

Addendum to Opening Statement of
Michael Thibault, Co-Chair
The Commission on Wartime Contracting in Iraq and Afghanistan

Hearing:
**Private Security Contractors in Iraq:
Where Are We Going?**

Room 106, Dirksen Senate Office Building, Washington, DC
9:30 a.m., Monday, June 21, 2010

[As prepared for delivery.]

At this point, I must insert a late-breaking addendum to my opening statement.

In preparation for our hearing, Commission staff offered to meet with all witnesses and/or their key staff. Mr. Torres, CEO of Torres Advanced Enterprise Solutions, or Torres AES, confirmed on June 7 — two weeks ago — that he would be testifying today. Our staff meeting with him was scheduled for last Tuesday.

But late last Monday, Mr. Torres's assistant cancelled that pre-hearing meeting. And last Wednesday — five days ago — Mr. Torres told us that Torres AES was a small company and was “probably not needed on the panel.” He also stated that he has Army Reserve duty this week, and “might not be able to reschedule or get out of it.” That is the last the Commission has heard from Mr. Torres. However, last

Friday, Mr. Torres' lawyer informed us that Mr. Torres “had reserve duty, had key staff out of the country, and was “nervous about appearing.”

Mr. Torres ought to be nervous. This Commission was going to ask him, under oath, why his firm agreed in January to assume private security responsibilities at FOB Shield with several hundred guards that had not been properly vetted and approved. A U.S. Army Contracting Officer Representative (COR) correctly prohibited those Torres AES guards from assuming their duties.

Rather, the incumbent contractor was quickly hired for \$1.5 million to remain on post for 16 added days, and hundreds of Torres AES employees were placed in stand-down status.

This Commission was also going to ask Mr. Torres why he personally flew to Iraq, to

FOB Shield, and strongly suggested to the COR that Torres AES be allowed to post the unapproved guards, guards that would protect American troops, and then to “catch-up the approval process.”

I personally asked the COR if Mr. Torres, after he flew from the states to FOB Shield, had tried to intimidate the COR into allowing unauthorized employees to post to guard duty. The COR told me that “intimidate” was too strong a word, but that Mr. Torres essentially said that this was all about paperwork and wasn’t a big deal.

The Commission can now report that this same company, Torres AES was awarded the next four lowest-priced, technically acceptable (LPTA) contracts to protect American troops at four additional bases.

This raises an interesting question: What is “technically acceptable”? During our trip, we raised that question and the issue of past performance during a meeting with the Commander, Joint Contracting Command-Iraq and Afghanistan (JCC-I/A). Specifically, we asked, how did Torres AES arriving and attempting to post several hundred unauthorized guards impact the awards of four additional security contracts? We were told — and I was there — that these were competitive LPTA task orders,

and that past performance was not considered by JCC-I/A during award of new, competitive task orders.

After an extended discussion, the Commander, JCC-I/A acknowledged that past performance should likely be considered on competitive task orders, and that she would, “look into this.” In my view, this is a major “miss” on the part of JCC-I/A.

So now, less than three business days after Mr. Torres decided he was “nervous,” about testifying (with the testimony being under oath), we have a major issue that needs to be addressed, and our primary witness had hunkered-down in the rocks.

The issue today becomes, What does it take for government contracting leaders to say that an LPTA contractor is not performing adequately, and that their past performance dictates that a contractor is not technically acceptable?

We do know that trying to post hundreds of unapproved guards to protect American lives had no consequence in this case. Today we will further explore where contractual accountability and performance have consequences. What does it take for poor contractual performance to result in contract termination or non-award of future contracts?

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