



Audit of the United States Marshals Service's Awarding and Administration of Sole-Source Contracts



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EXECUTIVE SUMMARY

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Objective

The Department of Justice Office of the Inspector General initiated an audit to assess the U.S. Marshals Service (USMS) process for awarding sole-source contracts. Our objective was to evaluate the USMS's awarding and administration of sole-source contracts.

Results in Brief

We found that the USMS needs to improve its acquisition oversight, particularly regarding management of sole-source documentation and administration and oversight review of procurement actions, including intergovernmental agreements (IGA). IGAs are procurement actions that are not subject to full and open competition, which USMS's Prisoner Operations Division uses extensively to obtain detention services on a noncompetitive basis from state, local, and tribal partners. As a result of these weaknesses, the USMS was unable to demonstrate that sole-source acquisitions were always justified and approved at the appropriate levels or ensure that IGAs were properly administered. Sole-source contract awards, or other procurement actions made without full and open competition, create a risk that taxpayer funds will be spent on contracts that are wasteful, inefficient, subject to misuse, or otherwise not well designed to serve the needs of the Department.

Recommendations

Our report contains three recommendations to assist the USMS in improving its sole-source contract awards. We requested a response to our draft audit report from the USMS, which can be found in Appendix 4. Our analysis of the response is included in Appendix 5.

Audit Results

The USMS Did Not Always Document the Justification for Sole-Source Awards

The USMS did not document a written justification for all sole-source awards as required by the Federal Acquisition Regulation and USMS Procurement Policy. The USMS lacked justifications for 14 (37 percent) of the 38 sole-source awards we reviewed. USMS procurement officials told us that 8 of the 14 sole-source justifications could not be located. Those officials also said that the remaining six justifications were in storage but had not been properly indexed to allow production of the records for our audit.

Lack of Oversight over Procurement Actions

The USMS Office of Procurement did not always oversee procurement actions as required by USMS Policy Directive 6.1. The Chief of the Office of Procurement did not conduct periodic reviews as required. Consequently, the USMS lacked assurance that procurement actions prior to November 2020 complied with USMS policy as well as related laws and regulations. In addition, the USMS lacked assurance that its IGAs complied with USMS procurement policy.

Preserving Contract Worker Whistleblower Rights and Protections

In a prior investigative procedural reform recommendation, the OIG recommended that the USMS ensure that its contractors informed their workers of their whistleblower rights and remedies. The USMS subsequently completed corrective action regarding the recommendation, which the OIG closed in March 2021. The OIG found indications in this audit that the USMS corrective actions have improved communication to contractors, subcontractors, and grantees about whistleblower rights and remedies. However, the USMS must take steps to ensure that it continues to implement any new or updated Department of Justice policies regarding whistleblower protection.

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Introduction

The Competition in Contracting Act of 1984 and the Federal Acquisition Regulation (FAR) seek to hold prices down by promoting competition to the maximum extent practicable. Sole-source contract awards, or other procurement actions made without full and open competition, create a risk that taxpayer funds will be spent on contracts that are wasteful, inefficient, subject to misuse, or otherwise not well designed to serve the needs of the Department. However, because maximizing competition is not always reasonable or possible, under specific circumstances, agencies are authorized to exempt certain procurements from competition by justifying the exemption and obtaining appropriate approvals. We initiated this audit to review USMS internal controls over sole-source contract awards and to determine whether the statutory authorities permitting such contracts have been applied correctly and judiciously.

Background

The U.S. Marshals Service (USMS) uses a decentralized approach to contracting. The USMS Procurement Executive is the acquisition executive and senior procurement official for the USMS. As such, the Procurement Executive serves as the principal advisor on all matters involving USMS procurement and oversees the USMS procurement acquisition workforce.

The USMS Office of Procurement is responsible for developing and implementing all procurement-related policy, managing certifications and the assignment of contract warrant authority, overseeing the purchase card program, and providing both general and procurement-related training for the agency. The Chief of the Office of Procurement oversees the procurement activities of supervisory contract specialists and the office's Policy and Oversight Branch. The Chief is also responsible for conducting periodic reviews of purchases, contracts, leases, interagency agreements, and other procurement transactions. Contracting teams operate independently under the supervision of 8 headquarters divisions and 6 of the 94 district offices. The procurement needs of the remaining headquarters divisions and district offices are handled by the Office of Procurement and its Austin Processing Center sub-office in Austin, Texas.

Table 1 provides a listing of the USMS headquarters divisions and district offices that have been granted procurement authority beyond the micro-purchase threshold (currently \$10,000) and the relative portion of sole-source contract actions taken by each during the scope of our audit.

Table 1

**USMS Sole-Source Contract Obligations
October 1, 2013 through March 2, 2020**

Division or Office	Total Dollars Obligated	Sole-Source Dollars Obligated	Sole-Source as Percent of Total Dollars Obligated
Office of Procurement	\$671,264,659	\$103,753,539	15.5 percent
Judicial Security Division	\$2,006,231,233	\$2,537,692	0.1 percent
Prisoner Operations Division	\$1,945,099,881	\$2,552,513	0.1 percent
Asset Forfeiture Division	\$155,056,322	\$3,514,685	2.3 percent
Justice Prisoner and Alien Transportation System	\$145,288,560	\$33,562,342	23.1 percent
Witness Security Division	\$99,440,422	\$18,544,300	18.6 percent
Investigative Operations Division	\$20,946,869	\$5,717,711	27.3 percent
Tactical Operations Division	\$13,741,600	\$5,042,391	36.7 percent
Management Support Division	\$1,915,809	\$459,048	24 percent
District Offices	\$88,052,511	\$20,393,361	23.2 percent
All Other USMS Offices ^a	\$1,972,430,972	\$24,400,665	1.2 percent
Totals	\$7,119,468,838	\$220,478,247	3.1 percent

^a All Other USMS Offices include all obligations associated with USMS offices not holding procurement authority above the micro-purchase threshold at the time of our review. These obligations may include actions issued by offices formerly holding such authority and may also include actions that were miscoded in the Federal Procurement Data System – Next Generation (FPDS-NG).

Source: OIG analysis of contract actions reported to the FPDS-NG and supplemental data from the USMS. The accuracy of these figures is dependent on the reliability of the information reported to FPDS-NG by the USMS, and this report does not express an opinion on or assess the reliability of that reporting.

FAR Subparts 6.302-1 through 6.302-7 provide seven statutory authorities for contracting without providing for full and open competition. The seven circumstances pertain to situations where there is only one responsible source, an unusual and compelling urgency for selecting a source, a source with developmental or research capability, an international agreement requiring use of a source, a source authorized or

required by statute, a risk that disclosure of agency needs would compromise national security, or public interest requiring the use of a specific source. Examples of goods and services procured by the USMS using sole-source contracts include custodial or janitorial services, communications equipment, aircraft relocation, and professional services. The variation in the percentage use of sole-source awards is based on the nature of procurements executed by the headquarters divisions and district offices. For example, the Tactical Operations Division awards contracts for the purchase of medical materials that require a license to purchase. The license restricts the sources available because the materials can only be purchased from the source that provided the license. Similarly, the Investigation Operations Division uses regionally based contracts to acquire certain equipment and services from a limited number of vendors that can meet security requirements. In addition to contracts, the USMS Prisoner Operations Division also uses intergovernmental agreements (IGA) to obtain detention services from state, local, and tribal partners. The location in which the detention services are needed generally results in a restriction on the sources available to meet those needs. Consequently, the USMS issues IGAs on a noncompetitive basis.

The process for awarding a sole-source contract begins with a USMS headquarters division or district office clearly defining a requirement that could be satisfied through the marketplace. The program officials who define the need then perform market research on that requirement to identify potential sources of products or services that could satisfy the need. If the program office identifies only a single source, it will include that information in a purchase request package submitted to the applicable contracting officer or team. The program office also drafts the initial sole-source justification. The FAR requires these justifications to document the circumstances requiring a sole-source procurement. Prior to contract award, Office of Procurement policy requires the contracting officer to make a formal determination for the use of other than full and open competition. The justification is then reviewed and approved by the supervisory contract specialist and, depending on the dollar value of the procurement, the agency's competition advocate or the head of the contracting activity. When a headquarters division lacks a supervisory contract specialist, the division will rely on the Office of Procurement to approve the sole-source justification prior to contract award. Only two of the USMS's larger divisions have contracting teams headed by a supervisory contract specialist who can provide approval of any sole-source justifications originating within their division. For district offices, the justifications are approved by the Office of Procurement, Austin Processing Center supervisory or lead contract specialist prior to award.

OIG Audit Approach

The objective of the audit was to assess the USMS's award and administration of sole-source contracts. The scope of this audit, unless otherwise indicated, is the period of October 2013 through March 2021.

To determine whether the USMS adhered to federal regulations during the award and administration process, we reviewed the FAR and the USMS procurement policy to identify compliance requirements relevant to the audit objective. We reviewed USMS's procurement files and supporting documentation to determine whether the USMS's process for sole-source award and administration met the requirements of the FAR and USMS procurement policy. We also conducted interviews with key personnel from the USMS to understand the USMS's contract award and administration process.

Audit Results

We found that the USMS needs to improve its acquisition oversight, particularly regarding management of sole-source documentation and the administration and oversight review of intergovernmental agreements (IGA). As a result of these weaknesses, the USMS was unable to either demonstrate that sole-source acquisitions were always justified and approved at the appropriate levels or ensure that IGAs were properly administered. We also found indications that corrective actions completed by the USMS in response to a prior OIG investigative procedural reform recommendation have improved communication to contractors, subcontractors, and grantees about whistleblower rights and remedies. However, the USMS must take steps to ensure that it continues to implement any new or updated Department of Justice (DOJ) policies regarding whistleblower protection.

The USMS Did Not Always Document the Justification for Sole-Source Awards

The FAR prohibits commencement of negotiations for a sole-source contract until the contracting officer has justified the need for a sole-source procurement in writing. USMS Policy Directive 6.1 requires that the contracting officer make a formal determination for using other than full and open competition and complete a sole-source justification prior to contract award.

From October 1, 2013 through March 2, 2020, the USMS issued 93,352 contractual actions against 34,343 unique contracts with a combined dollar value of \$7,119,468,838.¹ Of those, 17,017 contractual actions (about 18 percent of all actions) were made against 7,127 sole-source contracts with a combined value of \$220,478,247 (about 3 percent of total value). To assess whether the USMS justified sole-source awards in accordance with the FAR and the USMS Procurement Policy requirements, we judgmentally selected for review 38 of the 7,127 sole-source contracts.² These contracts were awarded by the Office of Procurement, the Austin Processing Center, and seven headquarters divisions, with a combined value of \$53,272,125 (about 24 percent of sole-source dollars obligated). Appendix 2 contains further detail regarding the contracts included in our sample.

The USMS could not produce justification documentation for 14 of the 38 sole-source awards we selected for review. The 14 awards were made by the Office of Procurement, the Austin Processing Center, and 4 headquarters divisions. Procurement officials told us that sole-source justifications for 8 of the 14 contracts could not be located, and the officials were uncertain why this occurred. The officials told us that records for the remaining six sole-source awards had been placed in records storage at the National Archives and Records Administration during a building move but were not indexed in such a way that

¹ Contract actions include base contract awards, contract modifications, delivery orders, and task orders. Consequently, a single contract may be associated with multiple contract actions resulting in the obligation of funds.

² The USMS Procurement Executive told us that her office had recognized issues with the management of sole-source contracts throughout the agency and made efforts, as part of major procurement policy upgrades implemented in February 2016, to improve compliance with sole-source requirements. These efforts included establishing standard justification templates and requiring Supervisory Contract Specialist concurrence for all sole-source justifications. Although we sampled contract actions that occurred after February 2016, 16 of the 38 sampled items were from contracts that originated prior to the implementation of the major policy and process changes.

permitted retrieval of the records for audit.³ Consequently, we were unable to review contract documentation for these 14 sole-source awards to determine whether they were justified as required.

In March 2021, we discussed the missing justification documentation with the Chief of the Office of Procurement. The Chief told the OIG that documentation of the sole-source justifications was missing because the documentation was saved on individual staff member computers or elsewhere in office-controlled electronic storage rather than in an USMS central storage location, which made it difficult to locate the documentation for our audit. The Chief of the Office of Procurement told us that the office is considering requesting the development of a centralized electronic storage system for all the contract files, thus eliminating the need to store paper contract files. The Chief also told us that milestone dates for such a system have not been established. Pending completion of that system, the Office of Procurement has begun storing electronic copies of contract files within its own electronic file locations. We believe that centralized, electronic storage of all contract files, if implemented and maintained, would eliminate or significantly reduce the problems the USMS encountered in accessing contract files we requested and improve the overall management of all contract files. Therefore, we recommend that the USMS complete its evaluation of the creation of a central, electronic contract filing system, and develop and implement procedures sufficient to ensure all contract files and documentation are maintained as required, and readily accessible through the system.

Lack of Oversight over Procurement Actions

USMS Policy Directive 6.1, which became effective on February 18, 2016, establishes procurement policy and addresses USMS acquisition oversight and supervisory review responsibilities. The full text of Policy Directive 6.1 is provided in Appendix 3 of this report. Under the directive, the Chief of the Office of Procurement is personally responsible for conducting periodic reviews of purchases, contracts, leases, interagency agreements, and other procurement transactions.⁴ This is to ensure the procurement actions, including supervisory reviews of procurement files, are consistent with the FAR, Justice Acquisition Regulation, and DOJ and USMS procurement policy. Before November 2020, the required reviews were not conducted because, as explained to us by both the Procurement Executive and the Chief of the Office of Procurement, there was no internal audit plan for scheduling and completing the required reviews. Consequently, the USMS lacked assurance that its procurement actions were always issued and administered consistent with all requirements. The Procurement Executive told us that some assurance was provided by two other controls.⁵ While this audit was in progress, the Chief of the Office of

³ USMS officials told us that the Office of Procurement began full-time telework activities in March 2020 in response to the COVID-19 pandemic. They also said that the National Archives and Records Administration suspended its activities in response to the pandemic. According to USMS officials, production of samples in response to this audit was severely impacted by these events.

⁴ The Procurement Executive told us that accomplishment of the required reviews was hindered because the Chief of the Office of Procurement position was vacant from February 2019 through October 2019.

⁵ One control was compliance inspections conducted by the Office of Professional Responsibility - Compliance with support from the Auxiliary Compliance Review Team. These inspections are conducted at one or two divisions annually, which results in a review cycle of 10 to 11 years for each division except for the Investigative Operations Division that is reviewed annually. Another control was annual self-assessments conducted by each of the divisions and the district offices. While these assessments appear useful as an ongoing inspection mechanism, they are not independent reviews

Continued

Procurement began developing a formal internal audit plan that was implemented with oversight reviews beginning in November 2020.

We assessed whether the USMS Office of Procurement implemented sufficient internal controls given the decentralized nature of the contracting function. To accomplish this, we reviewed 24 sole-source contracts to determine if they were awarded and administered in accordance with the FAR and USMS procurement policy. We reviewed those sole-source contract files to determine whether the files included evidence of:

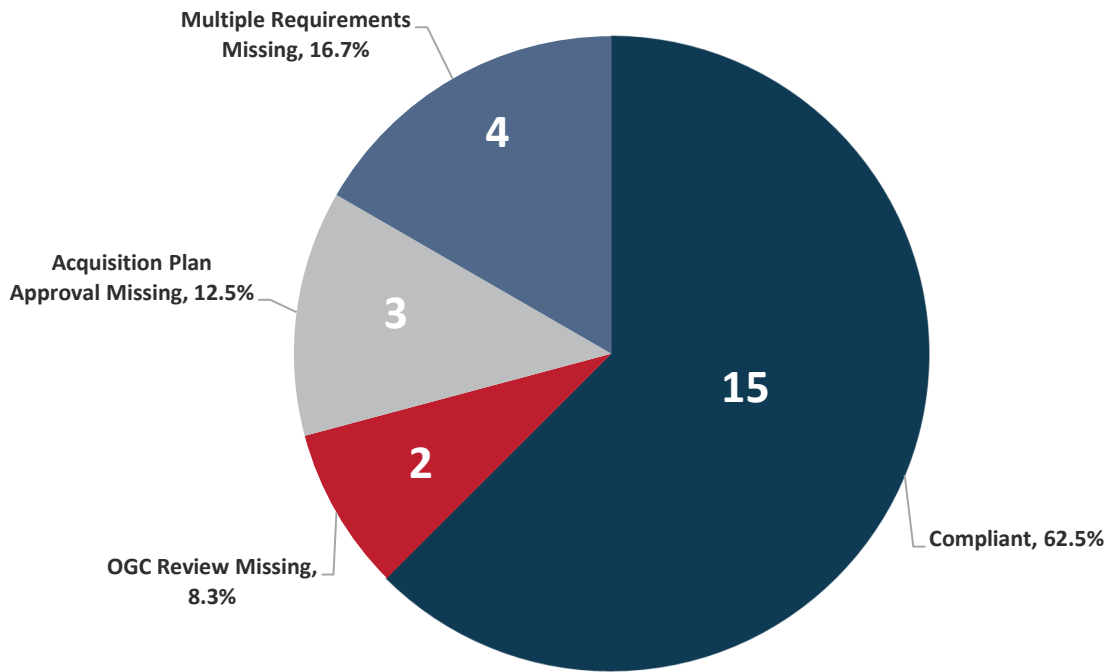
- an acquisition plan completion by the contracting officer as required by the USMS procurement policy,
- the contracting officer's determination and written sole-source award justification as required by the FAR,
- supervisory review of the sole-source justification as required by the USMS procurement policy,
- the Office of General Counsel's review of sole-source awards valued over \$500,000 as required by the USMS procurement policy, and
- the Office of Procurement, Policy and Oversight Branch's review of the sole-source awards valued over \$500,000 as required by the USMS procurement policy.

Figure 1 shows the USMS percentage of compliance with the requirements assessed for the 24 sole-source awards we reviewed. The USMS documentation for 9 of the 24 sole-source awards did not include evidence of compliance with 1 or more of the oversight requirements.

and depend on managers disclosing their own noncompliance. For that reason, we believe these reviews alone do not provide objective evidence to support compliance with sole-source requirements.

Figure 1

USMS Percentage of Compliance with Requirements for 24 Sole-Source Awards



Source: OIG Analysis of USMS Award Documentation

We reviewed the Office of Procurement's internal audit plan and determined that it covered all procurement transactions except for the IGAs used by the Prisoner Operations Division to obtain detention services from state, local, and tribal governments. The Chief of the Office of Procurement confirmed to us that the Office of Procurement's internal audit plan did not cover IGAs but agreed that those agreements should be included. USMS leadership did not consider the IGAs to be contracts and did not consider IGAs to fall within the purview of the Office of Procurement. Consequently, IGAs received no oversight from the USMS Office of Procurement. There was little agreement among USMS procurement officials who we spoke with regarding whether IGAs should be treated as FAR compliant contracts. However, the USMS Procurement Executive told us that IGAs were considered procurement actions and, as of December 2019, the USMS began requiring new IGAs to be signed by contracting officers holding the appropriate procurement warrant authority.

Regardless of whether IGAs should be treated as FAR compliant contracts, those agreements are nonetheless procurement actions, and are entered into without full and open competition. Without providing for formal competition, IGAs expose the USMS to many of the same inherent risks as sole-source

contracts, such as the lack of market influence on pricing, conflicts of interest, and other concerns.⁶ However, USMS IGAs are subject to significantly less oversight than the agency's traditional sole-source contracts. We believe that, at a minimum, IGAs should receive greater oversight and review. Therefore, we recommend that the Chief of the Office of Procurement update the internal audit plan to include reviews of IGAs to ensure they are being issued and administered consistent with USMS procurement policy and other related laws and regulations.

Preserving Contract Worker Whistleblower Rights and Protections

Whistleblowers perform an important service to the DOJ and the public when they report what they reasonably believe to be evidence of wrongdoing. Whether whistleblowers are federal employees, contractors, subcontractors, or grantees, federal law protects these individuals against reprisal. Specifically, 41 U.S.C. § 4712 provides that a contract employee may not be discharged, demoted, or otherwise discriminated against as a reprisal for disclosing certain information that the employee reasonably believes would evidence waste, mismanagement, abuse of authority, or other violations of law, rule or regulation related to a contract.

Recognizing this protection, the Department issued DOJ Procurement Guidance Document (PGD) 16-05, *Implementation of Requirement of Notification to Contractors of Employee Whistleblower Rights*, on August 9, 2016. The PGD requires that contracting officers insert FAR Subpart 52.203-17, Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights, into all new contracts that exceed the simplified acquisition threshold. The clause states that the contract workers are subject to the 41 U.S.C. § 4712 whistleblower protections and requires the contractor to inform its workers in writing of their whistleblower rights and include the required FAR language into applicable subcontracts.⁷ Additionally, for all new and existing contracts, PGD 16-05 requires the contracting officers to: (1) provide contractors with the "Whistleblower Information for DOJ Contractors, Subcontractors, and Grantees" document; (2) direct contractors and subcontractors to distribute the document to their workers; (3) direct the contractor to provide an affirmative response notifying the DOJ of their successful distribution of the document to its workers; and (4) retain the documents in contract files.

Prior to the commencement of this audit, in January 2018 the OIG found that USMS contracts did not always include the appropriate requirement for its contractors to inform workers of their whistleblower rights, as required by federal law. As a result, the OIG recommended that the USMS ensure that its contractors,

⁶ The OIG highlighted significant weaknesses in the Office of the Federal Detention Trustee's and the USMS's processes for negotiating IGAs in the U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [*Audit of the Intergovernmental Agreement Detention Space Negotiation Process*](#), Audit Report 11-21 (March 2011), and in the DOJ OIG audit [*Oversight of Intergovernmental Agreements by the United States Marshals Service and the Office of the Federal Detention Trustee*](#), Audit Report 07-26 (March 2007) at <https://www.oversight.gov/sites/default/files/oig-reports/a1121r.pdf>, and <https://oig.justice.gov/sites/default/files/legacy/reports/USMS/a0726/final.pdf>, respectively.

⁷ The OIG recently highlighted systemic noncompliance with laws, regulations, and established internal policies designed to ensure notice to contract workers about their whistleblower rights and protections in the U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [*Management Advisory: Notification of Concerns Regarding the Department of Justice's Compliance with Laws, Regulations, and Policies Regarding Whistleblower Rights and Protections for Contract Workers Supporting Department of Justice Programs*](#), Audit Report 21-038 (February 2021), <https://oig.justice.gov/sites/default/files/reports/21-038.pdf>.

subcontractors, and grantees had informed their employees in writing of their whistleblower rights and remedies.⁸ The USMS subsequently completed all corrective actions on the recommendation, which the OIG closed on March 10, 2021.

Of the 38 sole-source awards included in our sample, 12 were subject to the requirements of PGD 16-05, and we reviewed those 12 for compliance with the requirements. We found that 4 of the 12 contracts were awarded after the effective date of the PGD and included the statutorily required contract clauses regarding whistleblower rights and protections, as appropriate. The remaining 8 of the 12 contracts did not originally include the contract clause. The USMS provided documentation of its notification to three of the eight contractors. The remaining five contracts were closed prior to the completion of the USMS corrective action regarding the OIG's 2018 recommendation and, consequently, the whistleblower documentation was never completed.

On March 19, 2021, the Justice Management Division (JMD) issued APN 2021-03 to provide additional guidance on whistleblower protections for DOJ contractor employees and rescinded PGD-16-05. Therefore, we recommend that the USMS coordinate with JMD to ensure any new or updated policies align with evolving DOJ whistleblower protection guidance for contractors.

⁸ U.S. Department of Justice Office of the Inspector General, *Procedural Reform Recommendation for the U.S. Marshals Service*, Number 2016-001875 (January 2018), <https://www.oversight.gov/sites/default/files/oig-reports/i16001875.pdf>.

Conclusion and Recommendations

The USMS could not produce documentation of the sole-source justifications for 14 of the 38 sole-source contract awards we selected for testing. For 8 of the 14 awards without sole-source justifications, USMS officials were uncertain why the justifications could not be located. For 6 of the 14 awards without justifications, the contract files had been placed in storage at the National Archives and Records Administration but were not properly indexed to permit retrieval for audit. Consequently, we were unable to determine that 14 of 38 sampled sole-source contract awards were justified as required. We believe the USMS should improve its system for maintaining contract records.

Prior to November 2020, the Chief of the Office of Procurement did not conduct required oversight reviews to ensure that procurement actions, including supervisory reviews of procurement files, were consistent with law, regulation, and USMS procurement policy. Consequently, the USMS lacked assurance that its sole-source contracts and other related procurement actions were always awarded and administered consistent with all requirements. While this audit was in progress, the Chief of the Office of Procurement developed a formal internal audit plan including oversight reviews beginning in November 2020. We determined that the internal audit plan covered all procurement transactions except IGAs used by the Prisoner Operations Division to obtain detention services from state, local and tribal governments. We believe that the IGAs, which are not subject to full and open competition, should receive greater oversight and review. To accomplish that, the USMS should improve its acquisition oversight, particularly regarding review of IGAs, to ensure award and administration consistent with all requirements.

We recommend that the USMS:

1. Complete its evaluation of the creation of a central, electronic contract filing system, and develop and implement procedures sufficient to ensure all contract files and documentation are maintained as required, and readily accessible through the system.
2. Update its internal audit plan to include reviews of IGAs to ensure they are being issued and administered consistent with USMS procurement policy and other related laws and regulations.
3. Coordinate with JMD to ensure any new or updated policies align with evolving DOJ whistleblower protection guidance for contractors.

APPENDIX 1: Objectives, Scope, and Methodology

Objective

The objective of this audit was to assess the U.S. Marshals Service (USMS) process for awarding sole-source contracts. Our objective was to evaluate the USMS's awarding and administration of sole-source contracts.

Scope and Methodology

The scope of this audit, unless otherwise indicated, is the period of October 2013 through March 2021. We examined contract award and administration records. We interviewed key personnel from the USMS to understand the USMS contract award and administration process.

Statement on Compliance with Generally Accepted Government Auditing Standards

We conducted this performance audit in compliance with generally accepted government auditing standards (GAGAS). Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

In this audit, we performed testing on internal controls significant within the context of our audit objective. We did not evaluate the internal controls of USMS to provide assurance on its internal control structure as a whole. USMS management is responsible for the establishment and maintenance of internal controls in accordance with OMB Circular A-123. Because we do not express an opinion on the USMS internal control structure as a whole, we offer this statement solely for the information and use of the USMS.⁹

Through this testing, we did not identify any deficiencies in the USMS internal controls that are significant within the context of the audit objective and based upon the audit work performed that we believe would affect the USMS's ability to effectively and efficiently operate, to correctly state financial and performance information, and to ensure compliance with laws and regulations.

Compliance with Laws and Regulations

In this audit we tested, as appropriate given our audit objective and scope, selected transactions, records, procedures, and practices to obtain reasonable assurance that USMS management complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. Our audit included examining, on a test basis, USMS compliance with the following laws and regulations that could have a material effect on USMS operations:

- FAR Part 6, Competition Requirements,

⁹ This restriction is not intended to limit the distribution of this report, which is a matter of public record.

- FAR Subpart 7.1, Acquisition Plans,
- FAR Part 10, Market Research,
- 41 U.S.C. § 4712, and
- FAR Subpart 52.203-17, Contractor Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights.

This testing included interviewing USMS personnel and inspection of contract files, and oversight procedures. As noted in the Audit Results section of this report, we found that USMS did not demonstrate that a written justification was always completed for sole-source awards as required by FAR Part 6.

Sample-Based Testing

To accomplish our audit objectives, we performed sample-based testing to determine if USMS sole-source contracts were awarded in accordance with the FAR and the USMS procurement policy. In this effort, we employed a judgmental sampling strategy to provide broad coverage of multiple USMS divisions. This non-statistical sample design did not allow for projection of the test results to the universe from which the samples were selected.

APPENDIX 2: Contracts Selected for Testing

	Award Date	Purpose	Authority Type	Total Obligated	Contract Actions	Testing Result
1	9/30/2019	Aircraft Relocation	Only One Source	\$499,227	4	Compliant
2	6/1/2018	Animal Care	Urgency	\$434,497	4	Supervisory Review Missing
3	3/25/2014	Maintenance/Repair/Rebuild of Equipment- Aircraft and Airframe Structural Components	Only One Source	\$207,701	3	OGC Review Missing
4	4/24/2015	IT and Telecom- Web-Based Subscription	Only One Source	\$2,105,246	7	Justification Missing
5	1/29/2015	Miscellaneous Communication Equipment	Only One Source	\$100,000	1	Compliant
6	4/16/2015	Electronic Equipment	Only One Source	\$90,000	2	Compliant
7	11/4/2014	It and Telecom	Only One Source	\$99,998	1	Compliant
8	2/25/2014	Education/Training- Vocational/Technical	Only One Source	\$36,532	4	Compliant
9	4/28/2016	Miscellaneous Communication Equipment	Only One Source	\$98,683	1	Justification Missing
10	1/30/2020	Miscellaneous Alarm, Signal, and Security Detection Systems	Only One Source	\$994,272	1	Acquisition Plan Approval Missing
11	9/11/2018	Information Technology software	Only One Source	\$117,073	3	Acquisition Plan Approval Missing
12	12/5/2019	Maintenance/Repair/Rebuild of Equipment	Only One Source	\$450,000	2	Compliant
13	2/19/2014	Gas Turbines and Jet Engines, Components	Simplified Acquisition Not Completed	\$2,322,661	11	Justification Missing
14	9/22/2017	Custodial Janitorial	Authorized by Statute	\$235,962	7	Compliant

15	9/1/2015	Gas Turbines and Jet Engines, Components	Only One Source	\$8,707,068	25	Compliant
16	4/21/2017	Books and Pamphlets	Simplified Acquisition Not Completed	\$24,300	1	Compliant
17	3/6/2019	Transportation/Travel/Relocation	Urgency	\$19,487	3	Compliant
18	11/6/2014	Publication- Reproduction	Simplified Acquisition Not Completed	\$9,783	2	Compliant
19	7/16/2018	Professional and Legal support	Only One Source	\$2,509,880	3	Compliant
20	9/4/2015	Program Management Support	Authorized by Statute	\$4,244,689	10	OGC Review Missing
21	9/11/2014	Communications Security Equipment and Components	Only One Source	\$12,478,700	4	Justification Missing
22	9/10/2014	Professional Communications	Only One Source	\$0 ^a	5	Justification Missing
23	4/22/2016	Professional Communications	Only One Source	\$0 ^a	5	Justification Missing
24	4/1/2014	IT and Telecom	Simplified Acquisition Not Completed	\$682,252	13	Justification Missing
25	7/31/2019	Relocation Travel	Simplified Acquisition Not Completed	\$113,040	8	Supervisory Review Missing
26	6/16/2014	IT and Telecom	Simplified Acquisition Not Completed	\$2,272,337	9	Justification Missing
27	3/31/2017	Professional Support	Urgency	\$556,483	6	Justification Missing
28	9/28/2018	Housekeeping- Guard	Urgency	\$430,434	15	Compliant

29	10/20/2017	Housekeeping- Guard	Authorized by Statute	\$303,973	10	Justification Missing
30	7/7/2014	IT and Telecom	Only One Source	\$347,995	6	Compliant
31	10/9/2018	Housekeeping- Food	Authorized by Statute	\$115,405	6	Justification Missing
32	10/15/2019	Utilities- other	Only One Source	\$98,000	3	Justification Missing
33	9/21/2017	Professional Support	Only One Source	\$1,264,000	3	Justification Missing
34	9/26/2018	Fixed Wing Aircraft	Only One Source	\$5,629,560	3	OGC Review Missing
35	9/25/2018	Motion Picture Cameras	Only One Source	\$4,694,610	3	Supervisory Review Missing
36	8/30/2018	Operation Training Devices	Only One Source	\$323,948	1	Acquisition Plan Approval Missing
37	9/28/2017	Non-Rechargeable Batteries	Simplified Acquisition Not Completed	\$560,828	6	Justification Missing
38	5/4/2015	Electronic Equipment	Only One Source	\$93,500	2	Compliant
Total				\$53,272,125	203	

^a Sample selections were made based on characteristics and dollar values associated with the base contract. In some instances, the base contracts were indefinite delivery, requirements type contract for which obligations were made under separate delivery orders. The obligations are not shown in our table.

APPENDIX 3: USMS Policy Directive 6.1



United States Marshals Service POLICY DIRECTIVES

PROCUREMENT

6.1 PROCUREMENT AUTHORITY AND OVERSIGHT

A. Proponent: Office of Procurement (OOP), Financial Services Division (FSD).

B. Purpose: This policy directive establishes the policy and procedures for acquiring leases or procuring goods and services from commercial vendors or from any entity acting as a commercial vendor. This authority is limited to Contracting Officers (CO) who hold procurement warrant authority for the United States Marshals Service (USMS). It also addresses USMS responsibilities regarding acquisition oversight.

C. Authority: The authority and responsibility to contract for authorized supplies and services is vested in the Attorney General, who has established a contracting activity within the USMS. The Attorney General has delegated broad authority to the Director of the USMS to manage the Agency's contracting functions. Pursuant to Justice Acquisition Regulation 48 C.F.R. ch. 28 (JAR) § 2801.601, the Attorney General has identified the Director as the Head of the Contracting Activity (HCA). The Director may reassign his or her authority under JAR § 2801.601(b) to subordinate officials as necessary, for the proper administration of the Agency's acquisition functions, but cannot delegate his or her authority over functions in Federal Acquisition Regulation C.F.R. ch. 1 (FAR) § 1.404(a), FAR § 3.602, FAR § 3.1104(a), FAR § 9.503, FAR § 15.403-1(c)(4), FAR § 22.1802(d), and FAR § 33.104(b)(1). The Director has re-delegated the authority to the Procurement Executive as evidenced by three delegation memos, one as [HCA](#), one for [Determination and Findings](#) (D&F) approvals, and one for [Ratification Approvals](#).

D. Policy:

1. Contracts for goods and services may be entered into and signed on behalf of the USMS only by COs with authority and responsibility under JAR § 2801.603-1 and FAR § 1.603-1 - 1.603-2.
2. In accordance with the Office of Federal Procurement Policy's memorandum entitled [Revisions to the Federal Acquisition Certification in Contracting](#), dated May 7, 2014, members of the USMS workforce holding CO warrants, regardless of their General Schedule (GS) series, and other contracting professionals within the 1102 job series must possess the appropriate Federal Acquisition Certification in Contracting (FAC-C) from the Federal Acquisition Institute Training Application System (FAITAS). For additional information, please review the [USMS Acquisition Career Management \(ACM\) Handbook \(ACMH\)](#).
3. COs have the authority to administer or terminate contracts and execute related D&Fs within the scope of the authority delegated to them by the appointing authority. The appointing authority resides with the USMS Procurement Executive.
4. Contracts for real property leases may be entered into and signed on behalf of the USMS only by COs who have been granted specialty warrant authority through the Department of Justice (DOJ), Justice Management Division (JMD), and General Services Administration (GSA), and by meeting all the conditions to hold this authority in accordance with Federal Management Regulation 41 C.F.R. ch. 102 (FMR) § 102-2, FMR § 102-72.30, and FMR § 102-72.45.
5. USMS personnel that do not possess a CO warrant do not have the authority to make commitments or promises to vendors regarding procurement of supplies and/or services.

E. Responsibilities:

1. **Director:** The Director of the USMS is the HCA, and serves as the final arbiter of any procurement matter, including resolving any substantive or procedural disagreements between the contracting activity and other district and divisions, and/or the contracting activity and the Office of General Counsel (OGC).
2. **OGC:** Provides legal assistance and advice to the contracting activity and is responsible for:
 - a. Performing oversight reviews of all proposed solicitations and contracts expected to exceed \$500,000 (inclusive of base year and any option years) prior to issuance and/or execution.
 - b. Performing reviews on all proposed contract modifications with a dollar value exceeding \$500,000 that incorporate changes to contract requirements and/or significant changes that impact the scope of the work prior to issuance and/or execution;
 - c. Reviewing proposed ratification actions for those matters in which the ratification exceeds \$100,000;
 - d. Reviewing CO prepared documents in protest cases and CO decisions in claims cases; and
 - e. Completing reviews within 10 working days.
3. **United States Marshals (USM) and Assistant Directors (AD):** Are responsible for ensuring that COs and Contracting Officer's Representatives (COR) assigned to their office are performing procurement duties according to applicable FAR, JAR, and all USMS procurement policies. USMs and ADs are also responsible for:
 - a. Ensuring that a formal COR assignment is made using a [COR Designation Memorandum](#) when assigning a COR to a contract;
 - b. Ensuring that COs and CORs are participating in the continuing education requirements as outlined in JAR § 2801.603-1, as well as the USMS [ACMH](#). This includes ensuring that the individual(s) is/are properly certified as FAC-C or Federal Acquisition Certificate for Contracting Officer's Representatives (FAC/COR) within FAITAS, as well as ensuring that the certification remains active throughout the length of their delegation;
 - c. Ensuring any changes in the status of COs (including reassignments, retirements, name changes, and death) are reported to OOP using Form [USM-412, Notice of Contracting Officer Departure](#);
 - d. Ensuring that applicable procurement actions are completed in the Federal Procurement Data System – New Generation (FPDS-NG) within 3 business days of contract award/contract modification;
 - e. Making procurement documents and files available for inspection by OOP, FSD; Office of Professional Responsibility; Agency auditors; OGC; Office of Inspector General; or the Government Accountability Office; and
 - f. Ensuring that only COs and/or Purchase Cardholders within their district or division follow the [Certified Invoice Procedures](#) (CIP) as outlined in the FSD Financial Support Services [How To Guide](#) on obtaining goods and services at work sites or while away from their regular duty station, when it is necessary to perform these assigned duties. This authority may not be re-delegated.

4. **Procurement Executive:** As the Acquisition Executive and Senior Procurement Official within the USMS, the Procurement Executive serves as the principal advisor on all matters involving USMS procurement, and oversees the USMS procurement acquisition workforce at Headquarters and district offices. The Procurement Executive oversees contracts supporting all the district and division offices. The Procurement Executive is responsible for:
 - a. Interpreting FAR and JAR, and managing the planning, development, and establishment of long- and short-range procurement and contracting plans, strategies, and approaches for overall acquisition and life cycle programs;
 - b. Prescribing USMS procurement policies and procedures, and making determinations and decisions related to procurement issues;
 - c. Overseeing the development of procurement goals, guidelines, and innovations, as well as keeping the contracting activity informed of industry best practices; and
 - d. Establishing career management policies consistent with the FAC-C, FAC-COR, and Federal Acquisition Certification for Program/Project Manager (FAC-P/PM) programs for acquisition professionals, including identifying requirements for successful completion of the educational, experience, and training requirements to become and maintain certification as needed to manage the various USMS contract requirements.
5. **Chief, OOP:** As the Deputy to the Procurement Executive, the Chief, OOP, assists and provides advice and guidance on all matters involving USMS procurement. The Chief, OOP, is responsible for:
 - a. Ensuring procurement actions, including supervisory reviews of procurement files, are consistent with FAR, JAR, DOJ, and USMS procurement policy, as well as any other related laws, regulations, rules, and statutes;
 - b. Overseeing the procurement activities of Supervisory Contract Specialists and the Policy and Oversight Branch, OOP. This includes ensuring Contract Specialists that hold delegated procurement authority are meeting the current requirements for warrants and any associated certifications, as well as the requirements for maintaining the warrants and associated certifications;
 - c. Ensuring COs comply with the data requirements in FPDS-NG, as well as Contractor Performance Assessment and Reporting System (CPARS); and
 - d. Conducting periodic reviews of purchases, contracts, leases, interagency agreements, and other procurement transactions, consistent with appropriate laws and Executive Orders, except those required to be made by other authority.
6. **Policy and Oversight Branch, OOP:** The team that assists the Chief, OOP, and Procurement Executive with various procurement-related activities. The team is responsible for:
 - a. Managing the USMS ACM Program under [delegated authority](#) from the Procurement Executive. This includes managing the assignment of CO warrants within FAITAS, and various certification programs housed in FAITAS;
 - b. Managing the USMS Purchase Credit Card Program;
 - c. Managing the Contract Reporting System, FPDS-NG;
 - d. Reviewing information submitted for consideration of ratification actions, as

outlined in Policy Directive 6.9, [Ratification of Unauthorized Commitments](#), as well as other documents submitted for review and signature by the Procurement Executive under the delegated HCA authority (e.g., D&F, Justifications for Other than Full and Open Competition, etc.);

- e. Providing small business advisory and review services within 5 working days;
 - f. Performing periodic oversight reviews of selected acquisitions documents and files on either pre-award or post-award basis;
 - g. Performing oversight reviews of all proposed solicitations and contracts, to include sole source awards, expected to exceed \$500,000 (inclusive of base year and any options) prior to issuance and/or execution within 5 working days; and
 - h. Performing reviews on all proposed contract modifications with a dollar value exceeding \$500,000 that incorporate changes to contract requirements and/or significant changes that impact the scope of the work prior to issuance and/or execution within 5 working days.
7. **Supervisory Contract Specialist, 1102, Review:** To ensure proper procurement protocols are being followed throughout the organization, a Supervisory Contract Specialist, in the 1102 job series, will be responsible for providing procurement oversight for junior procurement professionals regardless of their job series or procurement authority. The Supervisory Contract Specialist will be responsible for conducting supervisory reviews of proposed solicitations, contract awards, or modification actions, wherein modifications for review are limited to those that incorporate changes to the contract requirements and/or significant changes that impact the scope of work within 5 working days and as indicated below:
- a. **District Offices:**
 - 1) Procurement actions at or above \$50,000 will be reviewed by the Procurement Austin Processing Center (APC) Supervisory/Senior Contract Specialist. They will review all proposed solicitations, contract awards, or modification actions, wherein modifications for review are limited to those that incorporate changes to the contract requirements and/or significant changes that impact the scope of work for any district office CO prior to execution. The district CO will be responsible for reconciling all comments and recommendations prior to issuing any solicitation, executing any contract or modification, as well as providing a written response to the reviewer comments using the appropriate [form](#) for the file and providing a copy to the Supervisory Contract Specialist reviewer.
 - 2) For COs in the district office completing Asset Forfeiture-related procurements, this oversight will be provided by a Supervisory Contract Specialist or Contract Specialist, in the 1102 job series, assigned to the Asset Forfeiture Division (AFD).
 - b. **Division Offices:**
 - 1) Procurement actions at or above \$50,000, prepared by a non-1102 Contract Specialist who holds a warrant, will be reviewed by and receive the concurrence of OOP prior to issuance and/or execution. The OOP will review all proposed solicitations, contract awards and modification actions, wherein modifications for review are limited to those that incorporate changes to the contract requirements and/or significant changes that impact the scope of work for any division CO prior to execution. The division CO will be responsible for reconciling all

comments and recommendations prior to issuing any solicitation, executing any contract or modification, as well as providing a written response to the reviewer comments for the file and providing a copy to the Supervisory Contract Specialist reviewer.

Procurement actions at or above \$100,000, prepared by warrant holders who are classified in the 1102 job series and who report to a Supervisory Contract Specialist (GS-1102-14/15), will be reviewed by and receive the concurrence of the division Supervisory Contract Specialist prior to issuance and/or execution. The Supervisory Contract Specialist will review all proposed solicitations, contract actions or modifications, wherein modifications for review are limited to those that incorporate changes to the contract requirements and/or significant changes that impact the scope of work for any division CO prior to execution. The division CO will be responsible for reconciling all comments and recommendations prior to issuing any solicitation, executing a contract or modification, as well as providing a written response to the reviewer comments using the appropriate [form](#) for the file and providing a copy to the Supervisory Contract Specialist reviewer.

- 2) Procurement actions from warrant holders who are classified in the 1102 job series and who do not report to a Supervisory Contract Specialist (GS-1102) will be reviewed by and receive the concurrence of OOP prior to issuance and/or execution. The OOP will review all proposed solicitations, contract awards and modification actions, wherein modifications for review are limited to those that incorporate changes to the contract requirements and/or significant changes that impact the scope of work for any division CO prior to execution. The division CO will be responsible for reconciling all comments and recommendations prior to issuing a solicitation, executing a contract or modification, as well as providing a written response to the reviewer comments using the appropriate [form](#) for the file and providing a copy to the Supervisory Contract Specialist reviewer.

c. **Limited Source or Sole Source Justifications:**

1) **District Offices:**

- a) The CO must make a formal determination for using [other than full and open competition](#) as a means to satisfy Agency requirements prior to contract award and forward to the Procurement APC for review and concurrence.
- b) The Procurement APC Supervisory/Senior Contract Specialist will conduct the supervisory review and concur on all justifications that exceed the micro-purchase threshold for proposed contract awards with [one responsible source](#) (sole source) or limited number of responsible sources (limited source) within 3 working days. The CO must make a formal determination for using [other than full and open competition](#) as a means to satisfy Agency requirements prior to contract award.
- c) For COs in a district office completing Asset Forfeiture-related procurements, the concurrence will be provided by a Supervisory Contract Specialist or Contract Specialist in the 1102 job series assigned to AFD, prior to execution.

2) **Division Offices:**

- a) **Offices with Supervisory Contract Specialist, GS-1102-14/15:**

The division Supervisory Contract Specialist must concur on all justifications for proposed awards with one responsible source (sole source) or limited number of responsible sources (limited source) that exceed the micro-purchase threshold, prior to execution.

- b) **Offices without a Supervisory Contract Specialist, GS-1102-14/15:** OOP, FSD, must provide concurrence on all justifications for proposed awards with one responsible source (sole source) or limited number of responsible sources (limited source) that exceed the micro-purchase threshold, prior to execution.

8. **CO:** Is responsible for:

- a. Ensuring that all acquisitions are processed according to FAR, JAR, DOJ, and USMS procurement policies, as well as any other related laws, regulations, rules, and statutes;
- b. Employing sound business judgment, while ensuring that all contractors receive fair, impartial, and equitable treatment;
- c. Complying with requirements for small business procurements in support of the DOJ overarching small business goals to include the goals assigned for various socioeconomic categories (e.g., veteran-owned);
- d. Complying with the USMS ACM Program for certification and continuous learning by proper and timely utilization of FAITAS as outlined in the USMS [ACMH](#);
- e. Submitting files for oversight reviews as required by this policy or as requested by the USMS Procurement Executive; Chief, OOP; OGC; or the Chief Financial Officer;
- f. Ensuring that proper procurement oversight is conducted by either their supervisor, if that individual is in the 1102 job series Contract Specialist, or by OOP. Procurement actions that exceed \$50,000 for districts, and \$100,000 for divisions, must be reviewed at one level above the CO before issuance and/or execution. This applies to all proposed solicitations, contract awards, and modification actions, wherein modifications for review are limited to those that incorporate changes to the contract requirements and/or significant changes that impact the scope of work for any division CO prior to execution;
- g. Ensuring that FPDS-NG actions are finalized within 3 business days of contract award/contract modification;
- h. Conducting adequate market research for requirements that are sole source in nature. The CO must make a formal determination pursuant to FAR § 6.3 for using [other than full and open competition](#) as a means to satisfy Agency requirements prior to contract award and complete a sole source justification;
- i. Ensuring that all sole source justifications and limited source justifications that exceed the micro-purchase threshold receive concurrence prior to issuance of any solicitation and/or contract award.
- j. Ensuring they possess the appropriate procurement authority that is equal to, or greater than, the total dollar value of any procurement action (including all option periods) prior to signing any document related to the contract;
- k. Properly executing written delegation of authority, if assigning CORs under any specific contract. A [delegation memorandum](#) template has been created to

assist meeting this requirement. This includes ensuring that the individual(s) receiving the delegation is/are properly certified as FAC-COR in FAITAS, as well as ensuring that the certification remains active throughout the length of their delegation;

- l. Ensuring that contracts exceeding the Simplified Acquisition Threshold are properly evaluated annually. Past performance information shall be entered into [CPARS.gov](#), the Government-wide evaluation reporting tool for all past performance reports on contracts and orders. Past performance evaluations shall be prepared at least annually by the COR and at the time the work under a contract or order is completed in accordance with FAR § 1502;
 - m. Establishing and facilitating the Acquisition Strategy Team (AST), as outlined in paragraph 10 below, if proposed procurement will exceed \$10 million inclusive of options, and following the [AST memorandum](#), and Form [USM-465, Assignment of Acquisition Strategy Team](#);
 - n. Managing the [procurement action lead time](#) and all aspects of the procurement assignment;
 - o. Meeting all requirements of Policy Directive 6.4, [Protests, Disputes, and Appeals](#), when protests, claims, and/or disputes arise under USMS contracts or solicitations;
 - p. Entering into and approving payments to vendors when using CIP in accordance with General Services Administration Acquisition Manual [\(GSAM\) § 513.370](#); and
 - q. Completing a [Standard Form-30, Amendment of Solicitation/Modification Contract](#), when processing an administrative modification to change the assigned COR.
9. **COR:** Is responsible for:
- a. Complying with the USMS ACM Program for certification and continuous learning by proper and timely utilization of FAITAS, as outlined in the USMS [ACMH](#);
 - b. Reviewing, understanding, acknowledging, and carrying out the responsibilities as delegated by the CO in the written [delegation memorandum](#) which outlines the various duties and responsibilities of the assignment;
 - c. Meeting the requirement for timely reporting of contractor performance in CPARS. Feedback on contractor performance must be provided prior to consideration of option period extensions; and
 - d. Ensuring that the COR does not take any action that is outside of their designated authority.
10. **AST:** Shall be established for procurements of \$10 million (inclusive of options) or higher to ensure the significant considerations which drive an acquisition are well conceived in regard to acquisition planning, technical approach, and in-line with applicable regulations, laws, and policies. The overall goal of an AST is to utilize an oversight process that is efficient in how time and resources are allocated during the procurement process, and effectively hold COs responsible for infusing quality into the procurement process as it occurs, as opposed to the end of the process, which causes delays. ASTs are intended to supplement and not replace the acquisition planning requirements of FAR Part 7 or supervisory and CO procurement responsibilities. COs will be responsible for following the instructions in the [AST memorandum](#) and Form [USM-465](#).

F. Procedures:

1. Procedures for undertaking most federal procurement actions may be found in the following sources:
 - a. FAR, 48 C.F.R. ch.1;
 - b. JAR, 48 C.F.R. ch. 28;
 - c. [GSAR 48 C.F.R. ch. 5 Part 570](#) (acquiring leasehold interests in real property);
 - d. USMS [Policy Directives](#);
 - e. DOJ [Orders](#);
 - f. Office of Federal Procurement [Policy Letters](#); and
 - g. OOP [e-manuals](#), including the [ACMH](#).
2. **Internal Controls and Separation of Duties:** Internal controls are in place to ensure that all transactions are properly authorized, recorded, accessed, and accounted for. Effective internal controls ensure that transactions are clearly documented and incorporated into the automated financial management system, when required, and leave an audit trail readily available for examination. Effective internal controls also ensure that transactions are properly recorded and classified; and are authorized and executed only by persons acting within their delegated authority.
 - a. One key internal control is the separation of duties. Separation of duties means that no single individual has control over certain duties in a transaction or operation. Three benefits of separation of duties are:
 - 1) Reducing the risk of fraud;
 - 2) Providing a complimentary cross-check in order to identify mistakes before a transaction is fully executed; and
 - 3) Ensuring that important decisions are not made based on erroneous data.
 - b. The key duties involved in the acquisition process include:
 - 1) Creating a requisition document for goods and/or services to satisfy a bona fide need;
 - 2) Approving the requisition (i.e., committing the funds);
 - 3) Obligating the funds (i.e., awarding/signing the contract);
 - 4) Physically receiving and accepting the supplies and/or services;
 - 5) Recording receipt of the supplies and/or services;
 - 6) Approving the invoice for payment (this duty may be combined with the "certifying the invoice for payment" step in the field);
 - 7) Certifying the invoice for payment;
 - 8) Paying the vendor; and

- 9) Closing out the contract.
- c. The implementation of the automated financial management system has forced the specific assignment of duties to separate individuals. If an action has to be handled outside of the automated financial management system, then specific actions must be taken to ensure appropriate separation of duties is accomplished. Handling actions outside of the automated financial management system should be nominal and clearly justified in the contract file. Some examples of duties in the acquisition process that must be separated are:
 - 1) The person who approves requisition must not obligate the funds (i.e., award/sign the contract).
 2. The person who obligates funds must not physically receive or accept the supplies of services.
 3. The person who obligates funds must not record receipt of the supplies or services.
 4. The person who obligates funds must not certify the invoice/payment.

G. Definitions:

1. **CO:** A person with authority to enter into, administer, and/or terminate contracts, and makes related D&Fs.
2. **Supervisory Contracting Officer:** A person in the 1102 job series that serves as the supervisory reviewing official for specific procurement actions.
3. **COR:** A Government employee formally designated to act as an authorized representative of a CO for specified functions that do not include actions that could change the scope, price, terms, and/or conditions of a contract.
4. **FAITAS:** The system of record for all acquisition certification programs (FAC-C, FAC-COR, and FAC-P/PM). The system is also used to register for Federal Acquisition Institute and Defense Acquisition University courses, while also providing a training history.
5. **Unauthorized Commitment:** An agreement or purchase that is not binding solely because the employee who made it lacked the authority to enter into the agreement on behalf of the Government. Only COs or authorized Purchase Cardholders acting within the scope of their authority are authorized to procure supplies or services on behalf of the Government.
6. **Ratification:** The act of approving an unauthorized commitment by an official who has the authority to do so (i.e., the ratifying official).

H. References:

1. FAR, 48 C.F.R. Chapter 1.
2. JAR § 2801.601, *Career Development, Contracting Authority, and Responsibilities*, and JAR § 2801.603-1, *DOJ ACM Program*.
3. [FAITAS](#).
4. Policy Directive 6.2, [Acquisition Planning](#).
5. Policy Directive 6.9, [Ratifications of Unauthorized Commitments](#).

6. [Office of Federal Procurement Policy](#): Issues procurement policies for all civilian agencies regarding procurement-related statutes, regulations, and executive orders.

I. **Cancellation Clause:** Supersedes Policy Directive 6.1, *Procurement Authority and Oversight*, dated April 27, 2018 and will remain in effect until updated, superseded, or cancelled.

J. **Authorization and Date of Approval:**

By Order of:

Effective Date:

/s/
Donald W. Washington
Acting Deputy Director
U.S. Marshals Service

9/20/19

APPENDIX 4: The U.S. Marshals Service Response to the Draft Report¹⁰



U.S. Department of Justice

United States Marshals Service

Office of Professional Responsibility

Washington, DC 20530-0001

September 1, 2021

MEMORANDUM TO: Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General

FROM: Heather Walker-Wright *Heather Walker Wright*
Assistant Director

SUBJECT: Audit Report: Audit of the United States Marshals Service's
Awarding and Administration of Sole-Source Contracts

In response to recent correspondence from the Office of the Inspector General regarding the subject report, attached is the United States Marshals Service's response to the Formal Draft Audit report.

Should you have any questions, please contact Krista Eck, External Audit Liaison, at 202-819-4371.

Attachments

cc: Ferris Polk
Regional Audit Manager
Office of the Inspector General

Bradley Weinsheimer
Associate Deputy Attorney General
Department of Justice

David Metcalf
Counsel to the Deputy Attorney General
Department of Justice

Louise Duhamel
Acting Assistant Director, Audit Liaison Group
Internal Review and Evaluation Office
Justice Management Division

John Kilgallon
Chief of Staff
United States Marshals Service

¹⁰ Attachments to this response were not included in this final report.

**United States Marshals Service
Audit of the United States Marshals Service's
Awarding and Administration of Sole-Source Contracts**

Recommendation 1: Complete its evaluation of the creation of a central, electronic contract filing system, and develop and implement procedures sufficient to ensure all contract files and documentation are maintained as required, and readily accessible through the system.

USMS Response (Concur): The United States Marshals Service (USMS) concurs with this recommendation. Currently, all contract actions managed within the Agency are stored electronically with ability to provide information readily by utilizing the Agency's shared drive, its financial management system (aka Unified Financial Management System – UFMS) or a combination of both. Further, the team has determined that UFMS has functionality capable of providing a centralized storage system for all the Agency's contract file documentation and is currently working on developing the required standards to fully implement for the Agency. The USMS estimates this will be complete by the end of fiscal year (FY) 2022.

Recommendation 2: Update its internal audit plan to include reviews of IGAs to ensure they are being issued and administered consistent with USMS procurement policy and other related laws and regulations.

USMS Response (Concur): The USMS concurs with this recommendation. The FY 2022 internal audit plan has been updated to include monthly review of Intergovernmental Agreements (IGA) executed by the USMS Prisoner Operations Division (POD). Please see the attached updated audit plan. As we are currently working to execute various actions in support of the Agency for the close of the government FY, we will work to implement the updated plan starting in FY 2022.

Recommendation 3: Coordinate with the Justice Management Division to ensure any new or updated policies align with evolving DOJ whistleblower protection guidance for contractors.

USMS Response (Concur): The USMS concurs with this recommendation. Currently, the USMS is using all appropriate clauses and notifications within their award documents to support the Department of Justice's (DOJ) whistleblower protection guidance. The USMS will continue to coordinate with the Justice Management Division to ensure any new or updated policies align with evolving DOJ whistleblower protection guidance for contractors.

APPENDIX 5: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Report

The OIG provided a draft of this audit report to the U. S. Marshals Service (USMS). The USMS's response is incorporated in Appendix 4 of this final report. In response to our draft audit report, the USMS agreed with our recommendations and, as a result, the status of the audit report is resolved. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

Recommendations for the USMS:

- 1. We recommended that the USMS complete its evaluation of the creation of a central, electronic contract filing system, and develop and implement procedures sufficient to ensure all contract files and documentation are maintained as required, and readily accessible through the system.**

Resolved. The USMS concurred with our recommendation. The USMS stated that all contract actions managed within the Agency are stored electronically with the ability to provide information readily through the use of the Agency's shared drive, the Unified Financial Management System (UFMS), or a combination of both. The USMS stated that it has determined that the UFMS has the functional capability to provide a centralized storage system for all of the Agency's contract file documentation. The USMS also stated that it is currently working to develop the required standards to fully implement this UFMS capability for the Agency. The USMS estimates this will be complete by the end of fiscal year (FY) 2022.

This recommendation can be closed when we receive documentation that the USMS has completed its evaluation of the creation of a central electronic filing system and developed procedures sufficient to ensure that all contract files are maintained and readily accessible.

- 2. We recommended that the USMS update its internal audit plan to include reviews of intergovernmental agreements (IGA) to ensure they are being issued and administered consistent with USMS procurement policy and other related laws and regulations.**

Resolved. The USMS concurred with our recommendation. The USMS stated that the FY 2022 internal audit plan has been updated to include monthly review of IGAs executed by the USMS Prisoner Operations Division. Along with its response, the USMS provided documentation of the updated audit plan. The USMS stated that it will work to implement the updated plan starting in FY 2022.

This recommendation can be closed when we receive documentation of the implementation of the updated audit plan.

3. We recommended that the USMS coordinate with the Justice Management Division (JMD) to ensure any new or updated policies align with evolving the Department of Justice (DOJ) whistleblower protection guidance for contractors.

Resolved. The USMS concurred with our recommendation. The USMS stated that it is including all of the appropriate clauses and notifications within award documents to support DOJ's whistleblower protection guidance. The USMS will continue to coordinate with the JMD to ensure any new or updated policies align with evolving DOJ whistleblower protection guidance for contractors.

This recommendation can be closed when we receive evidence of the process by which the USMS will continue to coordinate with JMD.