attention to the X-ray machines, or if somebody had decided to give someone a secondary wand, or if they had decided to do a random search of someone, they would have found these materials.

Senator COLLINS. How did you choose the facilities?

Mr. GOLDSTEIN. They were randomly chosen. They were just chosen—our only requirements were that they be a Level IV facility, because we wanted to go to the biggest facilities—

Senator COLLINS. So that we fully understand this, explain what a Level IV facility is.

Mr. GOLDSTEIN. Sure. There are standards that are just now changing. The old Department of Justice standards, which since 1995, shortly after the Oklahoma City bombing, the Department of Justice put out standards that categorized buildings into five levels of security, Level I being the lowest, which is a storefront property, Level V being buildings like the White House, the Capitol, and Central Intelligence Agency (CIA) headquarters. A Level IV building is a building that houses more than 450 Federal employees, has major agencies in it that have probably national security or law enforcement responsibilities, and that, might be a likely target. And so the security requirements for those buildings are higher than they would be for Levels I, II, and III. So we purposely chose Level IV buildings.

Senator COLLINS. For every test?

Mr. GOLDSTEIN. For every test, and we purposely chose buildings which had agencies like Social Security or IRS in it so that you could just go in and didn't need an appointment. All our investigators did was to show a State driver's license. They did not show government I.D., just regular old identification that any member of the public would have to show.

Senator COLLINS. So you chose facilities that are both bigger facilities, busier facilities where there is going to be a lot of traffic in and out. The public will have occasion to visit these facilities. There are hundreds of Federal employees working there every day. And they are the facilities that have the next to the highest level of security, is that accurate?

Mr. GOLDSTEIN. That is correct, Senator.

Senator COLLINS. And that, too, is disturbing because some Federal offices might be located in a commercial building where the Federal office may be the only Federal office there and thus the security may be at a significantly lower level because the building is unlikely to be the target of an attack. But that is not what you

chose. You chose busy Federal facilities, eight of them Federal buildings, two of them leased for Federal space, and with the level of security that is second only to the White House and the Capitol, the very highest level. And yet in each case, you were able to smuggle in actual bomb components and then proceed to assemble them, as well?

Mr. GOLDSTEIN. Yes, Senator. We were able to bring the materials into the building, go to bathrooms—in some cases, bathrooms were locked, but Federal employees let us into those bathrooms, and then we assembled the materials, usually in under 4 minutes. It is a very quick thing to put together. And then we would place it in a briefcase and walked around a variety of Federal offices, both Legislative and Executive Branch offices in the four cities we went to.

Senator COLLINS. Let me just switch very quickly to the issue of the contracts. My reaction was the same as Senator Lieberman's and that is I was wondering why the company that wins the contract isn't required by the terms of the contract to ensure that all of its employees meet all of the certification and training requirements. To your knowledge, is that a contractual requirement?

Mr. GOLDSTEIN. I am not certain of the answer. I do know that FPS has the ultimate responsibility to ensure that people who are standing post in a Federal facility have met all the training and the certifications required to handle that duty.

Senator COLLINS. When our staffs looked at these contracts, we found that for the most part, they were awarded based on the lowest bid price as opposed to the best value. Best value can help ensure the quality as well as a fair price for the contract. Do you think it is a mistake that FPS is using the lowest bidder approach as opposed to a best value criteria?

Mr. GOLDSTEIN. We haven't looked specifically at that, Senator. I think what is more important is for FPS to ensure that in its dealings with contractors, they understand that FPS is going to take them seriously and has systems in place to be able to ensure that these contracts are working as well as they need to be.

Senator COLLINS. Thank you.

Chairman LIEBERMAN. Thank you very much, Senator Collins. Senator Voinovich.

Senator VOINOVICH. Yes. I am going to ask you a series of questions, and if you could keep your answers short, I would appreciate it.

Mr. GOLDSTEIN. Certainly, Senator.

Senator VOINOVICH. First of all, does FPS today have the capacity to evaluate a building in terms of the location of the building and protecting the peripheral area, the technology and the bollards type of thing? And then beyond that, do they have the capacity to look at a building and ascertain just how much human capital they are going to need to secure the place?

Mr. GOLDSTEIN. With respect to the building security assessments, we have reported a number of times that there are some concerns and challenges with how FPS manages that process. They are required to do building security assessments on all the buildings, but in many cases, the individuals are either not fully trained—there are too many buildings that have to be done in a

certain time period—or there are other duties of the officers that get in the way. They are pulled in so many different directions.

Senator VOINOVICH. In other words, the answer is that they don't have the full capacity to look at a building and ascertain from looking it over the type of human capital they are going to need to secure the building. In other words, I would think that for every building, Level IV, for example, you would have a plan, this is what we are going to need to secure this building.

Mr. GOLDSTEIN. I don't think they do. We have also had concerns about their risk assessment process. They don't have complete crime statistics. They don't, as I mentioned, do everything they need to on building security assessments. And their approach to determining a risk assessment process, because it includes the Building Security committees and also doesn't include having a portfolio-wide strategy as opposed to a building-by-building strategy, I think gets in the way of effectively and efficiently protecting buildings.

Senator VOINOVICH. Second, GSA pays for it. Is that a problem? In other words, today, for instance, the Capitol Police are out of the legislative budget of the U.S. Congress. Now, FPS tenants are charged back to GSA. Does that present a problem in terms of funding and going forward properly—

Mr. GOLDSTEIN. Certainly.

Senator VOINOVICH [continuing]. Or would they be better off being paid for separately?

Mr. GOLDSTEIN. The tenants actually pay for it out of their—

Senator VOINOVICH. Yes, but they are Federal tenants.

Mr. GOLDSTEIN. Sure, but it is not GSA so much. It is the tenants. Should it be an appropriation versus a fee-for-service?

Senator VOINOVICH. Yes, that is the question.

Mr. GOLDSTEIN. We have never taken a formal view on that. I think there are many reasons that it ought to be done, though, because I do think it does get in the way.

Senator VOINOVICH. The other question is about contract guards. From what I can see, most of these outfits aren't doing the job that they are supposed to be doing. The issue is, it looks to me like they don't have the capacity to determine whether the contract guards are doing their work. That is, they don't have the oversight that is necessary to do that. Should we go to what we have here at the Capitol with our own police? We have people that work for the Federal Government. Should we farm this out to third parties? I think, Senator Collins, you had mentioned the lowest bid. If you get the lowest bid, you get the lowest quality.

I am in one of those buildings. There are hundreds of people in there. We put their well-being in the hands of a third-party contractor. Does that make sense? Will we ever be able to get to the point where we don't have the kind of things that you found in your investigation by using contractors?

Mr. GOLDSTEIN. I am not sure that you would ever fully avoid those issues, whether it is a contract or a Federal workforce. I think whichever kind of workforce is doing that job, they need to be much better trained and they need to have gone through the kind of background checks and the kind of supervision—

Senator VOINOVICH. Will that ever happen by hiring private contractors, as we have been doing in the past?

Mr. GOLDSTEIN. I think it can happen if FPS puts the resources to ensuring and overseeing it. When you have many parts of the United States where FPS rarely gets to visit the contract workforce except for perhaps once a year, I think you are always going to have these kinds of problems. But that is indeed the case.

Senator VOINOVICH. Our best person, and I am going to try and find out, has been moved from Cleveland out to Hawaii and I would like to know, why are they moving him out? We just don't have the people there to get the job done. It is the same thing all over the country. It is just unbelievable to me that this thing has gone on for as long as it has.

The other thing is that they have talked about Risk Assessment Management Programs (RAMP). We believe that we need to have performance metrics to determine whether people are doing the jobs that they are supposed to be doing. This new system is RAMP, and now they are saying it won't be ramped up in 2011. I think that is not soon enough, is it?

Mr. GOLDSTEIN. Well, we have been concerned about the delays in RAMP and we have criticized FPS for not having the kind of performance metrics they need to do the job and to be able to put together a complete risk assessment approach to the portfolio.

Senator VOINOVICH. Isn't there some commercial program that they could use that is off the shelf instead of starting from scratch and building their own?

Mr. GOLDSTEIN. We have not looked at that, sir. Mr. Schenkel may be able to illuminate that. But we have not actually looked at the RAMP process itself other than to recognize that there are a lot of delays, and in the meantime, things are not getting better.

Senator VOINOVICH. Let us get back to the contractors again. Do you think we would be better off if we got away from hiring contractors and went to our own policing?

Mr. GOLDSTEIN. Senator, it is a policy decision. I think GAO would be uncomfortable making that kind of a recommendation.

Senator VOINOVICH. Do you ever think they will have the supervisory people to make sure that we are not getting poor performance from these people?

Mr. GOLDSTEIN. I think they could if they invested the time, the resources, and had the right management and staffing structure to do it. But it will take a lot more than what they have today. I don't mean specifically in resources, it will take some more resources, but it will take a lot more understanding of how to manage a very large program.

Senator VOINOVICH. Is 1,200 people enough?

Mr. GOLDSTEIN. Probably not, but it is hard to determine how many people they need until they have a risk assessment approach that allows them to determine how to mitigate risk across the portfolio. Right now, it is budget-driven, it is not risk-driven.

Senator VOINOVICH. So from what I can see, you would almost have to start from scratch. They have to evaluate what they need, the number of people and the kind of people, and then if they are going to do the contracting out, they are going to have to have people on board that are supervisors to make sure that they don't get the short end on these contracts.

Mr. GOLDSTEIN. They need to have the systems and the measures in place that would allow them to determine what their goals are, and from those goals, an understanding what the risk is for the portfolio to have a human capital model that would help them deploy the right resources based on where they have determined that the risks ought to be placed.

Senator VOINOVICH. Well, I am anxious to hear Mr. Schenkel.
Chairman LIEBERMAN. Thanks, Senator Voinovich. Me, too.
Senator Burris.

OPENING STATEMENT OF SENATOR BURRIS

Senator BURRIS. Thank you, Mr. Chairman.

Mr. Goldstein, I have been around government a long time and we have some pretty big buildings in Chicago. I hope that none of those tests were done in Chicago. I don't suppose you can reveal where your tests were done, or did you in your testimony reveal any of the locations?

Mr. GOLDSTEIN. You are right. Unfortunately, I can't reveal the locations in a public meeting, sir.

Senator BURRIS. OK. But I would like to know privately whether or not any of those are in Chicago—

Mr. GOLDSTEIN. I would be happy to talk to your staff.

Senator BURRIS [continuing]. Because we have the Sears Tower, which is not a Federal building, but is always a target, so that is a deep concern.

Could you confirm for me, Mr. Goldstein, that GAO ran these tests and only one of the GAO testers was caught going through the detector system with some type of bomb-making materials?

Mr. GOLDSTEIN. Senator, in all 10 cases, GAO investigators were able to get through the metal detectors and the X-ray machines, and assemble their bombs. What I was referring to earlier was that in only one instance did any guard even ask a question. In all the other instances, no one even asked any questions about what was being brought in. But the explanation that the investigator gave the guard satisfied the guard. The material was put back on the X-ray machine and the investigator was allowed to proceed unhindered.

Senator BURRIS. Now, I understand that this would be the normal airport-type security that we go through here in the Dirksen Building. There are guards down there and we have to go through the metal detectors. I assume that is the same type of apparatus that is out in these other buildings—

Mr. GOLDSTEIN. That is correct. They are standard X-ray machines and magnetometers.

Senator BURRIS. My concern is, I think we are pretty well protected here in the Capitol. I have seen lines wrapping around the wall and guards going through bags and pocketbooks very extensively to secure us, and what the GAO indication is, this is not happening in our Federal facilities out in the various States and communities.

Mr. GOLDSTEIN. I can't make a comparison because we didn't look at the Capitol Police, Senator. But clearly, the ability to get into 10 large Federal buildings in four cities and make bombs un-

detected and walk around is an indication that those buildings are not fully secured. That is correct.

Senator BURRIS. I would like to follow up on what Senator Voinovich raised in reference to the ability of FPS to have guards that are Federal employees rather than contract employees. Does GAO have a position on that, because I am pretty sure the Capitol Police are Federal employees. I don't think they are contract guards, are they?

Mr. GOLDSTEIN. You are correct, Senator. They are Federal employees. We don't have a position on whether they ought to be federalized or whether they ought to be private contractors, and frankly, we haven't made recommendations yet at all because we haven't finished the work. We will issue our report in September. But we do feel that regardless of whether they are Federal or contract, the training, the certifications, and the kinds of things they are doing, both to be placed at posts and then once they are on post, to follow post responsibilities, has not been fully adequate.

Senator BURRIS. Do you know if there have been any tests run by GAO on the Capitol itself?

Mr. GOLDSTEIN. That was not part of this work here.

Senator BURRIS. It was not part of the study. Interesting. Now, in reference to the contractors, who is really responsible for training them? Is it a contractor's responsibility or a Federal responsibility? Who is responsible?

Mr. GOLDSTEIN. It is a combination, Senator. The contractor is responsible for making sure that their people are trained, that they get the CPR training and the first aid training. Some of the training is done by FPS, such as the weapons training. All the guards are qualified at a range by a FPS officer. So it is a mixture of the training that is required.

Senator BURRIS. OK. It looks to me like we don't know who actually is doing the training because you said it is a mixture.

Mr. GOLDSTEIN. Well, it is a combination. In other words, there will be classes that the contractors hold for the guards on basic kinds of issues of how to be a guard and that kind of requirements. But some of the training has to be done by the Federal Protective Service, and that includes the firearms training. No guard is supposed to be able to stand post unless they have been qualified by a FPS officer on a range.

Senator BURRIS. In some of our smaller communities where there are Federal facilities, I wonder if there have been any tests in small communities. If I was a terrorist—and I don't want to give them any ideas—but if I was a terrorist, I probably wouldn't try Chicago. I would probably try Centralia, Illinois, which is my home town, where there are 12,000 people. I wonder what type of training—there is a Federal facility in Centralia—that contractor or those guards would have. So did you try any small facilities at all?

Mr. GOLDSTEIN. I would be happy to talk to your staff and let them know exactly where we did go, Senator.

Senator BURRIS. Please do.

Mr. GOLDSTEIN. Certainly.

Senator BURRIS. I would appreciate that. And Senator Collins, the terminology we use in State government is generally the lowest responsible bidder and that lowest responsible bidder means that

the bidder may not be the lowest price, but it has the training and the skills and the ability to carry out the assigned contract responsibilities. And so that is what I would hope the FPS would be looking at in terms of the contract that they sign. Or we ought to look at requiring all of these guards be Federal employees that would go through Federal training processes, even though it might be difficult to do.

But this is alarming in terms of the times that we are living in and the environment in which we are living, that someone who wants to make a violent statement could do so—it doesn't have to be an outside terrorist, it could just be a local angry person. We have this problem with our judges right now and what is happening with them—we did have the family of one of our Federal judges murdered in Chicago. And so something has to be done.

Thank you, Mr. Goldstein. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Burris. I totally agree with you. I mean, look, we just had a few weeks ago that case where the homegrown terrorist who was radicalized here walked into an Army recruiting station in Little Rock, Arkansas, and killed an Army recruiter. Federal buildings are, unfortunately, natural targets for anybody who wants to cause us harm because of their symbolic value and meaning.

This is really serious stuff and I appreciate the work that you have done, Mr. Goldstein. There is always a risk in going public with this, but what we hope is, of course, that going public will generate a rapid response, both from FPS, the Department of Homeland Security, and Congress.

It is ironic that we are focusing on this today in the aftermath of the deadly incident at the Holocaust Museum here in Washington, which as you mentioned, I guess, is not a traditional Federal facility. But it does receive assistance from the Federal Government. But I have asked my staff—maybe they will work with you on it—to just take a look at that, because those guards performed heroically in that crisis, and to take a look at what their arrangements are for their security systems and personnel and the extent of their certification and management. I know it is one facility, but it may be a standard that we want to try to meet in all of our facilities.

I am going to try to see if we can give Mr. Schenkel an opportunity to give his opening statement before we break to go and vote, and then we will come back for questioning.

Mr. Goldstein, I thank you very much and we will follow your work. We look forward to the report later in the summer and we want to work with you on the legislative response, which is urgent, as well. Thank you.

Mr. GOLDSTEIN. Thank you, Mr. Chairman and Senator Collins.

Chairman LIEBERMAN. Mr. Schenkel, we will call you to the table now, Gary W. Schenkel, Director of the Federal Protective Service, and ask you to respond to this very serious indictment of the agency that you head. Please be seated.

TESTIMONY OF GARY W. SCHENKEL,¹ DIRECTOR, FEDERAL PROTECTIVE SERVICE, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, U.S. DEPARTMENT OF HOMELAND SECURITY

Mr. SCHENKEL. Chairman Lieberman, Ranking Member Collins, and distinguished Members of the Committee, thank you for this opportunity to appear before you today. Although the Government Accountability Office has yet to provide the U.S. Immigration and Customs Enforcement (ICE) Federal Protective Service a draft report regarding concerns that have been recently released by the GAO, I welcome the opportunity to appear before you today and to discuss the immediate actions I have put in place to address these security concerns in advance of receiving this report.

As I have testified previously, FPS delivers integrated law enforcement and physical security services to Federal agencies in 9,000 General Services Administration (GSA) owned and leased facilities throughout the United States and its territories. The FPS performs fixed post access control, implements screening functions, and provides roving patrols of facility perimeters and communal open space.

FPS is comprised of 1,225 law enforcement and support staff personnel. FPS also utilizes more than 15,000 contract security guards employed by private companies to supplement physical security services. FPS Law Enforcement Security Officers (LESOs) and more aptly termed as inspectors, are uniformed law enforcement officers who possess the full authority and training to perform traditional police functions.

Currently, FPS has approximately 600 inspectors who are trained as physical security experts and provide comprehensive security services, such as facility security assessments and implementation of testing of security measures. FPS conducts nearly 2,500 facility security assessments every year. In fiscal year 2008, FPS responded to 2,571 protests and organized disturbances, made 1,888 arrests, investigated more than 2,100 accidents, investigated 1,503 larcenies, processed 248 weapons violations, and prevented the intrusion of 669,810 banned items into Federal facilities, with significant assistance of contract guards.

Of the approximately 9,000 buildings protected by the FPS, 1,500 are categorized as Level III and Level IV, our highest-risk buildings.

Upon my arrival in 2007, it was apparent FPS was experiencing some serious challenges. Since its transfer from the GSA in 2003 with a full-time equivalent (FTE) workforce of 1,400 spread across the country in 11 different regions, FPS needed to focus on becoming a single standardized agency. This required a new operational construct as well as developing new business practices. FPS simultaneously faced budget constraints which could have resulted in having to reduce the number of FTEs.

The fiscal year 2008 President's budget supported approximately 950 FTE personnel. To avoid having to reduce the number of FTEs, FPS sought to realize financial savings in other areas rather than cut personnel. Consequently, many programmatic elements, such

¹The prepared statement of Mr. Schenkel appears in the Appendix on page 58.

as training and equipment purchases, had to be rescheduled until FPS received sufficient funding. What remained unchanged, however, was FPS's obligation to protect the 9,000 GSA owned and leased facilities, oversee the 15,000 armed security guards, and manage over 150 contracts.

During this period, FPS carefully assessed its organization and made difficult decisions based on customer input and expectations. This refocusing of effort culminated in a FPS strategic plan that shaped our future activities. In particular, FPS focused on standardizing procedures.

In 2008, the Consolidated Appropriations Act gave FPS needed resources by establishing a workforce foundation of no less than 1,200 Federal FTEs and the authority to raise fees to financially support that number. As a result, in March 2008, FPS embarked on its first hiring effort in more than 6 years. FPS now has 1,236 FTEs. This monumental hiring effort presented new challenges in addition to implementing the FPS strategic plan to create a standardized operation to provide daily operational support to our customers. The strategic transformation of our workforce to acquire the appropriate skills in the appropriate geographic locations will continue to be paramount on our task list and will underpin our comprehensive mission action plan.

When GAO presented its alarming oral report to us several weeks ago, it caused us all grave concern. We have all worked very hard and were taken aback upon receipt of this disturbing news. We knew we had challenges ahead of us, and coincidentally, we have also noted and initiated corrective actions to address these shortcomings.

Within 3 hours of learning of the lapses of visitor screening procedures, I, along with my senior staff, conducted a conference call with the 11 regional directors to brief them on the issues. During that call, I instructed the regional directors to immediately increase the number of inspections of protected facilities in their respective regions, to report directly to FPS headquarters specific actions they would take to address and correct contract guard performance issues.

I promptly issued letters to the regional directors and contract guard companies' customer agencies, FPS employees, and other stakeholders that notified them of the following actions that we would take to address them and some of the GAO findings. These actions included: Establishing a national study group headed by two experienced FPS regional directors to examine FPS visitor and employee screening procedures; directing FPS regional directors to immediately begin to exercise recently established overt and covert inspection techniques to assess various elements of employee and visitor screening processes; requiring regional directors to institute random searches of packages, briefcases, and bags as part of visitor and employee screening procedures, and ensure there are posted signs alerting those entering the building that they are subject to these searches; instructing regional directors to take all necessary action to immediately increase its oversight and inspection of contract guards; directing FPS employees and other stakeholders to be constantly vigilant, to immediately report poor performance of duties by contract guard force to FPS law enforcement personnel or

their supervisors; reminding the contract guard companies that substandard performance by contract guards is unacceptable and will not be tolerated, and informing them the number of frequency of inspection of the guard posts and certifications will increase; issuing an information bulletin to all inspectors and security guards to provide them with the information about package screening, including examples of disguised items that may not be detected by magnetometers or X-ray equipment; contacting all customer agencies and asking that they raise their security awareness and asking them to review their respective building access procedures to ensure they meet their business and security needs; and contacting GSA regional administrators and their offices of security informing them of all of our actions.

Going forward, we have established Tiger Teams headed by senior FPS regional directors and aggressively attacked the challenge of overseeing the contract guard program. Within the next 60 days, the FPS will seek to identify training gaps in the contract guard force and take immediate steps to close them; increase the frequency and vigilance of the inspections of guard posts and contract companies to identify guards with expired certifications and qualifications; establish and develop training schedules to ensure contract guards receive current and adequate training in magnetometer and X-ray screening operations and techniques; and initiate dialogue with the DHS Science and Technology Directorate, the Transportation Security Administration, to explore and research new technologies as well as training opportunities to assist in mission accomplishment.

FPS realizes the evolving nature of security and has been moving forward. We have well over 30 percent of our FTEs involved in various levels of training. We are on our way to becoming a mature, experienced, and well-trained organization. The training process requires a full 32 weeks of intense training to become an inspector.

We have promulgated five new policies that will strengthen the contract guard program, ranging from refinement of the contract award process to the mandatory frequency of guardpost inspections. We have developed seven financial process standard operational procedures and have begun the necessary training to institutionalize the use of these processes.

FPS is in the final development stages of the Risk Assessment Management Program, which will revolutionize the facility security assessment process and negate the need to use the six disparate systems currently used by our inspectors. It will provide accurate and timely codification of guard training and certification processes and post inspections.

The Computer-Aided Dispatch and Information System will standardize reporting procedures, consolidate crime and incident reporting, and time-stamp our operations, thus providing accurate, defensible data to support future staffing models.

FPS will award a contract for the post-tracking system, which will strengthen the accuracy of post staffing and billing and will further reduce the administrative burden on our inspectors, allowing them more time for active patrol and guard oversight. All three of these systems will come online in fiscal year 2010.

In addition to the technological solutions, we are focused on providing greater training and maturity to our workforce. We are dedicated to our mission, to our profession, and to improving our organization to meet the expectations of this extremely important mission.

I want to express to you my personal sense of urgency and commitment to the important responsibility I share with the men and women of FPS in keeping our Nation safe. I am honored to lead the proud and professional men and women of FPS. I can tell you that they are dedicated, determined, and committed to developing, implementing, and maintaining the highest level of physical security to ensure that facilities that they are charged with protecting are secure and their occupants are safe. I am confident that they can be relied upon to ensure the FPS will continue to meet the challenges of its homeland security mission.

Thank you again, Chairman Lieberman and Ranking Member Collins, for holding this important oversight hearing. I will be pleased to answer any questions you might have at this time.

Chairman LIEBERMAN. Thanks, Mr. Schenkel. That vote has gone off and we will go and vote and come back.

I just want to very briefly say that from the statement you have made—incidentally, we don't have a report either. I gather you were briefed, as we were, on an interim basis and the full report will come out later in the summer, hopefully. But I take it at this point, from what you are not contesting the factual basis of the findings of GAO that were critical of the agency?

Mr. SCHENKEL. No, Senator, we are not.

Chairman LIEBERMAN. And insofar as you have offered excuses or explanations, what I heard was that the reduction in the full-time equivalent staff a few years ago may have contributed to some of the criticism that GAO has made this morning, is that correct?

Mr. SCHENKEL. That is correct, Senator. I take full responsibility. I am the Director of the organization. There are some impacting factors that I think have made significant differences and I think they will come to light during the questioning, sir.

Chairman LIEBERMAN. Fine. Senator Collins, do you want to ask a question or two or do you want to wait?

Senator COLLINS. I think I will wait. Thank you.

Chairman LIEBERMAN. OK, thanks.

The Committee will stand in recess. We will get back as soon as we can. It won't be less than 20 minutes. Please stay close at hand.
[Recess.]

Chairman LIEBERMAN. The hearing will come back to order. I thank you, Mr. Schenkel, and others here for your patience while we were over on the Senate floor voting.

Let me ask you an open-ended question, and you were good enough to acknowledge the facts of the GAO report and to list some of the things you are doing, which I appreciate, to respond to the report. And I understand that you haven't been there for years, but you have been there since, I guess, 2007, so you are in your second year. Stepping back so that we may learn, how do you explain to yourself how these things were allowed to happen at FPS?

Mr. SCHENKEL. At FPS in general, or are we specifically talking about these security—

Chairman LIEBERMAN. The security guards, correct.

Mr. SCHENKEL. Yes. It is purely a lack of oversight on our part. I think Senator Voinovich mentioned that perhaps starting from scratch was the way to go about it. In essence, we have started from scratch twice. When I came on board in April 2007, my task was to organize 11 police departments into one.

Chairman LIEBERMAN. When you came on, did you know the agency was in some difficulty?

Mr. SCHENKEL. Not as much as it turned out to be.

Chairman LIEBERMAN. Yes. But as you came on and reviewed what was there, you saw some problems, and one, I take it, is very important, though not particularly sensational, but it sounds like there were 11 fiefdoms, not one uniformly administered national organization, is that right?

Mr. SCHENKEL. That is correct, Senator.

Chairman LIEBERMAN. Go ahead.

Mr. SCHENKEL. At that time, we fully recognized our challenges ahead of us, taking 11 different ways of doing business—I am certainly not saying that was the wrong way to do things, I will just say this was a new era that we had to deal with, so consequently we had to standardize our efforts, and to do so at a time when we were also facing some fairly austere times and had to reduce numbers, we had to concentrate on what our core mission was, and that is the protection mission.

We were fairly distracted in previous years, for a lot of different reasons, none of them valid at this point, but we recognized that our core mission was to protect Federal facilities and their occupants. So we developed a strategic plan to get us there at the same time we were downsizing to a fairly paltry number of people with which to do this. So we had to make some very drastic decisions as to what we would concentrate on, reprioritize our efforts.

Subsequent to that, thanks to the 2008 omnibus bill, we were re-generated, if you will, and we were able to embark with our first hiring effort in at least 6 years—

Chairman LIEBERMAN. And again, those are full-time equivalents, if you will, the people who supervise the contract private security guards.

Mr. SCHENKEL. Yes, Senator. We made a conscious decision to go to the LESO, as opposed to trying to carry both inspectors and police officers because of our core mission. We needed the flexibility, especially with the downsizing. We needed individuals that could do both police officer operations, and the inspection and protection mission.

Getting that rejuvenation, if you will, out of the 2008 omnibus bill and then being able to hire has been a tremendous move in the right direction. We are at 1,236 today.

Chairman LIEBERMAN. Twelve-hundred-and-thirty-six full-time equivalents?

Who supervise the 13,000 to 15,000 private security guards?

Mr. SCHENKEL. Yes, Senator.

Chairman LIEBERMAN. Do you think you have overcome that sense you found that these were 11 fiefdoms, 11 separate police departments, as you said?

Mr. SCHENKEL. When I came here, I made an analogy that we were a ship and it takes 38 miles at sea to turn an aircraft carrier. I think we are probably on mile six, but we certainly initiated the turn.

Chairman LIEBERMAN. Because as I listened to both you and the GAO's witness earlier, in the question of the security guards I was left with a question in my mind about who is in charge. In other words, it seems to me that some of the work done by what I would call the supervisors that are working full-time for the Federal Protective Service is the work that normally would be done as part of a contract by the security guard company. So I wonder if it is clear who is in charge.

Mr. SCHENKEL. The contracts are written very specifically. Whether they are written completely and comprehensively in comparison to our mission, I think bears some scrutiny. We have recognized, fortunately, because we have been involved with the GAO for at least the full 2 years that I have been here, they have provided us validation on many of the things that we have recognized internally as being an inherent responsibility either for the FPS or an inherent responsibility for us to take on that maybe a non-traditional role in the past.

The training issue, I think, is one of the most prevalent. We are responsible for 16 hours of entry-level training of the contract security guards—

Chairman LIEBERMAN. So FPS is responsible, not the security guard company?

Mr. SCHENKEL. That is correct, sir. And I think through our findings, and this report certainly validates it, that we need to be much more involved, and that is our intent, to take a more active part in standardizing the training itself, monitoring the training, and in many cases I think we need to actually deliver the training to ensure compliance and to ensure standardization across all 50 States.

Chairman LIEBERMAN. Finally, before I yield to Senator Collins, one of the ideas under active consideration, as you well know, is to take the Federal Protective Service from Immigration and Customs Enforcement, where it is now, and move it into the National Protection and Programs Directorate (NPPD) of the Department of Homeland Security, maybe into the Critical Infrastructure Protection division, where it certainly seems by your responsibility you better belong. Do you have an opinion on that?

Mr. SCHENKEL. I think that I obviously agree with the new Secretary's opinion that it does align our mission along with that of critical infrastructure protection. I think it will also give us the visibility that I think is necessary for people to recognize that we are the security provider and that we do have a level of expertise that can only get better.

Chairman LIEBERMAN. Yes, I agree. Part of what comes out of this report today is that this has to not only be your urgent responsibility to change a status quo which is unacceptable, and you acknowledge it is unacceptable, but that there has to be involvement from the highest levels of the Department. Mr. Goldstein said that earlier, and we are going to do our best to make sure that happens.

Senator COLLINS.

Senator COLLINS. Thank you, Mr. Chairman.

Mr. Schenkel, I don't doubt that you are very troubled by the GAO's findings and I appreciate your accepting responsibility and your commitment to reforming the agency. What troubles me most is that what GAO found indicates systemic problems. If GAO had been successful in smuggling bomb components into one or maybe two buildings, it still would have been troubling, especially since these are high-risk, high-security buildings. But the fact that GAO succeeded each and every time is so troubling and it indicates a pervasive, systemic problem. So now that you know this, now that you have been briefed, tell me what you believe specifically needs to be done.

Mr. SCHENKEL. Senator, I believe that the GAO report and certainly these penetrations have really pointed out an ambiguity, if you will, in responsibility. There are standards that are assigned to Federal facilities based on the level of risk. There are procedures and processes that are followed to protect such buildings based on that level of risk. But at that point, it starts to get very ambiguous as to who is responsible for actually pinning down the specifics and standardize practices, if you will.

I think that it is our inherent responsibility to not necessarily dictate, but certainly provide a baseline for all of the Federal facilities that would prevent something like this, or certainly mitigate the possibility of something like this happening again. I think that it is a partnership. FPS can't do this alone. FPS needs not only the customer agencies, we also need the GSA, who has always been a good partner with us. And subsequently, we have established at least the baseline, if you will, and submitted this to GSA as a standard that would be prolific across all 9,000 buildings. I think that is a step in the right direction.

Senator COLLINS. You are saying that responsibility needs to be clarified, but do you need more people, more training, more resources in other ways? We can't help you solve this problem unless we know specifically what you need to correct such egregious security lapses.

Mr. SCHENKEL. Well, Senator, right now, we are coming up with some, I think, very aggressive means to address these problems, in particular training of our contract security guards, literally going back out to retrain them. The reality is, it is this same 600 inspectors that are also responsible for inspecting 9,000 buildings over periods of time. It is the same inspectors that respond to high-visibility, high-risk situations such as the terrorist trial that was mentioned earlier in the testimony.

When we were at 1,400, we only had 7,500 guards to oversee. We are now at 1,200 and we have 15,000 guards to oversee. It breaks down to about 10 guard posts, which could actually be multiple guards, for every one inspector out there. That is if all the inspectors are fully trained, healthy, while on the job.

Senator COLLINS. So that sounds like you need more people.

Mr. SCHENKEL. The ratios are much greater now than they were in the past and our responsibilities have grown exponentially.

Senator COLLINS. What about the responsibilities contractually that are put on the private security firms? Shouldn't there be contractual requirements for them to ensure that the certifications are current for their employees?

Mr. SCHENKEL. Senator, there are contractual requirements, but quite simply, you need oversight and you need a means to monitor those and measure their success.

Senator COLLINS. But it sounds like there is no accountability in this whole system. These security firms are being paid tens of millions of dollars a year to provide security for vulnerable Federal buildings, buildings at which thousands of people work and visit each day. Shouldn't FPS be holding the contractors accountable?

Mr. SCHENKEL. FPS's responsibility is to provide the oversight, not only on the guards, but on the contract compliance itself, to ensure that they meet the expectations of the contract. The reality is that FPS didn't have anything that is workable to actually measure that performance. We have some technologies coming online. I know that doesn't solve the problem today, and there is no excuse for what has happened already. I can tell you, though, that we do have some standardized technological solutions to that that will allow us to provide immediate oversight. We have also promulgated several policies in the last several months, but also the reality of that is we need to train to the level of proficiency in those policies before we can get to where we need to go.

Senator COLLINS. What worries me about your response is you have cited technology in the pipeline or people being trained now, it is going to take a while. We have an urgent problem. It isn't just the threat from al-Qaeda terrorists, it is the threat from a domestic terrorist, such as the person who killed the guard at the Holocaust Museum. The threat is here and present and we know from the GAO study—and the GAO study is not the first to identify problems. There was a GAO report in June 2008 that identified serious problems. There is the Inspector General's report of April that identified serious problems. We can't be just working toward solutions. We need to have solutions right now, because every day that we don't, thousands of people working or visiting these buildings are potentially at risk.

I would ask the Chairman to join me in asking you to produce in very short order a corrective plan, or a plan of action that tells us specifically what you are going to do, how you are going to ensure that the contract employees are living up to the requirements for which they are being paid, and also providing us with your needs. We are eager to help you get the resources, the training, whatever it is that you need to help strengthen the security. I think this is urgent enough that you should provide that to this Committee within the next couple of weeks.

Chairman LIEBERMAN. No, Senator Collins. I appreciate it. And as I indicated earlier, and, of course, we have been working together on this, we want to actually put in legislation to reauthorize the Federal Protective Service and make changes that express the urgency that we feel about getting this right. So Senator Collins' request, I join in, which is to let us know within the next week or two what you need.

As I mentioned earlier, for now, we have lost confidence, so we haven't actually advocated for any significant increase in funding with the appropriators this year—and Senator Voinovich, who is a Member of this Committee, is the Ranking Member of the Appropriations Subcommittee on Homeland Security—because we want

to get the structure right and the management right and then come back and try to fund you adequately. But I would urge the same.

And again, we weren't going to hold a hearing on this until the report came in, but we were so jarred and unsettled by some of the preliminary indications in the briefing we got from GAO, we just thought we should go public with it and then work with you and Secretary Napolitano and our colleagues here to get it right quickly, because this is a vulnerability.

Senator COLLINS. Thank you.

Chairman LIEBERMAN. Thanks, Senator Collins. Senator McCaskill, I believe you were next.

OPENING STATEMENT OF SENATOR MCCASKILL

Senator MCCASKILL. Thank you, Chairman Lieberman. I appreciate this hearing and I wanted to focus in on the contracting issue.

It is my understanding that all of these contracts are competitively bid?

Mr. SCHENKEL. Yes, Senator.

Senator MCCASKILL. And do you have a handle on how many different companies are participating in these bids? Is this several large companies or are there lots and lots of smaller companies?

Mr. SCHENKEL. Currently, we have a great number of small businesses, that are involved in the contracting business right now.

Senator MCCASKILL. How many of your current FPS guards are retired law enforcement officers?

Mr. SCHENKEL. I will have to get that for you, ma'am. I don't know.

Senator MCCASKILL. I know in my experience, spending time in courthouses, that when I go to the Federal courthouse in Kansas City, I see a lot of my old friends from the Kansas City, Missouri, Police Department that I used to work with when I was a young assistant prosecutor and they do a great job, these former law enforcement officers. They understand what their job is and I think they do a terrific job, and so I would be curious to what extent has there been any effort to, in fact, use retired law enforcement officers because many of the people who retire from front-line police department jobs are relatively young people, because of the nature of how young they go into policing and the retirement systems that are in place in many communities. Early retirement is not unusual. And so I would like to know that.

And what is the cost to the taxpayer for each contract employee in your Department versus each Federal employee, apples-to-apples jobs?

Mr. SCHENKEL. Well, there really aren't any apples-to-apples jobs, but the contract security guard, we pay roughly \$36 an hour, if you will, but that is not what the contract security guard actually receives. That includes the overhead from the company. Overall, a fully-loaded law enforcement security officer is about \$180,000. That includes training, equipment, travel, uniforms, everything. A contract security guard comes in at between \$63,000 and \$85,000 a year.

Senator MCCASKILL. So it is half the cost?

Mr. SCHENKEL. Roughly.

Senator MCCASKILL. OK. I would like you to give that to the Committee in writing, if you would, what kind of value are we getting out of contracting versus hiring direct Federal employees. We have found in many other instances that once the math is actually done, that it is surprisingly close, the two, and I just think there has been this enormous explosion of contracting in the Federal Government without anyone slowing down and really doing the cost-benefit analysis as it relates to the costs. And obviously, we have a significant cost here that we have talked about at length, and that is the risks when you don't get people who are required.

I notice that two-thirds of your budget, about \$1 billion, are the guards. What is the other third?

Mr. SCHENKEL. The other third is our costs. Our operations and maintenance budget is about \$277 million to support 1,225 FTEs. Of the \$1.3 billion, the rest is either pass-through for contract security guards or other security measures that have to be funded through our customer agencies.

Senator MCCASKILL. So what you are saying is one-third of the budget is administrative support for the other two-thirds? Because your job is actually guarding, correct?

Mr. SCHENKEL. Our job is to provide the recommended protective measures. Our law enforcement mission, our LESOs, our 1,225 FTEs are supported out of that \$277 million. The rest is for countermeasures or supportive countermeasures, that being the contract security guards or equipment that goes along with the security mission.

Senator MCCASKILL. I know that you all have discussed this to some extent, but the 1,200 people, their job is just to be supervising the contract guards?

Mr. SCHENKEL. That is not their lone responsibility, Senator. That is just part of their responsibility. As part of their facility security assessment and then contract performance oversight, it includes not only the active patrol, which is also tied directly to the guard post inspections and oversight. That is a good portion of their responsibility. But they are not directed just to oversee the guards. That is only a part of their mission.

Senator MCCASKILL. And what is the other part of their mission, besides overseeing the guards, if you could?

Mr. SCHENKEL. That is providing the facility security assessments, occupant emergency plans, training for occupants of buildings, their regular law enforcement missions, arrests, prevention of damage to properties, responding to demonstrations—

Senator MCCASKILL. Tell me about the arrests. I mean, where do they have direct line responsibility for arrests?

Mr. SCHENKEL. On the Federal property.

Senator MCCASKILL. So when something occurs in a courthouse that would require an arrest, they are called by the guards?

Mr. SCHENKEL. In a courthouse, it is a slightly different situation in that the courthouse has U.S. Marshals and Court Security Officers, which are their contract security guards. We only do the perimeters of a courthouse. But, say, in a Federal building in Chicago, if there is an incident on that property or in that Federal building, it would be our officers responding and making the arrest.

Senator MCCASKILL. And in terms of security, when we wanted to open an office on a streetfront, was it your employees that came out to look to tell us that we shouldn't?

Mr. SCHENKEL. We are obligated to provide the facility security assessment, in other words, to tell you the benefits or perhaps the problems with opening a Federal facility in a certain location.

Senator MCCASKILL. And that would be one of those 1,200 people that came out to look at the facility that we moved into and give a risk assessment as it relates to that facility?

Mr. SCHENKEL. It is actually only about half of that 1,200. There are only about 600 inspectors of the 1,200 FTEs that actually is involved directly with the facility security assessments, the guard oversight, and the response.

Senator MCCASKILL. Well, it just worries me a little that a third of the budget is for 1,200 people and two-thirds of the budget is for 15,000 people. That seems a little heavy-handed on the 1,200 side. I will take a look at the budget, and if you have any additional information you would like to provide as it relates to that budget, I haven't had a chance to drill down into it, but I want to make sure that you have adequate personnel. And I have no problem, as the Chairman and the Ranking Member said, supporting additional funding for the protection of these buildings because I think it is needed. Obviously, the GAO study showed how desperately it is needed. But I want to make sure that we have a handle on where all the money is being spent now.

Thank you. And by the way, I saw on your resume that you graduated from a college in Missouri, so I wanted to note that. He is a smart guy. He wants to get it right. He graduated from Lindenwood in St. Charles, correct?

Mr. SCHENKEL. Yes, ma'am.

Senator MCCASKILL. OK. Thank you very much. Thank you, Mr. Chairman.

Chairman LIEBERMAN. Well, I am impressed. Thank you. Senator Akaka.

OPENING STATEMENT OF SENATOR AKAKA

Senator AKAKA. Thank you very much, Mr. Chairman. Thank you for having this hearing.

The Federal Protective Service plays a critical role in protecting millions of Federal employees across this Nation and I am concerned that we are not doing enough to secure the Federal buildings that house these employees. Last year, my Subcommittee held a hearing to examine GAO's earlier report detailing troubling shortfalls in FPS. It was a huge concern over a year ago and it still is a concern. That hearing highlighted inadequate funding, staffing, training, and equipment, as well as poor oversight of contract security guards.

In response to a plan to further downsize FPS, Congress acted to require FPS to maintain at least 1,200 employees to adjust its funding to support that staffing. While some progress has been made, it continues to struggle, especially in the area of training and contract guard oversight. Some guards are not receiving mandatory training prior to standing post. FPS does not have reliable

systems for oversight of contract security guards and there is no system in place to verify training certification of guards.

My question to you, Mr. Schenkel, is about cases and policies of oversight exercised. FPS's 11 different regions sometimes have 11 different ways of doing things. I understand FPS recently revised many policies to increase consistency among the regions, including updating post orders and contract monitoring policies. What steps have you taken to ensure these new policies are being followed, and what training is being provided to FPS and contract guard employees on these new policies?

Mr. SCHENKEL. Senator, that is a very good question because that tends to lead to what Senator Collins had asked before. Our plan is comprehensive in nature and we realize many of these shortcomings and we had to reprioritize again after we received this GAO report as to what training was the priority and where it should go and who should be delivering it, which we took on immediately.

As I said, we published seven financial policies and five direct contract guard oversight and contract policies within the last 8 months. However, I am not going to lead you astray and say that we are fully versed on these things and train to them. We have to train to these. We are in the process of doing that right now.

In addition to that, we have also formed a policy compliance unit. If you will, it is an oversight of the oversight. We have a team that we have formed that actually goes out to the respective regions and ensures that, first, that these policies are being taught properly and utilized properly, and then drilled all the way down to that, not only the contract guards, but the Federal Protective Service employees are also being held accountable and held accountable for compliance with these policies.

These are all works in progress. I don't mean by any means to lead you to think that we are right there right now. But we have taken steps in the right direction to get us there.

Senator AKAKA. I mentioned about being concerned with the reliability of your systems for oversight of security guards. Do you have or are you close to a reliable system?

Mr. SCHENKEL. We have three systems that will assist us tremendously. Our first and foremost and most important is our Risk Assessment Management Program. Right now, we are dependent on six different systems, four of which do not belong to us, just to provide a facility security assessment. Because of the cumbersome nature of this system that is in place now, if you will, it can take as much as 8 to 10 days to do one facility security assessment. This new RAMP program will expedite that through defined algorithms that will actually provide a solution based on fact for a facility security assessment.

In addition to that, it will provide the oversight, the necessary compliance pieces, the metrics that will be able to track guard force performance, guard certifications, and guard compliance. We will be able to pull it up just by the individual's name. The individual inspector will be able to pull out his or her laptop, open this up, compare the name and badge number to the individual's training record, and it will be right there. This is coming online in fiscal year 2010.

In addition to that, we have a Computer-Aided Dispatch Information System. Right now, again, as you heard earlier in the testimony, we are dependent on a lot of what I call a stubby pencils and paperwork to keep track of many of the things that we do. The Computer-Aided Dispatch Information System will computerize and combine all of our offense reports, all of our incident reports, and will also time-stamp the activities of all of our people, not just our inspectors. That will assist us in validating and defending good staffing numbers to where we can come to you and say, we need X number because we have demonstrated by using these systems that, in fact, it takes longer to do a facility security assessment in Montana than it may in New York just because of the geographic dispersion.

In addition to that, we also have a post tracking system that is coming in 2010. That post tracking system will replace another stubby pencil and paper drill. Right now, our inspectors are bogged down doing paper copies, ensuring that individual guards are on post. This new post tracking system will be an electronic measure that will automatically identify and define an individual on post, how long he or she has been on post, and take the inspector out of that tedious paper drill so he or she can go out there and provide more oversight, more training for these guards.

All of these are coming online in 2010. In reality, it will also take us until 2010 to be trained up on these systems, to detect any flaws that need to be corrected. It will be a full year, I believe, before we are actually incorporated into all of these systems, our inspectors are confident in the system, and they are all through their training, because we still have half of our force in entry-level training, if you will, to become an inspector. It is a full 32 weeks. Our first new hires are just coming to fruition right now as far as their certifications.

Senator AKAKA. Thank you. My time has run out, but let me ask this question. Given what we have learned here today, what are your top three priorities for FPS's full-time and contract guard workforce as the agency moves forward? So you can provide it for me in writing, if that is all right.

Thank you very much, Mr. Chairman.

Chairman LIEBERMAN. Thank you, Senator Akaka. We have worked together on this, including the initial request that the Committee made for GAO to do this investigation.

Look, Mr. Schenkel, I know that this has been a tough report for you to absorb. This is the first time I have met you, but from all I know of your record, you are a devoted public servant. But the reality here is, and you said it yourself, this is an unacceptable situation. Periodically, we ask the Secretary of Homeland Security, of all the threats to our homeland security, what keeps you up at night? What do you worry about? And I am afraid, based on the GAO report, the guards of the 9,000 Federal buildings in the country and the people who either work in them or come in and out of them now is one of the things that will keep the Committee up at night, if you will.

I know that some of the changes—this is not your fault, but the Federal bureaucracy moves slowly, but this is a crisis. I hate to hear that you have to wait until next year to implement some of

the changes that will make things better. I hope that in responding to the request that Senator Collins mentioned and that she and I make now to you together, that in the next 2 weeks, you will provide some report to us on immediate steps you are going to continue to take to make the situation better and what suggestions you would have for us as we prepare legislation, which we will move urgently through to help you improve the management of this operation so that next year in the budget cycle, or maybe even earlier by way of supplemental, we can provide you additional funding once we have the confidence that the management structure is in place to make this situation better.

I am also going to ask if you will make yourself available, or your staff, on a monthly basis to meet with our bipartisan staff, to just get reports on what has been happening in the previous month. The Comptroller General has a High-Risk List for Federal Government agencies. I think based on today, we are going to put Federal Protective Service on our High-Risk List and we want to work with you to get it off of that list as quickly as possible.

Fair or not, the reality is that in 10 of 10 tests that we heard about today, GAO with bomb-making equipment was able to get into 10 different Federal buildings and assemble the bomb and walk around with it and we just can't have that. I know you agree with that, so that is our mission, to raise our guard, because we also know that our terrorist enemies are out there every day planning ways to attack us, and unfortunately, Federal buildings are a natural, logical target.

Senator Collins, would you like to make a final statement?

Senator COLLINS. Thank you, Mr. Chairman. I just want to thank you for so promptly holding this hearing. I want to commend the GAO for its investigation and our staff for their work on this issue. And I just want to reiterate what you have told Mr. Schenkel. This is a crisis. It is simply unacceptable that we have such a poor level of security at busy Federal buildings that are obvious targets. I don't think we can wait to remedy the problems that were outlined and that we have discussed in depth today.

So I look forward to working with you, Mr. Schenkel, as well as with the Members of this Committee and the GAO to immediately remedy these very serious and alarming gaps in our security. It is truly unfathomable that in the world that we are living in today, with the lessons of September 11, 2001, still fresh in our minds and the most recent incidents that the Chairman mentioned in Arkansas as well as here in Washington, we know the risk is here and we simply must provide better security at obvious targets, such as Federal buildings. Thank you.

Chairman LIEBERMAN. Thank you very much, Senator Collins.

Just thinking as Senator Collins was talking, this is a 21st Century version of the shoemaker's children having no shoes. We accept the responsibility through the Department of Homeland Security to protect the American people, and thank God and thank everybody who works in the Department, we have now gone almost 8 years since September 11, 2001, without another major terrorist attack. The ones that we have had have been local and limited, usually homegrown, and yet we are not doing the job we should do to protect our own Federal buildings. That is unacceptable and I

have every confidence that you will work with us to make sure that we change that.

I thank you. The hearing is adjourned.

[Whereupon, at 12:25 p.m., the Committee was adjourned.]

A P P E N D I X

The Federal Protective Service: In Need of Reform **Homeland Security and Governmental Affairs Committee**

Chairman Joe Lieberman

July 8, 2009

Good morning. The Federal Protective Service (FPS) is the agency responsible for safeguarding 9,000 federal buildings, hundreds of thousands of federal employees, and millions of people who come in and out of those buildings every year, in cities all across the country. Two years ago Senator Collins, Akaka, Voinovich, and I asked the Government Accountability Office to tell us how FPS is doing its job. The answer GAO gives us today is that FPS is just not doing its job.

Most disturbing, we will hear how GAO investigators were able to smuggle liquid bomb-making materials into all of the federal buildings they tested, past unsuspecting guards who do not possess the equipment to detect it; how they were able to actually build real bombs, and move throughout the buildings unbeknown to the guards who are there for the sole purpose of protecting the employees and visitors.

GAO produced its first response to our request last June - a broad analysis that concluded FPS lacked adequate financial and management practices, severely hampering its overall mission to keep federal buildings, and the employees working within them, safe.

GAO's second report - this time specifically on the management of the FPS's private contractor guard staff - is due later this summer. GAO's preliminary conclusions, which are being released today, were so disturbing that we decided to air them immediately to accelerate the critical work of turning the FPS around.

In short, GAO has found that FPS is not doing anywhere near enough to make sure that its 13,000 private contract guards - the first line of defense at federal buildings -- are qualified and trained for their jobs, or are actually doing what they were hired to do.

FPS contract guards are required to have more than 60 hours of training, including training on how to operate metal detectors and x-ray equipment. GAO found that in many cases, guards received no x-ray or metal detector training at all.

FPS also requires guards to maintain certain certifications, for example in CPR, First Aid, firearms, and to provide proof that they have not been convicted of domestic violence. But GAO found that 73 percent of FPS contract guards lacked valid certifications in one or more of these areas.

The GAO report describes how, after new guards were hired, FPS did little to ensure they complied with relevant rules and regulations. For example, the Service did not conduct inspections of guard posts after regular business hours. GAO did, and discovered guards taking prescription medication while on duty and sleeping on an overnight shift. In another unbelievable case, an inattentive guard allowed a baby to pass through an x-ray machine conveyor belt. That guard was fired, but he ultimately won a lawsuit against the FPS because the agency couldn't document that he had received the required training.

In its most shocking affirmation of these findings, GAO investigators were able to smuggle liquid bomb-making materials into 10 high-security federal buildings, construct improvised explosive devices in public restrooms, and move throughout the buildings – all without detection. As we approach the eighth anniversary of 9/11, and some fourteen years after the bombing at the federal building in Oklahoma City, it is outrageously unacceptable that the federal employees working within these buildings, and the citizens who pass through them, are still so utterly exposed to potential attack by terrorists or other violent people.

FPS suffered serious budget shortfalls in previous years, forcing it to limit hiring, training and overtime, and to delay equipment purchases, all of which, no doubt, contributed to GAO's findings. The agency has begun making initial adjustments to close the vulnerabilities GAO has documented. But it has a long way to go and its leadership and the leadership of the Department of Homeland Security, in which FPS is appropriately located, must get there quickly.

Statement of Senator Daniel K. Akaka
“The Federal Protective Service: Time for Reform”
Senate Committee on Homeland Security and Governmental Affairs
July 8, 2009

Thank you, Mr. Chairman. I also want to thank our witnesses for presenting testimony before the Committee today.

The Federal Protective Service (FPS) plays a critical role in protecting the millions of Federal employees that serve this nation. I am troubled that we are not doing enough to secure the Federal buildings that house these employees. Last year, my Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia held a hearing to examine the United States Government Accountability Office’s (GAO) earlier report detailing troubling shortfalls in the FPS. In particular, that hearing highlighted inadequate funding, staffing, training, and equipment, as well as poor oversight of contract security guards.

In response to a plan to further downsize FPS, Congress acted to require FPS to maintain at least 1,200 employees and to adjust its funding to support that staffing. While FPS has made some progress, it continues to struggle, especially in the area of training and contract guard oversight. Some guards are not receiving mandatory training prior to standing post. For example, GAO found that some guards are not trained to operate the x-ray machines and magnetometers they are required to use.

FPS also does not have reliable systems for oversight of contract security guards. There is no system in place to verify training certification of guards. FPS relies on contractors to ensure training and certifications are met, but without a reliable certification system, it is difficult for FPS to tell whether contractor self-reporting is accurate. Additionally, FPS has no national standard for contract guard inspections. The result is a lack of uniformity not only across the eleven regions, but across Federal facilities within those regions.

This lack of training and accountability played a part in investigators’ ability to penetrate ten Federal facilities in four major cities. In three of those instances, guards did not even look at the x-ray screen as materials for an improvised explosive device moved through the machine. This is unacceptable.

If not properly addressed, these training and oversight problems may be compounded as attention is focused on FPS’s transition to the Department of Homeland Security’s National Protection Programs Directorate (NPPD).

FPS is aware of the challenges it faces and appears committed to addressing them. It is my hope that the agency uses information from this hearing and the GAO report to direct the resources necessary to remedy its shortcomings. I look forward to hearing from the witnesses today as we continue the discussion on important issues facing FPS.

**Post-Hearing Statement for the Record
From Senator Roland W. Burris**

**“The Federal Protective Service: Time for Reform”
July 8, 2009**

I want to start by thanking Chairman Lieberman and Ranking Member Collins for holding a hearing that hits close to home for all of us. Your efforts, and the efforts of Senators Akaka and Voinovich, have helped move us closer to a more secure working environment in all of our federal facilities. This being said, I also want to thank the GAO for conducting such a thorough review of the FPS, and I would like to commend the FPS for its consideration of GAO’s findings. I think one of the goals of having a hearing like this is to provide federal guidance and to ensure our cooperation with the FPS in creating a security strategy that is more effective.

The security of our Federal facilities is critically important. We must ensure the protection of employees who work in these buildings. We must ensure the protection of sensitive information and materials that are housed in these buildings. Furthermore, many of these buildings are open to constituents and visitors. The accessibility of our buildings to the American people is one of the greatest aspects of our federal facilities. I do not want anything to jeopardize this. We must have the proper security measures in place to ensure the safety of every person entering these facilities.

Perhaps this is an ambitious goal. The FPS is currently tasked with protecting 9,000 federal facilities and over one million government employees. One of these federal facilities is the Kluczynski Federal Building in the heart of Chicago, where one of my Senate offices is housed. I have no doubt that many of my colleagues are working in federal buildings when they go home to their states. We must continue to work with GAO and the FPS to ensure that all of these federal facilities are adequately protected.

We must avoid --at all costs-- a security breach that could have been prevented by instituting more stringent guard training requirements, employing greater oversight of contract guard programs, and mandating up-to-date guard certifications. After all, these guards are our first line of defense and act as the “eyes and ears” for the FPS.

I understand that GAO has been a key resource for FPS improvement and I am glad that the FPS has committed itself to resolving the problems discussed in the report. Finally, I am pleased to learn that the Secretary of the Department of Homeland Security has committed herself to working with the FPS in implementing alternative funding mechanisms, better staff management systems, and more accurate performance assessments. We all have a vested interest in this issue and I look forward to working with the panelists and my fellow colleagues to get things moving in the right direction.

Statement of Senator Susan M. Collins
Federal Protective Service: Time for Reform
Committee on Homeland Security and Governmental Affairs
July 8, 2009

The Federal Protective Service is a key component of our nation's security. Every day, FPS officers and the agency's contract security guards protect nearly 9,000 federal facilities, the people who work in them, and the visitors who come to them to access vital government services.

Unfortunately, the GAO's investigation and a report by the Department of Homeland Security Inspector General reveal alarming deficiencies in the Service's protective operations.

Indeed, GAO's investigation exposed major security failings at every one of the 10 federal office buildings it tested. At each one of these facilities, GAO investigators were able to enter the building with concealed components for a bomb, pass undetected through checkpoints monitored by FPS guards, and proceed to assemble the explosive device. In this post-9/11 world that we live in, I cannot fathom how security breaches of this magnitude were allowed to occur.

GAO also indicates that FPS has failed to maintain effective oversight of its contract security guards. For example, GAO states that 62 percent of the contract guards in one region had expired certifications, including certifications for weapons.

We know from previous GAO reports that FPS no longer proactively or routinely patrols federal facilities to detect and prevent criminal incidents and terrorist activities. FPS has also reduced hours of operation in many locations and has experienced difficulties maintaining security equipment such as cameras, X-ray machines, and magnetometers. As a result, government buildings, the federal employees who work in them, and the public who visit them are at risk. American taxpayers are simply not receiving the security we pay for and should expect FPS to provide.

Symptomatic of these challenges, in the state of Maine, there are only two inspectors to cover security at the federal courts and to conduct the necessary inspections at the 24 ports of entry along the border. It is more than 300 miles from the federal courthouse in Portland to the port of entry in Fort Kent, nearly six hours in driving time.

With so few inspectors, FPS lacks the capacity to effectively respond to incidents at the thousands of facilities they are responsible for securing nationwide.

To address these staffing concerns, I joined then-Senator Clinton and Chairman Lieberman in successfully sponsoring an amendment to the fiscal year 2008 DHS appropriations bill mandating that the number of FPS employees not be reduced below 1,200.

The need for these trained staff has never been more apparent. GAO's testimony reinforces the findings of the IG in an April 2009 report. From solicitation and award to contract management, the Inspector General found critical failings in the FPS contract guard program. A contract guard sleeping at his post illustrates the problems and the danger.

These findings raise a basic question: should private security contractors be responsible for protecting our federal facilities? Has the government become overly dependent on contractors to guard federal buildings?

As we look to improve the Federal Protective Service, we should strike a better balance between the number of government employees and contractors performing this protective mission. When we do rely on private security contractors, we must ensure that FPS has a sufficient number of well-trained staff to manage these contracts effectively.

The recommendations of the Inspector General include many concrete steps to improve the award of guard contracts and to increase the training and inspections necessary to strengthen contract guard performance.

The FPS must take immediate action to adopt these recommendations and to remedy these serious security failures. Congress also should move forward with additional measures to help protect these facilities, our federal employees, and the American public.

United States Government Accountability Office

GAO

Testimony
Before the Senate Committee on
Homeland Security and Governmental
Affairs

For Release on Delivery
Expected at 10:00 a.m. EDT
Wednesday, July 8, 2009

HOMELAND SECURITY

**Preliminary Results Show
Federal Protective Service's
Ability to Protect Federal
Facilities is Hampered By
Weaknesses in Its Contract
Security Guard Program**

Statement of Mark L. Goldstein, Director
Physical Infrastructure Issues



GAO-09-859T

July 8, 2009



Highlights of GAO-09-859T, a report to U.S. Senate Committee on Homeland Security and Governmental Affairs

HOMELAND SECURITY

Preliminary Results Show Federal Protective Service's Ability to Protect Federal Facilities Is Hampered By Weaknesses in Its Contract Security Guard Program

Why GAO Did This Study

To accomplish its mission of protecting about 9,000 federal facilities, the Federal Protective Service (FPS) currently has a budget of about \$1 billion, about 1,200 full time employees, and about 13,000 contract security guards.

This testimony discusses GAO's preliminary findings on (1) the extent to which FPS ensures that its guards have the required training and certifications before being deployed to a federal facility, (2) the extent to which FPS ensures that its guards comply with their assigned responsibilities (post orders) once they are deployed at federal facilities, and (3) security vulnerabilities GAO recently identified related to FPS's guard program. To address these objectives, GAO conducted site visits at 6 of FPS's 11 regions, interviewed numerous FPS officials, guards, contractors, and analyzed FPS's policies and data. GAO also conducted covert testing at 10 judgmentally selected level IV facilities in four cities. A level IV facility has over 450 employees and a high volume of public contact.

What GAO Recommends

GAO has ongoing work on this issue and will report its complete evaluation along with any recommendations at a later date.

View GAO-09-859T or key components. For more information, contact Mark Goldstein at (202) 512-2834 or goldstein@gao.gov.

What GAO Found

FPS does not fully ensure that its contract security guards have the training and certifications required to be deployed to a federal facility. FPS requires that all prospective guards complete about 128 hours of training including 8 hours of x-ray and magnetometer training. However, in one region, FPS has not provided the x-ray or magnetometer training to its 1,500 guards since 2004. Nonetheless, these guards are assigned to posts at federal facilities. X-ray training is critical because guards control access points at facilities. Insufficient x-ray and magnetometer training may have contributed to several incidents where guards were negligent in carrying out their responsibilities. For example, at a level IV facility, an infant in a carrier was sent through an x-ray machine due to a guard's negligence. Moreover, GAO found that FPS does not have a fully reliable system for monitoring and verifying guard training and certification requirements. GAO reviewed 663 randomly selected guard records and found that 62 percent of the guards had at least one expired certification including a declaration that guards have not been convicted of domestic violence, which make them ineligible to carry firearms.

FPS has limited assurance that its guards are complying with post orders. FPS does not have specific national guidance on when and how guard inspections should be performed. FPS's inspections of guard posts at federal facilities are inconsistent and the quality varied in the six regions GAO visited. GAO also found that guard inspections are typically completed by FPS during regular business hours and in locations where FPS has a field office; and seldom on nights and on weekends. However, on an occasion when FPS did conduct a post inspection at night it found a guard asleep at his post after taking the pain killer prescription drug Percocet. FPS also found other incidents at level IV facilities where guards neglected or inadequately performed their assigned responsibilities. For example, a guard failed to recognize or did not properly x-ray a box containing handguns at the loading dock at a facility. FPS became aware of the situation because the handguns were delivered to FPS.

GAO identified substantial security vulnerabilities related to FPS's guard program. GAO investigators carrying the components for an improvised explosive device successfully passed undetected through security checkpoints monitored by FPS's guards at each of the 10 level IV federal facilities where GAO conducted covert testing. Of the 10 level IV facilities GAO penetrated, 8 were government owned, 2 were leased, and included offices of a U.S. Senator and U.S. Representative, as well as agencies such as the Departments of Homeland Security, State, and Justice. Once GAO investigators passed the control access points, they assembled the explosive device and walked freely around several of floors of these level IV facilities with the device in a briefcase. In response to GAO's briefing on these findings, FPS has recently taken some actions including increasing the frequency of intrusion testing and guard inspections. However, implementing these changes may be challenging, according to FPS.

United States Government Accountability Office

July 8, 2009

Mr. Chairman and Members of the Committee:

We are pleased to be here to discuss the preliminary results of our review of the Federal Protective Service's (FPS) contract security guard (guard) program. There has not been a large-scale attack on a domestic federal facility since the terrorist attacks of September 11, 2001 and the 1995 bombing of the Alfred P. Murrah Federal Building in Oklahoma City, Oklahoma. Nevertheless, the recent shooting death of a guard at the U.S. Holocaust Memorial Museum—though not a federal facility—demonstrates the continued vulnerability of public buildings to domestic terrorist attack. Thus, one of FPS's most critical responsibilities is to effectively manage its guard program so that the over one million government employees, as well as members of the public who work in and visit the 9,000 federal facilities each year are protected.¹

To accomplish its mission of protecting federal facilities, FPS currently has a budget² of about \$1 billion, about 1,200 full time employees, and about 13,000 guards deployed at approximately 2,300 of the 9,000 federal facilities across the country.³ While FPS does not use guards at the remaining 6,700 facilities under its protection, it frequently uses other security countermeasures such as cameras and perimeter lighting to help protect these facilities. In our June 2008 report, we found that FPS faced significant challenges in ensuring the quality and timeliness of its building security assessments and in maintaining complete crime statistics. We also

¹For the purposes of this testimony, federal facilities are the 9,000 buildings under the control or custody of General Services Administration (GSA).

²Funding for FPS is provided through revenues and collections charged to building tenants in FPS protected property. 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.

³In our June 2008 report, FPS officials said its guard force totaled about 15,000. See GAO, *Homeland Security: The Federal Protective Service Faces Several Challenges That Hamper Its Ability to Protect Federal Facilities*, GAO-08-683 (Washington, D.C.: June 11, 2008). However, FPS officials recently said that number was not correct and that based on more accurate information obtained from its contractors, its guard force currently totals about 13,000.

reported that its risk assessment process was partially flawed.⁴ FPS used these tools to help determine how to protect federal facilities.

As of June 2009, FPS's guard program has cost about \$613 million and represents the single largest item in its budget. It is the most visible component of FPS's operations as well as the first public contact when 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. Guards do not have arrest authority but can detain individuals who are being disruptive or pose a danger to public safety.

In June 2008, we reported that FPS faced several funding and operational challenges, including oversight of its guard program, that hamper its ability to accomplish its mission of protecting federal facilities and ensuring the safety of the occupants. We recommended, among other things, that the Secretary of the Department of Homeland Security (DHS) direct the Director of FPS to develop and implement a strategic approach to better manage its staffing resources, evaluate current and alternative funding mechanisms, and develop appropriate measures to assess performance. While DHS concurred with our recommendations, FPS has not fully implemented these recommendations. This testimony is based on preliminary findings of ongoing work and addresses (1) the extent to which FPS ensures that its guards have the required training and certifications before being deployed to a federal facility, (2) the extent to which FPS ensures that its guards comply with post orders⁵ once they are deployed at federal facilities, and (3) security vulnerabilities we identified related to FPS's guard program and recent related FPS actions taken in response.

To determine the extent to which FPS ensures that its guards have the required training and certifications prior to being deployed to a federal

⁴GAO-08-653.

⁵At each guard post, FPS maintains a book, also referred to as post orders, that describes the duties that the guards are required to perform.

facility and are complying with post orders once deployed to a federal facility, we conducted site visits at 6 of FPS's 11 regions. These regions have responsibilities for almost 63 percent of FPS's 13,000 guards and 52 percent of the 2,360 facilities that have guards. To select the regions, we considered the number of federal facilities in each region, geographic dispersion across the United States, and the number of FPS employees in each region. At these locations, we interviewed FPS's Contract Guard Program Managers and their support staff; law enforcement security officers (also referred to as inspectors) who are responsible for conducting guard inspections, regional managers, as well as guards and the contractors about FPS's efforts to manage its guard program. We also interviewed officials at FPS and GSA headquarters as well as GSA's regional security officials. We reviewed and analyzed FPS's guard training and certification requirements, Security Guard Information Manual, and guard contracts. To determine how FPS tracks the status of whether its guards have met the training and certifications requirements, in the 6 regions we visited we randomly selected 663 guard files that were maintained in FPS's Contract Guard Employment Requirements Tracking System (CERTS). Because CERTS was not fully reliable we also used information maintained in some of FPS's regional databases or at the contractor's office. The 663 guard files we reviewed in the six regions we visited are not generalizable. To determine how FPS ensures that its guards are complying with post orders, we reviewed FPS's guard inspection process and observed numerous guard inspections at federal facilities in each of the 6 regions we visited. To identify potential security vulnerabilities in FPS's guard program, we conducted covert testing at 10 judgmentally selected level IV facilities. The facilities were selected from FPS's most current listing of federal facilities by security level.⁶ The results of our covert testing at the 10 level IV facilities are not generalizable. Because of the sensitivity of some of the information in our report, we cannot provide information about the specific locations of

⁶The level of security FPS provides at each of the 9,000 federal facilities varies depending on the building's security level. Based on the Department of Justice's (DOJ) 1995 Vulnerability Assessment Guidelines, there are five types of security levels. A level I facility is typically a small storefront-type operation such as military recruiting office which has 10 or fewer employees and a low volume of public contact. A level II facility has from 11 to 150 employees, a level III facility has from 151 to 450 federal employees and moderate to high volume of public contact, a level IV facility has over 450 employees, a high volume of public contact, and includes high risk law enforcement and intelligence agencies. FPS does not have responsibility for a Level V facility which include the White House and the Central Intelligence Agency. The Interagency Security Committee has recently promulgated new security level standards that will supersede the 1995 DOJ standards.

incidents discussed. We conducted this performance audit from July 2008 to July 2009 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.

In Summary

FPS does not fully ensure that its guards have the training and certifications required to stand post at federal facilities. While FPS requires that all prospective guards complete about 128 hours of training, including 8 hours of x-ray and magnetometer training, it was not providing some of its guards with all of the required training in the six regions we visited. For example, in one region, FPS has not provided the required 8 hours of x-ray or magnetometer training to its 1,500 guards since 2004. X-ray training is critical because the majority of guards are primarily responsible for using this equipment to monitor and control access points at federal facilities. Insufficient x-ray and magnetometer training may have contributed to several incidents in federal facilities where guards were negligent in carrying out their responsibilities. For example, at a level IV facility in a major city, an infant in a carrier was sent through an x-ray machine, which is considered hazardous,⁷ due to the guard's negligence. We also found that some guards had not been provided building-specific training, which may have contributed to several guards at one federal facility not following evacuation procedures and leaving access points unattended and vulnerable. FPS's primary system—CERTS—for monitoring and verifying whether guards have the training and certifications required to stand post at federal facilities is not fully reliable. We reviewed training and certification data for 663 randomly selected guards in 6 of FPS's 11 regions maintained in CERTS, which is the agency's primary system for tracking guard training and certifications. Because CERTS was not fully reliable we also used databases maintained by some of FPS's regions or information provided by the contractor. We found that 62 percent, or 411 of the 663 guards who were deployed to a federal facility had at least one expired firearm qualification, background investigation, domestic violence declaration⁸, or CPR/First Aid training

⁷ X-ray machines are hazardous because of the potential radiation exposure.

⁸ Under 18 U.S.C. § 922, it is unlawful for anyone convicted of a misdemeanor crime of domestic violence to possess a firearm.

certification. More specifically, according to the most recent information from one contractor, we found that over 75 percent of the 354 guards at a level IV facility had expired certifications or the contractor had no record of the training. Based on the contractor information for another contract, we also found that almost 40 percent of the 191 guards at another level IV facility had expired domestic violence declarations. Without domestic violence declarations in place, guards are not permitted to carry a firearm. FPS requires its guards to carry weapons. In addition, one of FPS's contractors allegedly falsified training records for its guards—an incident that is currently being litigated. FPS became aware of this alleged violation from an employee of the contractor and not from its internal control procedures. Moreover, we found that FPS officials in the 6 regions we visited are generally relying on the contractor to self-report that training and certification requirements are met because CERTS is not fully reliable.

FPS has limited assurance that its guards are complying with post orders once they are deployed to a federal facility. FPS does not have specific national guidance on when and how guard inspections should be performed. The frequency with which FPS inspects these posts also varied across the regions. For example, one region we visited required its inspectors to complete 5 guard inspections each month while another region did not have any inspection requirements. We also found that in the 6 regions we visited that guard inspections are typically completed by FPS during routine business hours and in metropolitan cities where FPS has a field office, and seldom at nights or on weekends. However, on the few occasions when FPS has conducted post inspections at night, it has found instances of guards not complying with post orders. For example, at a level IV facility, an armed guard was found asleep at his post after taking the pain killer prescription drug Percocet. Similarly, FPS has also found other incidents at level IV facilities where guards were not in compliance with post orders. For example, while a guard should have been standing post, the guard was caught using government computers to manage a private for-profit adult website. At another facility, a guard either failed to recognize or did not properly x-ray a box containing semi-automatic handguns at the loading dock at one federal facility we visited. FPS became aware of the situation because the handguns were delivered to it.

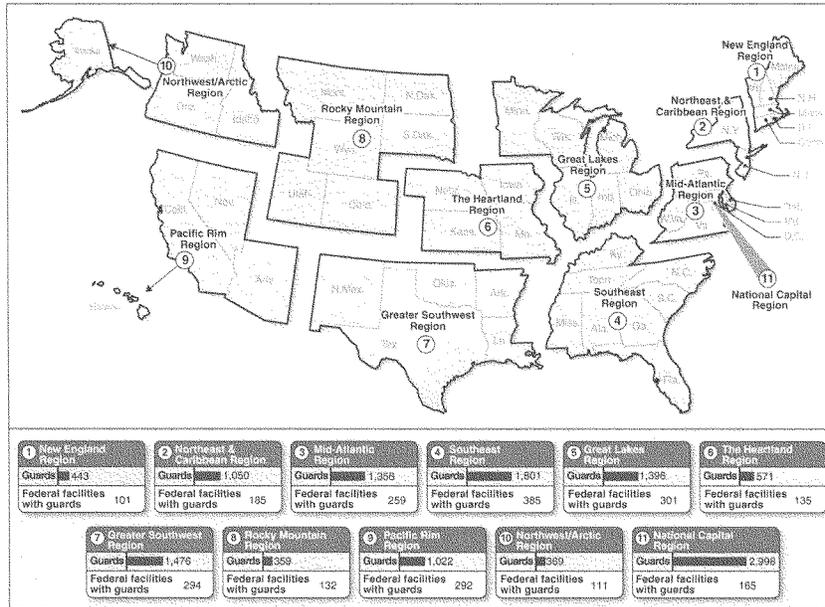
Our investigators identified substantial security vulnerabilities related to FPS's guard program. With the components for an improvised explosive device (IED) concealed on their persons, our investigators passed undetected through access points controlled by FPS guards at 10 level IV facilities in four major cities where we conducted covert tests. Our investigators used publicly available information to identify a type of

device that a terrorist could use to cause damage to a federal facility and threaten the safety of federal workers and the general public. The IED was made up of two parts—a liquid explosive and a low-yield detonator—and included a variety of materials not typically brought into a federal facility by an employee or the public. Of the 10 Level IV facilities we penetrated, 8 were government-owned, 2 were leased, and included offices of a U.S. Senator and U.S. Representative, as well as agencies such as the Departments of Homeland Security, State, and Justice. Once our investigators passed the access control point, they assembled the IED and walked freely around several floors of the facilities and into various executive and legislative branch offices with the IED in a briefcase. In response to the security vulnerabilities we identified during our covert testing, FPS has recently taken steps to improve oversight of the guard program. Specifically, according to FPS officials, it has authorized overtime to conduct guard post inspections during non-routine business hours and is conducting its own penetration tests to identify weaknesses at access control points. In March 2009, FPS also issued a policy directive intended to standardize inspection requirements across all FPS regions. Implementing the new requirements may be challenging, according to FPS management and some regional staff. We will be reporting more fully on our findings, with potential recommendations, in September 2009.

Background

To accomplish its mission of protecting federal facilities, FPS has become increasingly reliant on its guard force. As of June 2009, FPS's guard program has cost \$613 million and represents the single largest item in its fiscal year 2009 budget. While the contractor has the primary responsibility for training and ensuring that the guards have met certification requirements, FPS is responsible for oversight of the guards and relies on about 930 law enforcement personnel located in its 11 regions to inspect guard posts and verify that training, certifications, and timecards are accurate. Figure 1 shows the location of FPS's 11 regions and the number of guards and federal facilities with guards in each of these regions.

Figure 1: Number of FPS Guards and Federal Facilities with Guards by Region



Source: GAO analysis of FPS data and Map Resources.

Some of the key responsibilities of FPS's guards include controlling access; enforcing property rules and regulations; detecting and reporting criminal acts; and responding to emergency situations involving the safety and security of the facility. Guards may only detain, not arrest, an individual, and their authority typically does not extend beyond a federal facility. Before being assigned to a post or an area of responsibility at a federal facility, FPS requires that all guards undergo background suitability checks and complete approximately 128 hours of training provided by the contractor or FPS, including 8 hours of x-ray and

magnetometer training. Guards must also pass an FPS-administered written examination and possess the necessary certificates, licenses, and permits as required by the contract. Table 1 shows the training and certifications that FPS requires its guards to (1) obtain before standing post and (2) maintain during the course of their employment. FPS also requires its guards to complete 40 hours of refresher training every 2 to 3 years depending on the terms of the contract. In addition to FPS's requirements, some states require that guards obtain additional training and certifications.

Table 1: Guard Training and Certification Required by FPS

Training		Certifications
Contractor Provided	<ul style="list-style-type: none"> • 64 hours basic training • 32 hours live firearms training • 8 hours classroom firearms training • 8 hours basic baton training 	<ul style="list-style-type: none"> • DHS background investigation • Medical examination certificate • Domestic violence declaration • Passing score on written examination • Firearms qualification certificate • Expandable / straight baton training certificate
FPS Provided	<ul style="list-style-type: none"> • 8 hours government training • 8 hours x-ray and magnetometer 	<ul style="list-style-type: none"> • CPR training certificate • Basic training certificate • Firearms training certificate • Government provided training certificate • Magnetometer / x-ray training certificate • First aid training certificate

Source: FPS.

FPS currently has contracts with 67 private companies for guard services. These contractors are responsible for providing and maintaining all guard services as described in the contract statement of work, including management, supervision, training, equipment, supplies and licensing. FPS is also required to actively monitor and verify the contractors' performance and ensure that the terms of the contract are met.

Many FPS Guards Do Not Appear to Have the Training and Certifications Required to Stand Post at Federal Facilities in Some Regions

FPS Is Not Providing Guards With All of the Required Training in Some Regions

FPS does not fully ensure that its guards have the training and certifications required to be deployed to a federal facility. While FPS requires that all prospective guards complete approximately 128 hours of training, including 8 hours of x-ray and magnetometer training, it was not providing some of its guards with all of the required training in the six regions we visited. For example, in one region, FPS has not provided the required 8 hours of x-ray or magnetometer training to its 1,500 guards since 2004. 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 and egress to a facility helps ensure that only authorized personnel, vehicles, and materials are allowed to enter, move within, and leave the facility. According to FPS officials, the 1,500 guards were not provided the required x-ray or magnetometer training because the region does not have the employees that are qualified or who have the time to conduct the training. Nonetheless, these guards continue to control access points at federal facilities in this region. In absence of the x-ray and magnetometer training, one contractor in the region said that they are relying on veteran guards who have experience operating these machines to provide some "on-the-job" training to new guards. Moreover, in the other five regions we visited where FPS is providing the x-ray and magnetometer training, some guards told us that they believe the training, which is computer based, is insufficient because it is not conducted on the actual equipment located at the federal facility.

Lapses and weaknesses in FPS's x-ray and magnetometer training have contributed to several incidents at federal facilities in which the guards were negligent in carrying out their responsibilities. For example, at a level IV federal facility in a major metropolitan area, an infant in a carrier was sent through the x-ray machine. Specifically, according to an FPS official

in that region, a woman with her infant in a carrier attempted to enter the facility, which has child care services. While retrieving her identification, the woman placed the carrier on the x-ray machine.⁹ Because the guard was not paying attention and the machine's safety features had been disabled,¹⁰ the infant in the carrier was sent through the x-ray machine. FPS investigated the incident and dismissed the guard. However, the guard subsequently sued FPS for not providing the required x-ray training. The guard won the suit because FPS could not produce any documentation to show that the guard had received the training, according to an FPS official. In addition, FPS officials from that region could not tell us whether the x-ray machine's safety features had been repaired.

We also found that some guards were not provided building-specific training, such as what actions to take during a building evacuation or a building emergency. This lack of training may have contributed to several incidents where guards neglected their assigned responsibilities. For example,

- at a level IV facility, the guards did not follow evacuation procedures and left two access points unattended, thereby leaving the facility vulnerable;
- at a different level IV facility, the guard allowed employees to enter the building while an incident involving suspicious packages was being investigated; and,
- at a level III facility, the guard allowed employees to access the area affected by a suspicious package, which was required to be evacuated.

In addition to insufficient building-specific training, some guards said they did not receive scenario-based training and thus were not sure what they should do in certain situations. During our site visits at 6 FPS regions, we interviewed over 50 guards and presented them with an incident that occurred at a federal facility in 2008. Specifically, we asked the guards whether they would assist an FPS inspector chasing an individual escaping a federal facility in handcuffs.¹¹ The guards' responses varied. Some guards

⁹X-ray machines are hazardous because of the potential radiation exposure. In contrast, magnetometers do not emit radiation and are used to detect metal.

¹⁰With this safety feature disabled, the x-ray machine's belt was operating continuously although the guard was not present.

¹¹GAO-08-683.

stated that they would assist the FPS inspector and apprehend the individual, while others stated that they would likely do nothing and stay at their post because they feared being fired for leaving their post. Some guards also told us that they would not intervene because of the threat of a liability suit for use of force and did not want to risk losing their job. The guard's different responses suggest that more scenario-based training may be needed.

FPS Lacks Assurance That Its Guards Have Required Certifications

FPS's primary system—CERTS—for monitoring and verifying whether guards have the training and certifications required to stand post at federal facilities is not fully reliable. We reviewed training and certification data for 663 randomly selected guards in 6 of FPS's 11 regions maintained either in CERTS, which is the agency's primary system for tracking guard training and certifications, databases maintained by some of FPS's regions, or contractor information. We found that 62 percent, or 411 of the 663 guards who were deployed to a federal facility had at least one expired certification, including for example, firearms qualification, background investigation, domestic violence declaration, or CPR/First Aid training certification. More specifically, according to the most recent information from a contractor, we found that over 75 percent of the 354 guards at one level IV facility had expired certifications, or the contractor had no record of the training. Based on the contractor information for another contract, we also found that almost 40 percent of the 191 guards at another level IV facility had expired domestic violence declarations. Without domestic violence declarations certificates, guards are not permitted to carry a firearm. FPS requires its guards to carry weapons in most cases. Moreover, five of the six regions we visited did not have current information on guard training and certifications. According to FPS officials in these five regions, updating CERTS is time consuming and they do not have the resources needed to keep up with the thousands of paper files. Consequently, these five regions were not generally relying on CERTS and instead were relying on the contractor to self-report training and certification information about its guards.

In addition, not having a fully reliable system to better track whether training has occurred may have contributed to a situation in which a contractor allegedly falsified training records. In 2007, FPS was not aware that a contractor who was responsible for providing guard service at several level IV facilities in a major metropolitan area had allegedly falsified training records until it was notified by an employee of the company. According to FPS's affidavit, the contractor allegedly repeatedly self-certified to FPS that its guards had satisfied CPR and First Aid

training, as well as the contractually required bi-annual recertification training, although the contractor knew that the guards had not completed the required training and was not qualified to stand post at federal facilities. According to FPS's affidavit, in exchange for a \$100 bribe, contractor officials provided a security guard with certificates of completion for CPR and First Aid. The case is currently being litigated in U.S. District Court.

FPS Has Limited Assurance that Guards Comply with Post Orders

FPS Is Not Consistently Inspecting Guards Posts

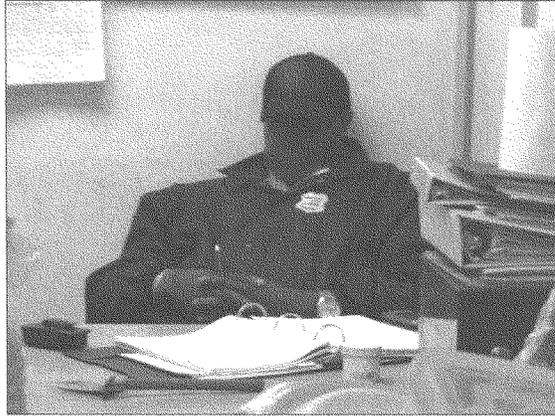
FPS has limited assurance that its 13,000 guards are complying with post orders. FPS does not have specific national guidance on when and how guard inspections should be performed. FPS's inspections of guard posts at federal facilities are inconsistent and the quality and rigor of its inspections varies across regions. At each guard post, FPS maintains a book, referred to as post orders, that describes the duties that guards are to perform while on duty. However, we found that in one region some of the post orders were not current and dated back to 2002 when FPS was part of GSA. In addition, the frequency with which FPS inspects these posts varied. For example, one region we visited required its inspectors to complete 5 guard inspections each month, while another region we visited did not have any inspection requirements. According to the regional staff, there is no requirement that every guard post be inspected each month; rather inspectors are required to complete 5 inspections per month which leads to some guard posts being inspected multiple times per month and some guard posts not being inspected at all. For example, while we were observing guard inspections in this region, one guard told us she had been inspected twice that week. In contrast, according to FPS officials, guards assigned to posts at federal facilities in remote locations or during the night shift are rarely inspected.

During our site visits we also found that the quality of FPS's guard inspections varied. According to FPS's procedures for conducting guard inspections, FPS should inspect the guard's uniform and equipment, knowledge of post orders, and ID and certification cards. For example, an inspector in one region performed a more thorough inspection than other inspectors. The inspector included an inspection of guard certifications,

knowledge of post orders, uniform and equipment check, inspection of the post station, and timecards. The inspector also asked the guard a number of scenario-based questions and asked the guard if he had any questions or concerns. The results of the inspection were documented immediately following the inspection. Conversely, in a different FPS region we visited, the FPS inspector asked the guard if all his certifications and training were current; but never physically inspected the guard's certifications or asked any scenario-based questions. During another inspection we observed, an inspector in another region performed a uniform and equipment check but did not ask for any certifications.

We also found that in the 6 regions we visited that guard inspections are typically completed by FPS during regular business hours and in cities where FPS has a field office. In most FPS regions, FPS is only on duty during regular business hours and according to FPS, inspectors are not authorized overtime to perform guard inspections during night shifts or on weekends. However, on the few occasions when inspectors complete guard inspections at night or on their own time, FPS has found instances of guards not complying with post orders. For example, as shown in figure 2, at a level IV facility, an armed guard was found asleep at his post after taking the pain killer prescription drug Percocet during the night shift. FPS's guard manual states that guards are not permitted to sleep or use any drugs (prescription or non-prescription) which may impair the guard's ability to perform duties.

Figure 2: FPS Guard Sleeping at Post



Source: FPS.

FPS's post orders also describe a number of items that guards are prohibited from doing while on post. For example, guards are prohibited from sleeping, using government property such as computers, and test firing a weapon unless at a range course. However, FPS has found incidents at level IV facilities where guards were not in compliance with post orders. Some examples follow.

- A guard was caught using government computers, while he was supposed to be standing post, to further his private for-profit adult website.
- A guard attached a motion sensor to a pole at the entrance to a federal facility garage to alert him whenever a person was approaching his post. Another law enforcement agency discovered the device and reported it to FPS.
- A guard, during regular business hours, accidentally fired his firearm in a restroom while practicing drawing his weapon.

-
- A guard failed to recognize or did not properly x-ray a box containing semi-automatic handguns at the loading dock at one federal facility we visited. FPS only became aware of the situation because the handguns were delivered to FPS.

While the guards were fired or disciplined in each of these incidents, they illustrate that FPS is able to identify some instances where guards are not complying with post orders and the importance of why it should improve the oversight of its guard program.

Covert Testing of FPS's Guard Program Reveals Weaknesses

We identified substantial security vulnerabilities related to FPS's guard program. Each time they tried, in April and May 2009, our investigators successfully passed undetected through security checkpoints monitored by FPS's guards, with the components for an IED concealed on their persons at 10 level IV facilities in four cities in major metropolitan areas. The specific components for this device, items used to conceal the device components, and the methods of concealment that we used during our covert testing are classified, and thus are not discussed in this testimony. Of the 10 level IV facilities we penetrated, 8 were government owned and 2 were leased facilities. The facilities included field offices of a U.S. Senator and U.S. Representative as well as agencies of the Departments of Homeland Security, Transportation, Health and Human Services, Justice, State and others. The two leased facilities did not have any guards at the access control point at the time of our testing.

Using publicly available information, our investigators identified a type of device that a terrorist could use to cause damage to a federal facility and threaten the safety of federal workers and the general public. The device was an IED made up of two parts—a liquid explosive and a low-yield detonator—and included a variety of materials not typically brought into a federal facility by employees or the public. Although the detonator itself could function as an IED, investigators determined that it could also be used to set off a liquid explosive and cause significantly more damage. To ensure safety during this testing, we took precautions so that the IED

would not explode. For example, we lowered the concentration level of the material.¹²

To gain entry into each of the 10 level IV facilities, our investigators showed photo identification (state driver's license) and walked through the magnetometer machines without incident. The investigators also placed their briefcases with the IED material on the conveyor belt of the x-ray machine, but the guards detected nothing. Furthermore, our investigators did not receive any secondary searches from the guards which might have revealed the IED material that we brought into the facilities. At security checkpoints at 3 of the 10 facilities, our investigators noticed that the guard was not looking at the x-ray screen as some of the IED components passed through the machine. A guard questioned an item in the briefcase at one of the 10 facilities but the materials were subsequently allowed through the x-ray machines. At each facility, once past the guard screening checkpoint, our investigators proceeded to a restroom and assembled the IED. At some of the facilities, the restrooms were locked. Our investigators gained access by asking employees to let them in. With the IED completely assembled in a briefcase, our investigators walked freely around several floors of the facilities and into various executive and legislative branch offices, as described above.

FPS's Recent Actions to Improve Its Oversight of Guards May Be Challenging to Implement

Because of the sensitivity of our review, we have already briefed FPS and GSA on the results of our covert testing at 10 level IV facilities and other preliminary findings regarding the guard program. FPS subsequently identified and began taking several actions in response to our findings. According to FPS officials, it recently authorized the use of overtime to monitor guards during non-routine business hours and is requiring penetration tests to identify weaknesses at access control guard posts. FPS has conducted limited intrusion testing in the past and experienced difficulty in executing such tests. For example, in 2008, one FPS region conducted an intrusion test at a level IV facility and successfully brought a "fake bomb" into the building through a loading area. During the test, FPS agents misplaced the box containing the "fake bomb" and it was picked up by a guard who took it to the mail room for processing. It was opened by

¹²Tests that we performed at a national laboratory in July 2007 and in February 2006, clearly demonstrated that a terrorist using these devices could cause severe damage to a federal facility and threaten the safety of federal workers and the general public. Our investigators obtained the components for these devices at local stores and over the Internet for less than \$150.

the guard who panicked. After this incident, the intrusion testing program in that region was cancelled, according to FPS officials in that region.

FPS has also accelerated the implementation of a new directive designed to clarify organizational responsibilities for conducting and reporting the results of inspections and evaluations. For example, under the March 2009 directive, at a level IV facility, FPS is planning to inspect 2 guard posts a week. Prior to the new directive, FPS did not have a national requirement for when to conduct inspections at federal facilities and each region we visited had requirements that ranged from no inspection requirements to each inspector having to conduct 5 inspections per month. Meeting these new requirements may be challenging, according to FPS management and regional staff we contacted. FPS management in several regions we visited told us that the new directive appears to be based primarily on what works well from a headquarters or National Capital Region perspective, not a regional perspective that reflects local conditions and limitations in staffing resources. A FPS official in one region also said the region is not adequately staffed to complete all the current mission-essential tasks that are required, and another FPS official in that region does not believe the region will be able to conduct the additional inspections as required in the new policy. Finally, according to the Director of FPS, while having more resources would help address the weaknesses in the guard program, the additional resources would have to be trained and thus could not be deployed immediately.

Agency Comments

We provided FPS a detailed briefing on June 5, 2009 on our preliminary findings. We also provided FPS with a draft of this testimony. FPS provided no comments on this testimony.

We plan to provide this Committee with our complete evaluation and a final report on FPS's oversight of its guard program in September 2009. This concludes our testimony. We are pleased to answer any questions you might have.

Contact Information

For further information on this testimony, please contact Mark Goldstein at 202-512-2834 or by email at goldstein@gao.gov. Individuals making key contributions to this testimony include Jonathan Carver, Tammy Conquest, John Cooney, Colin Fallon, Daniel Hoy, George Ogilvie, Susan Michal-Smith, and Ramon Rodriguez.



STATEMENT
OF
GARY W. SCHENKEL
DIRECTOR, FEDERAL PROTECTIVE SERVICE
U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT
U.S. DEPARTMENT OF HOMELAND SECURITY

REGARDING A HEARING ON
"The Federal Protective Service: Time for Reform"
BEFORE THE
UNITED STATES SENATE
COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Wednesday, July 8, 2009 – 10:00 a.m.
342 Dirksen Senate Office Building
WASHINGTON, DC

INTRODUCTION

Chairman Lieberman, Ranking Member Collins, and distinguished Members of the Committee. I welcome the opportunity to appear before you today to discuss the immediate actions I have put in place to address security concerns raised by the Government Accountability Office (GAO).

FPS BACKGROUND

As I have testified previously, the Federal Protective Service (FPS), which is a division of the Department of Homeland Security's (DHS) Immigration and Customs Enforcement (ICE), delivers integrated law enforcement and physical security services to Federal agencies in 9,000 facilities owned and leased by the General Services Administration (GSA) throughout the United States and its territories. FPS performs fixed-post access control, implements screening functions, and provides roving patrols of facility perimeters and communal open space. FPS is comprised of 1,225 Federal law enforcement and support staff personnel. FPS also utilizes more than 15,000 contract security guards that are employed by private companies to supplement physical security services.

FPS Law Enforcement Security Officers (LESO), also called "Inspectors," are uniformed law enforcement officers who possess the full authority and training to perform traditional police functions. Currently, FPS has approximately 600 Inspectors, who are trained as physical security experts and provide comprehensive security services such as Facility Security Assessments and implementation and testing of security measures.

HOW WE WORK

FPS offers comprehensive physical security operations. From the installation of alarm systems, x-rays, magnetometers, and entry control systems, to monitoring those systems 24 hours a day, 7 days a week, and providing uniformed police response and investigative follow-up, FPS is organized to protect and serve Federal facilities. The provision of contract security guard services, crime prevention seminars tailored to individual agency and employee needs, facility security surveys, integrating intelligence gathering and sharing, and maintaining special operations capabilities all serve to make FPS a world-class security force.

FPS annually conducts nearly 2,500 Facility Security Assessments and responds to approximately 1,400 demonstrations. In Fiscal Year (FY) 2008, FPS responded to 2,571 protests and organized disturbances, made 1,888 arrests, investigated more than 2,100 accidents, investigated 1,503 larcenies, processed 248 weapons violations, and prevented the introduction of 669,810 banned items into Federal facilities with the significant assistance of contract guards. Of the approximately 9,000 buildings protected by FPS, 1,500 are categorized as Security Level III or IV (highest risk buildings).

Upon my arrival in April 2007, it was apparent FPS was experiencing some serious challenges. Since its transfer from GSA to the Department of Homeland Security in 2003 with a Full-Time Equivalent (FTE) workforce of over 1,400 spread across the country into 11 Regions, FPS needed to focus on becoming a single, standardized agency. This required a new operational construct, as well as new business practices. FPS simultaneously believed that it faced budget constraints which could have resulted in having to reduce the number of FTEs. The new collections requested in the FY 2008 President's budget supported approximately 950 FTE personnel. To avoid having to reduce the number of FTEs, FPS sought to realize savings in other areas rather than

reducing on-board personnel. Consequently, many programmatic elements such as training and equipment purchases had to be rescheduled until FPS determined that it had sufficient funding. What remained unchanged, however, was FPS's obligation to protect 9,000 GSA-owned and leased facilities, oversee 15,000 armed contract security guards and manage over 150 contracts.

During this period, FPS carefully assessed its organization and made difficult decisions based on customer input and expectations. This refocusing effort culminated in the development of a strategic plan to shape future activities. FPS now focuses on critical issues within its protective mission and is developing a sound strategic path forward focused on facility security and the safety of the occupants and visitors to those facilities.

In particular, FPS focused on standardizing its practices. Evidence of FPS's success was the 2007 Invoice Consolidation project that paid 2,200 past due invoices, some of which dated back to 1999, and reduced financial loss from prompt interest payments. This effort resulted in over \$1 million in savings in 2008.

The 2008 Consolidated Appropriations Act provided FPS a staffing floor by providing for a workforce of no less than 1,200 Federal FTEs, and the authority to raise fees to financially support that number. FPS increased its basic building security fee, and, as a result, in March 2008, embarked on its first hiring effort in more than six years. FPS now has 1,236 FTE. This monumental hiring effort presented new challenges, in addition to implementing the FPS Strategic Plan to create a standardized operation to provide daily operational support to our customers. Providing our workforce with the appropriate skills in the appropriate geographic locations will continue to be paramount on our task list and will underpin our comprehensive Mission Action Plan.

When GAO presented its findings several weeks ago, we took it very seriously. We knew we still had challenges ahead of us and had already initiated corrective action

prior to receiving the GAO briefing. Within three hours of learning of the issues identified by GAO, I instructed the Regional Directors to immediately increase the number of inspections of protected facilities in their respective regions and to report directly to FPS Headquarters the specific actions they would take to address and correct contract guard performance issues.

I promptly issued letters to Regional Directors and contract guard companies, customer agencies, FPS employees and other stakeholders to notify them of the following actions we would take to address some of the GAO findings. These actions included:

- Establishing a national study group headed by two experienced FPS Regional Directors to examine FPS's visitor and employee screening processes;
- Directing FPS Regional Directors to immediately begin to exercise recently established overt and covert inspection techniques to assess various elements of employee and visitor screening processes;
- Requiring Regional Directors to institute random searches of packages, briefcases, and bags as part of visitor and employee screening procedures and to ensure there are posted signs alerting those entering the building that they are subject to these searches.
- Instructing Regional Directors to take all necessary action to immediately increase its oversight and inspection of contract guards;
- Directing FPS employees and other stakeholders to be constantly vigilant and to immediately report poor performance of duties by the contract guard force to FPS law enforcement personnel or their supervisors;
- Reminding the contract guard companies that substandard performance by contract guards is unacceptable and will not be tolerated, and informing them that

the number and frequency of inspections of guard post and certifications will increase;

- Issuing an Information Bulletin to all inspectors and security guards to provide them with information about package screening, including examples of disguised items that may not be detected by magnetometers or X-ray equipment;
- Contacting all customer agencies and asking that they raise their security awareness and asking them to review their respective building's access procedures to ensure they meet their business and security requirements; and
- Contacting GSA, GSA Regional Administrators and Officers of Security to inform them of our activities.

Going forward, we have established a Tiger Team to aggressively attack the challenge of overseeing the contract guard program. The team is headed by a specialized group of FPS Regional Directors, managers, and staff with extensive experience in areas of developing, implementing, and monitoring facility security. Within the next 60 days, FPS will:

- Seek to identify training gaps in the contract guard force and take immediate steps to close them;
- Increase the frequency and vigilance of the inspections of guard posts and contract companies to identify guards with expired certifications and qualifications;
- Establish and develop training schedules to ensure contract guards receive current and adequate training in magnetometer and X-Ray screening operations and techniques; and
- Initiate dialogue with the DHS Science and Technology Directorate and the Transportation Security Administration (TSA) to explore the possibility of

deploying new technologies, as well as training opportunities to improve our execution of our important protective mission.

In addition to these measures, FPS has established a Policy, Compliance and Audit Directorate to ensure that these and other policies and procedures governing oversight of the contract guard force are not only standardized and implemented, but will result in the highest degree of protection of Federal facilities to safeguard their occupants. I have also directed that by July 30, the Tiger Team will provide its recommendations of immediate measures that can be taken or recommended to the Facility Security Committee.

Customer agencies (tenant agencies) must effectively balance the need for security in Federal facilities with the need for access. The public needs ready access to the Federal departments and agencies that occupy these facilities. This means that FPS needs to provide security solutions that not only provide a safe and secure environment for the occupants of Federal facilities, but it must do so in a way that is not overly burdensome for the people who require Federal services. In essence, the security measures in place at Federal facilities must not impose an unwelcoming presence that would deter people from conducting regular business. This can be achieved through the effective utilization of technologies, which mandate the use of countermeasures or dictate access control procedures.

FPS recognized the evolving nature of security and has been moving forward. We have well over 30 percent of our FTE involved in various levels of training and we are on our way to becoming a mature, experienced and well-trained organization. FPS has a full class of 24 new Inspectors currently at the Federal Law Enforcement Training Center (FLETC). The training process requires a full 32 weeks of intense training to become an Inspector. We have promulgated five new policies that will strengthen the

Contract Guard Program ranging from refinement of the contract award process to the mandatory frequency of guard post inspections. We have developed seven financial process standard operating procedures and have begun the necessary training to institutionalize the use of these processes.

FPS is in the final development stages of the Risk Assessment Management Program or RAMP, which will revolutionize the Facility Security Assessment (FSA) process and negate the need to use six disparate systems currently used by our Inspectors. It will provide accurate and timely codification of the guard training and certification process and post inspections. The Computer Aided Dispatch and Information System (CADIS) will standardize reporting procedures, consolidate crime and incident reporting, and time stamp our operations, thus providing accurate, defensible data to support future staffing models. FPS will award a contract for the Post Tracking System (PTS), which will strengthen the accuracy of post staffing and billing and will further reduce the administrative burden on our Inspectors, allowing them more time for active patrol and guard oversight. All three of these systems will come on line in FY 2010.

In addition to the technological solutions, we are focused on providing greater training and maturity to our workforce. We are dedicated to our mission, to our profession, and to improving our organization to meet the expectations of this extremely important mission. Further, we believe the transfer of FPS from ICE to the National Protection and Programs Directorate (NPPD) requested in the FY 2010 Budget will provide DHS with a single component responsible for establishing and ensuring compliance with a comprehensive infrastructure security program. The integration of FPS into NPPD enhances the Department's overarching strategy and mission to lead the unified effort to improve our nation's security.

CONCLUSION

I want to express to you my personal sense of urgency and commitment to the important responsibility I share with the men and women of FPS, in keeping our nation safe. I am honored to lead the proud and professional men and women of FPS. I can tell you that they are dedicated, determined and committed to developing, implementing, and maintaining the highest level of physical security to ensure that facilities they are charged with protecting are secure and that their occupants are safe. I am confident that they can be relied upon to ensure that FPS will continue to meet the challenge of its homeland security mission.

Thank you again, Chairman Lieberman and Ranking Member Collins, for holding this important oversight hearing. I would be pleased to answer any questions you might have at this time.

**Post-Hearing Questions for the Record
For Mark L. Goldstein, Government Accountability Office
From Senator Joseph I. Lieberman**

**“The Federal Protective Service: Time for Reform”
July 8, 2009**

- 1) Your review found that the Federal Protective Service lacked national guidance on when and how FPS law enforcement officers should inspect guard posts. Procedures not only apparently varied from region to region, but some facilities and guard posts were never inspected at all. While your testimony notes that the FPS has begun taking some actions to correct this problem, like authorizing overtime for after-hours inspections, you concluded that these actions may be difficult to implement or sustain. Why is that? Do you think those actions are, or will be, sufficient?

GAO Response: We believe that it is too early to assess whether FPS’s recent actions will be sufficient to address the deficiencies we identified with its contract guard program. However, according to FPS’s management and regional officials, meeting the new guard post inspection requirements will be challenging. For example, FPS officials stated that completing guard post inspections twice a week at level IV facilities will be difficult to sustain because FPS is not adequately staffed to complete all the current mission-essential tasks that are required. In addition, according to the Director of FPS, while having more resources would help, the additional resources would have to be trained and thus could not be deployed immediately.

- 2) The DHS Inspector General noted in an April 2009 report (OIG-09-51) that the FPS established a contract review board to review and approve contracting actions at critical decision-making points. Does the DHS Office of the Chief Procurement Officer conduct any review of these contracts? If not, should it? Do you believe there should be more Department-level supervision of FPS contracting, especially given the problems found by GAO and the IG, and in light of FPS acquisition staff shortages identified by the IG?

GAO Response: We did not specifically review FPS’s procurement process and therefore are unable to respond to this question.

- 3) During the Committee’s investigation into the use of private security guards in Iraq and Afghanistan, it found that sometimes guards who were fired by one company for infractions of policy were then hired by other companies. Are you aware of any actions that the FPS may have taken to ensure that guards whose behavior has been problematic do not just move from one company to another?

GAO Response: FPS has no mechanism to ensure that its contractors are not rehiring guards with problematic work histories. During our review, we found that FPS's Contract Guard Employment Requirements Tracking System (CERTS), which is the primary system used by the agency to monitor and verify whether guards have the training and certifications required to stand post at federal facilities, is not fully reliable.

- 4) FPS Inspectors are trained to complete Building Security Assessments for federal buildings, and to recommend protective measures. But the FPS must work with the building security committees, which are comprised of representatives of the tenant agencies, to determine exactly which security measures will be implemented.
- a. Is it true that these tenant representatives rarely possess any security background, but will sometimes seek to overrule FPS's recommendation for security measures like guards, fences or cameras?

GAO Response: We found that most of the agency representatives who serve on the building security committees do not have security backgrounds. However, they are responsible for approving countermeasures recommended by FPS.

- b. Do you think that building tenants put sufficient emphasis on security, or should the FPS have a larger role in determining the security needs of a federal building?

GAO Response: While we have not conducted a detailed assessment of the building security committees, we believe that it is important that all members of the building security committees possess knowledge and understanding of the measures needed to provide security at federal facilities.

- c. How can this process be improved?

GAO Response: While we have not conducted a detailed assessment of the building security committees, we believe that the Interagency Security Committee's recent policy titled: "ISC Facility Security Committees: An Interagency Security Committee Standard" may be a first step in improving this process. For example, the policy provides guidance on how a building security committee should operate with specific functional responsibilities.

- 5) While conducting your review, did GAO find instances when guard companies not only failed to fulfill the obligations of a contract, but in some cases committed fraud in order to appear that it was meeting the obligations of a contract?

GAO Response: During our review, we learned about one instance where a guard contractor allegedly falsified training records. According to FPS's affidavit, the

contractor allegedly repeatedly self-certified to FPS that its guards had satisfied CPR and First Aid training, as well as the contractually required bi-annual recertification training, although the contractor knew that the guards had not completed the required training and were unqualified to stand post at federal facilities. The case is currently pending in U.S. District Court.

- 6) An April 2009 DHS IG (OIG-09-51) report analyzed the selection methodology used by the FPS in picking contractors. FPS's own acquisition guidelines generally require contracts to be awarded on the basis of "best value." Under the best value methodology, the FPS is supposed to look at a variety of factors to determine whether the contractor will be the best choice for the FPS, including the contractor's past performance, and the strength of the contractor's management system. But in 9 out of 21 cases looked at by the IG, FPS selected the contractor by going to the lowest bid. Based on your review, are you aware of any steps the FPS has taken to ensure that FPS contracting officials are trained on how to use a best value approach? Please explain.

GAO Response: We did not specifically review FPS's procurement process and therefore are unable to respond to this question.

- 7) Your testimony identified a number of issues with respect to field supervision and the monitoring of contract guard training requirements. Did your review indicate any areas the FPS is getting it right, or are all regions equally deficient?

GAO Response: We plan to provide Congress with our complete evaluation and a final report on FPS's oversight of its guard program in November 2009.

- 8) In your review of the FPS, and interviews with FPS personnel, did you find any best practices that you would recommend be implemented nationwide?

GAO Response: We plan to provide Congress with our complete evaluation and a final report on FPS's oversight of its guard program in November 2009.

**Post-Hearing Questions for the Record
For Mark L. Goldstein, Government Accountability Office
From Senator Daniel K. Akaka**

**“The Federal Protective Service: Time for Reform”
July 8, 2009**

1. At least one security guard contractor is believed to have falsified training records. Does GAO believe FPS has sufficient internal controls in place to prevent and detect other incidents of fraud in its contract guard workforce?

GAO Response: FPS does not currently have sufficient internal controls in place to prevent and detect other incidents of fraud in its contract guard workforce. FPS’s primary system—CERTS—for monitoring and verifying whether guards have the training and certifications required to stand post at federal facilities is not fully reliable. In many instances, FPS is relying on the contractor to self-report training and certification information about its guards.

**Post-Hearing Questions for the Record
For Mark L. Goldstein, Government Accountability Office
From Senator Susan M. Collins**

**“The Federal Protective Service: Time for Reform”
July 8, 2009**

1. GAO has detailed their troubling findings that many of our nation’s federal buildings may be vulnerable to a bombing or other improvised explosive device (IED) attack. It is my understanding that FPS Officers undergo training at the Federal Law Enforcement Training Center, which offers courses in counter-IED awareness. However, contract guards are currently not required to certify that they have completed any counter-IED awareness courses.

In your view, should the FPS require that all contracted guards undergo rigorous counter-IED awareness training that is certified by DHS’s Office of Bombing Prevention, which already provides in-depth counter-IED training to our nation’s state and local first responders?

GAO Response: We plan to provide Congress with our complete evaluation and a final report on FPS’s oversight of its guard program in November 2009.

**Post-Hearing Questions for the Record
Submitted to Gary W. Schenkel**

**“The Federal Protective Service: Time for Reform”
July 8, 2009**

Question#:	1
Topic:	equipment
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: GAO has noted that it believed the covert tests it conducted were unlikely to alarm either the x-ray machines or the metal detectors, but instead were designed to test the attentiveness and training of the guards standing post. However, the results raise serious concerns about both the guards and the equipment.

Should the FPS consider utilizing more advanced equipment to deter or prevent similar attempts by terrorists, including systems which allow some form of body imaging, even on a limited basis?

Response: FPS recently awarded a national five-year Blanket Purchase Agreement (BPA) under GSA Federal Supply Schedules to Smiths Detection, Inc. for the leasing of new advanced x-ray machines. The BPA will provide for the replacement of 377 machines nationwide. The United States Marshals Service tested identical machines and determined that they are able to distinguish the difference between flammable and non-flammable liquids.

Transportation Security Administration (TSA) is currently piloting state-of-the-art millimeter wave technology - a stand alone portal that can detect a wide range of threats to transportation security in a matter of seconds. FPS is closely following this initiative and will carefully study the results of the pilot to determine the applicability and feasibility of body imaging machines to affording greater protection to federal facilities.

Question: What implications would that have for the FPS? Would such systems have to be manned by federal employees under strict supervision? What other privacy safeguards would need to be incorporated into any such system?

Response: There are many issues regarding the use of body imaging technology and equipment. The cost of procuring the equipment presents a serious challenge. FPS estimates that the cost of placing these machines in all Level 3 and Level 4 facilities would approach \$600 million. In addition to the cost, there may be critical space limitations in federal facilities to accommodate the proper use and implementation of body imaging.

Finally, some public advocacy groups have expressed privacy concerns regarding the use of body imaging technology. TSA is studying these issues closely. Should FPS elect to

Question#:	1
Topic:	equipment
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

include body imaging technology into this protection equipment portfolio, FPS will work closely with TSA and the DHS Privacy Office to leverage the existing analyses of these important issues.

Question:

What consultations has the FPS had with TSA and the Science and Technology Directorate regarding the use of advanced screening technologies and procedures?

Response:

Over the past two years, FPS has steadily increased its involvement with the DHS Science and Technology Directorate (S&T) and the Transportation Security Administration (TSA). As the Sector-Specific Agency for the Government Facilities Sector under the National Infrastructure Protection Plan, FPS has enhanced its relationship with S&T to identify and manage high priority research needs for the Sector.

S&T, TSA and FPS have collaborated on the following technology areas:

- Explosives detection, with emphasis on counter Improvised Explosive Device (IED) detection
- Chemical and biological detection
- People screening, including surveillance and detection

These areas have been deemed essential to the enhancement of FPS's portfolio of countermeasures and the range of protective services it can offer to its stakeholders.

Question#:	2
Topic:	procedures
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: You testified that when you became the Director of the FPS in April 2007, you inherited 11 different ways of conducting business and it was your priority to consolidate policies and procedures.

Do you believe you have been successful in this?

Response: Yes. We have succeeded in developing and issuing national policies that have led to standardization of business processes. That effort includes the implementation of 26 policies and 4 national Standard Operating Procedures (SOPs) since March of 2007. However, we need to build an effective inspections capability to measure programs against best practices and objective criteria to determine if our field offices are effective and efficient, achieve the desired results, and operate in accordance with our national policies, as well as laws and regulations. To meet this need, several months ago, we established a Policy, Compliance and Audits Directorate within FPS to (1) work with subject matter experts in the field and at headquarters to develop numerous additional policies, and (2) ensure compliance, within the regions, of these policies by conducting cyclical program inspections. We recently conducted interviews to fill some of the leadership positions in this directorate and expect to make selections soon.

In addition, we have established national SOPs to put every uniformed officer and inspector in the same uniform and ensure every FPS law enforcement vehicle has identical markings.

We have established or enhanced robust training programs to continue to change the culture of our agency including: the Advanced Individual Training Program (AITP), a course required for all new law enforcement personnel; Physical Security Training Program, required to obtain a position as an inspector/LESO; and the Protective Investigations Program, required for all special agents to enhance their skills in investigating threat cases.

Question:

How did regionalization weaken security?

Response:

Question#:	2
Topic:	procedures
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Regionalization has severely weakened security for several reasons. The decentralization of FPS encouraged inconsistent implementation of policy and procedures and produced differing business models from financial management, contracting, and operational perspectives. Regionalization caused inefficiencies and severely hampered agency leadership's ability to effectively ensure compliance and accountability. Moreover, it created inconsistent execution of the agency's mission.

Question:

How would the FPS ensure that national policies and procedures could be uniformly implemented and enforced?

Response:

FPS has established a Policy, Compliance and Audits Directorate to (1) work with subject matter experts in the field and at headquarters to develop numerous additional policies and (2) ensure compliance, within the regions, of these policies by conducting cyclical program inspections. We are enhancing our ability to train FPS personnel on new policies via a variety of training venues, including webinars, on-line computer based courses, and on-the-job training. We have also added rating factors to the performance plans of regional directors to hold them accountable for ensuring that they and their personnel comply with national directives and SOPs.

Question:

Are there instances when policies, practices or procedures should vary, and if so, how should the FPS identify such instances?

Response:

FPS understands that management of an organization requires flexibility. To the extent possible during normal business operations (as opposed to emergency and critical incidents) when a situation arises that requires that we vary from policies or procedures, we gather all available information to make a collective and informed decision as to the need for a deviation. We rely on regional directors to make sound decisions.

Question:

Question#:	2
Topic:	procedures
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

How will the FPS encourage input and feedback from its regional directors, law enforcement officers and other stakeholders on the development or modification of FPS policies and procedures?

Response:

The development and drafting of FPS policy is a collaborative process purposely designed to involve and elicit input and feedback from FPS stakeholders impacted by policy decisions. The process begins with subject matter experts and program managers who, with the assistance of FPS policy staff, draft proposed policy directives. The proposed draft is then submitted to the FPS Policy Review Committee (PRC) for review and comment. The PRC consists of the eleven regional directors, other FPS program managers, a designated union representative, and a senior DHS policy official. Following a comprehensive review by the PRC, approved changes are incorporated and the final policy directive is submitted to legal counsel for clearance. When the legal review is complete, the final policy directive – a product of a cross-section of FPS stakeholders – is disseminated and implemented.

Question#:	3
Topic:	BSAs
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: FPS Inspectors are trained to complete Building Security Assessments for federal buildings, and to recommend protective measures. But the FPS must work with the building security committees, which are comprised of representatives of the tenant agencies, to determine exactly which security measures will be implemented.

Is it true that these tenant representatives rarely possess any security background, but will sometimes seek to overrule FPS's recommendation for security measures like guards, fences or cameras?

Response: Yes. Recently the Government Accountability Office surveyed the Chairs of Facility Security Committees (FSC) of the majority of FPS Level 3 and Level 4 facilities. The survey revealed that only 12 percent of the FSC chairpersons had a security background. The survey did not clearly indicate whether anyone possessed a physical security background.

Generally, the FSC chairperson is a representative of the largest tenant of a facility. The chairperson has the most influence regarding a facility's access controls. There is no requirement for the FSC to accept and follow FPS' security recommendations.

Question:

Do you think that building tenants put sufficient emphasis on security, or should the FPS have a larger role in determining the security needs of a federal building?

Response:

Generally, FPS believes tenants should devote resources to building security improvements. However, tenants must balance operational budget requirements with the need to fund building security improvements. FPS recognizes that these competing priorities are difficult for tenants to balance

Question:

How can this process be improved?

Response:

Question#:	3
Topic:	BSAs
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

While the Interagency Security Committee (ISC) has established minimum-security standards for federal facilities, improvements can be made through the ISC.

Some FSC's currently lack the security expertise necessary to make informed physical security decisions.

The FSC must be part of the process, however, so the security organization ensures that each customer's needs are balanced against security concerns.

Question#:	4
Topic:	contractor
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: GAO found that over 75% of the 354 guards at one Level IV facility had expired certifications or the contractor had no record of the training.

What actions are you taking with respect to this contractor?

Response: GAO has advised FPS of the contractor in question. FPS is unaware of any employee for the contract guard working with an expired certification. To validate this, FPS conducted two Operation Shield inspections, announced and unannounced inspections, on June 3, 2009, and July 8, 2009, covering 113 contractor Posts. These inspections revealed no instances of expired certifications.

With respect to GAO's finding that there was no record of training, FPS understands this to apply only to X-ray and Magnetometer training. The specific contract in question requires Magnetometer and X-ray training only for "screening posts" (i.e., posts where guards must operate x-ray machines and magnetometers). In addition, where such training is required, the contract specifically states ".....magnetometer/X-Ray training....are "one time only" courses, meaning they do not have to be taken again...." (Section 11, Training, of the Statement of Work). FPS confirmed that all contractor guards working on "screening posts," did have the required X-ray and Magnetometer training.

Based on the above, FPS has determined that the contractor is in compliance with the terms and conditions of their contract, and accordingly, no actions are being taken with respect to this contractor.

Question:

Does the FPS consider this a breach of contract?

Response:

No. See response to question above.

Question:

Should this contractor be allowed to continue to provide services to the FPS?

Question#:	4
Topic:	contractor
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Response:

Yes. The contractor is performing in compliance with its contract. FPS will continue to monitor contractor performance and compliance as it relates to the terms and conditions of each specific contract.

Question:

How many other federal facilities is this contractor responsible for, and what are you doing to determine whether guards at those facilities have the required certifications?

Response:

The contractor is doing business with FPS under four contracts covering 16 facilities.

With respect to determining whether guards at those locations have required certifications, FPS is taking the following steps:

- In July 2009, FPS reviewed and updated certification and qualification records for 100% of its contract security guard force. Not only was the information updated, but it was validated to ensure that every contract security guard has the qualifications and certifications required for his or her position. FPS will now immediately notify individual contract security guards and the contract security guard company of any lapses. FPS will also provide them with instructions for corrective actions and consequences for not complying with those actions.
- FPS increased the frequency of inspections
- FPS conducted Operation Shield inspection actions throughout the National Capital Region (NCR), where this contractor is performing
- The FPS NCR is presently working to provide X-ray and Magnetometer training to all contractor guards, even where such training is not required (i.e., for guards working at posts where there are no x-ray machines or screening requirements)
- FPS is working with the contractor to review and reconcile training records maintained by both the contractor and the Federal government

Question#:	5
Topic:	GCPM
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: FPS recently issued a policy on Guard Contract Performance Monitoring which sets clear guidelines for how often guard posts should be inspected. It says that all posts and all shifts, no matter the security level, must be inspected no less than twice per year and that higher risk posts should be inspected with more frequency.

How many guard posts are there?

Response: FPS has 6,250 guard posts.

Question:

Do you believe that the FPS has sufficient staff to meet this policy's requirements?

Response:

FPS is refining its risk-based staffing model focusing on high-risk facilities. Based on risk and geographic distribution, an updating staffing model will project workforce needs. Based on the final results of the analysis, DHS will put forward appropriate staffing recommendations in subsequent budget requests.

Question:

What is the status of the FPS' development of a human capital strategy?

Response:

FPS has commenced a Workforce Skills/Knowledge/Abilities Assessment Initiative. This three-phase plan that is central to its human capital strategy. When complete, the results will be to recruit, develop, and retain a qualified workforce. Phase 1 of the FPS Workforce Skills/Knowledge/Abilities Assessment Initiative involves the standardization of the position descriptions (PD's) of the FPS workforce. Phase 2 will involve the development or purchase of a skill-mapping template to determine and document the skills, knowledge, and abilities required to accomplish the various tasks of the FPS workforce. Phase 3 of the initiative will involve the creation and implementation of a standardized process for the identification of training, training delivery methods, and assessment tools to assist FPS in the recruitment, development, and retention of a qualified workforce.

Question#:	6
Topic:	post orders
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: GAO's testimony indicated that many of the post orders that are given to contractor guards are outdated or extremely generalized.

How often are post orders updated?

Response: As part of the FPS standardization effort, FPS developed a standard template for guard post orders. Post orders are reviewed during Federal Security Assessments (FSA's) and updated when there is a change to the duties and/or responsibilities of the post.

Question:

Do you believe post orders should be developed or tailored for specific locations?

Response

Guard post orders are tailored for specific facilities. FPS provides the standard guard post orders template; however, the Facility Security Committee (FSC) details the specific duties and responsibilities to be performed at each post. The post orders are typically tailored to meet the needs of the tenant agencies.

Question:

Should a review of post orders be part of the Building Security Assessment process? Is it?

Response:

During the Building Security Assessment, all countermeasures are reviewed and tested to ensure they are functioning as designed. This assessment includes inspections of guard posts in the facility and a review of the post orders. Because the Building Security Assessment identifies risks to the facility and the countermeasures that will be effective in mitigating those risks, if updates to the post orders are necessary, they are implemented as a result of the assessment.

Question:

Question#:	6
Topic:	post orders
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

After Building Security Assessments are complete, are contractor guards given new building-specific training, on the assessment, or any changes to post orders? Do you believe they should be?

Response:

If post orders are updated or changed after the FSA, then the contractor guards are retrained. The tasks carried out by contract guards are determined by their post orders. Because guards are used as a countermeasure to mitigate identified risks, guards are assigned specific duties for their post, such as patrol and response, access control, screening, and visitor processing. Accordingly, the post orders will define the actions that guards on each post shall perform while staffing that post, as well as the conduct that is prohibited. Between scheduled Building Security Assessments, FPS often works with contract guards to provide additional information, guidance, and training. FPS is currently developing a policy to standardize these practices. FPS believes contract guard training should be kept up to date to mitigate evolving security threats.

Question#:	7
Topic:	IG report - 1
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: The DHS Inspector General noted in an April 2009 report (OIG-09-51) that the FPS established a contract review board to review and approve contracting actions at critical decision-making points. Does the DHS Office of the Chief Procurement Officer conduct any review of these contracts? If not, should it? Do you believe there should be more Department-level supervision of the FPS contracting, especially given the problems found by GAO and the IG, and in light of FPS acquisition staff shortages identified by the IG?

Response: The Head of Contracting Activity (HCA) at ICE provides oversight and management of the work activities of the FPS Consolidated Contracting Group (CCG). ICE's HCA keeps the DHS Chief Procurement Officer (CPO) informed of the status of the program. ICE's HCA conducts oversight reviews in accordance with the requirements of the Federal Acquisition Regulation, Homeland Security Acquisition Regulation, and Homeland Security Acquisition Manual.

The CCG Contract Review Board (CRB) process was established to provide oversight and review of the procurement actions supporting the FPS guard program. The CRB requires review of contracting actions valued at \$3 million and above throughout the critical decision-making points prior to award. The CRB review includes: acquisition strategy prior to solicitation; a review of the competitive range determination prior to engaging in negotiations (if necessary); and review of the recommended source selection decision prior to award. Approval to proceed with any action is granted by the CRB Chairman.

Each of these actions undergoes further formal review by the HCA's policy staff and the ICE Office of Principal Legal Advisor. The CPO reviews all justifications and approvals for other than full and open competition valued over \$57 million; determinations and findings valued over \$100 million; acquisition plans valued over \$50 million; and non-FAR covered interagency acquisitions. Additional Department-level oversight of FPS contracting is not required given the active participation and oversight of the HCA's policy staff and the involvement of ICE attorneys. Also, since the majority of GAO issues dealt with contract guard oversight, increased review during the pre-award stages, such as those discussed above, would not appropriately address problems arising during the course of the contract such as those recently found by GAO and the IG. OAQ/CCG contracting resources are considered to be adequate to support the FPS program.

Question#:	8
Topic:	IG report - 2
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: The April 2009 DHS IG report analyzed the selection methodology used by FPS in picking contractors. FPS's own acquisition guidelines generally require contracts to be awarded on the basis of "best value." Under the best value methodology, FPS is supposed to look at a variety of factors to determine whether the contractor will be the best choice for FPS, including the contractor's past performance, and the strength of the contractor's management system. But in 9 out of 21 cases looked at by the IG, FPS selected the contractor by going to the lowest bid. What steps is FPS taking to ensure that FPS contracting officials are trained on how to use a best value approach?

Response: In July 2009, ICE's Office of Acquisition Management (OAQ)/Consolidated Contracting Group (CCG) issued acquisition templates to include a solicitation (i.e., a Request for Quotes and a Request for Proposals) and associated guidelines for evaluation of quotes/proposals (a Proposal/Quote Evaluation Guide and a Source Selection Plan). OAQ/CCG policies make these templates mandatory for use by contracting staff for the procurement of guard services and do not allow for alteration of the templates without prior approval of the CCG Contract Review Board. The templates are specifically crafted to utilize best value procedures consistently across the FPS guard program. They include both price and non-price evaluation factors. The non-price evaluation factors apply the Relevant Past Performance and Management Approach (and a socio-economic participation factor, when applicable) and they are considered to be significantly more important than price.

The evaluation criteria and basis for award set forth in these templates promote trade-offs between price and quality, in order to secure the "best value" for the Government. It should be noted that the lowest offer may indeed be determined the "best value" after consideration of both technical and price factors. To facilitate the best value source selection decision-making process, FPS Guard Program Office personnel and CCG contract specialists are being trained on conducting technical evaluations for guard service acquisitions. The primary objective of the training is to improve the quality of the technical evaluations and the related documentation in order to facilitate the trade-off process. The training educates evaluators on the non-price evaluation factors used by FPS, including: how to assess performance risk based on past performance; how to identify strengths, weaknesses, and deficiencies; and how to determine the associated benefits or risks to the government based on an offeror's management approach. The training also addresses best practices in documenting the evaluation to ensure that evaluators have sufficiently supported their findings and provided the details necessary to differentiate between the various levels of risk or benefit presented by each quote or

Question#:	8
Topic:	IG report - 2
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

proposal. Increased quality of technical evaluation reports will facilitate the trade-off process; ensure award decisions are legally defensible against protest; and ultimately increase the probability of successful contractor performance. In addition to the in-depth training for the evaluators and contracting staff, the CCG leadership team has made arrangements for the ICE Office of the Principal Legal Advisor to provide additional training on source selection procedures. Finally, it is important to note that the OAQ policy staff works closely with the CCG staff to ensure they have the latest publications and guides on best practices in conducting proposal evaluations and source selections.

Question#:	9
Topic:	employment
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: During the Committee's investigation into the use of private security guards in Iraq and Afghanistan, it found that sometimes guards who were fired by one company for infractions of policy were then hired by other companies. What actions are being taken to ensure that guards whose behavior has been problematic do not just move from one company to another? For example, how can we ensure that the guard who fell asleep on Percocet never works as a guard at a federal facility again?

Response: FPS tracks each contract guard independently of the guard's current employer or the contract that procured the guard's services. Accordingly, each individual guard's performance is recorded. FPS utilizes this information each time it makes a determination of employability on an FPS contract.

Question#:	10
Topic:	personnel
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: Under the previous Administration, the FPS saw a reduction in personnel, which no doubt affected the agency's ability to perform missions like the completion of building security assessments and the inspection of guard posts. In response, Congress required the FPS maintain no fewer than 1,200 full time employees, including 900 law enforcement officers, in recognition that the agency needed more, not fewer, people to complete the tasks at hand. GAO's testimony before the Committee seemed to indicate that the FPS probably needs even more people over the next few years in order to complete the additional required inspections. Do you agree? What do you base that conclusion on? If so, does the FPS have a plan or strategy to guide future hiring decisions?

Response: In the final report of a GAO audit that concluded in June 2008, auditors recommended that FPS develop and implement a strategic approach to manage its staffing resources. In response to that recommendation, FPS reviewed and revised its Strategic Personnel Allocation Plan to identify and document staffing levels and allocations necessary to ensure security guard oversight, promote the timely and accurate development of facility security assessments, and enable FPS to accomplish its core mission of securing federal facilities and safeguarding their inhabitants. FPS funding currently supports 1,225 FTEs. FPS continues to study its staffing needs in preparation for the fiscal year 2011 budget request.

With respect to a plan or strategy to guide future hiring decisions, FPS established a recruiting branch that, in addition to developing a comprehensive recruiting strategy, has trained and equipped selected regional FPS personnel to perform the duties of FPS recruiters to assist in achieving FPS recruiting goals.

Question#:	11
Topic:	customer agencies
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: It is the Committee's understanding that the FPS recently notified its customer agencies that the administrative charge used to pay for contract guard monitoring and other support costs will be reduced from eight to six percent, a 25% and \$15 million, cut. Based on the testimony at the hearing, it appears that the FPS may need more resources, not less. What is the reason for this planned reduction? Could the charge be restored, to provide additional law enforcement staff?

Response: The FPS FY 2010 budget request included only 1,225 FTEs. Based on the estimated cost to support that workforce staffing level and offsets from anticipated prior year recoveries, the overhead charge was reduced by two percent or \$15 million. Analysis indicated the fee could be reduced without adversely impacting operating requirements. ICE carried forward substantial balances into FY 2009 and appears to be on track to do the same for FY 2010.

Question#:	12
Topic:	costs
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Joseph I. Lieberman
Committee:	HOMELAND SECURITY (SENATE)

Question: What is the annualized cost for a contract guard under the supervision of the FPS?

Response: The annualized cost for a contract guard under the oversight of the FPS is approximately \$75,462. The FPS estimates that the current national average hourly rate is \$36.28. The annual cost to the FPS for a full work year of guard service would be approximately \$75,462. Of this amount, based on the current DOL wage rate, a guard in the Washington, DC area will receive approximately \$52,208 in salary and benefits.

Question:

What is the annualized cost for a FPS police officer (083 series)?

Response:

A current journeyman FPS Police Officer (GS-083-8) performing mobile patrol and response duties has an annual cost of approximately \$110,000.

Question:

What is the annualized cost for a federal security guard (085 series)? Does the FPS currently utilize any such guards?

Response:

The annualized cost for a federal security guard (GS-085-08) is approximately \$101,500. FPS has no federal security guards as it relies solely on contract guards.

Question#:	13
Topic:	priorities
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Daniel K. Akaka
Committee:	HOMELAND SECURITY (SENATE)

Question: What are the Federal Protective Services (FPS) top three priorities for its full-time and contract guard workforce as the agency moves forward?

Response:

1. Successfully complete and implement Phase 1 of FPS's Risk Assessment and Management Program (RAMP);
2. Develop and implement the FPS National Training Program for Contract Security Guards; and
3. Revise the FPS Strategic Human Capital Plan to identify personnel requirements based on risk-based methodologies, prepare and develop strategies to maintain optimum staffing levels.

Question#:	14
Topic:	training
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Daniel K. Akaka
Committee:	HOMELAND SECURITY (SENATE)

Question: Contractors provide most of the contract guard training. However, FPS is responsible for providing x-ray and magnetometer training, which is required prior to standing post and is critical because much of a guard's duties involve using this equipment.

Your testimony states that FPS will develop training schedules for guards within the next 60 days. How will FPS identify guards who have not received training, given the varied reliability of training records across the regions?

Response: Prior to the briefing by GAO auditors that identified security guard certification and qualification information, FPS was aware of, and resolving, problems with the Certification Employment Requirement Tracking System (CERTS), the system used to capture and house this data. The exact causes of the problem were identified and temporary measures were designed to overcome the problem. However, the measures were not uniformly applied by FPS regions resulting in incomplete and inadequate data in some regions. To immediately correct the data in CERTS, each FPS Regional Director was tasked with providing FPS Headquarters with up-to-date and accurate information on all active contract security guards who support contracts in their regions. The tasking involved not only collecting and compiling all of the certification and qualification information to be entered into CERTS, but also validating it to ensure that required certifications (inclusive of training, weapons qualifications, examination score, and suitability) are current. On July 24, 2009, each Regional Director submitted information that will undergo a second data-level quality assurance review by Headquarters information technology staff prior to being uploaded into CERTS. In the interim, we are currently performing Operation Shields and increasing the frequency of inspections. Once this information is uploaded into CERTS, all regions will be required to update the information in CERTS, through the uniform application of a temporary corrective measure, until the information is migrated into the FPS Risk Assessment and Management Program (RAMP) in November 2009.

Question#:	15
Topic:	authority
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Daniel K. Akaka
Committee:	HOMELAND SECURITY (SENATE)

Question: FPS currently does not have direct authority over FPS contractors. Contractors instead report to the ICE acquisition officers who are also not under the direct authority of FPS. Does this organizational structure make it more difficult for FPS to hold its contractors accountable?

Response: Government employees do not exercise direct authority over contractors or their employees. Contract employees are managed and supervised by their employer. However, a contractor is monitored by the government to ensure its compliance with contractual requirements.

FPS is responsible for and employs a Guard Contract Performance Monitoring Program in accordance with FPS Directive FPS-09-001 to ensure that contract guard providers are complying with the terms and conditions of their contracts. The directive establishes 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).

FPS guard contracts are issued and administered by the Consolidated Contracting Group (CCG), which falls under the cognizance of the ICE Office of Acquisition Management. CCG Contracting Officers take appropriate contractual action commensurate with the types and frequencies of discrepancies or other contractor performance issues reported by FPS COTRs. The respective roles of the Contracting Officer and COTR are not impacted by organizational reporting chains. It is noted that FPS has experienced substantial and demonstrable improvements in its acquisition support since realignment of the contracting function to ICE.

Question#:	16
Topic:	training records
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Daniel K. Akaka
Committee:	HOMELAND SECURITY (SENATE)

Question: At least one security guard contractor is believed to have falsified training records. Does FPS have sufficient internal controls in place to prevent and detect other incidents of fraud in its contract guard workforce?

Response: FPS has a newly established Policy, Compliance and Audits Directorate that will maintain organizational oversight for internal controls and propose new initiatives to improve effectiveness and efficiency of operations, reliability of reporting, and compliance with applicable laws, rules, regulations and policies.

Additionally, the Compliance Investigations Division recently issued an action memorandum to propose a national investigative initiative to proactively use agency investigative resources in our efforts to improve our contract guard oversight and detect fraudulent activity.

The Policy Oversight and Evaluation Division will oversee periodic program inspections and evaluations to measure program operations against best practices and objective criteria to determine if the programs and operations are effective and efficient, achieve the desired results, and operate in accordance with laws and regulations.

The coordinated activities of the Directorate will enable FPS to adhere to a planned approach to risk management and internal control by documenting and evaluating risk and controls at the process level through compliance investigations, program evaluations, data analysis, proactive corrective action, policy oversight, and continuous quality improvement strategies.

FPS' inspectors are appointed by ICE contracting officers as Contracting Officer Technical Representatives (COTRs). Every guard contract has an overall COTR assigned to it, and these COTRs are further supported by other FPS inspectors in the monitoring of contract activity at facilities to ensure compliance with all requirements. In addition to monitoring on-site performance of the contract guard force, COTRs are also actively engaged in the review of contract deliverables. This includes review of contractor quality control and supervision plans, as well as reviewing documentation of training information /certification. FPS plays a role with its industry partners in the conduct of some elements of training required by FPS contracts. For example, FPS oversees contractor-provided weapons training, and is actually responsible for providing/conducting entry-level training to contract guards for X-ray machines and magnetometers. When all suitability requirements are met and training is completed with

Question#:	16
Topic:	training records
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Daniel K. Akaka
Committee:	HOMELAND SECURITY (SENATE)

documented evidence provided to the COTRs, FPS then issues certifications authorizing contractors to put their guards on post under the contracts. As explained in the FPS Directive regarding the Contract Guard Performance Monitoring Program, FPS COTRs periodically conduct audits of contractor records to ensure the contractor is keeping training (and supporting documentation) requirements complete and up to date. FPS believes that quality and appropriate oversight conducted by its COTRs/inspectors should provide for the necessary internal controls to prevent and detect incidents of fraud and/or contract non-compliance and substandard performance. Recently, FPS instituted additional measures to improve the quality and frequency of its oversight responsibilities. Among them, FPS now requires increased levels and standardized methods of conducting post inspections by its inspectors/COTRs.

Question#:	17
Topic:	RAMP
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Daniel K. Akaka
Committee:	HOMELAND SECURITY (SENATE)

Question: FPS plans to introduce the Risk Assessment Management Program (RAMP) to address oversight and human capital challenges. Although RAMP currently is scheduled to come online later this year, this system has been delayed a number of times. What steps is FPS taking to improve human capital management until RAMP is implemented and fully functional?

Response: As planned, RAMP is scheduled for implementation during the first quarter of fiscal year 2010. Inspector training on RAMP begins in October 2009. Once training is complete, FPS inspectors will be able to utilize RAMP to perform their facility security assessments. Until RAMP is introduced, they will continue to perform their assessments and the other tasks required to accomplish our oversight responsibilities using overtime pay and reducing the hours dedicated to less essential mission areas. Although RAMP is designed as a risk assessment tool and not for management of human capital programs, there are significant efficiencies that will result in labor and cost avoidance through the automation and streamlining of a number of business processes. For example, fewer staff hours will be required to conduct facility security assessments because the data elements needed to perform the assessment will automatically populate the assessment report. In addition, RAMP will automatically compute the risk levels based on facility threats, vulnerabilities and consequences, and demonstrate risk reduction based on FPS's countermeasure recommendations.

Question#:	18
Topic:	awareness
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Roland Burris
Committee:	HOMELAND SECURITY (SENATE)

Question: One of the steps FPS took upon learning of the GAO findings was contacting customer agencies and asking them to raise their security awareness. GAO pointed out that the customer agencies have a say in the security protections and processes that are implemented. Does FPS ever find that customer agencies do not want increased security or specific security procedures implemented? Please discuss how the customer agency demands impact FPS protocol and any of the challenges that arise as a result of this relationship.

Response: Yes. As part of the FPS Facility Security Assessment process, FPS presents specific countermeasure recommendations to the Facility Security Committee (FSC), a governing body comprised of representatives of customer agencies occupying space in a federal facility. For a number of reasons, the FSC may reject FPS-recommended countermeasures.

Question#:	19
Topic:	development
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Roland Burris
Committee:	HOMELAND SECURITY (SENATE)

Question: Who is involved in the development of the Risk Assessment and Management Plan? What differences can we expect to see in the Federal Protective Service operations and functioning once this system is up and running? Who will have access to this information?

Response: The FPS Risk Assessment and Management Program (RAMP) is being developed by FPS with the support of the ICE Office of the Chief Information Officer (OCIO). When implemented, RAMP will streamline FPS operations and increase FPS' ability to provide robust security services for federal facilities. Most importantly, RAMP will provide a single source of information to manage physical security for the facilities FPS protects. FPS is currently working to develop a strategy and procedures to ensure that information from the current systems is migrated into RAMP.

As a result of these enhancements, FPS Inspectors will be able to spend more time in the field directly engaged with the facilities they protect while providing more accurate information to stakeholders. Concurrently, FPS management will be able to access the information and provide analysis to support oversight and planning efforts.

FPS personnel will also have access to this information from the facilities and the ability to create and edit information for the facilities they service. The risk assessment reports produced through RAMP will be shared with the tenants as well as GSA to better inform them of the risks present at their facilities and to support FPS' recommendations regarding countermeasures.

Question#:	20
Topic:	IEDs
Hearing:	The Federal Protective Service: Time for Reform
Primary:	The Honorable Susan M. Collins
Committee:	HOMELAND SECURITY (SENATE)

Question: GAO has detailed their troubling findings that many of our nation's federal buildings may be vulnerable to a bombing or other improvised explosive device (IED) attack. It is my understanding that FPS Officers undergo training at the Federal Law Enforcement Training Center, which offers courses in counter-IED awareness. However, contract guards are currently not required to certify that they have completed any counter-IED awareness courses.

In your view, should the FPS require that all contracted guards undergo rigorous counter-IED awareness training that is certified by DHS's Office for Bombing Prevention, which already provides in-depth counter-IED training to our nation's state and local first responders?

Response: In July 2009, FPS produced an IED training video for its contract guards. Each guard will view and certify in writing that he or she watched this training video. FPS believes that it is essential that contract security guards receive training in IED detection and have included it in a national training plan being developed to train or re-train contract security guards on X-ray machines, magnetometers, and on IED detection. This national program, which will standardize contract guard training across FPS, has four goals to be achieved by November 30, 2009:

- Increase the ability of FPS contract security guards to detect and prevent the introduction of suspicious items, weapons, and bomb components using X-ray and magnetometer technology;
- Create a cadre of X-ray and magnetometer instructors within the FPS Firearms and Training Division who will be capable of delivering train-the-trainer programs;
- Establish a cadre of FPS inspectors who will be qualified to provide X-ray and magnetometer screening training to the contract security guards in each FPS region; and
- Standardize screening operations, policy, and contract security guard management procedures to ensure nationwide consistency.

