



**National Association of Security Companies**

## **The Use of Contract Security at DoD Installations**

**April 2009**

## WHITE PAPER

### NASCO Supports the Use of Contract Security at DoD Installations

In the FY 2009 House DoD Authorization Act Report (the “House Report”), the House Armed Services Committee, “concerned with the military Services, especially the Department of the Army, over-relying on contractors to provide security at military installations” ordered DoD “to review the feasibility of establishing a corps of civilian police and security offices under the authority and direction of the Office of the Secretary of Defense and report the on the results of this review.”<sup>1</sup> This request, combined with congressional reductions in the authorized amount of total contract guards that can be used by DoD, clearly indicates a belief that contract security guards at DoD installations should be replaced by DoD police and civilian security guards.

Congress though needs to carefully consider whether the creation of a defense security “corps” to supplant contract security at DoD installations will be effective and/or cost-efficient. DoD branches have a long history of using both civilian security guards as well as contract security guards. The current use of “in-house” police and security guards along with contract security guards is working for the Services in terms of both mission performance and efficiency.

Congress must also utilize data and information on what is currently being required of contractors, and not dwell on issues related to certain past contracts that prompted congressional concerns. The House Report contends that “the creation of a Department-wide professional law enforcement force would ensure consistency in training standards, provide incentives for civilians to consider such positions as a long-time career, and enhance security at military installations.” However, a comparison of current training requirements for Army security guards and contract guards alone calls this assertion into question. The Department of Army’s Regulation for “The Army Civilian Police and Security Guard Program” (AR 190- 56 subchapter 4-2 {Initial training and certification policy} subparagraph (d)(2) states:

*“(2) DA Civilian Guard POs (085) will be required to successfully complete an **80-hour** (Field Training Program) FTP structured as above specifically tailored to the guard mission.”*

Whereas the Performance Work Statements currently being used in the Army’s contract guard contracts stipulates:

*“C.6.2. Training and Instruction.*

*C.6.2.1. The Contractor shall furnish fully trained and qualified personnel to accomplish all work identified in the PWS. The Contractor shall establish a core curriculum of at least **120-hours of initial training**, provided by the contractor, plus up to 40-hours additional of Installation Specific Training.”*

NASCO urges Congress to make a fair and accurate examination of the use of the contract guards that includes full consideration and comparison of the relative selection and training standards, performance, and costs of contract guards and DoD civilian guards before the Services

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<sup>1</sup> H. Rept. 110-652.

are forced to permanently replace a highly flexible contract guard with a massive federal civilian employee force. In addition, while there have been problems with individual contractors in the past, Congress must account for the measures already taken by the Army as well as other DoD branches to address these problems through the establishment of higher contractual standards and through more stringent oversight of the contract/acquisition process. The current force is now being held to standards that are least comparable to, if not higher than, DoD civilian guard standards.

## **Background on the Use of Contract Guards by DoD**

Since the mid-1950's, federal agencies have been encouraged to contract with the private sector for goods and services, including security guard services at DoD installations. However, in 1982, amid congressional "concerns about the uncertain quality and reliability of private firefighter and security guard services, base commanders' control over contractor personnel, and the right of contractor personnel to strike" Congress started to prohibit DoD from contracting for firefighters and security guards.<sup>2</sup> In the FY 1987 Defense Authorization Act the prohibition, with certain exceptions, was made permanent.<sup>3</sup>

In 2003, the prohibition was temporarily lifted for three years, in response to the greater need for installation protection after 9/11 combined with the unavailability (and/or inappropriateness of using) active duty or reserve military personnel to meet the increased base security requirements. Contract security services could only be acquired by installations to supplement existing DoD security personnel already on duty. Realizing that the need for greater installation security (primarily at access control points) would be permanent, DoD soon requested permanent authority to contract for security guard services. Despite this request from DoD, Congress has only extended authority through 2012. In addition, Congress mandated an annual 10% decrease in total contract personnel to ensure that by 2012 there will be 50% of the number of contract security guards as there were in 2006.

In its 1987 prohibition against contracting for security guard services, Congress allowed the following exceptions; (1) when the contract is to be performed overseas, (2) when the contract is to be performed on a government-owned but privately operated installations, and (3) when the contract (or renewal of the contract) is for the performance of a function already under contract as of September 24, 1983.

Through these exceptions, the fact is that DoD has been successfully utilizing contract guard services for decades. The lifting of the prohibition in 2002 increased significantly the number of contract guards at DoD installations. At no time has DoD indicated a preference for DoD civilian security guards over contract security guard. Never has DoD called for the elimination of contract guards.

In 1997, the GAO conducted a review of the use of contract guards by DoD. At that time, under the exceptions to contracting for security services mentioned above, there were still forty-four

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<sup>2</sup> "Base Operations: Contracting for Firefighters and Security Guards", GAO, September 1997 (GAO/NSIAD-97-200BR).

<sup>3</sup> These prohibitions were included in Public Laws 97-252, 98-94, 99-145, and 99-661 and codified in 10 U.S.C. 2465.

military bases in the United States and its territories and possessions utilizing contract guards. The position of the Pentagon (under President Clinton), with the backing of all the Services, was that the prohibition on the use of contract guards should be permanently repealed. The GAO report noted that;

*“DOD officials state that they would like Congress to repeal the prohibition against contracting for firefighter and security guard services.... DOD officials believe that significant savings can be realized from competing these functions with the private sector and that repealing the law would promote more efficient and effective use of military personnel.*

*....According to service representatives from the Air Force, Navy, and Army, contractor performance has been generally satisfactory, although some minor problems have occurred. The representatives generally believe that the problems could have been resolved through better contracting and contract oversight practices.*

*....Officials from the Offices of the Army Assistant Chief of Staff for Installation Management, the Deputy Chief of Naval Operations for Logistics, the Air Force Deputy Chief of Staff for Plans and Programs, and the Marine Corps Deputy Chief of Staff for Installations and Logistics also stated that their respective services support DOD’s position.”*

Similarly, after the general prohibition on contracting security guard services was temporarily lifted in the FY 2003 Defense Authorization bill, the position of the Pentagon (under President Bush), with the backing of the Services was also that the prohibition should be lifted permanently. A January 2007 Report to Congress on “Contractor Performance of Security Guard Functions” from the Deputy Undersecretary of Defense for Installations and Environment concluded that;

*“The authority for the use of contracted security guards services at military installations gives DoD a viable and effective way to meet and adjust the requirements of increased security guard functions. DoD continues to refine processes to ensure high standards of performance and improved cost effectiveness. Continued authority for the use of contract guard services ensures that DoD has the flexibility to both provide installation security and have the military forces available to fulfill operational requirements worldwide.”*

With both of the prior Democratic and Republican Administrations calling for permanent authority to contract for private security service, it is inaccurate to characterize support for the use of contract guards at DoD installations as a partisan issue.

### **Inherently Governmental Function**

It would also be inaccurate to characterize the security services being contracted out at DoD installations in the United States as involving “inherently governmental functions” as defined by federal law and regulation (OMB Circular A-76 and the FAR). These security services primarily entail vehicle inspection, checking for proper identification, badging, and other access control functions. They do not constitute “inherently governmental” activities which “significantly affect the life liberty and property of private persons.” These contract security

services also do not involve the performance of law enforcement (police) functions which are also considered inherently governmental. Accordingly, security services being performed by contractors at domestic DoD installation should in no way should be linked or considered akin to the issue of the use and activities of security contractors in Iraq and Afghanistan.

### **Performance Capability**

Another threshold review issue is performance capability. While there have been specific problems and failures on the part of some individual contractors in the DoD contract guard program, these incidents are not indicative that DoD installation security services cannot be satisfactorily performed by contract security guards. The background, screening and training requirements for contract security guards are dictated by the Services and federal regulations, and the requirements of contract guards are now similar or more stringent to those for DoD civilian guards. At most DoD installations, the performance of contract guards has never been an issue (especially in Europe and in the Navy and Air Force). Recently, the DoD Inspector General conducted an investigation of the use of contract guards at a Naval base after complaints from a former contractor employee.<sup>4</sup> The report concluded that;

*“Overall, the contractor performed satisfactorily as determined by Navy personnel. All Navy personnel with whom we met—the commander, deputy commander, security director, contracting officer, the FSCM, and the QAE—spoke favorably about the contractor’s performance. Further, the performance documentation that we reviewed, such as monthly performance reports, contractor invoices, contractor complaint forms, and contract discrepancy reports (CDRs), FSCM recommendations, and contractor appraisals, supported such statements.”*

While direct performance comparisons between contract guards and DoD civilian security guards are scarce, a 2007 DoD Report to Congress noted a previous performance test between contract security guards and military personnel serving as security guards. The performance test found that “the individual performance evaluation demonstrated comparable abilities among the two sampling groups, thus indicating that contract security guards perform anti terrorism/force protection functions as well as their military counterparts.”<sup>5</sup> In fact, if DoD is forced to use an all-government security guard force, the lack of competition will provide no incentive for improvement of performance.

### **Past DoD Contract Security Awards, Oversight and Management**

While it is undeniable that there have been problems with the performance of individual contractors in the past, mitigating steps can and have been taken to prevent future performance failures. In the 1997 GAO report mentioned above, a more recent 2006 GAO report, and a 2008 U.S. Army Audit Agency (UAAA) Report, all three reports made it clear that many of problems in the contract guard program they observed flowed from inefficient and/or inadequate contract acquisitions, management and oversight on the part of the Services (especially the Army). Said the 2006 GAO Report:

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<sup>4</sup>“Security Guard Services Contract at Naval Weapons Station Earle”, Report No. D-2009-045 (Project No. D2008-D000CG-0116.000) January 23, 2009

<sup>5</sup> Report to Congress on “Contractor Performance of Security Guard Functions” January 2007.

*“To make the best use of taxpayer dollars and achieve its desired outcomes in relying on contractors to guard military installations, the Army requires sound acquisition planning, leading to prudent contract awards, and rigorous monitoring of contractor performance. A lack of diligence in these areas, coupled with the practice of awarding fees for compliance with basic contractual requirements, indicates that the Army needs to do more to achieve its goals. The Army needs to take a stronger role in overseeing contractor performance, and we believe a reassessment of the acquisition approach is called for.”*<sup>6</sup>

Said the 2008 UAAA Report:

*Overall, we found that, initially, the Army didn’t have adequate oversight of contract security guards....COTRs had difficulty providing sufficient oversight in accordance with the QASP primarily because they didn’t receive training or have an effective communications process on their specific QA surveillance roles and responsibilities. They also said additional duties limited their available time for QA responsibilities.”*<sup>7</sup>

The GAO was particularly critical of the Army’s questionable and unsupported use of sole-source contracts and the sole-source companies to whom the Army awarded contracts. These sole source issues resulted in higher costs and other problems that seemed almost predictable and avoidable. NASCO firmly believes that all DoD security services contracts should be competitively bid. From the 2006 GAO Report, it is apparent that the Army could have lowered its costs and reduced the risk for poor performance by competitively bidding its initial (and some later subsequent) contracts. The report was highly critical of the Army’s sole-sourcing decisions stating that;

*“Even though the use of the GSA Schedule was identified as a possible acquisition approach, the Army decided that the best course of action for the first acquisition phase was to award contracts to 8(a) ANC firms, believing that use of the GSA Schedule would have taken longer, would not have allowed a consolidated approach at the national level, and would have diluted the Army’s purchasing power. The Army was not able to provide us with any analysis showing how it made these determinations. We found that other federal agencies, such as the U.S. Air Force and the Department of Homeland Security’s Federal Protective Service, have used GSA Schedule contracts to obtain their security guards. According to the Air Force contracting officer, using GSA Schedule contracts was considered the more efficient, faster method to obtain the guards. The Air Force has used these contracts to obtain contract security guards at 18 bases at an annual estimated cost of \$29 million. The Federal Protective Service manages and oversees 10,000 armed contract security guards that were mostly obtained under GSA’s Schedule program.*

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<sup>6</sup> “Contract Security Guards: Army’s Guard Program Requires Greater Oversight and Reassessment of Acquisition Approach” GAO, April 2006 (GAO-06-284).

<sup>7</sup> “Monitoring Security Guard Contracts (Office of the Provost Marshal General and the U.S. Army Installation Management Command)” U.S. Army Audit Agency, May 15, 2008, Audit Report: A-2008-0144-FFD

*SBA's Alaska district office, in a May 2003 letter to ACA, stated that it was "marketing" a particular 8(a) ANC firm to meet the Army's security guard requirements.... A second 8(a) ANC firm that had approached the Army was also considered. Before awarding the contracts to these companies, the contracting office asked the Defense Contract Management Agency to evaluate the firms' capabilities. The agency rated one of the firms—the one SBA had marketed to the Army—as "high risk" for performance because it had experience manufacturing goods but no experience providing services....*

*During a second acquisition phase in September 2003, the Army awarded four competed contracts. In evaluating the contractors' cost proposals for the second acquisition phase, the Army recognized that the same contractors involved in the first phase submitted cost proposals considerably higher than the winning proposals. But the Army turned again to these same contractors in phase three, adding 37 more installations to the 8(a) sole-source contracts. The Army took this action despite knowing that the government was paying considerably less for the phase-two competed contracts. An ACA analysis computing the cost per contract employee showed that the competitive contracts cost about 25 percent less than the 8(a) sole-source contracts...."*

NASCO supports competitive bidding by qualified bidders for all DoD security services contracts and the elimination of sole source contract awards. Competition will lower costs, and provide an incentive for performance by the successful bidder to retain the contract. However, and most critical, Congress must recognize that problems will occur and performance will suffer if contracts are awarded solely based on price without regard to quality and/or technical merit. Giving preference to low bidders who are technically "equivalent" is not the "best value" for the Services. Given the importance of the mission of installation security, all efforts should be taken to ensure that contracts are awarded to high performing, high standard companies.

In addition to the problems with sole-source contracts, the Army, who holds the lion's share of DoD contract guard contracts, was also faulted by the GAO for its oversight of guard contracts, in contrast to the more stringent oversight of such contracts performed by other Services and agencies. Said the 2006 GAO Report:

*"While the Army does not require its performance monitors to oversee contract security guard training, other federal agencies do require such government oversight. For example, the Air Force and the Federal Protective Service, both of which use contract guards, require government officials to observe and certify that the guards have successfully completed weapons-firing qualification."*

Subsequent to the Report, the Army has made significant changes in its oversight of the contract guard programs (as well as in training as mentioned above) and NASCO fully supports this greater level of contract oversight by the Army which has improved the program.

The Army can also improve the contract guard program by preventing situations where the stated requirements in a contract do not match the "requirements on the ground." With a better understanding of the operational realities at certain installations and how to man and fill positions, it will follow that contract acquisition, staffing of posts, management and overall performance will all be enhanced.

## **Contract Guard Experiences of All the Services**

In the current discussion and examination of the use of contract security guards by DoD installations, the vast majority of the focus, as seen in the House Committee Report language, seems to be on the Army's past experiences. As noted above, the Army's award process and management have already be called out by GAO and others as primary causes for problems with contract guard contracts. While many of these problems have been addressed and corrections have been or are being made by the Army, it seems the Army's past bad experiences are coloring the entire program – present and future. It is important that Congress also review and analyze the experience and current contracts of the other Services (Navy and Air Force) before making judgments or taking actions affecting all contract guard contracts on a DoD wide basis.

### **Accurate Cost Estimates and Comparisons, Inherently Greater DoD Guard Costs, Greater Contractor Flexibility and Efficiency**

For a valid comparison of the costs of a DoD civilian security guard force compared to a contract security guard program, it is essential that all relevant issues be considered and the data and estimates used by Congress and provided by the Services are accurate. For instance, as to required personnel numbers for bases, do personnel number estimates provided by the Services match the numbers in existing contracts? Have proper adjustments been made for the fact that DoD civilian guards will all be salaried as opposed to a mix of full-time and part-time contract guards (that can be deployed more efficiently and effectively in response to increases or decreases in manning requirements throughout the course of the contract)? Also, as supervision of guards having been highlighted as such a critical operational issue, are sufficient resources being budgeted for supervision in estimates of converting to civilian force?

Perhaps the greatest cost factor with converting to an all DoD security guard force, and one that requires a decentralized analysis, is the salary that will be required to hire (and retain) DoD guards at various installations. Any use of broad salary estimates is subject to questioning as the salaries will vary by location and base mission. In the 1997 GAO Report on the contract guard program, GAO stated that “local economic factors, such as base location, cost of living, and the availability of qualified personnel and interested contractors in the community, affect costs.” Congress and DoD cannot simply choose a single GS level for a security guard starting salary and then assume this salary level will be sufficient to hire and retain guards at all bases throughout the country.

On a related note, while not always the case, often much of the available labor pools in the vicinity of military installations are active Reservists and National Guard. While such persons could make excellent DoD guards, it is not likely that DoD could provide for replacements to be used during drill weekends and extended active duty deployments (or at least not efficiently). On the other hand, contract security is required to meet manning requirements regardless of the circumstances of individual guards, and has consistently provided appropriate manpower compliance.

The training and hiring of DoD police and security guards is also a time-consuming process that is dependent on availability of schools such as FLETC. On the contrary, contract security guard training, and having enough guards available to meet base needs is the responsibility of the contractor. Replacements are guaranteed virtually as needed.

It is also not uncommon for DoD police to take their DoD provided FLETC training to other civilian and government agencies that will pay them more, at no cost to the gaining agency (but at an obvious cost to DoD who will have to train and hire a replacement). When a contract guard takes another job there are no replacement costs for DoD.

On the other end of the spectrum, when a contract guard is performing poorly he can be removed immediately at the discretion of the base commander. With a salaried full-time guard force it will be more difficult for DoD installations to terminate poor performers.

Similarly, as DoD civilian guards are salaried full-time employees adjusting work schedules and hours will be much more difficult. Contract guards are both full-time and part-time, in whatever combination necessary to fulfill base manning requirements.

The manning flexibility on the part of contract guard companies is more cost-efficient to meet regular base requirements and much more so in the event of a “surge” situation where more guards are immediately needed, or when there is a desire for a decrease in manning. As has been the case at several bases utilizing contract guards, the Service has awarded a contract calling for a specific number of guards for a specific amount of posts, but the reality at the base or the view of the base commander was different. This necessitated on-the-spot changes in personnel numbers. If only full time DoD civilian guards are used, if there are not enough posts, some would have to be transferred or RIF’ed which is not efficient. Conversely, if there are not enough civilian guards available, this would require increased overtime for existing guards, or the use of civilian police and/or military police which also is not efficient. With the coming reductions in the defense budget, it makes even less economic sense to replace flexible cost-efficient contract guards with full time civilian DoD guards who will increase permanent operating costs.

In addition, with DoD civilian guards, allowances have to be made for annual and sick leave, training time, and Federal holidays. This means that for the same number of man-hours required for security services at a DoD installation, DoD would have to hire more DoD civilian guards to complete those hours than it would need contract guards. Replacing 5000 contract guards could require hiring as many as 6000 DoD civilian guards. There are also increased costs with using DoD civilian guards when DoD pays a night shift differential.

Finally, if Congress envisions replacing overseas security contractors with DoD personnel, such a plan will require the deployment of significant amounts of personnel. This will in turn make it more difficult and expensive to create a civilian DoD guard force to also replace contract security guards at DoD installations in the United States.

### **Examination of DoD Civilian Police and Security Guard Experience**

While the House Report language is novel in its call for a possible unified DoD-wide “corps of civilian police and security offices”, the Services already have considerable experience with their own civilian police and security guards. Thus, it’s incumbent upon Congress to look closely at the performance and other employment aspects of current civilian DoD guards. Given some of the hiring, firing, training, deployment, flexibility, efficiency and other issues already mentioned in relation to DoD civilian security guards, the experiences of base commanders using DoD police and security guards must be explored. While most if not all base commanders would prefer having military police and active duty personnel manning their access points as opposed to

contract guards, it's questionable that they would have a similar preference for DoD civilian police and security guards.

### **Other Issues to Consider**

DoD contract security guard contracts, when awarded, managed and executed correctly, can provide great opportunities for big companies to mentor small businesses. Such beneficial partnering is occurring with some of the Air Force contracts.

### **Conclusion**

Contract guards have for decades filled an essential role in the layered security regime at DoD installations. The use of contract guards is a proven effective and cost-efficient option for the Armed Services in the performance of basic installation security services such as access control, and they provide the Services with important operational flexibility to meet and respond to rising or falling demand for security at an installation. Such cost-efficiencies and operational flexibility will be lost with full-time federal employee force. While there were problems with the acquisition and award process, oversight and performance of some of the contracts that resulted from the 2002 lifting of the general prohibition on contracting for security guard services, those problems have been significantly addressed. Before Congress takes additional steps to further reduce or eliminate the use of contract guards by DoD Services and replace them with a federal force, we urge Congress to examine the experiences of all the Services with contract guards, and obtain a fair and accurate assessment of the current data and requirements as well as conduct a comprehensive comparison of contract guards to DoD civilians guards.