



Audit of the Department of Justice's Contracts Awarded to Adaptive Digital Systems, Inc. for Covert Audio and Video Equipment



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EXECUTIVE SUMMARY

Audit of the Department of Justice's Contracts Awarded to Adaptive Digital Systems, Inc. for Covert Audio and Video Equipment

Objectives

The Department of Justice (DOJ) Office of the Inspector General (OIG) conducted an audit of two contracts awarded by the Federal Bureau of Investigation (FBI) and the Drug Enforcement Administration (DEA) to Adaptive Digital Systems, Inc. (ADS) for covert audio and video equipment.

The audit's objectives were to assess: (1) DOJ component and contractor compliance with applicable guidance in the areas of acquisition planning and procurement; billings and payments; contractor performance; and contract administration, oversight, and monitoring; (2) DOJ component internal controls related to physical security of audio and video equipment; and (3) DOJ component future plans for the acquisition of audio and video equipment.

Results in Brief

We found that the FBI and the DEA adequately documented each acquisition plan and conducted market research in compliance with the federal acquisition regulation (FAR). However, we identified areas of improvement for future acquisitions. For example, we found the FBI did not complete various FAR requirements related to time-and-materials purchases. We also determined that ADS charged each agency different prices for the same equipment; that significant security requirements outlined in the FBI's and DEA's acquisition plan were not included in the contracts; and security requirements that were in the contract were not properly completed.

We further identified concerns related to the payments of contractor invoices, including unsupported FBI time-and-materials costs and unallowable DEA costs; Prompt Payment Act violations; and unauthorized expenditures. We also found issues related to contractor timeliness in fulfilling delivery orders, agency monitoring of contractor performance, insufficient agency quality assurance, and late or delayed inventories of ADS equipment.

Recommendations

Our report contains 13 recommendations to the DOJ components included in our review. The responses to our draft report can be found in Appendices 4 through 7. Our analysis of those responses is included in Appendix 8.

Audit Results

Our review included two indefinite delivery, indefinite quantity, equipment contracts, one awarded by the FBI and one awarded by the DEA. The Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), among other federal agencies, also placed delivery orders on DEA's contract with ADS as a part of a multi-agency agreement. The amount expended under both contracts totaled approximately \$38 million over 5 years.

Agency	Total Award	Expended
FBI	\$46,200,000	\$21,112,298
DEA	\$55,024,470	\$7,924,434
ATF	N/A	\$3,649,427
Other	N/A	\$5,007,959
Total:	\$101,224,470	\$37,694,118

The primary items purchased under these contracts are audio recorders, cameras, concealed recording devices, and software needed to use the equipment. These are used in a variety of law enforcement operations.

Differences in Agency Procurements

Each agency adequately documented its acquisition plan and conducted market research in compliance with the FAR. However, we found that the FBI and the DEA procured each contract differently, as shown below.

FBI Contract	DEA Contract
Procurement: Competitive	Procurement: Sole Source
Commercial: No	Commercial: Yes
Time & Materials Element: Yes	Time & Materials Element: No
Multi-Agency: No	Multi-Agency: Yes

The FBI's contract with ADS included a requirement for engineering services for more specialized orders on a time-and-materials basis. We found that the FBI placed \$1,475,388 in delivery orders to the time-and-materials portion of the contract, nearly double the amount identified in the award documentation. We also found that the contracting requirements for the time-and-materials portion of the contract were not completed by the FBI. Specifically, the FBI never evaluated or approved a fixed hourly rate. Ultimately, ADS billed the FBI for costs that were not agreed upon in the contract or determined to be fair and reasonable, potentially resulting in inefficient contract spending. As a result, we found that the \$1,475,388 in time-and-materials delivery orders were not properly supported.

Finally, we found that both agencies stated that they did not consult the other when negotiating each contract. As a result, we determined that ADS charged the FBI and the DEA different prices for the same equipment. We also found that ADS applied discounts on items purchased in bulk differently between the agencies, further exacerbating price differences for like items. Based on our preliminary findings, we found that each agency is open to exploring an enterprise-wide procurement for future acquisitions.

Security Considerations

Related to contract security, we found that each agency determined that improper disclosure of certain information related to the equipment purchased could significantly impact law enforcement operations. However, we found that significant security requirements identified in agency procurement documentation, such as background checks for contractor employees, were not included in each contract, and therefore not completed. Further, security requirements that were included in the contract were not properly completed. In our judgment, these discrepancies increase the risk sensitive information is not adequately safeguarded.

Expenditure Testing

We judgmentally reviewed 77 contractor transactions, totaling \$4,799,069, and identified the following concerns.

Invoicing Discrepancies
\$1,475,388 in unsupported FBI time-and-materials purchases
\$11,280 in unallowable DEA purchases not in contract
\$2,280 in unallowable DEA overpayments
Three ATF transactions and two DEA transactions not in compliance with the Prompt Payment Act
\$480,383 in unauthorized DEA payments
Other non-compliance with the FAR and agency policy

Contractor Performance

We found that ADS did not complete two deliverables identified in the award documentation, including providing adequate training to five FBI personnel, and completing project status reports for the DEA. Further, we found significant concerns related to the contractor's timely completion of delivery orders. For instance, we found that 27 percent of contractor deliveries did not occur within the period of performance identified in the delivery order. We also found a significant length of time between ordering and delivery, which could negatively impact ongoing law enforcement investigations.

Delivery Time (Days)	Number of Deliveries (N = 890)		
	FBI	DEA	ATF
90-180	129	73	18
181-365	104	7	2
366+	52	4	0

Next, we surveyed users of ADS equipment and received 1,013 responses from agency staff. While we received many positive responses, we also identified potential areas that each agency should consider for future acquisitions. For instance, 55 percent of respondents stated that they had technical difficulties with equipment purchased, and 27 percent of respondents had not received training on ADS equipment.

Contract Administration, Oversight, and Monitoring

We found that DEA officials did not complete or maintain critical contract documentation, including an invoice tracking sheet and a contract administration checklist. We also found that all three agencies did not maintain a quality assurance surveillance plan, resulting in inadequate oversight of the contractor.

Physical Security of Equipment

Due primarily to the COVID-19 pandemic, we identified 2,179 pieces of equipment amongst the 3 agencies that had not been inventoried in compliance with agency policy, increasing the risk sensitive law enforcement items could be misplaced or misused. We determined that these items should be inventoried upon returning to normal operations.

Agency	Property Count	Items Not Inventoried	Percent
FBI	3,594	1,213	34%
DEA	1,300	786	60%
ATF	470	180	38%
Total:	5,364	2,179	41%

Table of Contents

Introduction	1
Contractor Background	1
Covert Audio and Video Equipment Contracts	2
OIG Audit Approach	2
Audit Results	4
Differences in Agency Procurements	5
Time-and-Materials Equipment Purchases	5
Pricing and Discounts	6
Executing the Acquisition Plan	9
Security Considerations	9
DEA Project Status Reports	11
FBI Project Objectives	11
Future Acquisitions of Audio and Video Equipment	12
Enterprise Procurement Option	12
Expenditure Testing	13
Unsupported FBI Time-and-Materials Costs	13
Incorrect Contractor Payments	14
Prompt Payment Act Violations	15
Invoice Authorizations	15
Other Invoicing Requirements	16
Contractor Performance	16
Review of Contractor Deliverables	17
Assessment of Contractor Timeliness	17
Survey of Users	19
Contract Administration, Oversight, and Monitoring	22
DEA Contract Documentation	23
Quality Assurance	23
Physical Security of Equipment	23
Conclusion and Recommendations	25
APPENDIX 1: Objectives, Scope, and Methodology	27
Objectives	27

Scope and Methodology.....	27
Statement on Compliance with Generally Accepted Government Auditing Standards	28
Internal Controls.....	28
Compliance with Laws and Regulations	29
Sample-based Testing.....	30
Computer-Processed Data	30
APPENDIX 2: Schedule of Dollar-Related Findings	31
APPENDIX 3: Additional FAR Invoice Requirements.....	32
APPENDIX 4: The Federal Bureau of Investigation’s Response to the Draft Audit Report	33
APPENDIX 5: The Drug Enforcement Administration’s Response to the Draft Audit Report	37
APPENDIX 6: The Bureau of Alcohol, Tobacco, Firearms and Explosives Response to the Draft Audit Report.....	42
APPENDIX 7: Adaptive Digital Systems, Inc. Response to the Draft Audit Report.....	45
APPENDIX 8: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report.....	49

Introduction

The Department of Justice (DOJ) is tasked with enforcing the law and defending the interests of the United States, as well as ensuring public safety against threats foreign and domestic. The DOJ, through the Federal Bureau of Investigation (FBI), the Drug Enforcement Administration (DEA), and the Bureau of Alcohol, Tobacco, Firearms and Explosives (ATF), partners with state and local law enforcement agencies throughout the nation to combat violent crime. A significant tool used by these law enforcement agencies is covert audio and video equipment and recorders employed during investigations. We summarize each agency's mission and audio and video program in Figure 1 below.

Figure 1

DOJ Agency Comparison		
Federal Bureau of Investigations	Drug Enforcement Administration	Bureau of Alcohol, Tobacco, Firearms and Explosives
<p>Mission: To protect the American people and uphold the Constitution of the United States.</p> <p>Audio & Video Program:</p> <ul style="list-style-type: none"> • Digital Body Recorder Program in place since 1990s. • The FBI purchases covert recorders and concealments used to capture audio and video. Devices are used in a variety of different environments. 	<p>Mission: To enforce the controlled substances laws and regulations of the United States.</p> <p>Audio & Video Program:</p> <ul style="list-style-type: none"> • The DEA has used contract vehicles for this program for approximately 15-20 years. • The DEA purchases covert audio and video recorders in a variety of configurations and concealments. 	<p>Mission: To protect communities from violent criminals, criminal organizations, the illegal use and trafficking of firearms, the illegal use and storage of explosives, acts of arson and bombings, acts of terrorism, and the illegal diversion of alcohol and tobacco products.</p> <p>Audio & Video Program:</p> <p>The ATF does not have its own contract vehicle, but places orders on other federal contracts. Its Technical Operations Branch (TOB) is responsible for supporting technical equipment in the field.</p>

Source: FBI, DEA, and ATF

Contractor Background

Adaptive Digital Systems, Inc. (ADS) of Newport Beach, California has provided policing technologies to federal, state, and local law enforcement agencies since 1980. It is considered a small business by the Small Business Administration. It develops and supplies covert audio and video recording equipment and custom concealments to federal, state, and local law enforcement agencies, as well as intelligence agencies in the United States and abroad. ADS employees consist of software developers, electrical and mechanical engineers, computer-aided design operators, and electronic technicians.

Covert Audio and Video Equipment Contracts

We reviewed two indefinite delivery, indefinite quantity, firm-fixed price equipment contracts awarded to ADS by the FBI and the DEA, which each included one base year and four option years. The primary items purchased under these contracts are recorders, cameras, concealments, and software needed to use the equipment. Both contracts are outlined in Table 1 below.

Table 1

DOJ Contracts Awarded to ADS

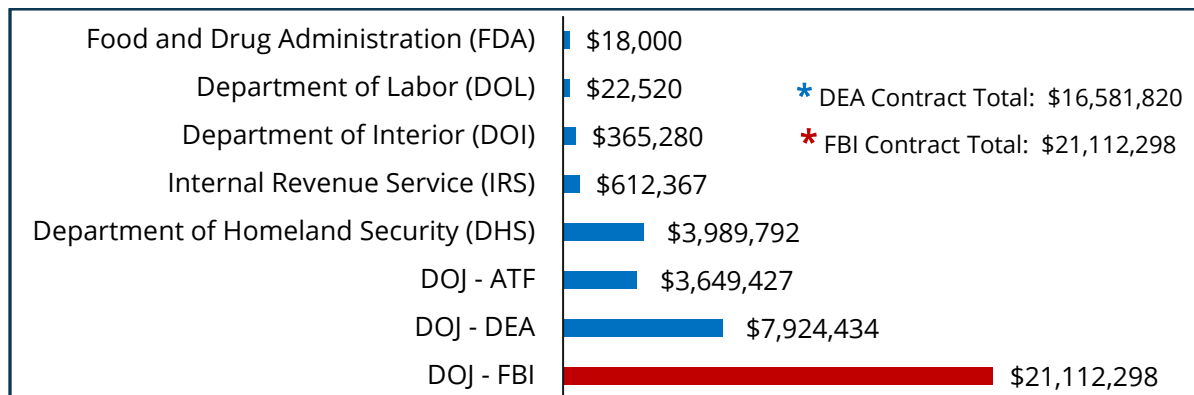
Contract Number	Agency	Contract Ceiling	Contract Start	Contract End
DJF-15-1200-V-0007461	FBI	\$46,200,000	07/01/2015	12/30/2020
DJD-15-K-0023	DEA	\$55,024,470	08/14/2015	02/13/2021
Total:		\$101,224,470		

Source: FBI and DEA Contracts

As of the most recent option year, the FBI's contract with ADS included 77 contract line item numbers (CLIN), while the DEA's contract with ADS included 129 CLINs. Other federal agencies, including the ATF, also placed delivery orders on DEA's contract as a part of a multi-agency agreement. The amount expended by the FBI, the DEA, and the other agencies that placed orders on the DEA's contract are outlined in Figure 2 below. The total amount expended under each contract totals \$37,694,118.

Figure 2

Total Expended Under DOJ Contracts with ADS



Source: OIG analysis of ADS, FBI, DEA, and ATF contract data

OIG Audit Approach

The objectives of this audit were to assess: (1) DOJ component and contractor compliance with contract terms and conditions in the areas of acquisition planning and procurement; billings and payments; contractor performance; and contract administration, oversight, and monitoring; (2) DOJ component

internal controls related to physical security of audio and video equipment; and (3) DOJ component future plans for the acquisition of audio and video equipment. We summarize our audit approach in Table 2.

Table 2

OIG Audit Approach

Subject Area	Methodology
Acquisition & Procurement	Interviewed agency contracting officers and contracting officer's representatives; reviewed internal policies related to acquisition; reviewed contractor Statements of Work (SOW); and reviewed security requirements outlined in contract documentation.
Future Acquisitions	Determined agency plans for future acquisitions of equipment; assessed agency procurement approaches.
Billings & Payments	Reviewed agency adherence to contract regarding unit costs; reviewed authorization of payments; reviewed compliance with Prompt Payment Act; and traced contractor invoices to source documentation.
Contractor Performance	Reviewed contract deliverables as stated in the SOW; and conducted surveys of field agents on satisfaction with contractor.
Contract Administration, Oversight, & Monitoring	Reviewed contract file documentation; reviewed quality assurance procedures; and assessed agency oversight of contractor.
Physical Security	Reviewed agency property records; traced purchases to property records; assessed timeliness of equipment inventory; and reviewed property management policies.

Source: OIG

Audit Results

Although the FBI and DEA have differing approaches to contract procurement, we generally found that each agency adequately documented its acquisition plan and conducted market research in compliance with the federal acquisition regulation (FAR). However, we identified areas that could be improved for future acquisitions. For instance, we found that the FBI did not complete various FAR requirements related to time-and-materials purchases under its contract with ADS. We also identified significant pricing discrepancies between items purchased by both the FBI and the DEA, meaning that ADS charged each agency different prices for the same equipment. Further, we found that significant security considerations discussed in each agency's acquisition plan were not included in the contract, and requirements that were in the contract were not properly completed.

We also identified concerns related to payment of contractor invoices, including: (1) \$1,475,388 in unsupported time-and-materials costs paid by the FBI; (2) \$11,280 in unallowable equipment costs paid by the DEA for equipment that was not approved in the contract; (3) incorrect payments to the contractor based on approved equipment rates, including \$2,280 in unallowable over-payments by the DEA; (4) Prompt Payment Act violations, resulting in \$237 in interest owed to the contractor; (5) unauthorized expenditures; and (6) other non-compliances with the FAR and agency policy related to invoice documentation.

Related to contractor performance, we found that certain contract deliverables outlined in the contract were not completed by the contractor, and the contractor incurred significant production and delivery delays when fulfilling delivery orders. We also conducted a survey of end-users and found that some users experienced technical difficulties with the equipment, and incurred delays when requesting maintenance from ADS.

Related to contract administration, we found that the DEA did not maintain all required documentation in its contract file, and found that each agency did not prepare a Quality Assurance Surveillance Plan (QASP) in accordance with each SOW. Finally, we found that each agency did not inventory all equipment purchased from ADS, primarily as a result of the COVID-19 pandemic. To address these issues, we make 13 recommendations amongst the 3 agencies under our review.

Differences in Agency Procurements

We determined that the FBI and the DEA procured each contract differently. The DEA sole sourced its contract, while the FBI began its procurement as a sole source, and ultimately awarded a contract using open competition. The FBI explained that ADS was the only viable option for this procurement, but shifted to an open competition approach to inform other organizations of needs for potential future procurements. Additionally, DEA considers the equipment purchased under the contract to be commercial items, while the FBI does not. While both contracts are fixed-price, the FBI's contract states that it has the option to purchase concealments and engineering services on a time-and-materials basis, estimated at \$150,000 per year. We outline the differences between each contract in Figure 3 below.

Figure 3

Contract Comparison

FBI Contract Number DJF-15-1200-V-0007461	DEA Contract Number DJD-15-K-0023
Procurement: Competitive	Procurement: Sole Sourced
Commercial: No	Commercial: Yes
Time & Materials Element: Yes	Time & Materials Element: No
Multi-agency Agreement: No	Multi-agency Agreement: Yes
Option Years: 4	Option Years: 4

Source: FBI and DEA Contracts

We generally found that each agency adequately documented its acquisition plan and conducted market research in compliance with the FAR. However, we identified significant concerns related to the FBI's acquisition of certain equipment using a time-and-materials contracting approach, as well as concerns related to differences in pricing and discounts between the agencies. We also identified important security considerations that were included in procurement documentation, but were not included in each contract, and therefore not completed by each agency or the contractor.

Time-and-Materials Equipment Purchases

The FBI's contract with ADS states that the contract is an indefinite delivery, indefinite quantity contract to acquire equipment on a firm-fixed price basis. However, the contract also states that the FBI also has a requirement for the acquisition of engineering and technical support services where orders will be issued on a time-and-materials basis as needs are identified. The contract solicitation states that the estimated total for these services is \$150,000 per year, or \$750,000 over the life of the contract. It also states that the contractor shall include a copy of the job description for each labor category proposed. Additionally, the FAR has several requirements that must be completed for time-and-materials contracts, as outlined in Table 3.

Table 3

Time-and-Materials FAR Requirements

FAR Clause	Requirement	Compliant
FAR Subpart 16.601	Must be based on direct labor hours at a specified hourly rate that includes wages, overhead, general and administrative expenses, profit, and actual costs of materials.	No
	Must complete a determination and findings that no other contract type is suitable, which is approved by the head of the contracting activity.	No
	Solicitation must include FAR Clause 52.216-29: <i>Time-and-Materials/Labor-Hour Proposal Requirements-Non-Commercial Item Acquisitions with Adequate Price Competition</i> .	No
FAR Subpart 15.304	Costs, past performance or prior experience, and quality of the products or services to be provided should be evaluated in every acquisition.	No
FAR Subpart 15.402	Must evaluate reasonableness of offered prices and obtain data to establish a fair price.	No

Source: FAR

We determined that the FBI placed \$1,475,388 in delivery orders to the time-and-materials portion of the contract. This is nearly double the amount identified in the contract solicitation. Nevertheless, as shown in Table 3, we found that the contracting requirements for contracts that have time-and-materials elements were not completed by the FBI. Most significantly, a fixed hourly rate was never proposed by ADS in their response to the FBI's request for proposal (RFP). Therefore, the FBI neither evaluated a fixed hourly rate for reasonableness, nor approved a labor rate for any work performed by ADS through the time-and-materials mechanism of the contract. Ultimately, ADS billed the FBI for costs that were not agreed upon in the contract or determined to be fair and reasonable. Overall, we recommend that the FBI enhance policies and procedures to ensure that orders containing time-and-materials elements include negotiated labor rates that identify the contractor's wages, overhead, general and administrative expenses, profit, and actual costs of materials. The FBI should ensure that these contracts are compliant with all FAR requirements.

Pricing and Discounts

We determined that the FBI and the DEA negotiated prices for each CLIN independently. Both agencies stated that they did not consult the other when negotiating each contract. Of the 77 CLINs identified under the FBI's contract with ADS, and the 129 CLINs identified under the DEA's contract with ADS, we found 35 pieces of equipment in the final option year of each contract that are identical for both the FBI and the DEA. Of those 35 pieces of equipment, we found that the FBI and the DEA negotiated different prices for 32 pieces of equipment. In other words, ADS charged the FBI and the DEA different prices for the same equipment. Further, we found that the price per item becomes cheaper as the quantity purchased increases. However, discounts on items purchased in bulk were not applied to each agency consistently. We identify the different discount ranges in Table 4 below.

Table 4

Discount Percentages on Identical Items in Option Year 4

Range	FBI Units Purchased	Average % Discount ^a	DEA Units Purchased	Average % Discount
1	1 to 10	0%	1 to 49	0%
2	11 to 25	0.39%	50 to 99	5.22%
3	26 to 99	2.60%	100 to 499	2.56%
4	100+	1.78%	N/A	N/A

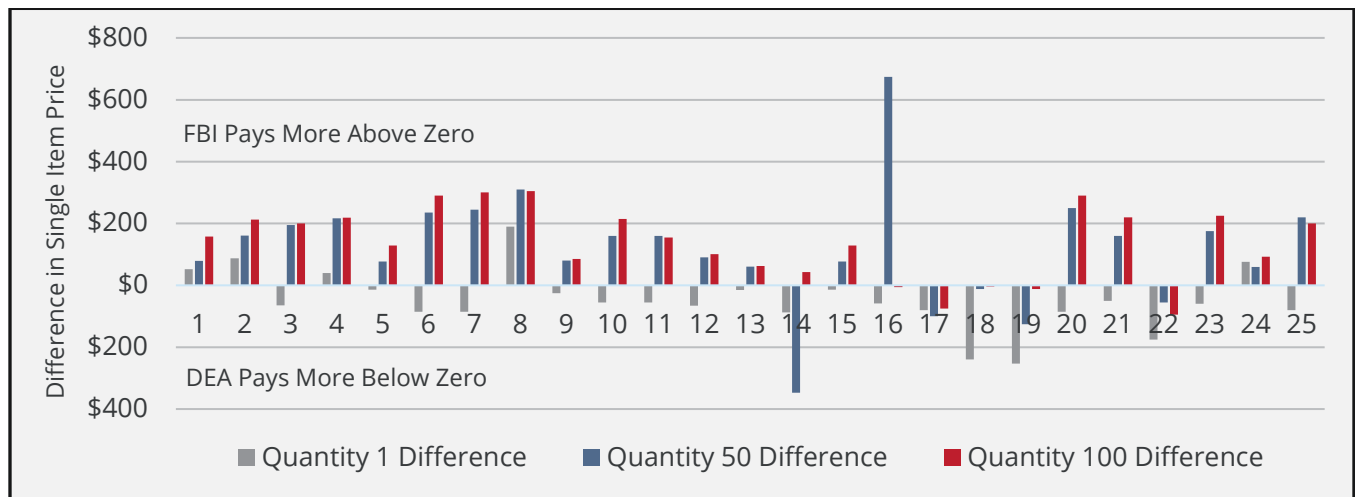
^a Agencies receive a supplementary discount for each range from the already discounted price. Discounts listed above are non-cumulative.

Source: OIG analysis of FBI and DEA contracts

As shown, the FBI begins receiving discounts on certain items when the quantity purchased reaches 11, while the DEA does not start receiving discounts on certain items until the quantity purchased reaches 50. In Figure 4 below, we identify 25 significant price differences for each piece of equipment purchased by both agencies and identify the difference assuming the agency purchased 1 item, 50 items, or 100 items. A difference above zero indicates that the FBI paid a higher price for each piece of equipment, and a difference below zero indicates that the DEA paid a higher price for each piece of equipment.

Figure 4

Pricing Difference per Single Item Option Year 4

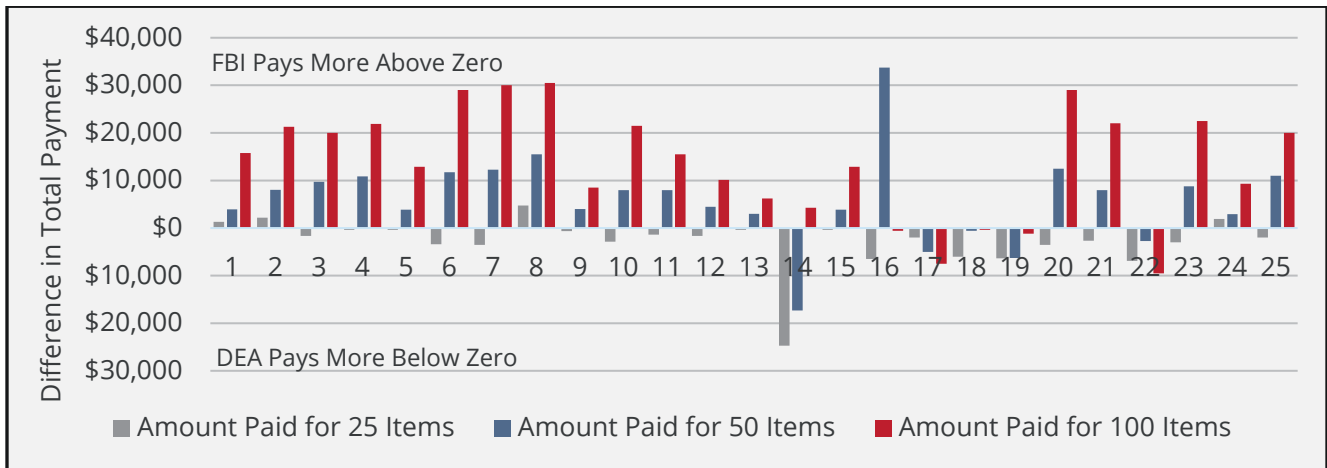


Source: OIG analysis of FBI and DEA contracts

As shown above, the DEA and the FBI could be purchasing the same equipment and paying different prices. Furthermore, this issue is exacerbated when hypothetically applying discounts and multiplying the single item price above by the various discount ranges. We identify these hypothetical differences in Figure 5 below.

Figure 5

Hypothetical Pricing Differences for Discount Ranges Option Year 4



Source: OIG analysis of FBI and DEA contracts

As shown above, the single item differences in Figure 4 become significant differences in the total amount paid by each agency assuming the various discounts are applied, and that each agency purchases in bulk. As shown in Table 4, the DEA is not getting the same discount on its items purchased at the quantity range of 11-49. We found 63 items purchased, or approximately 16 percent of total purchases, in the 11-49 quantity range where DEA or ATF could have received a discount if FBI's discount ranges were used versus DEA's. While the items purchased and the associated prices might not be identical, we believe the DEA could save money with additional discount ranges. We identified various examples where the FBI and the DEA purchased similar quantities of the same equipment in the same option year but paid different prices. The FBI received a discount based on its negotiated discount range, and the DEA did not. Although the DEA negotiated higher discounts for bulk purchases in the range of 50 to 99 items and purchases exceeding 100 items, the DEA did not take advantage of these discounts. These examples are identified in Table 5 below.

Table 5

Examples of Price Differences

	Date of Purchase	Quantity Purchased	Discount Range	Unit Price	Total Amount Paid for <i>SAME</i> Quantity	Difference
	Option Year 1 – Purchase Comparison for <u>30</u> Devices					
FBI	Sep-2016	50	26 to 99	\$5,025	\$150,750	\$3,750
DEA	June-2017	30	1 to 49	\$5,150	\$154,500	
	Option Year 2 – Purchase Comparison for <u>35</u> Devices					
FBI	May-2018	85	26 to 99	\$5,150	\$180,250	\$5,425
DEA	May-2018	35	1 to 49	\$5,305	\$185,675	
	Option Year 4 – Purchase Comparison for <u>10</u> Devices					
FBI	April-2020	10	1 to 10	\$5,500	\$55,000	\$2,400
DEA	April-2020	15	1 to 49	\$5,740	\$57,400	

Source: OIG analysis of FBI and DEA contracts

As shown in these examples, the FBI paid \$11,575 less than the DEA for the same equipment.¹ Overall, we believe that the FBI and the DEA should leverage their purchasing power and more effectively collaborate during the acquisition planning process in order to ensure that each agency is receiving the best prices for the same equipment. We further address this issue in the following sections.

Executing the Acquisition Plan

We identified discrepancies between each agency's acquisition planning and the requirements that were included in each contract. FAR Part 7 states that agencies shall perform acquisition planning to ensure that the government meets its needs in the most effective, economical, and timely manner. An acquisition plan must address all the technical, business, management, and other significant considerations that will control the acquisition. Furthermore, in our judgment, the considerations identified in each agency's procurement documentation is significant to the execution and compliance of each contract we reviewed.

Security Considerations

DOJ Policy Statement 1700.01 related to contractor security requirements states that no contractor is allowed access to DOJ information or information technology systems until the appropriate background investigation has been conducted and favorably adjudicated. Further, the FBI considers the technical details of the recorders to be "law enforcement sensitive" information and has determined that improper disclosure of these details could reveal equipment capabilities and weaknesses. Similarly, the DEA explained that certain disclosure of information under the contract could compromise national security and jeopardize personnel safety. Both contracts provide for equipment to be shipped to and from the contractor for maintenance or repair, resulting in an increased risk of sensitive information disclosure. We also determined that ADS developed software for the recorders for each agency, and also supplies law enforcement equipment to agencies outside of the United States. As a result, we determined security considerations outlined in the award documentation to be significant. We found that important security

¹ Table 5 identifies the most significant pricing differences for the same equipment under each contract and is not a complete list. Overall, price differences depend on the quantity and time of purchase.

considerations that were included in the procurement documentation were not included in each contract, and therefore not completed by each agency or the contractor as outlined in Table 6 below.

Table 6

Security Considerations

Agency	Document	Requirement	In Contract
FBI	Acquisition Plan	Contractor must have one individual with a security clearance who can have access to classified information.	✗
	Acquisition Plan	Equipment and services acquired are considered law enforcement sensitive. The vendor is legally prohibited from publicly disclosing information. Quantities purchased are considered for official use only.	✗
	Acquisition Plan	Contractor is prohibited from mentioning the FBI in advertising.	✗
	Solicitation	A Contracting Officer's Security Representative (COSR) is responsible for certifying the contractor's capability for handling classified material and ensuring that customer service policies and procedures are met.	✓
	Solicitation	Includes FAR Clause 52.204-2: Security Requirements. Identifies requirements that need to be met when dealing with classified information.	✓
	Solicitation	Includes FAR Clause 52.239-1: Privacy or Security Safeguards. Instructs the contractor to allow the FBI access to its facilities and documentation.	✓
DEA	Solicitation	Contractor shall provide personnel with appropriate security clearances to perform work and provide controlled secure area for work performance.	✗
	Solicitation	Includes FAR Clause 52.239-1: Privacy or Security Safeguards. Instructs the contractor to allow the DEA access to its facilities and documentation.	✓
	Office of Security Programs Review	Determined that personnel security access level is sensitive, and that DEA security provisions related to required background investigations apply.	✗
	Office of Security Programs Review	The Office of Security Programs will conduct a suitability review of all contractor personnel assigned to this contract.	✗
	Office of Security Programs Review	Contractors shall identify employees supporting DEA efforts in accordance with Contractor Personnel Reporting Requirements (CPRR), which will be provided to the contractor upon award of the contract.	✗

Source: OIG analysis of FBI and DEA procurement documentation

To further compound this issue, neither agency completed the requirements that were included in the contract. For instance, while a Contracting Officer's Security Representative (COSR) was named in the contract, the FBI's contracting officer did not formally delegate any duties to the COSR, and therefore the COSR performed none of the responsibilities in the contract. Further, we confirmed with ADS that no background checks were performed on contract personnel, and no personnel received a security clearance from the federal government. We believe that not completing these security requirements or including these considerations in the contract increases the risk that sensitive information is not adequately safeguarded.

In January 2015, the DEA's Office of Security Programs (OSP) conducted a formal security review of the contract, and determined that the provisions outlined in Table 6 were applicable to the award. However, in March 2015, DEA contracting officials contacted the OSP regarding these security requirements, and stated that ADS would not have access to DEA facilities or sensitive information. In our judgment, OSP did not receive sufficient information regarding ADS's access to sensitive information. DEA contracting officials' March 2015 correspondence to OSP was inconsistent with statements in the award documentation that

disclosure of certain information could compromise national security and jeopardize personnel safety. We believe DEA's March 2015 correspondence understated these concerns. As a result, an OSP employee instructed DEA contracting staff not to include the security provisions described in Table 6. Even though ADS did not ultimately access DEA facilities, ADS had access to sensitive information under the contract, and we believe OSP's formal assessment and memorandum from January 2015 more appropriately addresses the security risks described above and inherent in this contract.

In our judgment, ensuring the contractor meets the appropriate security qualifications is paramount to the safety and protection of sensitive law enforcement information and minimizes the risk of improper disclosure. Therefore, we recommend that both the FBI and the DEA improve processes to ensure that security risks are adequately assessed during acquisition planning, and appropriately mitigate those risks after the contract has been executed.

DEA Project Status Reports

DEA's acquisition plan requires the contractor to provide a project status report to the contracting officer's representative (COR), including the status of each task, staffing, schedule, funds expended to date on each task, and the status of work with respect to scheduled milestones. The contractor was also required to identify and address perceived problems currently or potentially impacting the project, with recommended solutions. This requirement was not included in the contract. Despite the DEA stating that they were satisfied with ADS's performance, we identified milestone delays throughout the contract, and determined that DEA did not adequately monitor the contractor. We further assess ADS's performance under *Contractor Performance* below. We believe that project status reports could assist DEA with tracking and monitoring the contractor's performance.

FBI Project Objectives

We identified 10 performance objectives in the FBI's acquisition plan and found that these objectives were not included in the FBI's SOW with ADS. FAR Subpart 7.103 states that each federal agency shall prescribe procedures to ensure that the SOW is closely aligned with performance outcomes. The FBI explained that having a contract with ADS allowed it to achieve many of the objectives from the acquisition plan. However, the FBI provided limited documentation to demonstrate that the objectives were met. In our judgment, the FBI should have ensured that the SOW aligned with the objectives outlined in the acquisition plan. We further assess whether ADS is meeting the needs of the FBI, and whether the FBI is properly documenting performance outcomes under *Contractor Performance* below.

Objectives of FBI Acquisition
<ol style="list-style-type: none"> 1. Acquire equipment as efficiently and at the lowest cost possible at any time throughout the year. 2. Ensure that the base of installed equipment continues to be supported with no interruption. 3. Make it easy for all FBI divisions to individually order equipment. 4. Standardize the electrical interfaces and protocols. 5. Standardize the accessories. 6. Automate downloading evidence to a system of record, associate an item with court order and agent, and automatically push software and firmware updates. 7. Improve software configuration control, versioning, and testing prior to release. 8. Faster response to field concealment requests. 9. Continue to drive technology to lower power and smaller size. 10. Simplify inventory tracking and logistics associated with items.

Source: FBI Acquisition Plan

Overall, while we generally found that each agency adequately documented its acquisition plan and conducted market research in compliance with the FAR, we found significant considerations identified in this documentation that were not included in each contract. As a result, we recommend that both the FBI and

the DEA implement policies and procedures to ensure that future contracts appropriately address the risks and performance outcomes identified during acquisition planning.

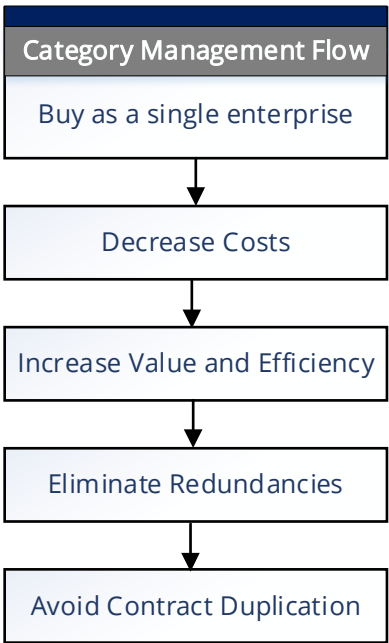
Future Acquisitions of Audio and Video Equipment

The DEA, FBI, and ATF all indicated they plan to pursue a procurement mechanism to continue to purchase covert audio and video equipment. In January 2021, all three components had begun research on the next procurement, but had not collaborated related to a potential future acquisition. DEA indicated at the time that it had planned to limit the usage of the next contract to DEA only, rather than including other federal agencies, including the ATF. As previously discussed, we believe that each agency should leverage their purchasing power and more effectively collaborate during the acquisition planning process to ensure that each agency is receiving the best prices for the same or similar equipment. After briefing all three agencies on our preliminary findings in January 2021, each expressed interest in potential collaboration.

Enterprise Procurement Option

We asked the DOJ’s Justice Management Division (JMD) for further information related to enterprise-wide procurements. The JMD manages these types of agreements for smaller DOJ components that have similar procurement needs. A JMD official explained that the DOJ’s contracts with ADS may be an opportunity for consolidation.

While the JMD encourages collaboration, potential conflicts for different missions and security requirements could exist. The JMD official stated that while there are contract differences, varying tiers for buying equipment could be created under an enterprise-wide agreement, which would allow JMD to use the buying power of the whole Department.



Additionally, DOJ Instruction 1301.01.03 *Acquisition Programs Oversight Category Management Program* defines category management as a strategic practice to buy as a single enterprise to deliver savings, value, and efficiency for federal agencies. This approach can eliminate unnecessary contract redundancies and continue to meet the government’s needs. This guidance further states that the federal government’s Office of Management and Budget encourages agencies to leverage, to the maximum extent possible, existing solutions for common requirements to save money, avoid contract duplication, and allow acquisition staff to focus on mission critical work. Agencies should develop collaborative, on-going partnerships to manage performance and explore opportunities for efficiencies.

Source: DOJ Instruction 1301.01.03

In April 2021, both the DEA and the FBI explained that they intended to collaborate on a future contract with ADS. Specifically, the DEA stated that it was working with JMD for approval related to a government-wide procurement option. The FBI stated that it had provided documentation to the DEA for inclusion in the next sole source contract with ADS to be managed by the DEA, which will also include other federal agencies.

As a result of the above guidance, we recommend that the FBI, the DEA, and the ATF leverage the DOJ’s purchasing power by continuing to collaborate on future acquisitions for the same or similar equipment to identify potential cost savings, increase value and efficiencies, and eliminate administrative redundancies.

Expenditure Testing

We obtained a list of contract expenditures from each agency and selected a judgmental sample of transactions to review. As a part of this analysis, we completed the following:

- Traced expenses identified on contractor invoices to each set of accounting records.
- Determined if items purchased were associated with approved CLINs in each contract.
- Compared the prices of items purchased to approved rates in each contract.
- Assessed timeliness of contractor delivery, agency acceptance, and payment.
- Determined if each agency was compliant with the agency policy and the FAR.

We judgmentally selected a total of 77 transactions for review, totaling \$4,799,069. A breakdown of our sample by DOJ component is outlined in Table 7 below.

Table 7

Sample of Transactions Reviewed

Agency	Number of Transactions Tested	Amount of Transactions Tested	Total Amount of Expenditures by Agency	Percent of Total
FBI	29	\$1,750,886	\$21,112,298	8%
DEA	33	\$2,072,263	\$7,924,434	26%
ATF	15	\$975,920	\$3,649,427	27%
Total:	77	\$4,799,069	\$32,686,159	15%

Source: OIG analysis of FBI, DEA, and ATF contract expenditures

Unsupported FBI Time-and-Materials Costs

As previously stated, the FBI estimated approximately \$150,000 per year would be used to purchase items on a time-and-materials basis. In general, the FBI purchased these items using a line item on each delivery order labeled either disposable supplies or engineering services. These line items are defined below.

Disposable Supplies: A low cost item, such as a battery, that the contractor can provide without any additional services or effort. An ADS official stated that the FBI also builds their own specialized equipment, and ADS would provide the components of that equipment under this line item.

Engineering Services: The FBI will complete a 'task number' or 'task request' when a specialized piece of equipment or a concealment is needed that may take extra engineering. This line item is used if the FBI believes it will take time to build something for the task request.

We found that the FBI placed orders under the disposable supplies and engineering services line items interchangeably, indicating that either line item could be charged for supplies or services. Despite the fact that disposable supplies are defined as items that can be provided quickly with minimal effort, these items were not included in the contract using a CLIN. While engineering services are defined as something that

will take time and effort, no fixed labor rates were included in the contract, and pricing of specialized services or enhancements were not agreed upon prior to purchase. An FBI official stated that ADS decided not to charge for labor hours or services, and that any time worked on item was wrapped into the unit cost. As a result, purchases for both of these line items did not include: (1) price negotiations between both parties or an assessment of price reasonability; (2) detail on the actual cost versus price markup for each item; or (3) approval by the contracting officer prior to purchase.

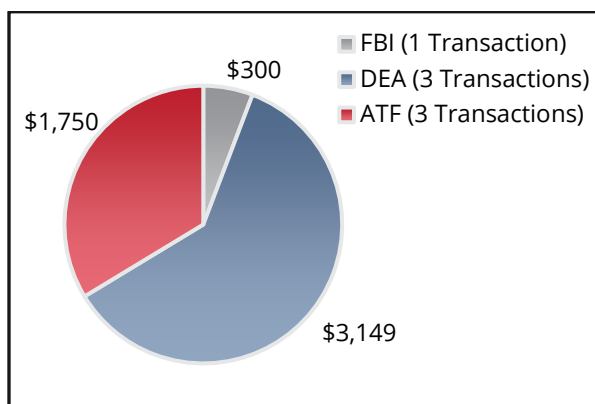
As a part of our review of contract expenditures, we identified eight transactions with a total of \$56,481 in disposable supplies or engineering services. Based on our review, and in conjunction with the issues described above, it is unclear exactly what costs make up the expenses paid by the FBI. For example, we identified one task order, totaling \$17,000, for a software enhancement purchased under the engineering services line item that was billed and paid as a one-time purchase. However, the task order and invoice did not detail how many labor hours were required to develop the software, the fixed hourly rate, or the costs of any materials. As a result, the FBI did not evaluate the purchase to determine if the pricing was fair or reasonable. Overall, we determined that these purchases are not adequately supported. As previously stated, we determined that the FBI placed \$1,475,388 in delivery orders to the time-and-materials portion of the contract using disposable supplies and engineering services. Therefore, we recommend that the FBI remedy \$1,475,388 in unsupported time-and-materials costs incurred under the contract by reviewing each delivery order, accompanying invoices, and cost information from ADS to determine: (1) the price reasonableness of each expense; and (2) further detail on the expense incurred, including which portion of the expense is cost versus profit.

Incorrect Contractor Payments

We identified nine transactions where each agency under our review paid the contractor for equipment either not included in the contract or at a different rate than what was agreed upon in the contract. Of these nine transactions, seven were instances where the agency paid the contractor at a rate less than what was listed in the contract, totaling \$5,199. One transaction, totaling \$2,280, was an instance where DEA paid the contractor at a rate greater than what was listed in the contract. Finally, one transaction, totaling \$11,280, was an instance where DEA paid the contractor for an item that was not approved in the contract. We summarize these findings in Figure 6 and 7 below.

Figure 6

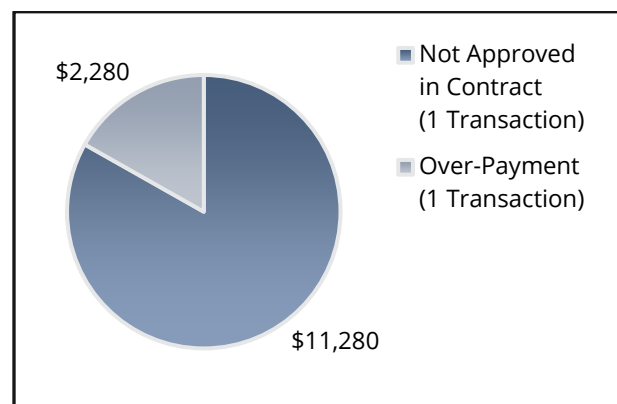
Contractor Under-Payments by Component



Source: FBI, DEA, and ATF invoices & contract data

Figure 7

Unallowable DEA Contractor Payments



Source: DEA invoices and contract data

We determined that the payments identified in Figure 7 are unallowable based on the agreed upon equipment and rates in the contract. As a result, we recommend that the DEA remedy \$13,560 in unallowable equipment costs resulting from payments to the contractor not approved in the contract.

Prompt Payment Act Violations

FAR Subpart 32.9 states that agencies must establish policies and procedures to ensure compliance with the Prompt Payment Act, which identifies the due date for making an invoice payment as the later of the following: (1) the 30th day after the designated billing office receives a property invoice from the contractor; or (2) the 30th day after the government acceptance of the services performed.

We reviewed the 77 invoices in our sample to determine if each agency paid the contractor in compliance with the criteria outlined above and found that 5 invoices were not paid in compliance with the Prompt Payment Act. As a result, we used the interest rates provided by the Department of the Treasury to calculate the appropriate amount of interest owed to ADS. We summarize the interest calculations by agency in Table 8 below.

Table 8

Prompt Payment Violations

Agency	Amount Invoiced	Number of Days Late	OIG Calculated Interest	Interest Paid By Agency
DEA	\$22,203	34	\$76	\$0
DEA	\$68,849	5	\$20	\$0
ATF	\$43,150,	23	\$100	\$100
ATF	\$33,600	12	\$28	\$28
ATF	\$7,900	23	\$13	\$13
Total:	\$175,702		\$237	\$141

Source: OIG analysis of DEA and ATF contract expenditures, Dept. of the Treasury

While the ATF paid a cumulative total of \$141 to the contractor, we found that the DEA owes approximately \$96 in interest that should have been paid to ADS. Overall, we determined that these invoices were not timely paid to the contractor. We make a recommendation related to this issue under *Other Invoicing Requirements* below.

Invoice Authorizations

The DEA's COR Handbook states that the authority to recommend invoice approval and rejection is delegated to the COR through an appointment letter by the contracting officer. This authority cannot be re-delegated to a third party by the COR. The COR appointment letter under this contract states that the COR shall review contractor invoices and approve for payment, which shall then be forwarded to the payment office identified in the contract, with a copy forwarded to the contracting officer.

We found that 12 out of 33 invoices we reviewed for the DEA, totaling \$480,383, were not approved by the COR. The DEA COR stated that these were instances where field offices placed orders for equipment without purchasing through the COR. The COR stated that once the field offices receive the equipment, someone in the field office will enter and approve the invoice in the DEA's accounting system. However, as stated above, the COR is the only individual who is delegated the authority to approve invoices for payment.

Similarly, we identified one invoice, totaling \$95,475, that was paid prior to when DEA received the equipment from the contractor. We also identified one invoice, totaling \$5,150, that was paid using a quote by the contractor versus an actual invoice for equipment delivered. These scenarios further support that payments to the contractor are occurring at DEA without the proper review and approval by the appropriate contracting officials. As a result, we recommend that DEA review and revise, as appropriate, its policies and procedures to ensure that a qualified contracting official reviews and approves all invoices for audio and video equipment.

Other Invoicing Requirements

FAR Subpart 32.905 states that payment for contract expenses will be based on receipt of a proper invoice and satisfactory contractor performance. Additionally, all invoices must be supported by a proper receiving document or documentation authorizing payment. Finally, both the DEA and the ATF have supplemental requirements for each invoice that are outlined in each contract and agency policy.

Invoicing Highlights
<ul style="list-style-type: none">• 100 percent of invoices did not identify contact information of person to notify in the event of a defective invoice.• 79 percent of authorizing documentation did not include description of the equipment purchased.• 10 percent of defective invoices not properly marked as corrected with adequate explanation.• 100 percent of DEA invoices did not have cumulative CLIN totals, and 97 percent did not have delivery dates for purchases.• 67 percent of ATF invoices did not include a CLIN number.

Source: Agency Invoice Documentation

We reviewed each invoice and the accompanying authorizing documentation in our sample and determined that none of the 77 invoices we reviewed contained all the elements required in the FAR, the contract, and agency policy. For example, all invoices did not contain an ADS point of contact to notify if the invoice was defective, and the majority of authorizing documentation did not contain a description of the items purchased. Further, the majority of the invoices reviewed for the DEA did not contain a cumulative total for each CLIN or a delivery date, as required by the contract. Similarly, majority of the ATF invoices reviewed did not contain a CLIN for each line on the invoice, as required by ATF’s acquisition manual. We outline these non-compliances in more detail in Appendix 3.

Overall, we determined that each agency was not compliant with the FAR, the contracts, and policy related to contract expenses. This includes incorrect payments to the contractor, Prompt Payment Act violations, and improper invoices and authorizing documentation. Ultimately, these inadequacies increase the risk of improper use of contract funds and inhibit contract management for contracting officials who oversee delivery orders and contract ceilings. As a result, we recommend that the FBI, the DEA, and the ATF review and revise, as appropriate, their policies and procedures to ensure that contract expenditures for audio and video equipment are compliant with the FAR and other applicable criteria.

Contractor Performance

We reviewed each agency’s contract documentation and interviewed contracting officials to identify and assess contract deliverables. We also reviewed delivery orders, invoices, and property records to assess the contractor’s timeliness in manufacturing and delivering equipment ordered by each agency. Finally, we conducted a survey of end-users of ADS equipment to assess user experiences with ADS equipment compared to contract requirements.

Review of Contractor Deliverables

We reviewed eight deliverables outlined in each agency's award documentation. We determined that one of the deliverables in our sample was not adequately completed by the contractor. Additionally, the DEA did not include a significant deliverable to assess contractor performance in the final contract, which was subsequently not completed by the contractor. We provide a breakdown of each deliverable we reviewed in Table 9 below.

Table 9

Sample of Contractor Deliverables

Agency	Award Document	Description of Deliverable	Completed by Contractor
FBI	Contract	Contractor shall designate a technical point of contact who can be reached during business hours.	✓
	Contract	Provide in-depth training to five FBI technical personnel covering operation, testing, and maintenance of equipment.	✗
	Contract	Create information sheets, catalogs, or prototypes.	✓
DEA	Contract	Contractor shall be capable of performing on-call, hardware and software maintenance, and telephone support.	✓
	Acquisition Plan	Contractor shall provide project status reports to the COR, including status of tasks, staffing, schedule, funds expended, and the status of work with respect to scheduled milestones.	✗
	Request for Proposal (RFP)	Contractor shall provide a catalog page of each item produced, to include drawings and instructions of items.	✓
	RFP	Formulate basic operator manuals, maintenance manuals, and basic system manuals.	✓
	RFP	Provide a capability for producing audiovisual aids.	✓

Source: FBI and DEA contract documentation

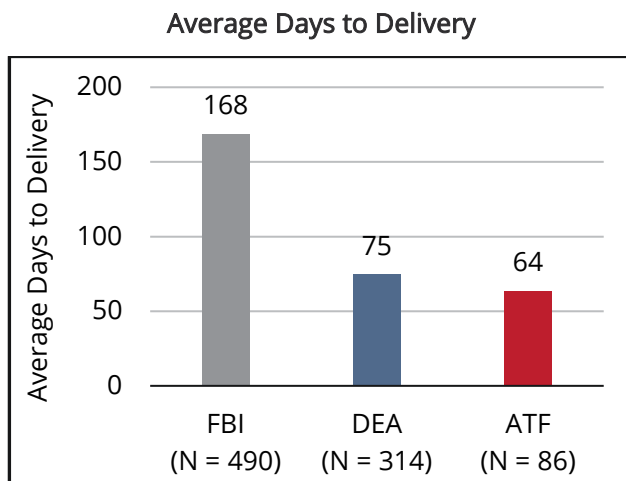
While the FBI stated that two individuals received training on new equipment during the FBI's site visits to ADS, the FBI acknowledged that no formal training sessions occurred during the contract period. The FBI COR further stated that training of FBI personnel was completed across time. However, we did not receive evidence that in-depth training of five FBI personnel took place. As discussed previously under *DEA Project Status Reports*, the DEA never incorporated contractor project status reports into the final contract, and therefore did not ensure the completion of this deliverable. We believe the DEA should have taken advantage of an additional opportunity to track and monitor contractor performance. Under *FBI Project Objectives*, we identified performance considerations that the FBI did not appropriately implement in the contracts. We believe this also limited the FBI's ability to properly assess contractor performance and accomplishments. We further discuss agency ability to assess contractor performance and accomplishments under *Contractor Administration, Oversight, and Monitoring* below.

Assessment of Contractor Timeliness

The FBI's contract with ADS states that large quantities of items are typically ordered on a yearly basis. These orders shall be completed within a period of performance usually ranging from 6 to 9 months. Similarly, the DEA's contract with ADS states that contractor performance will be assessed based on a delivery schedule and requires the contractor to provide the government with ordered items by the

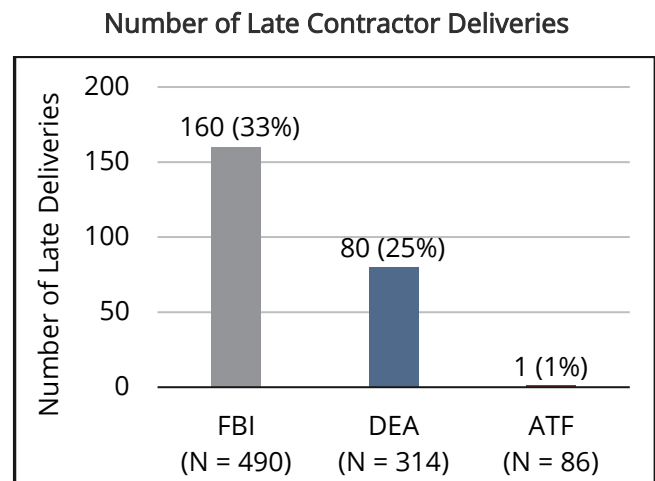
required delivery date specified in the order. As a result, we assessed the contractor's ability to supply the equipment ordered by each component in a timely manner and in compliance with each delivery order. First, we compared the date of each delivery order to the date of receipt for the items on each invoice to determine the average length of time between delivery order and receipt of equipment. Our results are summarized in Figure 8 below. Further, we determined how many of the invoices had a receipt date that was not within the period of performance originally listed in each delivery order. Our results are summarized in Figure 9 below.

Figure 8



Source: FBI, DEA, and ATF delivery and invoice data

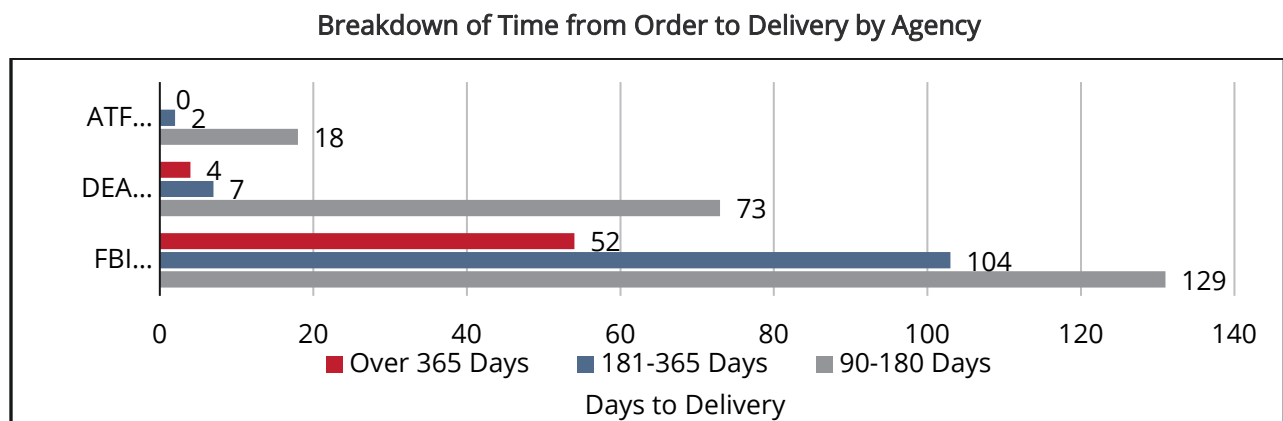
Figure 9



Source: FBI, DEA, and ATF delivery and invoice data

As shown, a significant number of orders were not completed within the period of performance outlined in the delivery orders. Upon review of each delivery order, we found that each agency extended the period of performance without proper documentation or an adequate explanation. However, certain delivery orders cited production backlogs as justification for the extension. Further, we determined how many orders were completed between 90 and 180 days after the date of order, between 181 and 365 days after the date of order, and greater than 365 days after the date of order. We summarize these results in Figure 10 below.

Figure 10



Source: OIG analysis FBI, DEA, and ATF delivery and invoice data

Overall, we determined that ADS did not meet a reasonable standard of timeliness for the items ordered over the life of the contracts we reviewed. The significant delays outlined above demonstrate that end-users of this equipment are not receiving important law enforcement tools when requested, which can negatively impact ongoing investigations and the mission of the DOJ. Furthermore, we found that in each agency's Contractor Performance Assessment Reports, which are required by the FAR, contractor timeliness was not adequately discussed. For instance, the FBI and the DEA both stated that all items were delivered in a timely manner, and the FBI stated that items were delivered per the terms and conditions of the contract. In our judgment, each agency did not properly monitor the contractor's performance, and did not address performance deficiencies as they occurred. We also found that each agency did not complete a quality assurance surveillance plan (QASP), which could contribute to the lack of oversight related to contractor timeliness. We further discuss quality assurance under *Contract Administration, Oversight, and Monitoring* below.

Survey of Users

We conducted a survey of end-users of ADS equipment to assess user experiences with ADS equipment compared to contract requirements. The respondents included agents, technical officers, and telecommunication specialists. Overall, there were 1,013 survey respondents across the 3 DOJ agencies under our review that stated that they had used ADS equipment over the life of the contract.² Most respondents stated that they used ADS equipment on a weekly or monthly basis, further emphasizing the importance of this equipment for operations. A breakdown of respondents by agency is identified in Table 10.

Table 10

Survey Respondents by Agency

Agency	Number of Respondents
FBI	837
DEA	128
ATF	48
Total:	1,013

Source: OIG Survey Results

² We asked each component to provide a list of informed DOJ end-users of ADS equipment so that we could distribute the survey appropriately. Each recipient further distributed the survey to the appropriate users in each field office. The number of DOJ employees that were eligible to receive the survey was dependent on data provided by each agency, and their assessments of users of the equipment.

User Input on Contract Strengths
<i>"We have been happy with the ADS equipment used in our office." - FBI User</i>
<i>"ADS products have proven to be the most reliable and user friendly of any advanced body recorders available." - FBI User</i>
<i>"I have used ADS equipment for over 22 years and I've been satisfied with the equipment over the years." - FBI User</i>
<i>"I am an 18 year agent and I am impressed with how the ADS equipment has progressed through the years." - FBI User</i>
<i>"ADS service and maintenance is top notch." - DEA User</i>
<i>"I have always been happy with ADS products and with any customer support from sales to engineering." - DEA User</i>
<i>"ADS has some of the best equipment in the business." - DEA User</i>
<i>"ADS has always made excellent equipment and provided excellent warranty and timely repairs." - ATF User</i>
<i>"ADS equipment is reliable and durable." - ATF User</i>

Source: OIG Survey Results

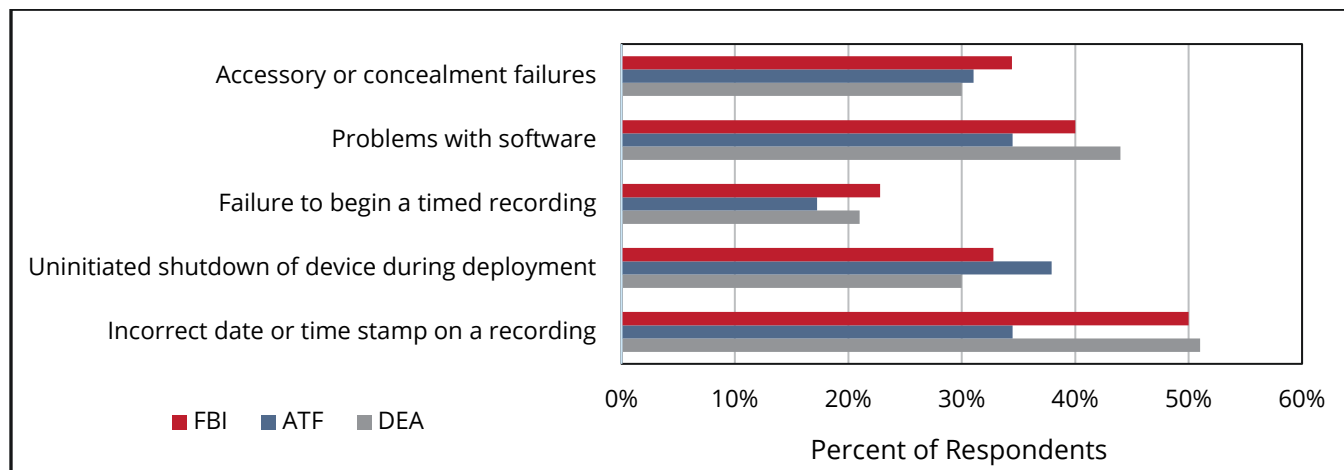
There were a number of positive comments on the contractor's strengths. Specifically, many users were happy with the customer support service they have received from the contractor. Similarly, many users stated that they were satisfied with the products and services they have received over their years in law enforcement, and, as a result, were pleased with the relationship they have with ADS.

While the survey results identified some positive areas, we also identified areas of improvement for the contractor and for the DOJ for future acquisitions. First, we determined that 559 respondents, or approximately 55 percent of total respondents, stated that they experienced technical problems with the equipment purchased from ADS.³ We identify each

technical problem, along with the percent of respondents from each agency who experienced each technical problem, in Figure 11.

Figure 11

Technical Problems Experienced by Users



Source: OIG Survey Results

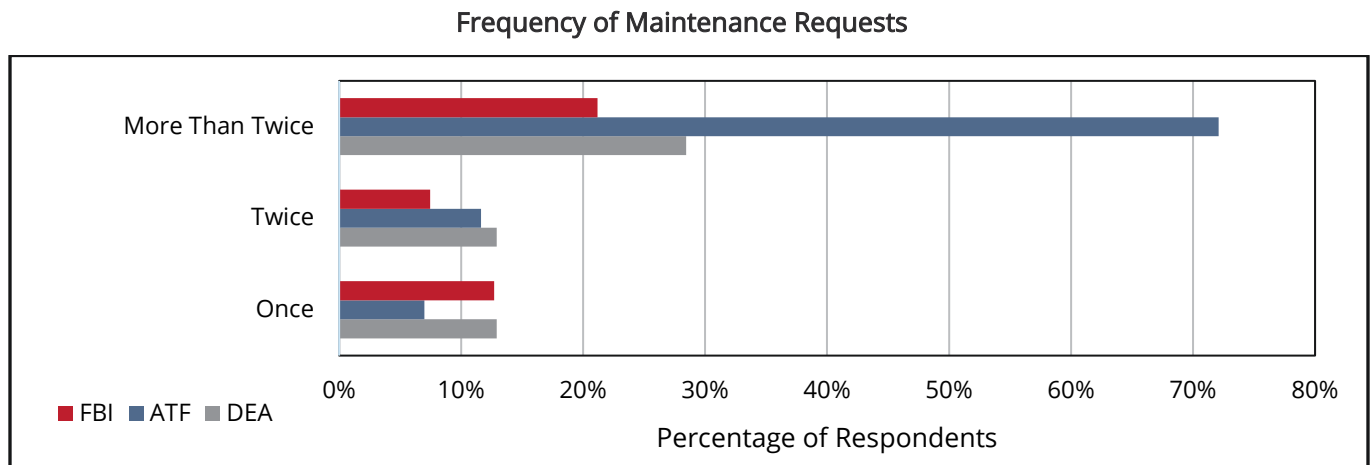
As shown above, it appears that the most common technical problem experienced by users is having an incorrect date or time stamp on a recording. We believe this, as well as the other technical issues identified,

³ The questions included in the survey did not specify the age or model of the equipment used, and did not identify specific causes of the technical difficulties outlined in the survey results.

could negatively impact ongoing law enforcement investigations or potential legal proceedings. We also found that 210 respondents, or approximately 27 percent of total respondents, stated that they had not received training on how to operate the equipment purchased through ADS. We believe this could also potentially attribute to the technical difficulties experienced by end-users.

Next, we found that 346 respondents, or approximately 34 percent of total respondents, stated that they needed maintenance or additional servicing to equipment purchased from ADS. These results are summarized in Figure 12.

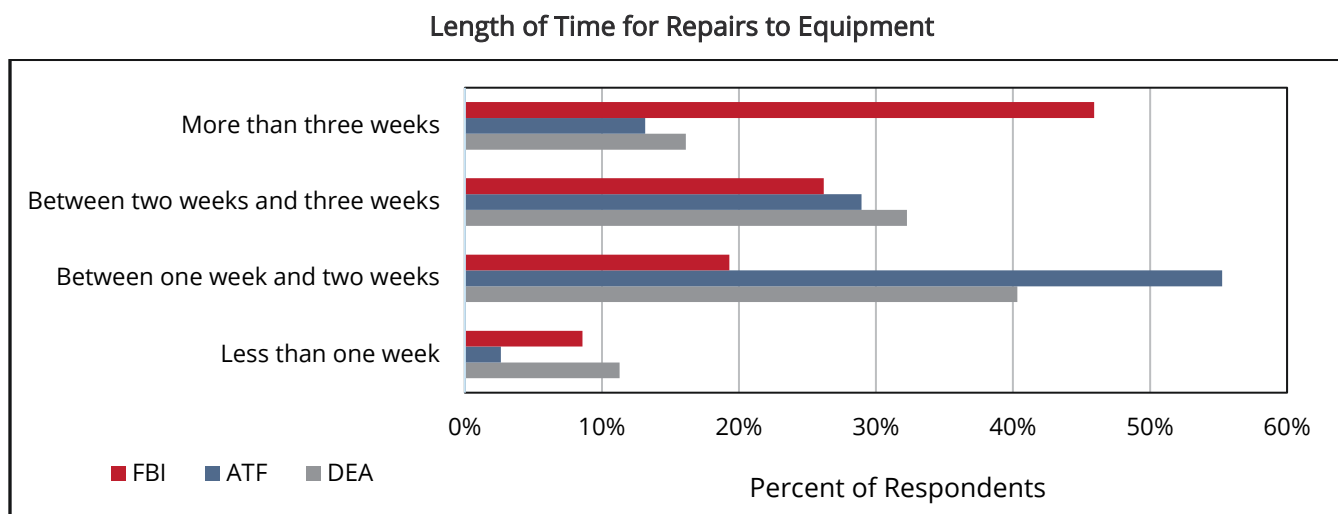
Figure 12



Source: OIG Survey Results

Further, 333 respondents, or approximately 33 percent of total respondents, provided information on the length of time needed for any repairs to ADS equipment. We identify the length of time needed for repairs by agency in Figure 13.

Figure 13



Source: OIG Survey Results

As shown above, it appears that the repairs for the FBI are taking longer than repairs for the DEA and the ATF. However, majority of respondents stated that repairs take longer than two weeks, which may delay or lengthen law enforcement investigations.

User Input on Contract Weaknesses
<i>"There are not enough devices available in my office to use during last minute operations."</i> - FBI User
<i>"I have had devices shut off during a recording."</i> - FBI User
<i>"Ordering takes too long."</i> - FBI User
<i>"Options to download recordings onto classified systems should be streamlined."</i> - FBI User
<i>"I wish we could refresh our recorders on a regular basis. We have several that are over 8-10 years old."</i> - FBI User
<i>"The equipment seems to be too expensive."</i> - FBI User
<i>"Agents need more equipment options."</i> - DEA User
<i>"Longer battery life and better instructions is needed."</i> - DEA User
<i>"Newer types of equipment would be helpful."</i> - DEA User
<i>"Some instructions for items are vague and confusing."</i> - DEA User
<i>"The software used to transfer data isn't user friendly."</i> - DEA User
<i>"Need improved battery life and concealment options."</i> - ATF User
<i>"Items are obsolete if used past their useful life."</i> - ATF User
<i>"High quality devices, at a very high cost."</i> - ATF User

Source: OIG Survey Results

In addition to the positive comments previously mentioned, many user comments offered areas of improvement to be considered not only by the contractor, but also by the DOJ component. First, some users stated that they were in need of more devices and concealments in their office. While the number of items purchased or maintained by a field office is often dependent on agency funding, this problem may be exemplified as a result of delays in manufacturing or delivery on behalf of the contractor. As stated in the *Assessment of Contractor Timeliness* section above, ADS incurred significant delays in fulfilling orders by each agency.

Next, many users stated that they experienced problems with devices during the deployment of the device, as well as problems with battery life and software. We believe these are potential areas of improvement for future acquisition of these items.

Overall, we determined that the contractor's performance under the two contracts we reviewed could be improved

to better satisfy the government's needs. We determined that one of the deliverables in our sample was not adequately completed by the contractor. Additionally, the DEA did not include a significant deliverable to assess contractor performance in the final contract, which was subsequently not completed by the contractor. Further, we determined that the contractor did not meet a reasonable standard for timeliness related to the completion of delivery orders. Finally, based on our survey results and responses, we identified areas of improvement related to device enhancements and timeliness of device maintenance. As a result, we recommend that the FBI, the DEA, and the ATF implement policies and procedures to ensure contractor performance is adequately monitored and appropriate measures are taken when the contractor is not sufficiently meeting standards outlined in each contract. We also recommend that each agency assess the different needs of end-users of covert audio and video equipment to identify appropriate performance measures to be included in future contracts. Each agency should consider cost and availability of items procured, timely ordering and delivery of equipment, and other relevant factors.

Contract Administration, Oversight, and Monitoring

We assessed whether each agency administered the contract in compliance with contract terms and conditions and agency policy and procedures. We also assessed whether contracting officials conducted

proper oversight and monitoring of the contractor. Overall, we found that DEA officials did not complete or maintain critical contract documentation, and we found that all three agencies did not ensure adequate quality assurance surveillance of the contractor.

DEA Contract Documentation

DEA's Contract Administration Plan for this contract states that a Contract Administration Checklist for CORs is to be completed and retained by the COR. The contracting officer may periodically review the checklists and files to ensure contract administration duties are properly performed at an appropriate level. Further, the DEA COR Handbook states that CORs are responsible for maintaining an invoice tracking sheet to assist in keeping track of contract balances and should be reconciled monthly. We found that DEA's CORs did not complete or maintain these documents during the contract period. As outlined previously in our report, we identified significant discrepancies related to improper authorization and payments to the contractor. In our judgment, completion of these documents could help reduce the risk of improper payments or authorizations. As a result, we recommend that the DEA review and revise, as appropriate, its policies and procedures to ensure that CORs complete the contracting duties delegated by the contracting officer and meet the requirements of existing DEA guidance.

Quality Assurance

FAR Subpart 46.4 states that government contract quality assurance shall be performed to determine that supplies conform to contract requirements. Quality assurance surveillance plans (QASP) should be prepared in conjunction with the SOW. The plans should specify all work requiring surveillance and the method of surveillance. We determined that the FBI, the DEA, and the ATF did not utilize a QASP, and are therefore not compliant with the FAR. While each agency has informal procedures for testing equipment, specific requirements are not documented in a formalized plan to ensure that the equipment meets the requirements in the SOW. Additionally, given the performance concerns we previously identified related to completing contract deliverables and timeliness of completing delivery orders, a QASP can provide important controls to measure contractor performance.

Further, as previously discussed, the FBI purchased approximately \$1.5 million in equipment that was not included in the contract, and was not adequately supported on each invoice. Because of the lack of information available to the FBI prior to paying the contractor for these expenses, we believe that the FBI's oversight of the contract costs could be improved. Ultimately, these weaknesses indicate that the DEA and FBI did not properly administer, oversee, and monitor each contract with ADS. Overall, we recommend that the FBI, the DEA, and the ATF develop and implement a QASP for audio and video equipment contracts, as required by the FAR. This plan should ensure adequate oversight of contractor performance and expenditures incurred under the contract.

Physical Security of Equipment

We reviewed each agency's controls for safeguarding equipment purchased through ADS. This includes reviewing policies governing the equipment; reviewing documentation related to acquisition, inventory records, and disposal; and conducting a limited physical inventory of items purchased under the contract. We summarize our review in Table 11.

Table 11

Property Management

Agency	Property Count (>\$2,500)	Property Value	Items Traced ^a	Inventory Sample ^b	Items Not Inventoried
FBI	3,594	\$17,962,831	30	7	1,213
DEA	1,300	7,827,960	33	7	786
ATF	470	\$3,318,062	31	6	180
Total:	5,364	\$29,108,853	94	20	2,179

^a We traced equipment identified on invoices we reviewed to the property records to ensure that purchases were being recorded in the property management system.

^b Due to the COVID-19 pandemic, we were unable to physically verify the items selected for review, but verified serial numbers on each item using photographs provided by each agency.

Source: OIG analysis of FBI, DEA, and ATF property records

We did not identify any discrepancies when tracing the 94 items referenced in Table 11 from invoices to the property management system. Similarly, we did not identify any discrepancies with the serial numbers on the 20 photographs we reviewed. As shown in Table 11, we identified 2,179 items that had not been inventoried consistent with each agency's policy. However, we determined that JMD directed DOJ components to postpone regularly scheduled wall-to-wall physical inventories in 2020 due to the COVID-19 pandemic. As a result, items that were scheduled to be inventoried in 2020 were postponed indefinitely, and each agency under our review did not provide a timeline for when these items would be inventoried. However, we determined that 20 of the 786 items not inventoried by the DEA, valued at \$120,781, should have been inventoried prior to the pandemic. DEA attributed this, in part, to some of the items being in remote locations.

While we acknowledge that the COVID-19 pandemic created significant challenges to the completion of wall-to-wall inventories, we believe that not completing inventories on sensitive items in a timely manner could increase the risk that items become misplaced or stolen, which could potentially jeopardize agency security and safety. As a result, we recommend that, upon returning to normal operations, the FBI, the DEA, and the ATF complete the wall-to-wall inventory, originally scheduled in 2020, to ensure that all items purchased from ADS are properly tracked in each agency's property management system according to agency policy.

Conclusion and Recommendations

While the FBI and DEA contracts with ADS under our review have concluded, we identified areas that could be improved for future acquisitions of covert audio and video equipment. For instance, we found that the FBI purchased equipment on a time-and-materials basis that did not meet FAR acquisition requirements. As a result, time-and-materials purchases were completed without price negotiations or an initial assessment of price reasonability, or detail on the actual cost versus price markup prior to purchase. We also determined that ADS charged each agency different prices for the same equipment. As a result, we determined that each agency under our review should consider an enterprise-wide procurement option to ensure that each agency is receiving the best prices for the same or similar equipment. Finally, we found that significant security considerations discussed in each agency's acquisition plan were not included in the contract, and requirements that were in the contract were not properly completed.

Next, we identified concerns related to payment of contractor invoices, including: (1) \$1,475,388 in unsupported time-and-materials costs paid by the FBI; (2) \$11,280 in unallowable equipment costs paid by the DEA for equipment that was not approved in the contract; (3) incorrect payments to the contractor based on approved equipment rates, including \$2,280 in unallowable over-payments by the DEA; (4) Prompt Payment Act violations, resulting in interest owed to the contractor; (5) unauthorized expenditures; and (6) other non-compliances with the FAR and agency policy related to invoice documentation.

Related to contractor performance, we found that certain contract deliverables outlined in the contract were not completed by the contractor, and the contractor incurred significant manufacturing and delivery delays when fulfilling delivery orders. We also conducted a survey of end-users and found that some users experienced technical difficulties with the equipment, and incurred delays when requesting maintenance from ADS. Next, we determined that the DEA did not maintain all required documentation in its contract file, and found that each agency did not prepare a QASP in accordance with each SOW. Finally, we found that due to the COVID-19 pandemic each agency did not conduct required inventories of all the items purchased under these awards.

We recommend that the FBI, the DEA, and the ATF:

1. Leverage the DOJ's purchasing power by continuing to collaborate on future acquisitions for the same or similar equipment to identify potential cost savings, increase value and efficiencies, and eliminate administrative redundancies.
2. Review and revise, as appropriate, policies and procedures to ensure that contract expenditures for audio and video equipment are compliant with the FAR and other applicable criteria.
3. Implement policies and procedures to ensure contractor performance is adequately monitored and appropriate measures are taken when the contractor is not sufficiently meeting standards outlined in each contract.
4. Assess the different needs of end-users of covert audio and video equipment to identify appropriate performance measures to be included in future contracts. Each agency should consider cost and availability of items procured, timely ordering and delivery of equipment, and other relevant factors.

5. Develop and implement a quality assurance surveillance plan for audio and video equipment contracts, as required by the FAR. This plan should ensure adequate oversight of contractor performance and expenditures incurred under the contract.
6. Complete the wall-to-wall inventory originally scheduled in 2020 to ensure that all items purchased from ADS are properly tracked in each agency's property management system according to agency policy.

We recommend that the FBI and the DEA:

7. Improve processes to ensure that security risks are adequately assessed during acquisition planning, and appropriately mitigate those risks after the contract has been executed.
8. Implement policies and procedures to ensure that future contracts appropriately address the risks and performance outcomes identified during acquisition planning.

We recommend that the FBI:

9. Enhance policies and procedures to ensure that orders containing time-and-materials elements include negotiated labor rates that identify the contractor's wages, overhead, general and administrative expenses, profit, and actual costs of materials. The FBI should ensure that these contracts are compliant with all FAR requirements.
10. Remedy \$1,475,388 in unsupported time-and-materials costs incurred under the contract by reviewing each delivery order, accompanying invoices, and cost information from ADS to determine: (1) the price reasonableness of each expense; and (2) further detail on the expense incurred, including which portion of the expense is cost versus profit.

We recommend that the DEA:

11. Remedy \$13,560 in unallowable equipment costs resulting from payments to the contractor not approved in the contract.
12. Review and revise, as appropriate, its policies and procedures to ensure that a qualified contracting official reviews and approves all invoices for audio and video equipment.
13. Review and revise, as appropriate, its policies and procedures to ensure that CORs are completing the contracting duties delegated by the contracting officer and meet the requirements of existing DEA guidance.

APPENDIX 1: Objectives, Scope, and Methodology

Objectives

The objectives of this audit were to assess: (1) DOJ component and contractor compliance with contract terms and conditions in the areas of acquisition planning and procurement; billings and payments; contractor performance; and contract administration, oversight, and monitoring; (2) DOJ component internal controls related to physical security of audio and video equipment; and (3) DOJ component future plans for the acquisition of audio and video equipment.

Scope and Methodology

This was an audit of two indefinite delivery, indefinite quantity, firm-fixed price equipment contracts awarded to ADS by the FBI and the DEA, totaling approximately \$101 million. The primary items purchased under these contracts are recorders, cameras, concealments, and software necessary to use the equipment. Both contracts are outlined in Table 12 below.

Table 12

DOJ Contracts Awarded to ADS

Contract Number	Agency	Contract Ceiling	Contract Start	Contract End
DJF-15-1200-V-7461	FBI	\$46,200,000	07/01/2015	12/30/2020
DJD-15-K-0023	DEA	\$55,024,470	08/14/2015	02/13/2021
Total:		\$101,224,470		

Source: FBI and DEA Contracts

Other federal agencies, including the ATF, also placed delivery orders on DEA's contract as a part of a multi-agency agreement. The amount expended by the FBI, the DEA, and the other agencies that placed orders on the DEA's contract was \$37,694,118, and the amount expended for DOJ components totals \$32,686,159.

This audit was conducted exclusively remotely due to the COVID-19 pandemic. We virtually interviewed FBI, DEA, and ATF contracting officers, CORs, contracting specialists, and property management staff. We also reviewed electronic contract files, financial records, and property records from each agency. Finally, we conducted a survey of end-users of the equipment purchased under these contracts, and reviewed 1,013 responses. Additional information on our methodology is outlined in Table 13 below.

Table 13

OIG Audit Approach

Subject Area	Methodology
Acquisition & Procurement	Interviewed agency contracting officers and contracting officer's representatives; reviewed internal policies related to acquisition; reviewed contractor Statements of Work (SOW); and reviewed security requirements outlined in contract documentation.
Future Acquisitions	Determined agency plans for future acquisitions of equipment; assessed agency procurement approaches.
Billings & Payments	Reviewed agency adherence to contract regarding unit costs; reviewed authorization of payments; reviewed compliance with Prompt Payment Act; and traced contractor invoices to source documentation.
Contractor Performance	Reviewed contract deliverables as stated in the SOW; and conducted surveys of field agents on satisfaction with contractor.
Contract Administration, Oversight, & Monitoring	Reviewed contract file documentation; reviewed quality assurance procedures; and assessed agency oversight of contractor.
Physical Security	Reviewed agency property records; traced purchases to property records; assessed timeliness of equipment inventory; and reviewed property management policies.

Source: OIG

Statement on Compliance with Generally Accepted Government Auditing Standards

We conducted this performance audit in accordance 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 objectives. We believe that the evidence obtain provides a reasonable basis for our findings and conclusions based on our audit objectives.

Internal Controls

In this audit, we performed testing of internal controls significant within the context of our audit objectives. We did not evaluate the internal controls of the FBI, the DEA, and the ATF to provide assurance on their internal control structure as a whole. The FBI, the DEA, and the ATF management are responsible for the establishment and maintenance of internal controls in accordance with OMB Circular A-123 and the FAR. Because we do not express an opinion on the FBI, the DEA, and the ATF internal control structure as a whole, we offer this statement solely for the information and use of the FBI, the DEA, and the ATF.⁴

In planning and performing our audit, we identified the following internal control components and underlying internal control principles as significant to the audit objectives.

⁴ This restriction is not intended to limit the distribution of this report, which is a matter of public record.

Table 14

Internal Control Components & Principles Significant to the Audit Objectives

Control Environment Principles	
	Management should establish an organizational structure, assign responsibility, and delegate authority to achieve the entity's objectives
Control Activity Principles	
	Management should design control activities to achieve objectives and respond to risks.
	Management should design the entity's information systems and related control activities to achieve objectives and respond to risk.
	Management should implement control activities through policies.
Information and Communication Principles	
	Management should use quality information to achieve the entity's objectives.

Source: GAGAS

We assessed the design, implementation, and operating effectiveness of these internal controls and identified deficiencies that we believe could affect the FBI, the DEA, or the ATF's ability to effectively and efficiently operate, to correctly state financial and/or performance information, and to ensure compliance with laws and regulations. The internal control deficiencies we found are discussed in the Audit Results section of this report. However, because our review was limited to aspects of these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit.

Compliance with Laws and Regulations

In this audit we tested, as appropriate given our audit objectives and scope, selected transactions, records, procedures, and practices to obtain reasonable assurance that the FBI, the DEA, and the ATF's 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, each agency's compliance with the following laws and regulations that may have a material effect on agency operations:

- FAR Part 6: *Competition Requirements*
- FAR Part 7: *Acquisition Planning*
- FAR Part 10: *Market Research*
- FAR Part 11: *Describing Agency Needs*
- FAR Part 12: *Acquisition of Commercial Items*
- FAR Part 15: *Contracting By Negotiation*
- FAR Part 16: *Types of Contracts*

- FAR Part 17: *Special Contracting Methods*
- FAR Subpart 1.6: *Contracting Authority and Responsibilities*
- FAR Subpart 2.101: *Definitions*
- FAR Subpart 3.908-9: *Whistleblower Protections*
- FAR Subpart 32.9: *Prompt Payment*
- FAR Subpart 42.15: *Contractor Performance Information*
- FAR Subpart 46.4: *Government Contract Quality Assurance*
- DOJ Instruction 1301.01.03: *Acquisition Programs Oversight Category Management Program*
- DOJ Policy Statement 1700.01: *Contractor Security Requirements*
- Federal Register Volume 76-84: *Prompt Payment Interest Rates*

This testing included analyzing contract files and related documentation, interviewing agency contracting and property officials, and contractor personnel, and reviewing invoices and supporting documentation. As noted in the Audit Results section of this report, we found that each agency did not comply with federal regulations or agency policy related to acquisition and procurement, contractor performance, billings and payments, contractor oversight and monitoring, and physical security of equipment.

Sample-based Testing

To accomplish our audit objectives, we performed sample-based testing for invoices, agency contract files, contractor deliverables, and property records. In this effort, we employed a judgmental sampling design to obtain broad exposure to numerous facets of the areas we reviewed. This non-statistical sample design did not allow projection of the test results to the universe from which the samples were selected.

Computer-Processed Data

During our audit, we obtained information from the DOJ's Unified Financial Management System (UFMS), the FBI, the DEA, and the ATF's accounting system, and each agency's property management system. We did not test the reliability of each agency's accounting system as a whole, therefore any findings identified involving information from those systems were verified with documentation from other sources. We assessed the reliability of the data received from UFMS and each property management system through our comparisons of sampled contract records and financial data to ensure it was complete and accurate. We brought any identified discrepancies to the attention of each agency, and worked with each agency to correct the discrepancies.

APPENDIX 2: Schedule of Dollar-Related Findings

Description	Contract Number	Amount	Page
Questioned Costs:			
Unallowable DEA Contractor Payments	DJD-15-K-0023	<u>\$13,560</u>	14
Unallowable Costs		\$13,560	
Unsupported FBI Time-and-Materials Costs	DJF-15-1200-V-7461	<u>\$1,475,388</u>	15
Unsupported Costs		\$1,475,388	
Net Questioned Costs⁵		\$1,488,948	
TOTAL DOLLAR-RELATED FINDINGS		<u>\$1,488,948</u>	

⁵ **Questioned Costs** are expenditures that do not comply with legal, regulatory, or contractual requirements; are not supported by adequate documentation at the time of the audit; or are unnecessary or unreasonable. Questioned costs may be remedied by offset, waiver, recovery of funds, the provision of supporting documentation, or contract ratification, where appropriate.

APPENDIX 3: Additional FAR Invoice Requirements

FAR Subpart 32.905 states that payment of contract expenses will be based on receipt of a proper invoice and satisfactory contractor performance. Additionally, all invoices must be supported by a proper receiving document or documentation authorizing payment. Finally, both the DEA and the ATF have supplemental requirements for each invoice that are outlined in each contract and agency policy. We outline these requirements in Table 15.

Table 15

Requirements of a Proper Invoice and Authorizing Documentation

FAR Instruction for Elements of a Proper Invoice	# of Violations (N = 77)		
	FBI	DEA	ATF
1. Name and address of the contractor	0	0	0
2. Invoice date and invoice number	0	1	0
3. Contract number, order number, or line item number	0	7	0
4. Description, quantity, units of measure, and unit price	0	0	0
5. Shipping and payment terms	0	3	0
6. Name and address of contractor official to whom payment is to be sent	0	0	0
7. Name and contact info. of person to notify in the event of a defective invoice	29	33	15
8. If defective, new invoice will be marked as corrected with an explanation	4	0	4
FAR Instruction for Elements of Authorizing Documentation			
1. Contract number or other authorization for supplies delivered	0	0	0
2. Description of supplies delivered	29	32	0
3. Quantities of supplies delivered	0	32	0
4. Dates of supplies delivered	0	0	0
5. Date that the designated official accepted the supplies	0	0	0
6. Signature and contact info. for official responsible for acceptance/approval	0	33	0
7. Provision of the document to billing office by 5 th day after acceptance	5 ⁶	4 ⁷	0 ⁸
Supplemental Invoice Requirements By Agency			
DEA: Invoice has cumulative charges for the billing period for each CLIN	N/A	33	N/A
DEA: Date equipment was delivered identified on each invoice	N/A	32	N/A
ATF: CLIN or item number identified on each invoice	N/A	N/A	10

Source: FAR Subpart 32.905, DEA Contract with ADS, ATF Acquisitions Manual, Agency Invoice Documentation

⁶ We identified six FBI invoices where acceptance of equipment occurred more than seven days after receipt of equipment, which is not compliant with the FAR. However, this did not materially affect timely payment to the contractor.

⁷ We identified 11 additional DEA invoices where it was unknown if the billing office received the authorizing documentation by the 5th day after acceptance of the goods delivered.

⁸ We identified 14 additional ATF invoices where it was unknown if the billing office received the authorizing documentation by the 5th day after acceptance of the goods delivered.

APPENDIX 4: The Federal Bureau of Investigation's Response to the Draft Audit Report



U.S. Department of Justice

Federal Bureau of Investigation

Washington, D. C. 20535-0001

August 19, 2021

The Honorable Michael E. Horowitz
Inspector General
Office of the Inspector General
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

Dear Mr. Horowitz:

The Federal Bureau of Investigation (FBI) appreciates the opportunity to review and respond to your office's report entitled, *Audit of the Department of Justice's Contracts Awarded to Adaptive Digital Systems, Inc. for Covert Audio and Video Equipment*

We look forward to working with the Office of the Inspector General to address concerns and recommendations provided in the report. Over the past year, the FBI has invested significant time and energy into evaluating our contract management practices and implementing more robust controls to ensure that each contract is managed effectively. This investment in acquisition management will be a continued focus in FY 2022.

Should you have any questions, feel free to contact me. We greatly appreciate the professionalism of your audit staff throughout this matter.

Sincerely,

A handwritten signature in black ink, appearing to read "David W. Schlendorf", is written over a horizontal line.

David W. Schlendorf
Associate Executive Assistant Director
Finance and Facilities Division

Enclosure

FINAL DRAFT AUDIT REPORT OF THE DEPARTMENT OF JUSTICE'S CONTRACTS AWARDED TO ADAPTIVE DIGITAL SYSTEMS, INC. FOR COVERT AUDIO AND VIDEO EQUIPMENT

FINAL Draft Recommendation 1:

Leverage the DOJ's purchasing power by continuing to collaborate on future acquisitions for the same or similar equipment to identify potential cost savings, increase value and efficiencies, and eliminate administrative redundancies.

FBI Response to OIG's FINAL Draft Recommendation 1:

The FBI concurs with this recommendation and has coordinated with the DEA on a new contract to order similar equipment. The DEA is establishing a Best in Class (BIC) contract vehicle, which the FBI will be utilizing for equipment requests.

FINAL Draft Recommendation 2:

Enhance their policies and procedures to ensure that contract expenditures for audio and video equipment are compliant with the FAR and other applicable criteria.

FBI Response to OIG's FINAL Draft Recommendation 2

The FBI will coordinate with DEA in the administration of the new audio and video equipment contract to ensure that all invoices are appropriately reviewed and approved - with the accompanying documentation - to ensure that all contract expenditures are authorized in accordance with the FAR.

FINAL Draft Recommendation 3:

Implement policies and procedures to ensure contractor performance is adequately monitored and appropriate measures are taken when the contractor is not sufficiently meeting standards outlined in each contract.

FBI Response to OIG's FINAL Draft Recommendation 3:

The FBI will incorporate additional training on contract types, contract complexities, and monitoring contractor performance in both Contracting Officer (CO) and Contracting Officer's Representative (COR) training programs. This additional/updated training will specifically address the issue of corrective and remediation measures that COs and CORs may utilize to address late delivery issues. Moving forward with the new DEA contract, the FBI will ensure delivery dates are realistic to limit the need for period of performance contract modifications.

FINAL Draft Recommendation 4:

Assess the different needs of end-users of covert audio and video equipment to identify appropriate performance measures to be included in future contracts. Each agency should consider cost and availability of items procured, timely ordering and delivery of equipment, and other relevant factors.

FBI Response to OIG's FINAL Draft Recommendation 4

The FBI has coordinated with the DEA on the new Best in Class (BIC) Contract vehicle to provide a variety of covert audio and video equipment needs for end users.

FINAL Draft Recommendation 5:

Develop and implement a quality assurance surveillance plan for audio and video equipment contracts, as required by the FAR. This plan should ensure adequate oversight of contractor performance and expenditures incurred under the contract.

FBI Response to OIG's FINAL Draft Recommendation 5:

While the FBI continues to believe that a Quality Assurance Surveillance Plan (QASP) is not required by the FAR for supply contracts, the FBI will ensure appropriate FAR clauses dealing with inspection and acceptance issues are included in the solicitation. Additionally, the FBI has coordinated with DEA to ensure that appropriate language explaining how quality assurance will be conducted is included in the award. If specific types of ordered equipment will be required to undergo testing protocols as part of the inspection process, these procedures will be disclosed to the contractor in the FBI-generated delivery orders.

FINAL Draft Recommendation 6:

Complete the wall-to-wall inventory originally scheduled in 2020 to ensure that all items purchased from ADS are properly tracked in each agency's property management system according to agency policy.

FBI Response to OIG's FINAL Draft Recommendation 6:

Due to the COVID-19 pandemic, the FY 2020 physical inventory was nearly fully cancelled. In FY 2021, the FBI conducted a Partial Physical Inventory of all capitalized assets, weapons, desktops, laptops, accountable smart phones, and ballistic protective equipment. In FY 2022, the FBI is planning to conduct a wall-to-wall physical inventory of all accountable equipment, which will include accountable equipment purchased from ADS.

FINAL Draft Recommendation 7:

Improve processes to ensure that security risks are adequately assessed during acquisition planning, and appropriately mitigate those risks after the contract has been executed.

FBI Response to OIG's FINAL Draft Recommendation 7:

The FBI will provide additional training on FBI acquisition security policies and the core requirements of the National Industrial Security Program Operation Manual (NISPOM), as it relates to government contracts, to Contracting Officer's Representatives (CORs). The training will cover the Supply Chain Risk Management process, Procurement Risk Assessments, and better define and explain the role of the COR in implementing contract security procedures. With respect to the new contract, the FBI has coordinated with DEA regarding the need for any contractor employees to possess a security clearance on the base contract.

FINAL Draft Recommendation 8:

Implement policies and procedures to ensure that future contracts appropriately address the risks and performance outcomes identified during acquisition planning.

FBI Response to OIG's FINAL Draft Recommendation 8:

The FBI concurs with this recommendation and has coordinated with the DEA on a new contract to order similar equipment. The DEA is establishing a Best in Class (BIC) contract vehicle that would more appropriately address risk and performance outcomes identified in acquisition planning.

FINAL Draft Recommendation 9:

Implement policies and procedures to ensure that time and materials contracts include negotiated labor rates that identify the contractor's wages, overhead, general, and administrative expenses, profit, and actual costs of materials. The FBI should ensure that these contracts are compliant with all FAR requirements.

FBI Response to OIG's FINAL Draft Recommendation 9:

As part of the new procurement, the FBI has coordinated with DEA to ensure a labor rate for engineering services is established.

FINAL Draft Recommendation 10:

Remedy \$1,475,388 in unsupported time and materials costs incurred under the contract by reviewing each delivery order, accompanying invoices, and cost information from ADS to determine: (1) the price reasonableness of each expense; and (2) further detail on the expense incurred, including which portion of the expense is cost versus profit

FBI Response to OIG's FINAL Draft Recommendation 10:

The FBI believes the \$1,475,388 figure cited by the DOJ OIG is overstated by an estimated \$693,582 in supply purchases. The FBI will further review the contract documents in accordance with FAR 42.803 "Disallowing costs after incurrence" to address potential unsupported time and materials costs.

APPENDIX 5: The Drug Enforcement Administration's Response to the Draft Audit Report



U. S. Department of Justice
Drug Enforcement Administration

www.dea.gov

Springfield, VA 22152

MEMORANDUM

TO: Sean Haynes
Acting Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General

FROM: Mary B. Schaefer
Chief Compliance Officer
Office of Compliance

MARY
SCHAEFER

Digitally signed by
MARY SCHAEFER
Date: 2021.08.23
12:36:41 -04'00'

SUBJECT: Response to the Office of the Inspector General (OIG) Draft Report: *"Department of Justice (DOJ) OIG audit of the Federal Bureau of Investigation (FBI) and Drug Enforcement Administration (DEA) contract numbers DJF-15-1200-V-0007461 and DJD-15-K-0023 awarded to Adaptive Digital Systems, Inc."*

The DEA has reviewed the OIG Draft Report titled, *"Department of Justice Office of the Inspector General's audit of the Federal Bureau of Investigation and Drug Enforcement Administration contract numbers DJF-15-1200-V-0007461 and DJD-15-K-0023 awarded to Adaptive Digital Systems, Inc."* The DEA thanks the OIG for its review of the support contracts and its recommendations for improving oversight of the contracts. DEA provides the following responses to the draft report's 11 recommendations directed to DEA (Recommendations 1-8, and 11-13).

Recommendation 1. Leverage the DOJ's purchasing power by continuing to collaborate on future acquisitions for the same or similar equipment to identify potential cost savings, increase value and efficiencies, and eliminate administrative redundancies.

DEA Response

DEA concurs with the recommendation and agrees to continue to collaborate with DOJ on future acquisitions for the same or similar equipment to identify cost savings, increase value and efficiencies, and eliminate administrative redundancies. DEA has addressed this recommendation by working with FBI and ATF on the newly awarded ADS Firm-Fixed Price, Indefinite Delivery/Indefinite Quantity Contract with Four Option Years (an approved DOJ Tier II, Category Management contract). DEA's coordination and collaboration with other DOJ components, including the FBI and ATF, includes participation in monthly discussions at the

Justice Acquisition Council meetings. Additionally, DEA participates in monthly meetings of the Acquisition Policy Workgroup established by the Office of Acquisition Compliance, Policy, and Systems to improve communication and collaboration among DOJ component acquisition policy professionals.

DEA has provided documentation of these efforts to OIG under separate cover. DEA has adequately addressed OIG's recommendation and requests that OIG close this recommendation.

Recommendation 2: Review and revise, as appropriate, their policies and procedures to ensure that contract expenditures for audio and video equipment are compliant with the FAR and other applicable criteria.

DEA Response

DEA concurs with the recommendation. The DEA has reviewed and revised its policies and procedures for contract expenditures for audio and video equipment. The DEA's newly awarded ADS Firm-Fixed Price, Indefinite Delivery/Indefinite Quantity Contract with Four Option Years addresses contract expenditures for audio and video equipment.

DEA has provided documentation of these efforts to OIG under separate cover. Based on this response, DEA requests closure of this recommendation.

Recommendation 3: Implement policies and procedures to ensure contractor performance is adequately monitored and appropriate measures are taken when the contractor is not sufficiently meeting standards outlined in each contract.

DEA Response

DEA concurs with the recommendation. The DEA agrees to ensure that policies and procedures to monitor contractor performance are implemented to address noncompliant products. The DEA will provide training for both Contracting Officer (CO) and Contracting Officer's Representatives (COR) on these policies and procedures to help ensure adequate contract monitoring and appropriate remediation as necessary.

Once the training is complete, DEA will provide OIG supporting documentation for closure.

Recommendation 4: Assess the different needs of end-users of covert audio and video equipment to identify appropriate performance measures to be included in future contracts. Each agency should consider cost and availability of items procured, timely ordering and delivery of equipment, and other relevant factors.

DEA Response

DEA concurs with the recommendation. DEA's Office of Investigative Technology (ST) will conduct its own field office survey to assess the needs and requirements of the end users. Once the survey is complete and analyzed to determine how covert audio and video equipment can be

made more secure, effective, and efficient, DEA will evaluate how to include performance measures in future contracts.

Recommendation 5: Develop and implement a quality assurance surveillance plan for audio and video equipment contracts, as required by the FAR. This plan should ensure adequate oversight of contractor performance and expenditures incurred under the contract.

DEA Response

DEA concurs with the recommendation. The DEA has incorporated a Contract Administration Plan (CAP) in the new ADS contract award that describes the contract administration tasks that must be performed; identifies the individuals responsible for performing the tasks, sets up a contract administration schedule; specifies documentation and reporting requirements; and clarifies the lines of communication among the contract administration team (i.e., CO, contract specialist, COR).

DEA has addressed OIG's recommendation by incorporating that CAP into its new ADS contract. DEA has provided documentation of to OIG under separate cover. Accordingly, DEA requests that OIG close this recommendation.

Recommendation 6: Complete the wall-to-wall inventory originally scheduled in 2020 to ensure that all items purchased from ADS are properly tracked in each agency's property management system according to agency policy.

DEA Response

DEA concurs with the recommendation. ST has completed its full 2020 wall-to-wall inventory which included ADS equipment. All items purchased have been accounted for and are properly documented in DEA's property management system.

By completing its full 2020 wall-to-wall inventory, which included ADS equipment, DEA has met the requirement necessary for OIG to close this recommendation. Furthermore, DEA has provided OIG under separate cover documentation evidencing its completion of the 2020 wall-to-wall inventory. Accordingly, DEA requests that OIG close this recommendation.

Recommendation 7: Improve processes to ensure that security risks are adequately assessed during acquisition planning, and appropriately mitigate those risks after the contract has been executed.

DEA Response

DEA concurs with the recommendation and agrees to review and evaluate its processes to ensure that security risks are adequately assessed during acquisition planning, and to appropriately mitigate those risks after the contract has been executed.

Recommendation 8: Implement policies and procedures to ensure that future contracts appropriately address the risks and performance outcomes identified during acquisition planning.

DEA Response

DEA concurs with the recommendation and has evaluated its guidance on acquisition planning, considering complexity and dollar thresholds of the award. In the pre-solicitation phase of the new ADS procurement, the CO/CS/COR created an Acquisition plan that addressed risks involved for the new strategically sourced Tier II IDIQ award. In addition to the Acquisition Plan that addressed the new ADS award, DEA is revising its policies and procedures for acquisition planning. DEA is creating three acquisition planning templates for use based on complexity and dollar thresholds of the future award that it will use on all future acquisition contracts.

When DEA completes its revision to its policies and creates the three acquisition planning templates, DEA will request closure of this recommendation.

Recommendation 11. Remedy \$13,560 in unallowable equipment costs resulting from payments to the contractor not approved in the contract.

DEA Response

DEA concurs with the recommendation. DEA has reviewed the transactions in question and believes that \$11,280 of the questioned cost is not feasible for the contractor to repay as DEA purchased and received supplies valued at the transaction amount. DEA has initiated erroneous payment reporting and collection efforts for the remaining \$2,280 where DEA paid the contractor at a rate greater than what was listed in the contract. Once completed, DEA will provide OIG supporting documentation for closure of this recommendation.

Recommendation 12. Review and revise, as appropriate, its policies and procedures to ensure that a qualified contracting official reviews and approves all invoices for audio and video equipment.

DEA Response

DEA concurs with the recommendation. The DEA has reviewed and evaluated its policies and procedures ensuring that qualified contracting officials review and approve all invoices for audio and video equipment. Through this review, DEA confirmed that its Contracting Officer Representatives are meeting the training requirements established by the Federal Acquisition Institute for Federal Acquisition Career – Contracting Officer’s Representative. Furthermore, DEA’s review established that it is issuing COR Certificates, and that written delegations at the

contract level are provided in regard to the COR's roles and responsibilities and in accordance with the FAR, OMB Memorandum on the FAC-COR and DEA's internal policy.

Procedurally, the designated COR is required to review the invoice to determine the validity of the costs claimed and relate total expenditures to the progress of the contract/order. The CO delegates the authority to recommend invoice approval and rejection to the COR through the letter of appointment of and instructions to the COR through a delegation letter. DEA policy is clear that the COR cannot re-delegate this authority to a third party.

DEA has addressed OIG's recommendation by reviewing its COR Handbook, COR Training, and the Verification of Receipt Acceptance to ensure that a qualified contracting official reviews and approves all invoices for audio and video equipment. DEA determined through its review that no revisions to its policies were necessary.

DEA has provided to OIG under separate cover the COR Training, COR Handbook, and Verification of Receipt Acceptance. Accordingly, DEA requests that OIG close this recommendation.

Recommendation 13. Review and revise, as appropriate, its policies and procedures to ensure that CORs are completing the contracting duties delegated by the Contracting Officer and meet the requirements of existing DEA guidance.

DEA Response

DEA concurs with the recommendation. The DEA will review its policies and procedures to help ensure that CORs are completing the contracting duties delegated by the Contracting Officer and that Contracting Officers are advising the CORs of existing contracting requirements.

In addition to the ADS contract, the DEA will ensure that a sample of active DEA contracts are reviewed by the Acquisition Office to ensure that delegated positions are following the guidance provided.

Once completed, DEA will provide OIG supporting documentation for closure of this recommendation.

Thank you for the opportunity to respond to the recommendations made in the OIG report. If you have any questions regarding this response, please contact the Audit Liaison Team, on 571-776-3206.

APPENDIX 6: The Bureau of Alcohol, Tobacco, Firearms and Explosives Response to the Draft Audit Report



U.S. Department of Justice

Bureau of Alcohol, Tobacco,
Firearms and Explosives

Assistant Director

Washington, DC 20226

www.atf.gov

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MEMORANDUM TO: Assistant Director
Office of Professional Responsibility and Security Operations

FROM: Assistant Director (Management)/CFO

SUBJECT: OIG Draft Audit Report – Department of Justice’s Contracts
Awarded to Adaptive Digital Systems, Inc. for Covert Audio and
Video Equipment

This memorandum responds to the recommendations contained in the Office of Inspector General’s (OIG) draft report titled “Audit of the Department of Justice’s Contracts Awarded to Adaptive Digital Systems, Inc. for Covert Audio and Video Equipment”. We welcome OIG’s constructive comments and appreciate the opportunity to respond.

Recommendation 1: Leverage the DOJ’s purchasing power by continuing to collaborate on future acquisitions for the same or similar equipment to identify potential cost savings, increase value and efficiencies, and eliminate administrative redundancies.

ATF concurs with this recommendation. The ATF Program Office currently coordinates equipment acquisitions with, and will continue to collaborate with, other DOJ Components on future acquisitions for the same or similar equipment in order to realize cost savings, increased value and other benefits.

Recommendation 2: Review and revise, as appropriate, policies and procedures to ensure that contract expenditures for audio and video equipment are compliant with the FAR and other applicable criteria.

Assistant Director
Office of Professional Responsibility and Security Operations

ATF concurs with this recommendation. ATF will review current policies and procedures for contract expenditures for audio and video equipment. If revised or additional policies and procedures are needed, above what is currently in place, ATF will work diligently to incorporate those revisions and/or additions within 6 months of this audit response.

Recommendation 3: Implement policies and procedures to ensure contractor performance is adequately monitored and appropriate measures are taken when the contractor is not sufficiently meeting standards outlined in each contract.

ATF concurs with this recommendation. ATF will, in instances where a Contracting Officer Technical Representative is needed or required, ensure clause 2852.201-70, Contracting Officer's Technical Representative (COTR), is included in the contract. Additionally, ATF will continue to conduct one or more of the following methods of surveillance with contract deliverables to ensure proper performance: 100% inspections, random sampling, periodic inspection and/or periodic customer input.

Recommendation 4: Assess the different needs of end-users of covert audio and video equipment to identify appropriate performance measures to be included in future contracts. Each agency should consider cost and availability of items procured, timely ordering and delivery of equipment, and other relevant factors.

ATF concurs with this recommendation. ATF will continue to use acquisition planning and market research to assess all End User needs, estimated costs, availability of supplies, etc., in order to ensure those requirements are incorporated into future procurements in a timely manner.

Recommendation 5: Develop and implement a quality assurance surveillance plan for audio and video equipment contracts, as required by the FAR. This plan should ensure adequate oversight of contractor performance and expenditures incurred under the contract.

ATF concurs with this recommendation. FAR Part 46.103(a) states that quality assurance surveillance plans (QASP) are for service contracts. ATF's audio and video equipment contracts are for supplies; however, ATF will begin developing a service oriented QASP for future service contracts.

Assistant Director
Office of Professional Responsibility and Security Operations

Recommendation 6: Complete the wall-to-wall inventory originally scheduled in 2020 to ensure that all items purchased from ADS are properly tracked in each agency's property management system according to agency policy.

ATF concurs with this recommendation. ATF has completed the ADS inventory. The ATF Program Offices associated with these devices provided the list to the Material Management Branch (MMB). MMB has added the associated user list to the appropriate devices in Sunflower (See Attached ADS by User).

Please let me know if I can be of further assistance on this or any other matter.

FRANCIS
FRANDE

Digitally signed by
FRANCIS FRANDE
Date: 2021.08.26
10:36:48 -04'00'

Francis H. Frandé

APPENDIX 7: Adaptive Digital Systems, Inc. Response to the Draft Audit Report



8/13/2021

[REDACTED]
Program Manager
U.S. Department of Justice
Office of the Inspector General Audit Division
Office of Operations
[REDACTED]@USDOJ.GOV [REDACTED]

Dear [REDACTED]

Per your offices request this letter is my companies response to the "Audit of the Department of Justice's Contracts Awarded to Adaptive Digital Systems, Inc. for Covert Audio and Video Equipment".

I find myself in a difficult situation here. Since every Tom, Dick and Harry that has a PC will have access to all of the data related to this Audit Report I find myself hampered on what I can say. Your office investigated 5 years of our work and came up with some very good, some "confusing" conclusions because in some cases they did not have sufficient details.

In my opinion, the bottom line is that most of this report is heading to be historical. All of the players will learn from it, and incorporate the recommendations in the new contract. Having a single contract with all of the line items identified and priced under quantity, eliminates the confusion encountered on previous contracts. In our defense DEA and FBI made up their own quantity columns. The FBI used the industry standard, 1-24, 25-49, 50-99, 100-249, 250-500. DEA made up their own columns.

Some back ground information. I'm including this so OIG understands that ADS has been a supporter of the Military and the Intelligence community from day one, and that makes it 38 years.

ADS was formed in 1983 for the sole purpose of developing an algorithm and hardware for detecting enemy ships at a distance far exceeding what was available at that time. ADS used its own resources for the development. It was a great success and eventually over 120 units were deployed. Shortly after that ADS won a contract from the Navy to build and deploy 125 Mil Spec, 60 inch racks holding digital optical drives to capture and archive all on-board communication channels. The Coast Guard liked the product and purchased 140 of them, without the rack, for archiving all their communications.

In the early 1990's on its own funds, ADS developed the world's first video/audio solid state recorder for the FBI. By investing our resources in incorporating the latest in technology, the product has gotten better and better ever since. Today we are the leader in the community.



Just to touch on **Security Considerations**. I've had Secret, and Top Secret clearances most of my career starting in 1968 with the Minuteman program, then with the Navy and FBI. I have always been the single point of contact for any sensitive information related to our work. In my opinion it's not the label you put on the company that insures security, it is the character of the people you entrust with the information. ADS does not have a hidden "Snowden".

With respect to **Contractor Performance**, we were not aware of 5 FBI agents that needed Training. Is that 5 out of 2,000+ that were skipped or what? We have been providing training for the FBI in Quantico whenever we were asked to come. The same goes for the DEA. Our best trainer, [REDACTED] has been to the DEA facility Lorton a number of times, holding classes for 20+ agents. These classes were arranged by the DEA and we supported it with our funds. Because of the COVID situation no class has been scheduled over the past 2 years.

For the past 10 years we have been providing computerized training for all customers via a USB stick that is shipped with each and every recorder, along with a hard copy manual. I would bet good money on the fact that most users never open the File let alone go thru the training materiel. Of the 27% of the responders who reported that they never received training did OIG ask them if they ever opened the USB stick training file!!!! As the old saying goes, you can lead a horse to water but you can't make him drink.

ADS is staffed from 6 AM to 6 PM, 5 days a week and from 7 AM till Noon on Saturday and Sunday. Real, helpful people answer the phones. On top of all this, the key people at the FBI, DEA, ATF, ICE all have my and a couple of our other technical staffs personal phone numbers, which they are welcome to use in case of need.

With respect to contract deliveries being late over the past 2 years, one obvious answer has to include the effect of COVID. We can't even start making our products until we get our parts. With the COVID situation most suppliers were not able to provide us with product in a timely matter.

One other mistake is ADS receiving signed Delivery Orders with due dates that were not discussed with ADS personnel. This has been the case in more instances than not. It was my mistake to let it go and just try to see if we can make it or not, only to realize late that it was not possible and then ask for an extension. The new contract should include mutual agreement delivery terms on all delivery orders.

The Audit Results section of the report is very confusing to follow. But since the new contract format solves the presented issues I will not try to figure it out, but have a few comments on it. Did OIG know or ask the agencies what the standard procedure is for maintenance of equipment? If they did then they would have found that for instance if Seattle office has a problem, then they send it to Quantico, and there goes 2 days depending on shipping next day or whatever. Quantico receives Fed Express once a day, so the item from Seattle gets shipped to ADS the next day. Normally it takes ADS 2-3 days to fix and retest a recorder. We give it a complete test just like if it was a new unit. If we are aware that it is a rush then we can expedite and turn it around by next day. If Quantico informs us that it needs to go back, directly to Seattle



we Fed Express it overnight and pass on the shipping information to Quantico for their bookkeeping.

To the confusing part, Table-4, Figure-4 and Figure-5 all indicate higher FBI-prices, **yet Table-5 shows higher DEA Prices.**

To make sense of all the data I took a sample of the more popular recorders in the high price range purchased in the final year. The [REDACTED] at quantity 15 was purchased by the DEA on PO# 00582 for \$6,365, while the same time frame on PO #01143 the FBI purchased 42 of them for \$6,250 each. On the same PO the FBI purchased 42 of the [REDACTED] units for \$7,100 each, while the DEA on their same PO purchased 10 of the [REDACTED] units for \$7,214 each.

So in some cases the DEA price was a bit higher and then in others the FBI was. The bottom line is that the new contract provides for the same price for all agencies hence end of confusion.

Response to “Survey of Users”. Figure 11 graphs some of the problems experienced by users. In my opinion most of the problems occurred because lack of proper training. I addressed this issue earlier. As for incorrect date and time stamp users should have been aware that the 10 year or so aged recorders had clock batteries that had to be replaced every 2 years. If they did not pay attention to this they would have date and time errors. ATF for one has over 250 recorders that are of the 10 year age that need clock battery replacement. Figure 12 shows the old ATF units being returned periodically. We do this service free of charge, but in reality we see very few recorders being sent in for clock repair.

Figure 13 shows repair time cycles. I explained before that the recorders are being sent into headquarters then to ADS and backwards to the original cities. In this process, very often we get boxes sent in with 5 to 15 units for repair of just for testing because they have not been used for some time. Did OIG ask how many units were sent in at one time when they made Figure-13??

Response to “User Input on Contract Weaknesses”

- Device shuts off during recording – User manual states battery record times. The older generation of recorders have shorter record times on a set of batteries.
- The new [REDACTED] line has 40% longer record times and a smaller size.
- The data transfer software has evidence protection/verification built into it. After all, the end product of an operation normally winds up in some court or some justice procedure.
- Developing the best, high quality devices takes time and money.



CONCLUSION

The OIG audit pointed out some unintentional mistakes that occurred during the contract. We will do our best to avoid such instances on future contracts. I will assign a full time responsible person to check and verify that all of the documentation, the Contract FAR requirements are adhered to.

ADS will work with the FBI, DEA and ATF to improve the distribution of training materiel and as on prior times we will support their training classes at their offices.

We will also work out an improved rapid repair plan so that the field agents receive their equipment in an orderly manner.

With respect to labor rate categories for TASK to be issued by the FBI, I already passed on to them key rates.

The bottom line on all this is that the new contract approach solves all of the issues, and we will adhere to its terms.

Sincerely,

A handwritten signature in black ink that reads 'Attila W. Mathe'.

Attila W. Mathe
President

APPENDIX 8: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report

The OIG provided a draft of this audit report to the FBI, DEA, ATF, and ADS. Each component's response is incorporated in Appendix 4, 5, and 6, and ADS's response is incorporated in Appendix 7 of this final report. In response to our audit report, the FBI concurred with two recommendations and did not explicitly agree or disagree with eight recommendations but proposed adequate action to resolve the recommendations. The DEA and the ATF concurred with our recommendations and discussed the actions each will implement in response to our findings. As a result, the status of the audit report is resolved. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

We recommend the FBI, the DEA, and the ATF:

- 1. Leverage the DOJ's purchasing power by continuing to collaborate on future acquisitions for the same or similar equipment to identify potential cost savings, increase value and efficiencies, and eliminate administrative redundancies.**

Resolved. The FBI concurred with this recommendation. The FBI stated in its response that it has coordinated with the DEA on a new contract to order similar equipment. The FBI stated that the DEA is establishing a Best in Class contract vehicle, which the FBI will be utilizing for equipment requests.

The DEA also concurred with this recommendation. The DEA stated in its response that it will continue to collaborate with the DOJ on future acquisitions for the same or similar equipment to identify cost savings, increase value and efficiencies, and eliminate administrative redundancies. The DEA stated that it believes it has addressed this recommendation by working with FBI and ATF on a newly awarded contract, which DEA states is an approved DOJ Tier II, Category Management contract. The DEA also stated that its coordination and collaboration with other DOJ components, including the FBI and the ATF, includes participation in monthly discussions at the Justice Acquisition Council meetings. Additionally, the DEA stated that it participates in monthly meetings of the Acquisition Policy Workgroup established by the Office of Acquisition, Compliance, Policy, and Systems to improve communication and collaboration among DOJ component acquisition policy professionals. Finally, the DEA provided documentation of these efforts and requested closure of this recommendation.

We reviewed the documentation provided by the DEA and determined that it does not adequately address this recommendation. While the DEA provided agendas for workgroups and monthly meetings, the DEA provided no evidence that has collaborated with the FBI and the ATF on a future acquisition for audio and video equipment. The DEA provided a new contract for audio and video equipment but did not provide evidence of a collaboration with the FBI and the ATF. The OIG does not have reasonable assurance that the findings outlined in this report will be avoided during the next procurement.

The ATF also concurred with this recommendation. The ATF stated in its response that it will continue to collaborate with other DOJ components on future acquisitions for the same or similar equipment in order to realize cost savings, increased value, and other benefits.

Finally, ADS did not address this recommendation in its response. Overall, this recommendation is resolved.

This recommendation can be closed when we receive documentation demonstrating that the FBI, the DEA, and the ATF have demonstrated an approach to ensure the DOJ's purchasing power is leveraged through continued collaboration on future acquisitions for the same or similar equipment to identify potential cost savings, increase value and efficiencies, and eliminate administrative redundancies.

2. Review and revise, as appropriate, policies and procedures to ensure that contract expenditures for audio and video equipment are compliant with the FAR and other applicable criteria.

Resolved. The FBI did not state explicitly that it agreed or disagreed with this recommendation. However, the FBI stated in its response that it will coordinate with DEA in the administration of the new audio and video equipment contract to ensure that all invoices are appropriately reviewed and approved with the accompanying documentation to ensure all contract expenditures are authorized in accordance with the FAR.

The DEA concurred with this recommendation. The DEA stated in its response that it has reviewed and revised its policies and procedures for contract expenditures for audio and video equipment. The DEA stated that its newly awarded contract addresses contract expenditures for audio and video equipment. The DEA also provided a Contract Administration Plan (CAP) under recommendation 5, which we determined also applies to this recommendation. The DEA requested closure of this recommendation.

We reviewed the CAP provided by the DEA, as well as the new contract, and determined that this documentation adequately addresses this recommendation. Therefore, this recommendation is closed for the DEA.

The ATF also concurred with this recommendation. The ATF stated in its response that if revised or additional policies and procedures are needed, above what is currently in place, ATF will work diligently to incorporate those revisions and/or additions within 6 months of this audit response.

Finally, ADS did not address this recommendation in its response. Overall, this recommendation is resolved for the FBI and the ATF and closed for the DEA.

This recommendation can be closed when we receive documentation demonstrating that the FBI and the ATF have reviewed and revised, as appropriate, policies and procedures to ensure that contract expenditures for audio and video equipment are compliant with the FAR and other applicable criteria.

- 3. Implement policies and procedures to ensure contractor performance is adequately monitored and appropriate measures are taken when the contractor is not sufficiently meeting standards outlined in each contract.**

Resolved. The FBI did not state explicitly that it agreed or disagreed with this recommendation. However, the FBI stated in its response that it will incorporate additional training on contract types, contract complexities, and monitoring contractor performance in both Contracting Office (CO) and Contracting Officer's Representative (COR) training programs. The FBI stated that this additional, updated training will specifically address the issue of corrective and remediation measures that COs and CORs may utilize to address late delivery issues. Moving forward with the new DEA contract, the FBI will ensure delivery dates are realistic to limit the need for period of performance contract modifications.

The DEA concurred with this recommendation. The DEA stated in its response that it agrees to ensure that policies and procedures to monitor contractor performance are implemented to address noncompliant products. The DEA stated that will provide training for contracting officials on these policies and procedures to help ensure adequate contract monitoring and appropriate remediation as necessary. Finally, the DEA stated that it will provide the OIG supporting documentation for closure once this training is complete.

The ATF also concurred with this recommendation. The ATF stated in its response it will ensure FAR Clause 2852.201-70 is included in each contract when a Contracting Officer's Technical Representative is needed. ATF also stated it will continue to conduct one or more of the following methods of surveillance with contract deliverables to ensure proper performance: 100 percent inspections, random sampling, periodic inspection and/or periodic customer input.

Finally, ADS did not specifically address this recommendation in its response. However, ADS stated that it was unaware of training requirements related to the FBI and stated that it would happily provide training to the FBI and the DEA when needed. ADS also stated that the COVID-19 pandemic has affected deliveries over the past 2 years, and that a new contract will include mutual agreement on delivery terms on all delivery orders. Overall, this recommendation is resolved.

This recommendation can be closed when we receive documentation demonstrating that the FBI, the DEA, and the ATF have implemented policies and procedures to ensure contractor performance is adequately monitored and appropriate measures are taken when the contractor is not sufficiently meeting standards outlined in each contract.

- 4. Assess the different needs of end-users of covert audio and video equipment to identify appropriate performance measures to be included in future contracts. Each agency should consider cost and availability of items procured, timely ordering and delivery of equipment, and other relevant factors.**

Resolved. The FBI did not state explicitly that it agreed or disagreed with this recommendation. However, the FBI stated in its response that is has coordinated with the DEA on the new Best in Class contract vehicle to provide a variety of covert audio and video equipment needs for end users.

The DEA concurred with this recommendation. The DEA stated in its response that it will conduct its own field office survey to assess the needs and requirements of end users. The DEA stated that once the survey is complete and analyzed to determine how covert audio and video equipment can be made more secure, effective, and efficient, the DEA will evaluate how to include performance measures in future contracts.

The ATF also concurred with this recommendation. The ATF stated in its response that it will continue to use acquisition planning and market research to assess all end user needs, estimated costs, availability of supplies, etc., to ensure those requirements are incorporated into future procurements in a timely manner.

Finally, ADS did not specifically address this recommendation in its response. However, ADS stated that it believes some problems experienced by users is due to lack of proper training. ADS also stated that the age of the device may be part of the problem. Overall, this recommendation is resolved.

This recommendation can be closed when we receive documentation demonstrating that the FBI, the DEA, and the ATF have assessed the different needs of end-users of covert audio and video equipment to identify appropriate performance measures to be included in future contracts. Each agency should consider cost and availability of items procured, timely ordering and delivery of equipment, and other relevant factors.

5. Develop and implement a quality assurance surveillance plan for audio and video equipment contracts, as required by the FAR. This plan should ensure adequate oversight of contractor performance and expenditures incurred under the contract.

Resolved. The FBI did not state explicitly that it agreed or disagreed with this recommendation. However, the FBI stated in its response that while it continues to believe that a Quality Assurance Surveillance Plan is not required by the FAR for supply contracts, the FBI will ensure appropriate FAR clauses dealing with inspection and acceptance issues are included in the solicitation. Additionally, the FBI stated that it has coordinated with the DEA to ensure that appropriate language explaining how quality assurance will be conducted is included in the award. Finally, the FBI stated that if specific types of ordered equipment will be required to undergo testing protocols as part of the inspection process, these procedures will be disclosed to the contract in the FBI-generated delivery orders.

The DEA concurred with this recommendation. The DEA stated in its response that it has incorporated a Contract Administration Plan (CAP) in the new contract award that describes the contract administration tasks that must be performed; identifies the individuals responsible for performing tasks; sets up a contract administration schedule; specifies documentation reporting requirements; and clarifies the lines of communication among the contract administration team. The DEA asserted that it has addressed the OIG's recommendation by incorporating the CAP into its new contract and requested closure of this recommendation.

We reviewed the CAP provided by the DEA and determined that it adequately addresses this recommendation. Therefore, this recommendation is closed for the DEA.

The ATF also concurred with this recommendation. The ATF stated in its response that while it does not believe supply contracts need quality assurance surveillance plans, it will begin development service-oriented plans for future service contracts.

Finally, ADS did not address this recommendation in its response. Overall, this recommendation is resolved for the FBI and the ATF and closed for the DEA.

This recommendation can be closed when we receive documentation demonstrating that the FBI and the ATF have developed and implemented a quality assurance surveillance plan for audio and video equipment contracts, as required by the FAR. This plan should ensure adequate oversight of contractor performance and expenditures incurred under the contract.

6. Complete the wall-to-wall inventory originally scheduled in 2020 to ensure that all items purchased from ADS are properly tracked in each agency's property management system according to agency policy.

Resolved. The FBI did not state explicitly that it agreed or disagreed with this recommendation. However, the FBI stated in its response that due to the COVID-19 pandemic, the FY 2020 physical inventory was nearly fully cancelled. The FBI stated that in FY 2021, the FBI conducted a partial inventory of capitalized assets, weapons, desktops, laptops, accountable smart phones, and ballistic protective equipment. The FBI also stated that in FY 2022, it is planning to conduct a wall-to-wall physical inventory of all accountable equipment, which will include accountable equipment purchased from ADS.

The DEA concurred with this recommendation. The DEA stated in its response that it has completed its full 2020 wall-to-wall inventory which included ADS equipment. The DEA stated all items have been accounted for and are properly documented in DEA's property management system. The DEA provided evidence of the completion of this inventory and requested closure of this recommendation.

We reviewed the wall-to-wall inventory conducted by the DEA and determined that it adequately addresses this recommendation. Therefore, this recommendation is now closed for the DEA.

The ATF also concurred with this recommendation. The ATF stated in its response that it has completed an ADS inventory. Additionally, the ATF stated that the program offices associated with these devices provided the list to the Material Management Branch, which added the associated user list to the appropriate devices in its property management system. The ATF provided a list of its inventory.

We reviewed the inventory conducted by the ATF and determined that it adequately addresses this recommendation. Therefore, this recommendation is now closed for the ATF.

Finally, ADS did not address this recommendation in its response. Overall, this recommendation is resolved for the FBI and closed for the DEA and the ATF.

This recommendation can be closed when we receive documentation demonstrating that the FBI has completed the wall-to-wall inventory originally scheduled in 2020 to ensure that all items purchased from ADS are properly tracked in each agency's property management system according to agency policy.

We recommend that the FBI and the DEA:

7. Improve processes to ensure that security risks are adequately assessed during acquisition planning, and appropriately mitigate those risks after the contract has been executed.

Resolved. The FBI did not state explicitly that it agreed or disagreed with this recommendation. However, the FBI stated in its response that it will provide additional training on FBI acquisition security policies and the core requirements of the National Industrial Security Program Operation Manual, as it relates to government contracts, and to CORs. The FBI stated that the training will cover the Supply Chain Risk Management Process, Procurement Risk Assessments, and better define and explain the role of the COR in implementing contract security procedures. Finally, with respect to the new contract, the FBI stated that it has coordinated with DEA regarding the need for any contractor employees to possess a security clearance on the base contract.

The DEA concurred with this recommendation. The DEA stated in its response that it will review and evaluate its processes to ensure that security risks are adequately assessed during acquisition planning, and to appropriately mitigate those risks after the contract has been executed.

Finally, ADS did not specifically address this recommendation in its response. However, ADS stated that it believes it has the capability of handling sensitive information when needed. Overall, this recommendation is resolved.

This recommendation can be closed when we receive documentation demonstrating that the FBI and the DEA have improved processes to ensure security risks are adequately assessed during acquisition planning, and appropriately mitigate those risks after the contract has been executed.

8. Implement policies and procedures to ensure that future contracts appropriately address the risks and performance outcomes identified during acquisition planning.

Resolved. The FBI concurred with this recommendation. The FBI stated in its response that it has coordinated with the DEA on a new contract to order similar equipment. The FBI stated that the DEA is establishing a Best in Class contract vehicle that would more appropriately address risk and performance outcomes identified in acquisition planning.

The DEA concurred with this recommendation. The DEA stated in its response that it has evaluated its guidance on acquisition planning, considering complexity and dollar thresholds of the award.

The DEA stated that it has created a new acquisition plan for its new procurement, and that it is revising its policies and procedures for acquisition planning. The DEA also stated it is creating three acquisition planning templates for use based on complexity and dollar thresholds of the future award that it will use on all future acquisition contracts.

Finally, ADS did not address this recommendation in its response. Overall, this recommendation is resolved.

This recommendation can be closed when we receive documentation demonstrating that the FBI and the DEA have implemented policies and procedures to ensure that future contracts appropriately address the risks and performance outcomes identified during acquisition planning.

We recommend that the FBI:

- 9. Enhance policies and procedures to ensure that orders containing time-and-materials elements include negotiated labor rates that identify the contractor's wages, overhead, general and administrative expenses, profit, and actual costs of materials. The FBI should ensure that these contracts are compliant with all FAR requirements.**

Resolved. The FBI did not state explicitly that it agreed or disagreed with this recommendation. However, the FBI stated in its response that as part of the new procurement, the FBI has coordinated with the DEA to ensure a labor rate for engineering services is established.

ADS did not address this recommendation in its response. Overall, this recommendation is resolved.

This recommendation can be closed when we receive documentation demonstrating that the FBI has enhanced its policies and procedures to ensure that orders containing time-and-materials elements include negotiated labor rates that identify the contractor's wages, overhead, general and administrative expenses, profit, and actual costs of materials. The FBI should ensure that these contracts are compliant with all FAR requirements.

- 10. Remedy \$1,475,388 in unsupported time-and-materials costs incurred under the contract by reviewing each delivery order, accompanying invoices, and cost information from ADS to determine: (1) the price reasonableness of each expense; and (2) further detail on the expense incurred, including which portion of the expense is cost versus profit.**

Resolved. The FBI did not state explicitly that it agreed or disagreed with this recommendation. However, the FBI believes the \$1,475,388 cited by the DOJ OIG is overstated by an estimated \$693,582 in supply purchases. The FBI stated it will further review the contract documents in accordance with FAR 42.803 "Disallowing costs after incurrence" to address potential unsupported time and materials costs.

ADS did not address this recommendation in its response. Overall, this recommendation is resolved.

This recommendation can be closed when we receive documentation demonstrating that the FBI has remedied \$1,475,388 in unsupported time-and-materials costs incurred under the contract by reviewing each delivery order, accompanying invoices, and cost information from ADS to determine: (1) the price reasonableness of each expense; and (2) further detail on the expense incurred, including which portion of the expense is cost versus profit.

We recommend that the DEA:

11. Remedy \$13,560 in unallowable equipment costs resulting from payments to the contractor not approved in the contract.

Resolved. The DEA concurred with this recommendation. The DEA stated in its response that it has reviewed the transactions in question and believes that the \$11,280 in questioned costs is not feasible for the contractor to repay, as DEA purchased and received supplies valued at the transaction amount. The DEA stated that it has initiated erroneous payment reporting collections efforts for the remaining \$2,280 where DEA paid the contractor at a rate greater than what was listed in the contract. The DEA will provide the OIG supporting documentation for closure once completed.

ADS did not address this recommendation in its response. Overall, this recommendation is resolved.

This recommendation can be closed when we receive documentation demonstrating that the DEA has remedied \$13,560 in unallowable equipment costs resulting from payments to the contractor not approved in the contract.

12. Review and revise, as appropriate, its policies and procedures to ensure that a qualified contracting official reviews and approves all invoices for audio and video equipment.

Resolved. The DEA concurred with this recommendation. The DEA stated in its response that it has reviewed and evaluated its policies and procedures ensuring that qualified contracting officials review and approve all invoices for audio and video equipment. The DEA stated that it believes its current policy is compliant with the FAR and internal DEA guidance. The DEA also stated that through its review of its COR Handbook, COR Training, and Verification of Receipt and Acceptance Form, it determined that no revisions to its policies were necessary.

While the OIG concurs that the DEA does have substantial policy related to COR duties, it is clear, based on the findings outlined in this report that the DEA COR did not adequately review and approve all invoices for audio and video equipment, as required by DEA policy. Additionally, DEA policy does not address situations where field offices order equipment directly, and those offices subsequently pay invoices without COR approval. As a result, the OIG does not have reasonable

assurance that the findings outlined in this report will be avoided during the next procurement. Therefore, this recommendation remains resolved.

ADS did not address this recommendation in its response.

This recommendation can be closed when we receive documentation demonstrating that the DEA has reviewed and revised, as appropriate, its policies and procedures to ensure that a qualified contracting official reviews and approves all invoices for audio and video equipment.

13. Review and revise, as appropriate, its policies and procedures to ensure that CORs are completing the contracting duties delegated by the contracting officer and meet the requirements of existing DEA guidance.

Resolved. The DEA concurred with this recommendation. The DEA stated in its response that it will review its policies and procedures to help ensure that CORs are completing contracting duties delegated by the CO, and that COs are advising the CORs of existing contracting requirements. In addition to contracts for audio and video equipment, the DEA stated it will ensure that a sample of active DEA contracts are reviewed by the Acquisition Office to ensure that delegated positions are following the guidance provided.

ADS did not address this recommendation in its response. Overall, this recommendation is resolved.

This recommendation can be closed when we receive documentation demonstrating that the DEA has reviewed and revised, as appropriate, its policies and procedures to ensure that CORs are completing the contracting duties delegated by the contracting officer and meet the requirements of existing DEA guidance.