



U.S. AIR FORCE

## News Release

### SECAF Receives DoD/IG Investigation Report

WASHINGTON, D.C. – Secretary of the Air Force Michael W. Wynne took administrative action on 3 members, including a general officer, and referred action for 2 others to their chain-of-command, for their role in the Thunderbird Air Show Production Services contract. His decision follows the completion of a Department of Defense Inspector General investigation requested by Secretary Wynne in 2006.

The Air Force canceled the \$50 million contract with Strategic Message Solutions after a Government Accountability Office complaint was filed by a competing company. The subsequent DoD IG investigation, conducted by the Defense Criminal Investigative Service, found the contract was tainted with improper influence, irregular contracting practices and preferential treatment for SMS. The Assistant U.S. Attorney, District of Nevada, declined pursuing prosecution. The investigation looked at Airmen who were associated with the contract award, but also examined the involvement of others across the Air Force.

"I am deeply disappointed that our high standards were not adhered to in this case," said Secretary Wynne. "This is not how the Air Force does business and we are taking steps to ensure this doesn't happen again."

Among the five Airmen who were disciplined, Secretary Wynne took administrative action against Maj. Gen. Stephen M. Goldfein, who was commander of the Air Warfare Center at Nellis Air Force Base at the time the contract was awarded.

Secretary Wynne directed a thorough review of contracting processes, and institution of a robust training program targeted to correct issues raised by this investigation. In addition, Ms. Sue Payton, Assistant Secretary of the Air Force for Acquisition, directed a thorough review of all contracting activities at Nellis AFB.

"We expect the highest standards of conduct from all of our Airmen--regardless of rank," said Wynne.



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## Fact Sheet

### Thunderbird Air Show Production Services Contract

#### Thunderbird Air Show Production Services (TAPS)

- Solicitation was issued for TAPS in August 2005.
- TAPS was intended to provide turnkey audio, visual, and concert quality sound production presentation to augment and integrate with the Thunderbird air demonstrations throughout the country.
- The contractor was required to provide the full range of show production services to include producing, programming, operating, and presenting an audio, visual, and concert quality sound show to educate, entertain, and inspire the spectators regarding the AF.

#### Investigation

- **DoD Investigation:**
  - On February 8, 2006, SecAF referred for investigation matters raised in the GAO bid protest to DoD/IG. The DoD IG investigation, conducted by the Defense Criminal Investigative Service, found the award to Strategic Message Solutions (SMS) was tainted with improper influence, irregular procurement practices, and preferential treatment.
  - Specifically, SMS was allowed to use government facilities and was assisted in production of their proposal by their previous association with the Thunderbirds.
  - DoD/IG determined that no criminal violations had occurred.
- **United States Attorney, District of Nevada:**
  - A Grand Jury was convened by the Office of the United States Attorney, District of Nevada regarding allegations made in the bid protest to GAO
  - On May 1, 2007, with full knowledge of the information investigators had obtained, the U.S. Attorney declined criminal prosecution, citing insufficient evidence to warrant a federal criminal prosecution.

#### Contract Solicitation

- **Sole Source Contract:**
  - Nellis AFB and ACC initially reviewed SMS' proposal under FAR 15.6 provisions for an Unsolicited Proposal
  - A preliminary review, however, indicated the proposal did not meet the requirements because of the variety of methods and message vehicles existing in the private sector.



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- **Request for Proposal/Source Selection:**
  - The Nellis AFB Contracting Squadron was responsible for the source selection.
  - With guidance from ACC and input from the Thunderbirds leadership, the requirements for the product and service to be obtained were refined.
  - Rather than draft specific requirements, the Request for Proposal was drafted in a manner that would invite creative and innovative proposals on how to best showcase the Thunderbirds as a symbol of Air Force capabilities and pride.
  - As a result, the 99<sup>th</sup> Contracting Squadron received a wide range of proposals with a corresponding spectrum of costs.
  - The Source Selection Authority at ACC made the determination as to the best value offeror for the TAPS requirement and the contract was subsequently awarded by the Contracting Office at Nellis AFB.
- **Contract Awarded:** On December 14, 2005, the TAPS contract was awarded to SMS.
- **Cost of Contract:** The contract was awarded to SMS for \$49,925,795 including a base year and four option years. The first year of the contract was to be executed for \$9,985,159.

### Protest

- **GAO Protest:** Standing Room Only (SRO) protested the award to the GAO on January 13, 2006 alleging evaluation errors, bias, and procurement integrity violations. SRO's bid was \$24,925,965.
- **Air Force Review:**
  - The Air Force examined the issues raised by the protest and found flaws in the source selection process.
  - The Air Force determined the source selection team inconsistently applied the source selection criteria especially with respect to the ratings of SMS' past performance, SMS' failure to submit financial documents, and the best value evaluation.
- **Contract termination:**
  - Under the GAO rules (4 C.F.R. 21) the agency, in this case the Air Force, had 30 days to review a protest and prepare its response.
  - During that review, if the Air Force determined that corrective action was appropriate, it could request the GAO dismiss the protest based on the agency taking appropriate corrective action.



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- The Air Force review of the procurement determined that corrective action, in the form of contract termination, was appropriate.
- **Protest termination:**
  - On February 8, 2006 the Air Force requested GAO dismiss the protest based on an Air Force proposal to terminate the contract in its entirety.
  - The AF received notice on 15 February 2006 that GAO had dismissed the protest.
- **Post Contract Payment:**
  - SMS received \$1.99M for work done to date and \$591,844 for termination costs, to which they were entitled based under the FAR.
  - The contract contained standard FAR clause 52.212-4(l) regarding termination of the contract for the convenience of the government. In cases of termination of the contract by the government, the clause requires that the contractor be paid a percentage of the contract price reflecting the percentage of the work performed prior to the notice of termination, plus reasonable costs that resulted from that termination.



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## Timeline

Date	Description
4 Mar 2004	99 <sup>th</sup> CONS awards contract to Framework Sound for purchase of two Instant Reply 360 machines (\$11,142) and Thunderbird show music is changed
2 Sep 2004	99 <sup>th</sup> CONS awards \$128,000 contract to Chugach McKinley (ANC) to improve sound from communications trailer; Framework Sound provided 100% of work and equipment and was paid \$120,000 from the contract award amount
4 Oct 2004	Gen Goldfein replaces Gen Wood as commander
31 Dec 2004	Gen Hornburg retires
16 Feb 2005	- Contract awarded to Framework Sound for \$40,000 to change the music for Thunderbirds 2005 Show
8 Mar 2005	- Sole source contract awarded to Sports Link, Ltd. for "Thundervision Test" \$49,300 - Sports Link to subcontract for "all production, post production, video, and audio support services necessary to deliver production to Nellis AFB on 9 and 10 Mar 05."
10 Mar 2005	- _____ demonstrated TAPS concept to CSAF, AFWC/CC, 57 FW/CC "and others in the audience of the 2005 Thunderbirds Acceptance Show."
15 Mar 2005	- SMS filed Limited Liability Corporation with PA and registered with Central Contractor Register as Management Consulting Service
13 Apr 2005	Gen Goldfein, _____ meet with Gen Moseley (Vice Chief) in his office; Gen Moseley learned of Gen Hornburg's involvement with SMS
19 Apr -May 2005	_____ presentation at ACC followed by submission of proposal to 99 CONS. (11 May determined to not meet criteria for unsolicited proposal. On 6 Jun revised unsolicited proposal submitted)
13 Jul 2005	- Acquisition Strategy Panel (ASP) convened and recommended acquisition strategy to pursue full and open competition using AFFARS Mandatory Procedure 5315.3 evaluation techniques
22 Jul 2005	- Draft Request for Proposal (RFP) released on FedBizOpps
2 Sep 2005	- Gen Moseley becomes CSAF; created AF Office of Strategic Communication
8 Nov 2005	- Final Decision Briefing to SSA (SMS selected)
13 Dec 2005	- Source Selection Decision Document signed by SSA selecting SMS
14 Dec 2005	- Contract awarded
16 Dec 2005	- SMS submitted invoice for completion of Milestone 1 in the amount of \$1,990,000 (SMS had to resubmit on 20 Dec due to errors in first invoice and was then paid the amount of the invoice.)
17(13) Jan 2006	- Protest filed at the Government Accountability Office (GAO)
1 Feb 2006	- Stop work order issued to contractor
8 Feb 2006	- SECAF refers matters raised in protest to DOD/IG



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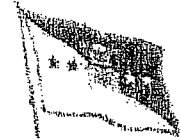
15 Feb 2006	- AF notified GAO dismissed protest on 13 Feb based on AF corrective action to terminate entire contract
16 Feb 2006	- Termination for Government's Convenience Letter sent to SMS
27 Feb 2006	- SMS files suit in US District Court of Eastern District of Pennsylvania against the US government and SRO/Video West
27 Mar 2006	- Government filed Motion to Dismiss for lack of subject matter jurisdiction and requested stay of further proceedings, including discovery, pending decision on Motion
21 Apr 2006	- Court denied request to stay proceedings.
16 Nov 2006	- ADR Magistrate conducted initial ADR meeting to reach termination settlement agreement IAW FAR provisions; Discovery stayed during ADR
Mar 2007	- Termination settlement agreement not reached; Discovery stay lifted
1 May 2007	U.S. Attorney, District of Nevada declined criminal prosecution; DoD IG resumes its investigation from DCIS
22 Aug 2007	- SMS re-opened termination settlement discussion based on documented expenditures in amount of \$591,844
5 Sep 2007	- Lawsuit was dismissed
10 Sep 2007	- Contract modification executed termination settlement agreement
30 Jan 2008	- SecAF receives DoD IG report



## Memo to Senior Leaders



THE SECRETARY OF THE AIR FORCE  
CHIEF OF STAFF, UNITED STATES AIR FORCE  
WASHINGTON DC



March 26, 2008

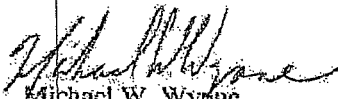
### MEMORANDUM FOR AIR FORCE SENIOR LEADERS

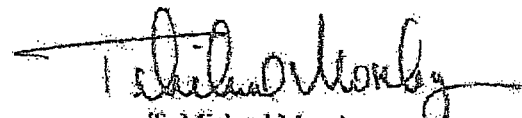
SUBJECT: Senior Leader Responsibilities in Ethics

As senior leaders, we collectively set the Air Force's ethical tone and serve as the example for all Air Force members and employees. It is imperative that we be constantly mindful of the impact, both intended and unintended, our words and actions may have on others, particularly our subordinates. Accomplishing the mission or achieving a desired outcome can never come at the expense of the law, applicable regulations, or our Core Values. Yet, when we say or imply we want something done, some may infer that we want it done at all costs and without objection or the raising of issues.

We need to be particularly vigilant of our actions in contract matters. We are accountable to the American people as stewards of public funds. We must maintain appropriate relationships with those who hope to enter into contracts with the Air Force and those who already have contracts. We must scrupulously avoid the appearance of impropriety or favoritism. Our efforts to restore public confidence and ensure openness and transparency in the acquisition process are undermined when individuals are given special access or treatment by senior leaders based on prior professional or personal relationships. Senior leader involvement in the acquisition process, even when unintended, that results in improper influence or unfair outcomes is unacceptable and violates our Core Values. I ask that every senior leader pay close attention to the rules under which we must conduct procurements. And if you are not sure about the rules, ask.

We must create an environment where our people feel they can convey "bad news" to us without fear of ridicule or retribution and reward our folks for standing up to pressures of improper influence in the contracting process. When we fail in this aspect of leadership, we not only deprive ourselves of total situational awareness, but we generate cynicism and distrust among subordinates and the next generation of Air Force leaders. Your continued vigilance in this regard will help ensure that proper focus is maintained.

  
Michael W. Wynne  
Secretary of the Air Force

  
T. Michael Moseley  
Chief of Staff

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## **CSAF Statement**

**Air Force leaders are always looking for new ideas to improve our Air Force. That certainly applies to the Thunderbirds' Air Show. The Thunderbirds' shows are a great opportunity to showcase our Air Force to a global audience and to stimulate interest in young Americans to serve with us.**

**When, in 2005, the former Chief of Staff decided to modernize the Thunderbird Air Show production, we took a close look at the concept. After I was sure funding was available, as Vice Chief of Staff, I passed the concept to the experts in the field for them to take it through our acquisition process.**

**As the report reflects, in late 2005 there was an unfortunate breakdown in acquisition processes at the operational level. Once we reviewed the source selection in January 2006, we cancelled the contract and immediately began to implement lessons learned for future source selections.**

**I take great pride in the fact that our Airmen have tremendous initiative and motivation. Together, they create a powerful "can do" culture. While this "can do" attitude has produced some of our greatest achievements, it requires care in communication from leaders at all levels. In the case of improving the Thunderbirds' shows, with the benefit of 20-20 hindsight, it is clear that some Airmen did not follow established procedures in their efforts to make things happen.**

**This event has been a reminder that we must always be cognizant of how rank, position and expressed interest may influence the actions of Airmen within our command. We must be fully aware of how we present information and make suggestions to subordinates so that we guard against even the perception of improper influence. To that end, the Secretary and I sent a letter to Air Force leaders in the field emphasizing that exact point.**

**Our core values – integrity, service, excellence – inspire our Airman to do the right thing, even when no one is watching. We have turned this chapter into an opportunity to remind ourselves of our accountability to that high standard.**



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## Acquisition Milestones

The recently-released DoD IG report addresses contract awards that took place from 2003 to 2005. Since then, the Air Force has strengthened and added several oversight procedures:

### Sep 2005

- Expanded the Ombudsman program (an avenue to voice acquisition concerns) to allow military and contractors to use it and mandated its use on all solicitations and contracts.
- Prohibited the Source Selection Authority from being the contract clearance approval authority.
- Required a source selection recommendation in all source selections.
- Required the retention of information as a matter of record once it was briefed to the source selection authority.
- Established mandatory participation by JA during the clearance process.

### Oct 2005

- SECAF issued a memo warning of potential post-employment ethics liability of requirements personnel when dealing with source selections

### Mar 2006

- Mandated legal review of all key source selection documentation and contract actions greater than \$500K.

### Apr 2006

SAF/AQC issued conflict of interest memo to Air Force contracting officials:

- Contracting duties not to be based on personal or financial ties
- Maintain impartiality in performance of contracting duties

### May 2006

- Mandated SAF/AQC accomplish contract clearance when the senior MAJCOM contracting official is the source selection authority.

### June 2006

- SAF/AQC directed all contracting activities to incorporate price reasonableness determinations and adequate competition reviews in all compliance inspection checklists

### Sept 2006

SAF/AQ (The Honorable Sue C. Payton) issued memo to all contracting officers outlining procurement responsibilities.

- "Above all, I expect each and every one of you to conduct business with integrity, fairness and transparency to deliver best value products and services to the warfighter."

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- "I need every warranted contracting officer to make your voice heard and to play a vital role in shaping the acquisition decisions that ultimately lead to contracts which you sign."

**Mar 2008**

- SAF/AQ memo directed heads of contracting activities not to have contractors perform at risk prior to contract funding.
- SECAF/CSAF issued joint guidance to Air Force General Officers, military commanders, and Senior Executive Service members re-emphasizing the need to eliminate the appearance of conflicts of interest situations in Air Force contracting.

**Apr 2008**

- SAF/AQ memo directing contracting officers to make their voices heard when dealing with senior leaders who may not be as conversant with contracting processes and if contracting personnel believe the chain of command is placing undue pressure or vectoring them in a manner that is inappropriate, contact SAF/AQC or SAF/AQ directly.
- SAF/AQC memo reporting to DoD IG that Air Combat Command will issue guidance to improve contracting internal controls.

In FY 07, the Air Force awarded over 208,000 contract actions for goods and services totaling just over \$65.8B. The Air Force also provides over 67 percent of the JCC-I/A contracting resources supporting the ground forces, and is handling most of the complex contract actions such as the Iraq reconstruction operations.