

**Testimony
of
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before the
Commission on Wartime Contracting**

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Co-chairman Thibault, Co-chairman Shays, and members of the Commission, thank you for the opportunity to testify today on issues related to the oversight and management of subcontractors in contingency environments. As you know, I was unable to appear before the Commission on June 21 due to circumstances beyond my control. I regret that I could not be here, and I thank the Commission for giving me the opportunity to appear today. As the founding President and CEO of Torres Advanced Enterprise Solutions, LLC (“Torres”), I hope my testimony will assist the Commission in understanding the challenges Torres faces as a prime contractor and subcontractor in Iraq and Afghanistan and identify some of the solutions Torres has implemented to address them.

1.0 BACKGROUND

Torres is an international enterprise-consulting firm that serves U.S. government agencies and Fortune 500 companies on five continents. Based in Jupiter, Florida with branch offices in Arlington, Virginia, Torres has roughly 3,500 employees and contractors, approximately ½ of who are stationed in the Middle East and Southern Asia, including under Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF). Torres personnel consist of cleared U.S. Citizens, Third Country Nationals (TCNs) and Local Nationals (LNs) who serve as Business Reengineers, including Lean Six Sigma Methodologists, Advisors, Linguists, Subject Matter Experts (SMEs), Instructors, Security Guards and Inspectors. Torres' government customers include the U.S. Department of Defense (DoD), the U.S. Department of State (DoS), the U.S. Department of Justice (DOJ), the U.S. Department of Agriculture (USDA), the U.S. Department of Homeland Security (DHS) and several others.

Torres became a consulting business entity in April 2004 after I returned from Active Military Duty in Afghanistan and the Middle East. My career up to that point was as an executive for three Fortune 500 companies with global operations, and as a U.S. Army Special Forces Reservist. In 2008, Torres was named the forth-fastest growing privately held firm in the United States by *Inc. Magazine*. For all of Torres' success over the past six years, we at Torres feel we are much more than a commercial enterprise. Since 2008, for example, we have provided free dental treatment for approximately 2,800 women and children in Afghanistan and Iraq; trained over 750 women in Iraq who lost their husbands in the Iraqi conflict; presented twelve full academic scholarships to U.S. citizens; funded two hospitals in Iraq and Afghanistan; and donated about one million dollars for various humanitarian programs including the development of a training facility in Baghdad, Iraq. Presently, we are assuming responsibility for a non-profit organization to build a hospice for our nation's war veterans. We are passionate about our service to the U.S. government as demonstrated in our past performances with about 50 customers. We fully support the Wartime Contracting Commission's charge to improve the delivery of services to the men and women deployed under hostile fire and hazardous duty conditions.

I would like to address three concerns that I believe fall within the scope of the Commission's efforts.

1.1 The Set-aside of Critical U.S. Government Programs to Small and Disadvantaged Businesses

These businesses by definition typically earn revenues of less than 6 million per year. They are also the pool of businesses that are most likely to fail under the best business conditions in the United States. Yet the government has awarded multiple billion dollar contracts to such entities who struggle to be viable businesses and who have little or no experience in international environments, let alone supporting U.S. armed forces under hostile fire conditions. Just a couple of statistics to consider: Of the 8,500 small and disadvantaged businesses that existed in the Washington D.C. metropolitan area in 1985, only a handful exist today and are profitable business entities. Further, according to the former head of the Department of Veterans Affairs, over 75% of contractor supported

programs fail requiring a full program re-initiation to meet minimum contract requirements but not before time and budgets are wasted. I have serious concerns about whether we should entrust the lives of our service men and women and the missions they carry out to these businesses.

1.2 Lowest Price Contract Awards under Wartime Conditions

Lowest price contract awards, in my opinion, are not in the best interest of the government. It spawns unhealthy competition that often leads to financial losses and unrealistic cost-cutting. For example, rather than delivering highly educated or capable resources, low price bidding puts the marginally acceptable resources into critical roles supporting our troops. Recently, Torres lost a contract by bidding five times higher than one of our competitors. This same company has underbid in the past, and the government paid the price. We call it buying the contract. We learned later through official government communications that our price in this case was similar to most other competitors that bid for the program. The result is that knowledgeable and qualified bidders walk away from programs while the low bidders continue to buy contracts and struggle to deliver. There are an abundance of such examples throughout OIF and OEF.

1.3 Use of Government Resources to Clean up Contractors

Contractors have little incentive to deliver first-rate services if the government is not prepared to make underperformers pay the price. For example, just the thought of an Inspector General audit or investigation should grab the attention of every Chief Executive. But audits and investigations are few and far between, and the results are not always adequately publicized. Even worse is when an Inspector General identifies waste, fraud and abuse, but contractors are allowed to continue on the very programs they fraudulently obtained. The government surprisingly seems reluctant to prosecute or even debar such contractors.

2.0 Overview of Torres' Business Base for Work in Iraq and Afghanistan

Torres' work in Iraq and Afghanistan comprises the largest component of Torres' total projected sales for FY 2010. Torres holds the following prime contracts for services in Iraq and Afghanistan¹: The forecasted percentage of total company revenues related to work in Iraq and Afghanistan is 44.8% for FY 2010. The forecasted percentage of total company revenues related to all of Torres' subcontracts is 26.8%.

¹ The prime contracts listed represent Torres' five largest prime contracts in descending order according to total contract value.

Contract Name (Type)	Period of Performance	Customer
TWISS I (IDIQ/FFP)	2007 - present ²	Dep't of Defense/ CENTCOM Contracting Command
TWISS II (IDIQ/FFP)	Sept. 1, 2009 - Sept. 1, 2011	Dep't of Defense/CENTCOM Contracting Command
Dep't of the Army - Media Operations (IDIQ/FFP)	Aug. 6, 2009 - July 31, 2011	Information Operations Task Force - Afghanistan
Linguists and Subject Matter Experts in Iraq (FFP)	Apr. 18, 2007 - Apr. 17, 2011	Dep't of State

Torres' five largest subcontracts for work related to Afghanistan and Iraq are as follows³:

Contract Name/Prime (Type)	Period of Performance	Customer
U.S. Embassy Iraq/Invizion (IDIQ)	Oct. 2, 2008 - July 12, 2013	Dep't of State
U.S. Embassy Iraq/Afghanistan/Technatomy Corp. (IDIQ)	Nov. 17, 2008 - Nov. 16, 2013	Dep't of State
MEP-Afghanistan/Mission Essential Personnel (Cost Plus)	Dec. 1, 2007 - Dec. 28, 2012	Dep't of State
RONCO/NATO - Afghanistan (T&M)	Jan. 13, 2008 - Jan. 31, 2011	NATO
FOB Gardez Security Services/Sabre (FFP)	Jan. 2010 - Dec. 2014	Combined Joint Task Force - 82

3.0 COMPLIANCE CHALLENGES

Given the volume of work Torres has performed in Iraq and Afghanistan, I am pleased to report that we have not had significant problems complying with prime-contractor business system requirements. Torres' success in this regard is attributable, in part, to the fact that we replicate our corporate infrastructure in theater. Torres for example, offers the same robust program support in Iraq and Afghanistan that it provides state side, including Program Management, Security Management, Contract Management, Financial Management, Logistics and Supply Chain Management, Human Resources Management, Recruitment and Retention Management, Medical and Dental Support, 24 Hour Employee and Family Support, Training Management, etc. Our in-country presence allows us to respond quickly to unpredictable and rapid changes on the ground as it occurs. As a subcontractor, we minimize the potential for compliance issues with the prime contractor by fully vetting all in-country businesses we work with and by maintaining business accounts in country. As a result, our track record with respect to delivery to the government is among the best.

² From 2007 to January 2010, Torres was the subcontractor under prime contractor Sabre International Security ("Sabre"). In January 2010, Torres became the prime contractor through novation from Sabre.

³ The subcontracts listed represent Torres' five largest subcontracts in descending order according to total contract value.

Due to circumstances beyond its control, Torres has faced challenges related to compliance with U.S. government contracting policies. At JSS Shield, for example, government-caused delays prevented Torres from starting performance on January 1, 2010, as required under the JSS Shield Task Order. Torres' proposal for JSS Shield indicated that Torres needed 30 days of lead time to ensure operational readiness by January 1, 2010. The Task Order, which was expected to be awarded on December 1, 2009, was awarded two days later on December 3, 2009; but, the Government did not change the period of performance to account for the delay. Problems related to the reduced lead time were compounded when the Government delayed our access to land for building out the LSA. If the Government had provided us timely access to suitable land, we would have assigned security personnel earlier in the process and, thus, would have avoided delays attributable to arming authorization.⁴ In this case, Government action that was out of our control prevented us from performing in accordance with our proposed timeline.

Contingency operations also pose significant challenges related to the competitive award of subcontracts. As aforementioned for example, small business set-aside rules unnecessarily restrict the government's procurement options under circumstances that call for maximum flexibility in order to meet the demands of an austere and hostile environment. For that reason, I believe 8(a) set-asides are inappropriate for contingency environments. Our military, diplomatic and support personnel deserve the most capable, experienced support services available. The government should be able to select contractors to provide those services based solely on their ability to perform on the contract, not based whether the contractor meets the criteria for a set aside.

4.0 ENSURING RELIABILITY OF BUSINESS & ACCOUNTING SYSTEMS

Regardless of its role as the prime or sub contractor, Torres rigorously adheres to business and accounting systems that meet or exceed DCAA standards. Torres uses full life-cycle accounting and financial management, including Invoicing and Forecasting, Estimating, Accounts Receivable (AR), Purchasing and Accounts Payable (AP), Funds Management, Property Management, Logistics Management, Supply Chain Management, and Timekeeping. These systems are fully integrated with the company's Human Resources and Payroll systems and are accessible worldwide through Torres' secure and encrypted virtual private network (VPN). Torres' Financial Management organization is headed by the Torres Chief Financial Officer and the Controller. Both are Certified Public Accountants with a combined 30 years of U.S. government finance and accounting experience. As evidence of their skills, Torres in 2009 and 2010, Torres was audited by the Defense Contract Audit Agency (DCAA), the Internal Revenue Service (IRS), the Torres Certified Public Accounting (CPA) firm and Arlington, County Virginia. All audit reports issued stated that Torres' financial systems and financial procedures and controls as meeting or exceeding all audit standards.

⁴ After Torres' JSS Shield guard force was in place, all 441 of the guards were approved by the Dep't of Defense for duty and retained on the program. Although the government issued a demand for repayment, the contracting officer later withdrew the demand in its entirety, confirming that Torres was not responsible for the additional expenses the government incurred as a result of its delay.

We train all our employees in Timekeeping, Timekeeping Systems, ethics in time reporting, and the relevant standard operating procedures. We also facilitate compliance and reliability by maintaining and infrastructure of IT personnel and IT communications in areas of operation to ensure full access and to provide continuous training, coaching and mentoring of Torres personnel and subcontractors.

5.0 HIRING, VETTING AND TRAINING

Torres maintains full-time recruitment, screening and HR personnel who are responsible for vetting and training employees to Torres' high standards. For U.S. citizens, our background check comprises six levels as follows:

- i. Security Clearance Check;
- ii. National Agency Check;
- iii. National and Local Criminal Background Check (including for domestic violence, all felonies, DWI and drug convictions, and Human Rights violations);
- iv. Financial Background Check (using credit agencies and public records, we check large outstanding debt, bankruptcies, and delinquencies on loans, alimony or child support payments);
- v. Foreign Travel and Foreign Connections; and
- vi. Reference Checks (including any information relating to sexual and non-sexual harassment, ethics violations, and personal and professional conduct).

For third country nationals and local nations, Torres implements a four-level background check:⁵

- i. International and Host Nation National Agency Check (U.S., Interpol, etc.);

⁵ As a result of our thorough vetting and screening process, all 441 guards stationed at JSS Shield were approved by the Dep't of State for duty and retained on the program.

- ii. U.S. Defense Attaché Office (DAO) and Military Group (MILGRP) intelligence, counterintelligence and terrorist databases
- iii. National and Local Criminal Background Check (which, in addition to the full background check for U.S. employees, includes an inquiry into the third country national's or local national's insurgency connections, terrorist connections, and family relationships with suspected insurgents or terrorists).
- iv. Regional and National Checks using databases of the U.S. Department of State local and international databases.

6.0 ETHICS TRAINING AND COMPANY COMPLIANCE

We are proud of our ethics training and compliance programs, which consist of a series of classes related to contract performance in contingency environments. Among other topics, our training addresses ethics in government contracting, standards of conduct, harassment, sexual harassment, reporting of misconduct, time reporting, customs and courtesies, and security and handling of government materials.

All Torres and subcontractor personnel are trained to report incidents of noncompliance in writing and orally to a direct supervisor, who reports the incident up through the chain of command. All reports of noncompliance must reach Torres' Director of Operations within 4 hours of being discovered unless extraordinary circumstances preclude reporting within the prescribed time frame. The Director of Operations ensures that all events are reported to the relevant government personnel as required under the contract and by applicable laws.

7.0 SECOND AND THIRD-TIER SUBCONTRACTORS

Torres' policy disallows the use of third-tier subcontractors except in extraordinary circumstances and then, only in cases where the third-tier subcontractors can be managed effectively. To date, Torres has used only one third-tier subcontractor from a third-party nation. We are currently eliminating the need for this third-tier subcontractor.

8.0 IMPROVEMENTS TO SUBCONTRACTOR MANAGEMENT

Torres has the good fortune of working with prime contractors that effectively communicate with Torres management personnel and the personnel that work throughout Iraq and Afghanistan under critical U.S. government programs. In three cases Torres is the Mentor in official Mentor-Protégé relationships. Under these programs Torres trained the prime contractors in each of the areas needed for these businesses to succeed under

contingency operations. This includes Program Management, Security Management, Contract Management, Financial Management, Logistics and Supply Chain Management, Human Resources Management, Recruitment and Retention Management, Medical and Dental Support, 24 Hour Employee and Family Support, Training Management, etc.

9.0 CLOSING

In closing, I am proud of Torres' record in delivering services to the U.S. government and our men and women deployed under hostile fire conditions. We have recruited, hired and deployed thousands of highly skilled, dedicated personnel to austere and hostile work environments. In particular, Torres is honored to provide exceptional support to the U.S. operations in Iraq and Afghanistan. As a US Army Reserves Special Forces soldier preparing for future deployments, I am keenly focused on the protection of our nation's deployed men and women. Our priority is to continue providing exceptional support at costs that are competitive and that do not introduce unnecessary security and safety risks to our military and civilian personnel.