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# Congress of the United States

## House of Representatives

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### Opening Statement of Rep. Henry A. Waxman Chairman, Committee on Oversight and Government Reform Examination of AEY Contracts with the U.S. Government June 24, 2008

Today's hearing examines a \$300 million contract to supply ammunition to the Afghan security forces. This contract is an important one because it relates directly to the success of our mission in Afghanistan.

We know a lot about what went wrong after the contract to AEY was awarded in January 2007. We know that ammunition provided by AEY was "unserviceable." We know that much of the ammunition was illegal Chinese-made ammunition.

We know that after paying AEY over \$60 million, the Army cancelled the contract. And we know that last week, the Justice Department indicted AEY and its top officials with 71 counts of fraud and related charges.

We have also learned that there are questions about the role of the U.S. Embassy in Albania in approving a plan to conceal the Chinese origins of AEY's ammunition. A letter I sent yesterday sought additional information about the Embassy's actions.

Today's hearing will examine what is not known: How did a company run by a 21-year-old president and a 25-year-old former masseur get a sensitive \$300 million contract to supply ammunition to Afghan forces?

My staff has prepared an analysis of the evidence that the Committee has received, and at the appropriate time, I will ask that the staff analysis and the documents it cites be made part of today's hearing record.

The AEY contract shows that the procurement process at the Department of Defense is dysfunctional. There was no apparent need for the contract, no effective vetting of the company's qualifications, and no adequate oversight.

The first step in any procurement should be to ask whether the contract is necessary. That's especially true when the contract will cost taxpayers hundreds of millions of dollars.

This apparently never happened. AEY acquired its ammunition from stockpiles in Albania and other former Warsaw Pact countries. These countries have surplus ammunition they are trying to give away or destroy. We learned during the investigation that the President of Albania flew to Iraq in 2007 and offered to donate Albanian stockpiles to General Petraeus.

It appears that the Army agreed to pay \$300 million for ammunition it could have gotten for free.

The procurement failure that is the hardest to understand is the selection of AEY.

The State Department maintains a "watch list" of potential illegal arms traffickers. Both AEY and Mr. Diveroli are on the watch list. So are AEY's subcontractor and the subcontractor's subcontractor. The State Department official in charge of the watch list called this "a perfect trifecta."

But the Defense Department never bothered to check the watch list before awarding the \$300 million arms contract.

In the source selection decision, the contracting officer wrote: "There essentially is no doubt that AEY would perform in accordance with the delivery schedules and has no history of quality rated problems. Based on this, AEY's initial rating was 'Excellent.'"

This was pure fiction.

If Army officials had examined AEY's performance under previous Defense and State Department contracts, they would have easily discovered a dismal record of failure.

Documents produced to the Committee show that federal agencies terminated, withdrew, or cancelled at least seven previous contracts with AEY. Under these contracts, AEY provided potentially unsafe helmets to our forces in Iraq, failed to deliver thousands of weapons, and shipped poor quality ammunition to U.S. Special Forces. Government contracting officials repeatedly warned of "poor quality," "damaged goods," "junk" weapons, and other equipment in "the reject category." And they complained the company repeatedly engaged in "bait and switch" tactics that were "hurting the mission."

One contracting official told us: "I just don't trust the guy. ... I couldn't take anything he said credibly." He told us that AEY was the single worst company he dealt with in Iraq, saying: "that was my lemon I had to make lemonade out of."

In testimony to be delivered today, the witness from the Defense Contract Management Agency continues to assert that "AEY had a history of satisfactory performance." That's simply ridiculous. Rating AEY's performance as "excellent" and "satisfactory" is an insult to the taxpayer.

The procurement deficiencies cascaded upon each other. The terms of the contract left out essential details, allowing AEY to deliver ammunition that was over 60 years old. There were few inspections of the quality of the ammunition.

This, unfortunately, is not an aberration. Over the last eight years, we have witnessed a complete breakdown in the procurement process. As the AEY experience demonstrates, it appears that anyone — no matter how inexperienced or unqualified — can win a lucrative federal contract worth hundreds of millions of dollars.

There are profound lessons to be learned from the AEY experience. By examining AEY as a case study of what went wrong and why, we can begin the process of rebuilding our procurement system and protecting the interests of the taxpayer.