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BEFORE THE

COMMITTEE ON HOMELAND SECURITY

U.S. HOUSE OF REPRESENTATIVES

“The Direction and Viability of the Federal Protective Service”

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Introduction

Good morning, Mr. Chairman and Members of the Committee. I am Jim Taylor, Deputy Inspector General for the Department of Homeland Security (DHS). Thank you for the opportunity to discuss work the Department of Homeland Security Office of Inspector General (OIG) has completed related to the Federal Protective Service (FPS).

My testimony today will address our concerns about the Federal Protective Service's oversight of its contract guard program and financial management issues as a basis on our comments on FPS' new strategy related to its mission and overall reduction of manpower.

The Federal Protective Service

The Federal Protective Service, established in 1971 as the uniformed protection force of the General Services Administration (GSA) 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 property 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.

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 (GAO) reports noted numerous deficiencies with contract guard qualifications and FPS oversight of guard contracts. Accordingly, in the fall of 2005, the DHS OIG began an audit of FPS's oversight of contract guard contracts in its Region 11 – the National Capital Region (NCR).¹ Our objectives were to determine whether (1) effective controls are in place to ensure qualified contract guards are deployed at federal buildings in Region 11; (2) FPS' Region 11 effectively monitors contractor performance and

¹ 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.

compliance with contract provisions; and 3) contract guard company invoices were paid timely according to the Prompt Payment Act nationwide.

We concluded that FPS' Region 11 was 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, we identified guards with expired background investigations, medical certifications, and expired domestic violence certifications.

We identified guards that were on post with expired suitability determinations, including in one instance, where we identified a guard was still on post as of January 2006, although NCR adjudicated the guard unfavorable in May 2005 due to a felony assault conviction.

Also, security contractors were not performing their security services according to the terms and conditions of their contracts. For example, we found 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 Secret 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 contract guard 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 12 Quality Assurance Specialists (QAS) are responsible for the day-to-day inspection and monitoring of the contractors' work. The role of the QAS 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. NCR's eight Contract Section personnel are responsible for processing deductions to contractor invoices due to noncompliance issues uncovered by the QASs. However, the QASs were not consistently submitting their inspection reports to the NCR Contract Section, and for those that were submitted, most were not submitted in a timely manner. In addition, 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 General Services Administration (GSA) to the Department and, specifically, to ICE. Our October 2006 audit of FPS contract guard service operations found that 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. We found that a central cause for FPS' inability to pay private guard contractors timely was FPS' transition from the GSA Financial Management System to the ICE Federal Financial Management System (FFMS) on October 1, 2004, and 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 FFMS 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 FFMS needs to the ICE OFM, problems with adapting the FFMS 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 FFMS 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 FFMS and reported that problems with contractor payments had, in fact, worsened since the transition. An independent auditor contracted by us to perform an audit of DHS financial statements² 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 controls.

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 FFMS 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 "Federal Protective Service Needs to Improve its Oversight of its Contract Guard Program," OIG-07-05, on October 30, 2006. In this report, we made four recommendations to the Regional Director of the NCR (Region 11), and one recommendation to the Director of FPS to strengthen controls over its contract guard program.

Since our audit was issued in October 2006, we have updated FPS progress on implementing our recommendations to improve management of its contract guard program. We consider 2 of the 4 recommendations resolved and closed. The actions planned and taken by FPS to improve their contract monitoring efforts should ensure that contractors are deploying qualified and certified

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

guards at federal facilities in the National Capital Region. However, we consider two recommendations still open and unresolved:

1. We recommended that the Regional Director of the National Capital Region review all inspection reports and proposed deductions for the period March 1, 2003 through the present and initiate collection actions on all contracts found to be deficient. In response to our inquiry as to the status of recommendation implementation, FPS stated that contract terms required deductions to be collected within 30 days after the month of performance making it contractually impossible to go back and collect contract deductions that should have been previously identified and taken. We asked FPS to provide us with the information from their guard contracts that specifically state that collections are limited to 30 days after the performance period.
2. We recommended that the Director of the Federal Protective Service work with the ICE Chief Financial Officer to implement corrective actions to adequately address internal control deficiencies and payment timeliness issues noted here and in our annual financial audit report issued in November 2005.

ICE and FPS were responsive to our recommendation and have taken steps to implement corrective actions to adequately address internal control deficiencies and payment timeliness issues. In response to our final audit report, FPS stated that in addition to the Tiger Team efforts referenced in the report, ICE had put into place a Financial Action Plan (FAP) to address findings from the 2004 and 2005 financial audits including those that relate to FPS issues. The Project Management Office has worked with various offices and stakeholders to develop the plan, and is overseeing the implementation of the FAP. The FAP includes a project to improve invoice processing.

However, we consider this recommendation open until implementation of the various steps outlined in the agency's response to our final report are complete.

FPS Budget Shortfall and Future Changes in Strategy

FPS operations are funded solely through security fees and reimbursements collected from federal agencies for FPS security services rendered. FPS charges individual agencies for security services based on the building's identified security level³ and building-specific security needs. Funding issues have been a problem for FPS even prior to its transfer to the Department of Homeland Security. GAO, in 2004, reported 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.

³ Buildings are categorized along 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 also takes 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 as well as to determine whether additional security enhancements are needed.

In response to the GAO report, FPS recently unveiled a new strategy and focus to provide security services and to reallocate its manpower. The agency will change its focus to 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. Another aspect of its new strategy calls for a reducing manpower from about 1200 to 950 positions through out-placing to other ICE and DHS components through attrition. In response to the OIG 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 of its workforce, 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 necessary staff levels and competencies are in place to carry out the agency's mission and effectively protect federal facilities, employees and visitors. Continuous monitoring of attrition within FPS will allow the agency to more readily identify locations that will require special attention to ensure that mission-related responsibilities are not negatively impacted.

Mr. Chairman, this concludes my prepared remarks. I would be happy to answer any questions that you or the Committee Members may have.

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