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BEFORE THE

COMMITTEE ON TRANSPORTATION AND INFRASTRUCTURE

**SUBCOMMITTEE ON ECONOMIC DEVELOPMENT, PUBLIC BUILDINGS,
AND EMERGENCY MANAGEMENT**

U.S. HOUSE OF REPRESENTATIVES

**“The Responsibility of the Department of Homeland Security and the Federal
Protective Service to Ensure Contract Guards Protect Federal Employees and Their
Workplaces”**

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Introduction

Good morning Madam Chair and Members of the Subcommittee. I am Richard L. Skinner, Inspector General for the Department of Homeland Security. Thank you for the opportunity to discuss our work at the Federal Protective Service.

My testimony today will focus on the Federal Protective Service's oversight of its contract guard program, financial management issues related to invoice payments to contract guard companies, as well as progress that has been made by FPS to date in addressing the recommendations we made in our October 2006¹ report to improve the management of security guard contracts. In addition, I will comment briefly on FPS' new strategy for providing security guard services for government-occupied facilities.

The Federal Protective Service

The Federal Protective Service, established in 1971 as the uniformed protection force of the General Services Administration for government-occupied facilities, is responsible for policing, securing, and ensuring a safe environment in which federal agencies can conduct business by reducing threats posed against approximately 9,000 federal government facilities nationwide.

Under the Homeland Security Act of 2002, FPS was transferred to the Department of Homeland Security and retained its responsibilities for protecting the buildings, grounds, and properties, which are owned, occupied, or secured by the federal government under GSA's jurisdiction. In addition to GSA facilities, the Act also provides FPS with the authority to protect properties held by DHS components that were not under GSA jurisdiction. FPS was moved from GSA, Public Building Services, to DHS, effective March 1, 2003. Within DHS, FPS is part of the Immigration and Customs Enforcement (ICE) Directorate.

FPS Contract Guard Services Oversight

As part of its overall strategy to ensure the physical safety of government employees and visitors, FPS uses contract guards to deter the commission of crime in and around federal buildings. Guards are deployed at roving and fixed posts, where they often operate security-screening devices such as magnetometers and x-ray machines. FPS guards play a crucial and highly visible role in the FPS mission; often the first, and sometimes the only, contact visitors have with FPS at a facility.

Under contract provisions with FPS, guard contractors must ensure that their guards are qualified by undergoing background suitability checks, and possess the necessary licenses, certificates, and permits. The guards also are required to undergo training and pass an FPS-administered written examination. In addition, guards must comply with performance requirements in the contract that address items such as the guard's appearance, work hours, supervision, equipment, and record keeping.

¹ *Federal Protective Service Needs to Improve its Oversight of the Contract Guard Program* (OIG-07-05, issued October 2006).

Contract guard services represent the single largest item in the FPS operating budget, estimated to be \$577 million for FY 2007. As a result of the Oklahoma City bombing in 1995, the contract guard workforce more than doubled and now numbers around 15,000. FPS has become increasingly reliant on its contract guard force, having less than 1,000 uniformed FPS officers nationwide.

Previous GSA Office of Inspector General and Government Accountability Office reports noted numerous deficiencies with contract guard qualifications and FPS oversight of guard contracts. Accordingly, in the fall of 2005, my office audited FPS' oversight of contract guard contracts in the National Capital Region. At the time of our audit, the NCR contract guard program consisted of 54 guard service contracts that provide approximately 5,700 guards to protect 125 facilities. Our objectives were to determine whether NCR had effective controls in place to ensure qualified contract guards are deployed at federal buildings and whether it monitored NCR contractor performance and compliance with contract provisions. We also determined whether FPS was paying contract guard companies nationwide in a timely manner, as required by the Prompt Payment Act.

We concluded that the security of federal employees, facilities, and visitors may be at risk because NCR contractors were not consistently deploying qualified and certified contract guards. Contract guards were on post without current suitability determinations or with expired certifications. Thirty percent of the guards in our sample had at least one expired, but required, certification. For example, guards were working with expired background investigations, medical certifications, and domestic violence certifications. In one instance, NCR adjudicated a guard unfavorable in May 2005 due to a felony assault conviction, yet the guard was still on post as of January 2006. Four guards worked during 2005 with expired suitability determinations for as long as 201 days before being recertified.

Also, security contractors were not performing their security services according to the terms and conditions of their contracts. For example, security guards who were not armed at armed posts as required; guards who were armed at posts designated to be unarmed; guards who did not have Top Security or Secret security clearances at posts that required higher level clearances; and non-citizen guards who were not carrying their required work permit cards.

These deficiencies occurred because FPS personnel were not effectively monitoring the security guard contract program. While the contractor has the primary responsibility for ensuring that all contract provisions and requirements are met, FPS is required to actively monitor and verify contractor performance.

NCR's Quality Assurance Specialists are responsible for the day-to-day inspection and monitoring of the contractors' work. The role of Quality Assurance Specialists is critical to monitoring contract guard performance, as they are the primary NCR personnel on-site who can verify compliance with contract provisions and requirements. On a weekly basis, the Quality Assurance Specialists are required to collect the *GSA Record of Time of Arrival and Departure Contract Guarding Duty Register* (Form-139) from each guard post and conduct audits and inspections to identify instances of contractor violation of contract requirements. Quality Assurance Specialists review the Form-139s and other records to validate that contract guards

met contract requirements for manning their posts. Inspections consist of onsite physical inspections of contract guards that determine, for example, whether an unarmed guard was stationed at an armed post, or whether a post was abandoned. Quality Assurance Specialists are required to prepare and submit the inspection report to NCR's Contract Section by the fifth workday following the month in which guard services were provided. We concluded that Quality Assurance Specialists were not consistently collecting and auditing the Form-139s and submitting Inspection Reports to the NCR Contract Section. For one building we visited, a contract guard stated that no one had collected the Form-139s in the five months since he started working at that building. Of the Inspection Reports submitted during November and December 2005, 73 percent were not submitted timely, and were late by as much as 13 months.

NCR's Contract Section personnel are responsible for processing deductions to contractor invoices due to noncompliance issues uncovered by the Quality Assurance Specialists. Contract Specialists were not making deductions to contractor invoices when appropriate. Specifically, they did not process potential deductions from contractor invoices totaling almost \$1.3 million when guard companies failed to comply with contract requirements.

FPS explained that these lapses were due to understaffing. Inadequate contractor oversight can result in the government paying for services it did not receive, loss of monies resulting from contract deductions due to nonperformance, and placing FPS-protected facilities, employees, and facility visitors at risk.

Federal Protective Service Financial Management and Contractor Payments

The Federal Protective Service continues to face financial management challenges from its transition from the GSA to DHS and, specifically, to ICE. According to our October 2006 audit of FPS contract guard service operations, FPS was not paying invoices for its contract guard services nationwide in a timely manner, resulting in a violation of the Prompt Payment Act. Of the 25,557 invoices paid from October 1, 2004, to November 21, 2005, 88 percent were not paid within 30 days as required by the Prompt Payment Act. As a result, FPS paid more than \$1.2 million in interest to guard companies that are contracted by FPS to protect federal buildings for late payments made during this time period. The principal reason for FPS' inability to pay private guard contractors timely was its transition from the GSA Financial Management System to the ICE Federal Financial Management System on October 1, 2004, which occurred before the system was adapted to meet the unique financial and budgeting requirements associated with FPS' business processes.

The DHS, Office of the Under Secretary for Management, originally directed that the FPS transition from the GSA Financial Management System to the ICE Federal Financial Management System be completed by October 1, 2003. Following the initial review of the unique financial management requirements needed to support the FPS offsetting collections program, the transition date was extended to October 1, 2004. FPS officials said that, despite attempts to explain FPS business processes and Federal Financial Management System needs to the ICE Office of Financial Management, problems with adapting the Federal Financial Management System to FPS needs remained and suggested that the transition to the ICE system be postponed. However, DHS required FPS to transition to the system on October 1, 2004,

despite concerns about the system's ability to meet FPS needs. ICE financial management staff had assured the staff of the Senate Appropriations Committee, in a briefing on February 17, 2005, that the FPS transition would be completed by March 31, 2005.

However, problems with contractor payments and the transition to the Federal Financial Management System continued. In a May 6, 2005, memorandum to the Assistant Secretary for ICE, the Director of FPS outlined what he considered systemic problems and issues with the Federal Financial Management System and reported that problems with contractor payments had, in fact, worsened since the transition. An independent auditor contracted by our Office to perform an audit of DHS financial statements also concluded that the integration of FPS' accounting processes from GSA to ICE created numerous issues with the integrity of FPS transaction data and represented a material weakness in ICE's internal controls².

FPS Budget and Finance officials in Region 3 and FPS Headquarters officials informed us that inadequate training prior to the transition and the difficulty in using the Federal Financial Management System also contributed to the invoice payment problems. These officials indicated that the system is difficult to navigate and that errors are time-consuming to correct.

Follow-Up on OIG Report on Improving FPS Contract Guard Oversight

We issued a report entitled "*Federal Protective Service Needs to Improve its Oversight of its Contract Guard Program*" on October 30, 2006. We made four recommendations to the NCR Regional Director, and one recommendation to the FPS Director to strengthen controls over its security guard contract program.

Since our audit was issued in October 2006, we have updated FPS progress on implementing our recommendations to improve management of its security guard contract program. We consider 4 of the 5 recommendations resolved and closed. The actions planned and taken by FPS to improve its contract monitoring efforts should ensure that contractors are deploying qualified and certified guards at federal facilities in the National Capital Region.

For example, FPS created standard operating procedures that outline a process to monitor contract performance and guard company deductions that are proposed, assessed, and actually taken. The agency also plans to increase the number of trained personnel involved in monitoring the contract guard program. In addition, the agency reported that a process has been developed to assess and report on contractor performance and use past performance as a factor in the selection process for future contractor selection.

Furthermore, FPS established a centralized procurement organization with all procurement personnel reporting directly through a chain of command leading to the ICE Head of the Contracting Activity. FPS is also establishing Consolidated Contracting Groups in Washington, DC, Denver, CO, Philadelphia, PA, and Fort Worth, TX. In May 2007, agency officials briefed our office on improvements it has made to its invoice payment procedures and systems, and provided information that indicated significant improvements in the timeliness of

² *DHS' Performance and Accountability Report for Fiscal Year 2005*, November 15, 2005, Department of Homeland Security.

contractor payments, with 74 percent of all invoices paid on time as of March 31, 2007. In addition, ICE pointed out that the following improvements have been realized since it has centralized its procurement operations:

- More timely and effective rejection of improperly submitted invoices based on Prompt Payment Act requirements
- Elimination of lost invoices
- Reduction in prompt payment interest
- Reduction in duplicate/erroneous payments
- Improvement to financial controls and reporting
- Enhancement to automated tools for managing/tracking ICE invoices

We consider one recommendation to be resolved but still open. It requires the NCR Director to review all inspection reports and proposed deductions for the period March 1, 2003 through the present and initiate collection actions on all contracts determined to be deficient. We are in the midst of discussions with FPS officials and are considering alternative actions that the Assistant Secretary proposed as a feasible, cost-effective approach to closing this recommendation.

FPS Budget Shortfall and Future Changes in Strategy

FPS operations are funded solely through security fees and reimbursements collected from federal agencies for security services rendered. FPS charges agencies for security services based on the building's identified security level and building-specific security needs. Buildings are categorized in five levels: Level V is the highest in terms of building security and Level I is the lowest. Levels are assigned primarily according to the number of tenants within a facility and take into consideration the square footage of office space, volume of public contact, and tenant agency mission functions. A facility's designated security level translates to minimum security standards that must be met. FPS conducts periodic risk assessments to validate a facility's security standards and countermeasures in place and to determine whether additional security enhancements are needed.

Funding issues have been a problem for FPS even prior to its transfer to the Department of Homeland Security. GAO reported in 2004 that the security fees collected in the past by GSA were not sufficient to cover the cost of FPS operations, and that the deficits were covered by GSA using monies from its federal building fund.

In response to the GAO report, FPS unveiled a strategy for providing security services and allocating its manpower. The agency will increase its emphasis on setting security standards and ensuring compliance with those standards. FPS says it will target its efforts and resources according to a risk-based model, concentrating on federal facilities with security levels III and IV. The strategy also calls for a reduction in manpower from about 1200 to 950 positions through out-placing to other ICE and DHS components through attrition. In response to our report, FPS has already taken steps it believes have strengthened its monitoring and oversight of the contract guard program.

Meeting the agency's workforce reduction targets through out-placing and attrition carries with it attendant risks. Without careful planning, proposed staffing and service reductions could lead to uneven effects across the nation, perhaps placing some facilities and its employees at risk. In some locations or offices within FPS, the agency's most knowledgeable employees may be the most likely to leave FPS and not be replaced. FPS could experience higher attrition in major urban centers as compared to regional and field locations. These factors may result in a significant loss in workforce skill and knowledge, skills imbalances, with some areas and locations hit harder than others.

To address these challenges before they become problems, FPS should be proactively engaging in workforce planning and implementing appropriate strategies to ensure staff levels and competencies are in place to carry out its mission and effectively protect federal facilities, employees and visitors. Continuous monitoring of attrition within FPS will allow the agency to identify locations that will require special attention to ensure that mission-related responsibilities are not negatively impacted.

I will conclude by saying that ICE's senior officials are well aware of these issues and are making progress in resolving them. Furthermore, my office is highly committed to the continued oversight of these and other financial and contract management challenges confronting ICE. Our continued oversight in these areas is intended to facilitate solutions that will improve ICE's ability to carry out its management functions in an efficient, effective, and economical manner.

I would like to commend ICE for the cooperation they have shown my audit team throughout our audits and in resolving our recommendations, and for the steps they have taken to address our concerns. We look forward to working closely with ICE to improve their management of the security guard program.

Madam Chair and members of the Subcommittee, this concludes my prepared remarks. I would be happy to answer any questions that you may have.

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