



# Audit of the Federal Bureau of Investigation's Contract for Ballistics Research Assistant Services



AUDIT DIVISION

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# EXECUTIVE SUMMARY

## Audit of the Federal Bureau of Investigation's Contract for Ballistics Research Assistant Services

### Objectives

The Department of Justice (DOJ) Office of the Inspector General (OIG) conducted an audit of a 2021 Federal Bureau of Investigation (FBI) sole-source contract for ballistic research assistant services. The objectives of our audit were to: (1) determine whether the FBI adhered to federal regulations during the contract award process; (2) assess the FBI's administration of the contract; and (3) assess the contractor's performance and compliance with the terms, conditions, laws, and regulations that have a material effect on this contract.

### Summary

We determined that the FBI has awarded sole-source contracts for ballistic research assistant services to the same individual for the last 18 years. We concluded that the FBI's methods for awarding the 2021 contract to this individual improperly impeded competition, potentially circumvented civil service laws, and placed the contractor in a personal services role contrary to the Federal Acquisition Regulation (FAR), the terms of the contract, and FBI guidance. While our audit did not reveal any problems with the services provided by the contractor, we found significant weaknesses in the FBI's management of the contract, including instances of FAR non-compliance and misinterpretation of contracting requirements. The deficiencies we identified created an environment that increased the risk for ineffective and inappropriate contracting practices.

### Audit Results

In 2021, the FBI awarded a sole-source contract to a sole proprietor to support the efforts of the FBI's Ballistics Research Facility (BRF), which performs scientific testing, evaluation, and validation of ammunition, weapons, and personal protective armor necessary to support the FBI's mission. The contract was for a base year and two 1-year options, with each year being a separate firm-fixed-price task order. The total value of the three task orders was

approximately \$574,000. The FBI has exercised sole-source contract actions with this individual since 2006. According to the FBI, the contractor's services have a profound impact throughout the FBI, including participation in the testing and procuring of lifesaving equipment used by Special Agents.

### Deficient Contracting Practices

The FBI did not exercise sufficient impartiality, as required by the FAR, and took unconventional actions to ensure the contractor continued to provide services to the BRF. In particular, we found that the FBI did not attempt to competitively bid this contract and did not follow FAR requirements for awarding a sole-source contract. We found that the FBI inappropriately placed the contractor in a personal services role, which is contrary to the FAR, the contract's terms, and FBI guidance. As a result, the FBI exposed itself to a significant risk of circumventing civil service laws.

### Inadequate Contract Administration

We found significant deficiencies in the FBI's management of the contract and related noncompliance with the FAR. These deficiencies included not evaluating any potential conflicts of interest regarding the contractor's participation in high-value and sensitive FBI procurements, exceeding its authority to extend the contract's period of performance, and applying oversight procedures that were incongruent with FAR requirements for firm-fixed-price contracts. Taken together, the issues we identified are indicative of inadequate contract management, which increases the likelihood of contracting activities that are inconsistent with FBI program directives and objectives and non-compliant with legal requirements, as well as unsupported or excessive payments, among other contracting risks.

### Recommendations

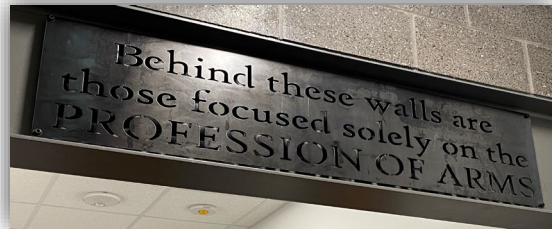
We made five recommendations for the FBI to remedy deficiencies related to the ballistics research assistant services contract. The FBI's response to our draft report can be found in Appendix 3.

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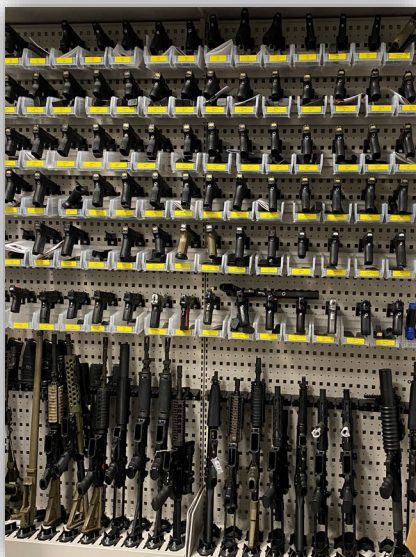
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## Introduction

The Federal Bureau of Investigation's (FBI) Ballistic Research Facility (BRF) is responsible for providing scientific testing, evaluation, and validation for ammunition, weapons, and personal protective armor necessary to support the FBI's mission. The BRF also provides support to other law enforcement entities besides the FBI. According to the FBI, the BRF is the world's foremost leader in the science of researching and testing the effectiveness of ballistics-related items, such as firearms and bullets, which has assisted law enforcement and military personnel around the world. As illustrated in the two pictures, the BRF is focused on the profession of arms and houses a variety of firearms.



Source: BRF in Huntsville, Alabama



Source: BRF in Huntsville, Alabama

Since 2006, the FBI has contracted for ballistic research services with an individual who was a sole proprietor (Contractor-1). In January 2021, the FBI awarded Contractor-1 a fourth consecutive sole-source, commercial, indefinite-delivery indefinite-quantity (IDIQ) contract.<sup>1</sup> The purpose of the contract was to obtain services that would support the efforts of existing BRF research staff. In particular, the FBI's contract stipulated that Contractor-1 would be responsible for conducting testing on weapons, ammunition, and personal protective armor; inspecting materials; developing reports and presentations in support of research; testifying in various legal proceedings; and supporting FBI high-value acquisitions, to include classified procurements. FBI officials have stated that Contractor-1's responsibilities are broadly intertwined with all the work accomplished at the BRF and have a profound impact throughout the FBI, specifically for Special Agents who depend on the outcomes of BRF research and testing to provide the most effective weapons and protective equipment.

As shown in Table 1, the IDIQ contract consisted of a base year and two 1-year options with each being a separate firm-fixed-price task order. The total value of the three task orders was \$573,840; and as of January 2024, the FBI had paid Contractor-1 \$355,180.<sup>2</sup> Additionally, when it exercised the second option year (Task Order 3), the FBI added four additional 1-year options to the task order.

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<sup>1</sup> An indefinite-delivery indefinite-quantity contract provides for an indefinite quantity, within stated limits, of supplies or services during a fixed period.

<sup>2</sup> The FBI's contract (Contract Number 15F06721D0002575) did not contain an award value for the base or option years. The \$573,840 value included in the table is the amount proposed by the contractor, and the amount the FBI reported in the Federal Procurement Data System. The \$355,180 was based on the number of hours worked by the contractor rather than the value of the contract. As explained later in this report, this approach did not align with Federal Acquisition Regulation requirements for firm-fixed-price contracts.

**Table 1**  
**Total Award Value and Expenditures**

	<u>Value</u>	<u>Paid</u>	<u>Performance Period</u>
<b>Task Order 1 (Base Year)</b>	\$ 178,920	\$ 94,390	01/15/2021 - 01/14/2022
<b>Task Order 2 (Option Year 1)</b>	191,280	141,504	02/23/2022 - 02/22/2023
<b>Task Order 3 (Option Year 2)</b>	<u>203,640</u>	<u>119,286</u>	02/23/2023 - 02/22/2024 <sup>a</sup>
	\$ 573,840	\$ 355,180	

<sup>a</sup>. The FBI's four additional options to Task Order 3 extended the period of performance to February 22, 2028. As discussed later in the report, we found that the addition of those options does not comply with the FAR.

Source: OIG analysis of the FBI contract file and documentation, as well as Federal Procurement Data System

## OIG Audit Approach

The objectives of this audit were to: (1) determine whether the FBI adhered to federal regulations during the contract award process; (2) assess the FBI's administration of the contract; and (3) assess the contractor's performance and compliance with the terms, conditions, laws, and regulations that have a material effect on this contract.

In conducting our audit, we tested compliance with what we consider to be the most important conditions of these contract actions. Unless otherwise stated in our report, the criteria we used to evaluate compliance are contained in the Federal Acquisition Regulation (FAR) and internal FBI policies and procedures. We reviewed contract documentation, including award documents, invoices, and contractor-related work products. We also conducted a site visit at the FBI's BRF in Huntsville, Alabama, as well as interviewed key FBI employees at the FBI's BRF and various headquarters divisions. Appendix 1 contains further details on our audit objectives, scope, and methodology.

## Audit Results

We found that the FBI took unconventional contract award actions in conflict with FAR requirements, which impeded competition and created the appearance that the FBI gave the contractor preferential treatment to ensure that the contractor continued to provide services to the BRF. Moreover, the FBI's actions associated with Contractor-1 appear to have resulted in the FBI circumventing civil service laws, a risk that is specifically stated in the FAR. Further, we determined that the FBI inappropriately placed Contractor-1 in a personal services role contrary to the FAR, the terms of the contract, and FBI guidance. While we did not identify problems with the contractor's performance, we found significant deficiencies in the FBI's management of the contract, which the FBI attributed to excessive turnover of FBI contracting officials who also had a lack of understanding of contracting requirements. The totality of the weaknesses we identified in how the FBI performed its contracting activities created an environment that increased the risk for ineffective contracting processes and substantial negative outcomes.

### Deficient Contract Awarding Actions

Since 2006, the FBI has awarded four consecutive IDIQ sole-source contracts, totaling over \$1.9 million, to the same individual (Contractor-1) to support the BRF's efforts. We found that certain FBI actions and awarding deficiencies impeded competition for the ballistics research contractor services during the contract awarding process. According to FBI officials, these deficiencies resulted from a variety of factors, including contracting officials not understanding requirements.

According to FBI officials, Contractor-1 is an expert in the field of ballistics research, and the FBI has never encountered another individual with the combined knowledge, skills, and ability to evaluate firearms and medical information as it relates to ballistics research. While we believe that the FBI values Contractor-1's contributions to the BRF's efforts, we are concerned that the FBI's actions when awarding this contract not only resulted in contracting compliance issues but also indicate that the FBI gave Contractor-1 preferential treatment. Specifically, in reviewing the contract award documentation, we found that the FBI did not attempt to competitively bid this contract. Instead, the FBI directed it specifically to Contractor-1, which is in direct opposition to the FAR requirement that all government business be conducted in a manner above reproach and, except as authorized by statute or regulation, with complete impartiality and with preferential treatment for none.<sup>3</sup>

For example, FAR 37.102 states that services are to be obtained without barriers to full and open competition. However, we determined that the FBI limited competition by relying upon Contractor-1's background when drafting the specific qualifications for the contract position, such as requiring an unusual minimum number of years of medical practice experience that was the exact number of years of experience that Contractor-1 had at the time the FBI sought to award the 2021 contract. Moreover, the FBI's market research report concluded that the contractor provided the best value to the FBI without including information to support that conclusion. The purpose of market research is to determine if sources capable of satisfying the FBI's requirements exist.<sup>4</sup> While the report listed examples of various market research methods that could be performed, the report neither indicated whether any of those methods were used

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<sup>3</sup> FAR Subpart 3.101-1.

<sup>4</sup> FAR Subpart 10.001(a)(3).



nor disclosed the results of any such methods used. Indeed, it was not clear whether the FBI performed any market research other than considering the qualifications of its existing contractor. In addition, the market research report did not identify if the contractor was the only source that existed in the marketplace or if there were other sources available to provide the service.

Further, we found that the contract did not comply with the FAR requirements for a sole-source contract. As stated above, the FAR generally requires full and open competition in soliciting offers and awarding contracts. However, there is an exception in the FAR which allows for sole-source contracts when there is a reasonable basis to conclude that the agency's minimum needs could only be satisfied by unique services available from only one source or only one supplier with unique capabilities.<sup>5</sup> The FBI relied on this exception but did not provide a reasonable basis to conclude that its minimum needs could only be satisfied by unique services available from Contractor-1. In its sole-source justification, the FBI stated that based on the results of market research, Contractor-1 was the only person with the necessary qualifications and expertise. However, as discussed previously, the FBI's market research report did not make this conclusion. The FBI also did not document what efforts were made to ensure that offers were solicited from as many potential sources as practicable, as required by FAR 6.303-2. Instead, the FBI simply stated it was not aware of another individual with the unique qualifications and experience as the contractor. Based upon information obtained, the FBI made no attempt to locate other sources and limited the potential to find other sources by creating strict qualifications that mirrored the Contractor-1's background. When we discussed this with FBI officials, the BRF Unit Chief stated that in his 14 years, no one else has submitted a bid, citing a request for information for ballistics research assistant services to which the FBI received a response from only one additional person who did not proceed with their bid. However, this request for information was publicly posted 10 years ago.

We also identified the following additional concerns regarding the awarding of the 2021 contract, which we are reporting to the FBI for consideration in future procurements.

***Commercial Service.*** The FBI considered Contractor-1 to be the only responsible source for these services; and according to Contractor-1, they only offer and provide these services to the FBI. Based on these circumstances, it is unclear how Contractor-1's services would be considered commercial under the FAR, which defines commercial services as those of a type offered and sold competitively in substantial quantities in the commercial marketplace.<sup>6</sup> Further, there is no documentation in the contract file explaining why this was determined to be a commercial service. Commercial service acquisitions follow FAR Part 12, which establishes streamlined procedures and reduced requirements to simplify the acquisition process. Because the FBI treated the contract as a commercial service, the FBI may have applied different contract price and/or contractor requirements.

***Contractor Proposal.*** FAR 15.402 requires contracting officers to purchase supplies and services from responsible sources at fair and reasonable prices. To do so, contracting officers shall obtain data necessary to establish a fair and reasonable price. However, it was unclear what, if anything, the FBI did to establish a fair and reasonable price for Contractor-1's services. For example, the FBI

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<sup>5</sup> FAR Subparts 6.101 and 6.302-1(b).

<sup>6</sup> FAR Subpart 2.101.

did not require Contractor-1 to independently develop a price proposal, and the FBI did not conduct an independent government cost estimate to determine if Contractor-1's price proposal was reasonable. Rather, the FBI provided Contractor-1 with the not-to-exceed number of hours and travel costs, resulting in Contractor-1 developing a price proposal based on the maximum hours and travel costs the FBI would pay. Had Contractor-1 independently developed their proposal and/or had the FBI performed a price analysis of Contractor-1's proposal, a lower firm-fixed-price amount may have resulted.

***Performance-based Acquisition.*** According to FAR 37.603 and FAR 37.102, performance standards establish the performance level required by the government to meet the contract requirements, and agencies are required to use performance-based acquisition methods to the maximum extent possible when acquiring services. However, the FBI did not use performance-based acquisition methods, and the contract file did not explain why such methods were not used. The absence of performance standards increases the risk that the contractor's performance will not meet the FBI's needs and requirements for the contract.

***Contract Type.*** The FBI combined elements of an IDIQ contract with elements of a contract with options that resulted in a contract that does not comply with standards for either contract type. For example, FAR 16.504 includes certain requirements for IDIQ contracts, such as specifying the minimum and maximum quantity of services to be acquired and the procedures the government will use in issuing orders. These requirements were not included in the contract. Additionally, FAR 17.207 requires contracting officers, before exercising an option, to make a written determination that exercising the option is in accordance with the terms of the option. However, the terms of the contract list the quantity, unit price, and amount as 0 for the base year and each option year. Therefore, it is unclear how an option can be exercised in accordance with these terms. When contracts do not comport with FAR requirements, it can create confusion as to the contract type, whether the contract is binding, and the responsibilities of the contracting parties.

Overall, the totality of the contract awarding issues call into question the appropriateness of the FBI's actions to award the ballistics research assistant services contract to Contractor-1, as the FBI's actions improperly impeded competition for these services. As a result, we recommend that the FBI assess its contract award actions and take necessary steps to resolve the award-related deficiencies associated with the ballistics research assistant services contract.

## **Improper Personal Services Contract**

Under the FAR, a personal services contract is a contract that, by its express terms or as administered, makes the contractor personnel appear to be, in effect, government employees.<sup>7</sup> By contrast, the FAR defines a non-personal services contract as a contract under which the personnel rendering services are not subject, either by the contract's terms or by the manner of its administration, to the supervision and control usually prevailing in relationships between the government and its employees.<sup>8</sup> Although the FBI's most

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<sup>7</sup> FAR Subpart 2.101.

<sup>8</sup> FAR Subpart 37.101.



recent 2021 contract expressly states that it is a non-personal services contract, we found that the FBI administered the contract as a personal services contract.

According to the FAR, personal services contracts are characterized by the employer-employee relationship created between the government and contractor personnel (i.e., contractor personnel appear to be, in effect, government employees). Federal agencies are normally required to obtain their employees by direct hire under competitive appointment or other procedures required by the civil service laws. Obtaining personal services by contract, rather than by direct hire, circumvents those laws unless Congress has specifically authorized an agency to acquire the services by contract. Without such approval, contracting agencies are expressly prohibited from awarding personal services contracts.<sup>9</sup> While the FBI has statutory authority to award personal services contracts that directly support its intelligence or counterintelligence missions, the ballistics research assistant services contract was not awarded under the FBI's statutory authority.<sup>10</sup>

Either by its terms prior to award or as administered, a key inquiry to assess whether a contract is personal in nature is whether the government is exercising relatively continuous supervision and control over the contractor personnel. In addition, the FAR provides six descriptive elements to be used as a guide in determining whether a service contract is personal in nature. As reflected in Table 2, we found that the FBI's administration of the ballistics research assistant services contract demonstrates all of the elements that characterize a personal services contract under the FAR.

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<sup>9</sup> FAR Subparts 37.104(a), (b).

<sup>10</sup> 50 U.S.C. § 3072 provides the FBI the authority to award personal services contracts that directly support its intelligence or counterintelligence mission. FBI policy outlines a number of steps that must be taken before a personal services contract may be awarded under this statutory authority.

**Table 2**

**Personal Services Contract Descriptive Elements**

<b>FAR Personal Services Contract Descriptive Elements</b>	<b>FBI's Administration of the Ballistics Research Assistant Services Contract</b>
<b>Performance on site.</b>	Contractor-1 performs all services on site at the FBI's BRF.
<b>Principal tools and equipment furnished by the government.</b>	Contractor-1 relies on the FBI's principal tools and equipment, such as firearms, ballistics instruments, and simulation technology, located at the BRF to perform research and services prescribed by the contract.
<b>Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission.</b>	The contract file specifically states that Contractor-1 is mission essential to the BRF's continued success.
<b>Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel.</b>	Contractor-1 is provided the same training as all FBI employees assigned to the BRF and performs the same major tasks as those employees. In addition, the FBI's BRF Unit Chief stated that responsibilities for personnel at the BRF are generally interchangeable, including those assigned to Contractor-1.
<b>The need for the type of service provided can reasonably be expected to last beyond 1 year.</b>	The 2021 contract period is a total of 3 years, and Contractor-1 has been providing these services to the FBI since 2006.
<b>The inherent nature of the service, or the manner in which it is provided, reasonably requires directly or indirectly, government direction or supervision of contractor employees in order to: (i) adequately protect the government's interest, (ii) retain control of the function involved, or (iii) retain full personal responsibility for the function supported in a duly authorized federal officer or employee.</b>	The BRF Unit Chief directs tasks and ensures work is performed satisfactorily for all BRF employees and Contractor-1. Certain tasks involve national security and sensitive information that the FBI must safeguard, such as classified procurements.

Source: OIG analysis of FBI documentation and FAR 37.104(d)

As reflected in Table 2, our assessment of the FBI's administration of the ballistics research assistant services contract allowed BRF officials to exercise relatively continuous supervision and control of Contractor-1. As a result, we believe the FBI's historic and current contracting practices have inappropriately placed Contractor-1 in a personal services role, contrary to the FAR, the terms of the contract, and FBI guidance. In essence, the FBI created an environment that allowed Contractor-1 to operate as if they were an FBI employee. The impact of this situation is compounded when considering that the FBI's actions for awarding the ballistics research assistant services to Contractor-1 impeded competition without sufficient justification and demonstrated otherwise unfair preferential treatment.

By administering the ballistics research assistant services contract as an improper personal services contract, the FBI exposed itself to a significant, and potentially realized, risk of circumventing civil service

laws, as defined by FAR 37.104. As a result, we recommend that the FBI determine how to appropriately remedy its management and use of an improper personal services contract.

As outlined in Appendix 2, this is not the first time that the OIG has reported concerns regarding the FBI administering a non-personal services contract as a personal services contract, [\*Audit of the Federal Bureau of Investigation's Contract Awarded to TUVA, LLC for Subject Matter Expert Services\*](#).<sup>11</sup> The OIG also previously issued a Management Advisory Memorandum to the Justice Management Division that identified concerns related to personal services contracts, [\*Management Advisory Memorandum Concerning the Department of Justice's Administration and Oversight of Contracts\*](#).<sup>12</sup>

## Inadequate Contract Administration

Since awarding the most recent ballistics research assistant services contract to Contractor-1 in 2021, the FBI has experienced significant turnover in procurement resources related to the contract—assigning eight different contracting officers and three contracting officer's representatives (COR) to oversee contract activities and requirements. We found significant deficiencies in the FBI's management of the contract and believe that the excessive turnover in contracting officials may have contributed to the numerous instances where the FBI was not in compliance with the FAR and its own policies. FBI officials agreed that these deficiencies resulted from a variety of factors, including poor performance by contracting officials assigned to this contract who did not understand the requirements.

As detailed in the following sections, these deficiencies included not evaluating any conflicts of interest regarding Contractor-1's participation in high-value and sensitive FBI procurements, exceeding its authority to extend the contract's period of performance, and applying oversight procedures that were incongruent with FAR requirements for firm-fixed-price contracts. Overall, we believe the issues we identified in the FBI's administration of the ballistics research assistant services contract are indicative of insufficient understanding of FAR requirements and inadequate oversight. These deficiencies elevate the FBI's contract risks and could increase the likelihood of contracting activities that are inconsistent with its program directives and objectives, unsupported or excessive payments, and non-compliance with legal requirements. Throughout our audit, we did not identify any indication that Contractor-1 was not providing services as required under the contract. Nevertheless, given the deficiencies in the FBI's administration of this contract, our evaluation may not have identified certain weaknesses or performance problems.

## Lack of Conflict-of-Interest Review

Within the contract file, the FBI highlighted Contractor-1's historical participation in BRF's procurement process and stated Contractor-1's services would support ongoing and future procurements. According to the FBI, these procurements, which have exceeded \$500 million, involve sensitive equipment, such as weapons, ammunition, and personal protection armor for FBI agents. FAR 3.101-1 states that the general

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<sup>11</sup> DOJ OIG, [\*Audit of the Federal Bureau of Investigation's Contract Awarded to TUVA, LLC for Subject Matter Expert Services\*](#), Audit Report 20-111 (September 2020), [oig.justice.gov/reports/audit-federal-bureau-investigations-contract-awarded-tuva-llc-subject-matter-expert](https://oig.justice.gov/reports/audit-federal-bureau-investigations-contract-awarded-tuva-llc-subject-matter-expert).

<sup>12</sup> DOJ OIG, [\*Management Advisory Memorandum Concerning the Department of Justice's Administration and Oversight of Contracts\*](#), Audit Division 20-082 (July 2020), [oig.justice.gov/reports/management-advisory-memorandum-concerning-department-justices-administration-and-oversight](https://oig.justice.gov/reports/management-advisory-memorandum-concerning-department-justices-administration-and-oversight).

rule is to avoid strictly any conflict of interest or even the appearance of a conflict of interest in government-contractor relationships. In addition, FAR Subpart 9.5 states that contracting officers shall analyze planned acquisitions in order to: (1) identify and evaluate potential organizational conflicts of interest as early in the acquisition process as possible; and (2) avoid, neutralize, or mitigate significant potential conflicts before contract award. However, neither Contractor-1 nor the BRF Unit Chief could explain if any review was completed for potential conflicts of interest for procurements involving Contractor-1. Further, there is no documentation or reference in the contract file to indicate that any such review was performed. Considering the sensitivity and significant value of the procurements that Contractor-1 participated in, appropriate precautions should have been taken to identify and mitigate any actual or perceived conflicts of interest related to Contractor-1 to ensure judicious spending of government funds and safety of FBI employees. Therefore, we recommend the FBI evaluate any potential conflicts of interest related to Contractor-1, including reviewing past procurements that involved Contractor-1, to determine if the procurement processes were fair and transparent and whether additional actions should be taken to resolve any identified issues.

### Questionable Option Years

FBI policy, consistent with the FAR, states that the total of basic and option periods generally shall not exceed 5 years.<sup>13</sup> When the FBI awarded this 2021 IDIQ contract, it included a base year and two 1-year options. When exercising the base year and each option year, the FBI issued separate task orders. However, when it exercised the second option year (Task Order 3), the FBI added four additional 1-year options to the task order, which significantly increased the total potential value of the contract from \$573,840 to \$1,487,470. Not only were these four new 1-year options not included in the original contract and, therefore, not contemplated as part of the contract award process, they increased the length of the contract by 4 years to a total of 7 years. As a result, the FBI circumvented FAR requirements designed to provide the best value of service to the FBI, while maintaining the public's trust and fulfilling public policy objectives. Therefore, we recommend the FBI review these additional option years to determine if they are appropriate and compliant with applicable regulations.

### Deficient Contract Management

We found various additional issues that further indicate the FBI's management of this contract was not accurate or consistent with the FAR. Specifically, although the FBI awarded firm-fixed-price task orders under the contract, the FBI and Contractor-1 actions aligned with FAR requirements associated with a time-and-materials contract. For instance, the FBI and Contractor-1 followed administrative procedures that were unnecessary for firm-fixed-price task orders where Contractor-1 prepared and the FBI reviewed invoices that tracked the hours worked.<sup>14</sup> The FBI then reduced the values of the task orders using the number of unworked hours and the amount of unused travel by Contractor-1. However, because the task orders were firm-fixed-price, the FAR stipulates that the price is not subject to any adjustment based on the contractor's cost experience in performing the contract. Consequently, Contractor-1 was paid significantly less than the firm-fixed-price for Task Orders 1 and 2. In turn, Contractor-1 also invoiced, and was paid, \$4,928 for work performed outside of Task Order 1's performance period. Due to the management errors of this contract, it is unclear what amount Contractor-1 should have been paid for services provided.

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<sup>13</sup> Section 17.204 of the FBI's Acquisition Reference Guide and FAR Subpart 17.204.

<sup>14</sup> See FAR Subpart 16.601 for the definition of a time-and-materials contract.

Moreover, as depicted in the following figure, we found several areas of non-compliance and deficiencies that the OIG identified in previous audits of FBI contracts.

**Figure 1**

**Contract Issues Identified in Prior OIG Audits<sup>a</sup>**

<p><b>Missing Whistleblower Rights Clause</b></p> <p>FAR Subpart 3.906 requires Contracting Officers (CO) to insert FAR clause 52.203-17, Contractor Employee Whistleblower Rights in all solicitations and contracts that exceed the simplified acquisition threshold.</p>	<ul style="list-style-type: none"> <li>• <b>Previous FBI-Related OIG Findings</b> The OIG previously found that the FBI did not include a required whistleblower protections clause in the purchase orders awarded for biometric algorithms.</li> <li>• <b>Ballistics Contract Audit Finding</b> The FBI did not include the required whistleblower protections clause in the contract and subsequent task orders.</li> </ul>
<p><b>Incorrect Information in the Federal Procurement Data System (FPDS)</b></p> <p>FAR 4.604(b) requires COs to ensure the completion and accuracy of individual contracting action reports in FPDS.</p>	<ul style="list-style-type: none"> <li>• <b>Previous FBI-Related OIG Findings</b> The OIG previously found in three different audits that the FBI failed to enter complete and accurate information in FPDS.</li> <li>• <b>Ballistics Contract Audit Finding</b> The FBI entered inaccurate information in FPDS for this contract. It identified the total contract award amount as approximately \$3 million, when the actual total award amount was approximately \$574,000.</li> </ul>
<p><b>Inadequate Contractor Performance Assessment Report (CPAR)</b></p> <p>FAR 42.1502 requires contracting officials to prepare performance evaluations and enter information into CPARS at least annually during the contract, and when work under a contract or order is completed.</p>	<ul style="list-style-type: none"> <li>• <b>Previous FBI-Related OIG Findings</b> The OIG previously found in three different audits that the FBI failed to enter complete and accurate information into CPARS.</li> <li>• <b>Ballistics Contract Audit Finding</b> The FBI filed one CPAR, which was unsupported and contained erroneous information from a different contract.</li> </ul>
<p><b>Missing COR Designation</b></p> <p>Section 1.604-2 of the FBI's Acquisition Reference Guide requires COs to assign and delegate a certified COR on all contracts above \$250,000 or provide justification and request approval from the Procurement Section Front Office if the CO does not want to assign and delegate a COR.</p>	<ul style="list-style-type: none"> <li>• <b>Previous FBI-Related OIG Findings</b> The OIG previously found in two different audits that the FBI did not properly delegate CORs.</li> <li>• <b>Ballistics Contract Audit Finding</b> The FBI failed to properly designate the three different CORs assigned throughout the life of the contract.</li> </ul>

<sup>a</sup> Appendix 2 contains a list of OIG reports containing similar findings.

Source: OIG analysis of the FAR, previous OIG findings, and FBI contract documentation

The inadequate management of a contract increases the risk of incorrectly identifying the government's obligation on the contract and can cause unnecessary effort and confusion. Further, while the OIG previously made recommendations to the FBI to fix deficiencies on other audited contracts, it appears that the actions the FBI took were inadequate to resolve the issues and that shortcomings may continue to occur unless the FBI takes affirmative steps to strengthen its contract management and oversight. During the audit, we notified the FBI of these deficiencies, and it took steps to address certain instances of FAR non-compliance that could be corrected, including updating the contract with the required whistleblower protections clause and adjusting the financial information for this contract in FPDS. However, given the significant number of issues identified, we recommend the FBI evaluate the lapses that occurred in the FBI's management and oversight of this contract. As part of this evaluation, the FBI should determine the best course of action for resolving the \$4,928 payment discrepancy, which should take into consideration Contractor-1 receiving less than the firm-fixed-price amount on the relevant task orders. In addition, the FBI should include an analysis of prior reported contract issues to determine if additional action is needed to enhance the FBI's contracting practices due to similar issues occurring in this contract.



## Conclusion and Recommendations

Overall, we identified significant concerns with the FBI's awarding and management of the ballistics research assistant services contract. The FBI improperly impeded competition, potentially circumvented civil service laws, and placed the contractor in a personal services role contrary to the terms of the contract and FBI guidance. In addition, the significant instances of FAR non-compliance and misinterpretation of contracting requirements is indicative of inadequate contract management, which increases the likelihood of contracting activities that are inconsistent with its program directives and objectives and non-compliant with legal requirements, as well as unsupported or excessive payments, among other contracting risks. As a result, we make five recommendations for the FBI to take corrective action and make necessary improvements.

We recommend that the FBI:

1. Assess its contract award actions and take necessary steps to resolve the award-related deficiencies associated with the ballistics research assistant services contract.
2. Determine how to appropriately remedy its management and use of an improper personal services contract.
3. Evaluate any potential conflicts of interest related to Contractor-1, including reviewing past procurements that involved Contractor-1, to determine if the procurement processes were fair and transparent and whether additional actions should be taken to resolve any identified issues.
4. Review the additional option years to determine if they are appropriate and compliant with applicable regulations.
5. Evaluate the lapses that occurred in the FBI's management and oversight of this contract. This evaluation should include determining the best course of action for resolving the \$4,928 payment discrepancy, while taking into consideration Contractor-1 receiving less than the firm-fixed-price amount on the relevant task orders. In addition, the FBI should analyze prior OIG-reported contract issues to determine if additional action is needed to enhance the FBI's contracting practices due to similar issues occurring in this contract.

# **APPENDIX 1: Objectives, Scope, and Methodology**

## **Objectives**

The objectives of this audit were to: (1) determine whether the FBI adhered to federal regulations during the contract award process; (2) assess the FBI's administration of the contract; and (3) assess the contractor's performance and compliance with the terms, conditions, laws, and regulations that have a material effect on this contract.

## **Scope and Methodology**

We reviewed Contract Number 15F06721D0002575 awarded in January 2021, and the associated task orders, by the FBI to Contractor-1 for ballistics research assistant services. The audit scope covered pre-award activities, such as the FBI's market research, sole-source justification, and contract solicitation; the FBI's post-award contract administration activities, such as oversight of contract performance and review of invoices; and Contractor-1's performance under the contract in accordance with the statement of work. To accomplish our objectives, we reviewed the contract file, relevant Federal Acquisition Regulation (FAR) requirements and FBI procedures applicable to the contract, and examples of work products from Contractor-1, as well as reconciled invoice and payment information received from Contractor-1 to FBI financial system data. We also interviewed the contractor, FBI Ballistic Research Facility (BRF) employees, and several other FBI personnel, including the Contract Specialist, a Contracting Officer's Representative, the Unit Chief of the FBI's Procurement Services Acquisition Unit, and various headquarters divisions. Additionally, we toured the BRF in Huntsville, Alabama.

## **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 obtained 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 to provide assurance on its internal control structure as a whole. FBI management is responsible for the establishment and maintenance of internal controls in accordance with OMB Circular A-123. Because we do not express an opinion on the FBI's internal control structure as a whole, we offer this statement solely for the information and use of the FBI.<sup>15</sup>

We assessed the design, implementation, and operating effectiveness of these internal controls and identified deficiencies that we believe could affect the FBI's ability to effectively manage its contracting

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<sup>15</sup> This restriction is not intended to limit the distribution of this report, which is a matter of public record. Along with this report, the OIG is issuing a memorandum to the FBI concerning certain additional information that the OIG deems sensitive and not for public release. No recommendations are included in the memorandum.

processes, 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 those internal control components and underlying principles that we found significant to the objectives of this audit, 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, records, procedures, and practices to obtain reasonable assurance that the FBI'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, the FBI's compliance with the following laws and regulations that could have a material effect on the FBI's operations:

- FAR Part 3: Improper Business Practices and Personal Conflicts of Interest
- FAR Part 6: Competition Requirements
- FAR Part 10: Market Research
- FAR Part 12: Acquisition of Commercial Products and Commercial Services
- FAR Part 15: Contracting By Negotiation
- FAR Part 16: Types of Contracts
- FAR Part 37: Service Contracting
- FAR Subpart 2.101: Definitions
- FAR Subpart 4.6: Contract Reporting
- FAR Subpart 9.5: Organizational and Consultant Conflicts of Interest
- FAR Subpart 32.7: Contract Funding

This testing included analyzing contract documents, interviewing Contractor-1 and FBI personnel, and reviewing contractor work products, invoices, and available supporting documentation. As noted in the Audit Results section of this report, we found that the FBI did not comply with federal regulations related to: (1) acquisition and procurement and (2) contract oversight and monitoring.

### **Computer-Processed Data**

During our audit, we obtained information from the FBI's Unified Financial Management System. We did not test the reliability of this system as a whole; therefore, any findings identified involving information from this system was verified with documentation from other sources.

## APPENDIX 2: OIG Report References with Previous Relevant Contract Findings

### Personal Services Contracts

U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), [\*Audit of the Federal Bureau of Investigation's Contract Awarded to TUVa, LLC for Subject Matter Expert Services\*](#), Audit Report 20-111 (September 2020), [oig.justice.gov/reports/audit-federal-bureau-investigations-contract-awarded-tuva-llc-subject-matter-expert](https://oig.justice.gov/reports/audit-federal-bureau-investigations-contract-awarded-tuva-llc-subject-matter-expert).

### Missing Whistleblower Rights Clause

DOJ OIG, [\*Audit of the Federal Bureau of Investigation's Biometric Algorithm Purchase Order Awarded to Idemia National Security Solutions, LLC\*](#), Audit Report 22-045 (February 2022), [oig.justice.gov/reports/audit-federal-bureau-investigations-biometric-algorithm-purchase-order-awarded-idemia](https://oig.justice.gov/reports/audit-federal-bureau-investigations-biometric-algorithm-purchase-order-awarded-idemia). Note that this report referenced the regulation applicable at the time, FAR 3.908-9. As of the November 14, 2023 update to the FAR, the applicable regulation is now FAR 3.906.

### Incorrect Information in the Federal Procurement Data System (FPDS)

DOJ OIG, [\*Audit of the Federal Bureau of Investigation's Fuel Procurement Contracts Awarded to the Petroleum Traders Corporation\*](#), Audit Report 16-25 (September 2016), [oig.justice.gov/reports/audit-federal-bureau-investigations-fuel-procurement-contracts-awarded-petroleum-traders](https://oig.justice.gov/reports/audit-federal-bureau-investigations-fuel-procurement-contracts-awarded-petroleum-traders).

DOJ OIG, [\*Audit of the Federal Bureau of Investigation's Aircraft Lease Contract Awarded to Midwest Jet Center, LLC, DBA Reynolds Jet Management\*](#), Audit Report 17-30 (July 2017), [oig.justice.gov/reports/audit-federal-bureau-investigations-aircraft-lease-contract-awarded-midwest-jet-center-llc](https://oig.justice.gov/reports/audit-federal-bureau-investigations-aircraft-lease-contract-awarded-midwest-jet-center-llc).

DOJ OIG, *Biometric Algorithm Purchase Order*.

### Inadequate Contractor Performance Assessment Report (CPAR)

DOJ OIG, [\*Audit of the Federal Bureau of Investigation's Oversight and Administration of the National Vehicle Lease Program and Its Contract with EAN Holdings, LLC\*](#), Audit Report 19-11 (March 2019), [oig.justice.gov/reports/audit-federal-bureau-investigations-oversight-and-administration-national-vehicle-lease](https://oig.justice.gov/reports/audit-federal-bureau-investigations-oversight-and-administration-national-vehicle-lease).

DOJ OIG, *Contract for Subject Matter Expert Services*.

DOJ OIG, *Biometric Algorithm Purchase Order*.

### Missing Contracting Officer's Representative (COR) Designation

DOJ OIG, *Contract for Subject Matter Expert Services*.

DOJ OIG, *Aircraft Lease Contract*.

## APPENDIX 3: The Federal Bureau of Investigation's Response to the Draft Audit Report



U.S. Department of Justice  
Federal Bureau of Investigation

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Washington, D. C. 20535-0001

August 20, 2024

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 Federal Bureau of Investigation's Contract for Ballistics Research Assistant Services.

We look forward to working with the Office of the Inspector General to address the concerns and recommendations provided in the report. The FBI recognizes the importance of complying with the relevant Federal Acquisition Regulation (FAR) requirements and FBI procedures applicable to the contract. The FBI will take corrective action and make necessary improvements. We appreciate your feedback as we continue this effort.

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 "Nicholas Dimos", is written over a horizontal line.

Nicholas Dimos  
Assistant Director  
Finance and Facilities Division



**The Federal Bureau of Investigation's Response to the  
Office of the Inspector General's Audit of the FBI's Contract for Ballistics Research  
Assistant**

**Recommendation 1:** The FBI will assess its contract award actions and take necessary steps to resolve the award-related deficiencies associated with the ballistics research assistant services contract.

**FBI Response to Recommendation 1:** The FBI concurs with the recommendation.

**Recommendation 2:** The FBI will determine how to appropriately remedy its management and use of an improper personal services contract.

**FBI Response to Recommendation 2:** The FBI concurs with the recommendation.

**Recommendation 3:** The FBI will evaluate any potential conflicts of interest related to Contractor-1, including reviewing past procurements that involved Contractor-1, to determine if the procurement processes were fair and transparent and whether additional actions should be taken to resolve any identified issues.

**FBI Response to Recommendation 3:** The FBI concurs with the recommendation.

**Recommendation 4:** The FBI will review the additional option years to determine if they are appropriate and compliant with applicable regulations.

**FBI Response to Recommendation 4:** The FBI concurs with the recommendation. The FBI has reviewed the option years for this contract. There are no more options on the current IDIQ, and three left on the task order. The FBI exercised option year one on the current task order; however, the FBI will not exercise the last three option years. The requirement will be evaluated for appropriateness of qualifications, a request for information posted, and the subsequent acquisition will be competed.

**Recommendation 5:** The FBI will evaluate the lapses that occurred in the FBI's management and oversight of this contract. This evaluation should include determining the best course of action for resolving the \$4,928 payment discrepancy, while taking into consideration Contractor-1 receiving less than the firm fixed-price amount on the relevant task orders. In addition, the FBI should analyze prior OIG-reported contract issues to determine if additional action is needed to enhance the FBI's contracting practices due to similar issues occurring in this contract.

**FBI Response to Recommendation 5:** The FBI concurs with the recommendation. The FBI has reviewed the vendor submitted invoices and notes the payment discrepancy that occurred during the task order change. The FBI will take action to resolve the discrepancy that may have occurred from the vendor entering the incorrect purchase order or the incorrect service dates.

Beginning with FY22, the FBI started to require the vendor to submit documentation for invoices for the current order. With regards to prior OIG-reported contract issues, the FBI has taken substantial steps to mitigate and address all concerns previously identified and has determined that no additional action is needed at this time.

## **APPENDIX 4: Office of the Inspector General Analysis and Summary of Actions Necessary to Close the Audit Report**

The Office of the Inspector General (OIG) provided a draft of this audit report to the Federal Bureau of Investigation (FBI) and Contractor-1. The FBI's response is incorporated in Appendix 3 of this final report. As none of the recommendations were directed to Contractor-1, Contractor-1 decided to not provide a formal response. In response to our audit report, the FBI concurred with our recommendations and discussed the actions it 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.

### **Recommendations for the FBI:**

- 1. Assess its contract award actions and take necessary steps to resolve the award-related deficiencies associated with the ballistics research assistant services contract.**

Resolved. The FBI concurred with our recommendation and stated that it will assess award actions and take necessary steps to address award deficiencies associated with the contract. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the FBI assessed its contract award actions and took necessary steps to resolve the award-related deficiencies associated with the ballistics research assistant services contract.

- 2. Determine how to appropriately remedy its management and use of an improper personal services contract.**

Resolved. The FBI concurred with our recommendation and stated it will determine how to appropriately remedy its management and use of an improper personal services contract. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the FBI appropriately remedies its management and use of an improper personal services contract.

- 3. Evaluate any potential conflicts of interest related to Contractor-1, including reviewing past procurements that involved Contractor-1, to determine if the procurement processes were fair and transparent and whether additional actions should be taken to resolve any identified issues.**

Resolved. The FBI concurred with our recommendation and stated it will perform the recommended evaluation. As a result, this recommendation is resolved.

This recommendation can be closed when we receive evidence that the FBI evaluated any potential conflicts of interest related to Contractor-1, including reviewing past procurements that involved Contractor-1, to determine if the procurement processes were fair and transparent and whether additional actions should be taken to resolve any identified issues.

**4. Review the additional option years to determine if they are appropriate and compliant with applicable regulations.**

Resolved. The FBI concurred with our recommendation. The FBI stated in its response that it reviewed the option years for this contract. While the FBI stated it exercised option year one on the current task order, the FBI also stated that it will not exercise the last three option years. In addition, the FBI stated that a subsequent acquisition for these services will be competed. As a result, this recommendation is resolved.

This recommendation can be closed when we receive documentation related to the FBI's review and determination not to exercise the last three option years of the task order.

**5. Evaluate the lapses that occurred in the FBI's management and oversight of this contract. This evaluation should include determining the best course of action for resolving the \$4,928 payment discrepancy, while taking into consideration Contractor-1 receiving less than the firm-fixed-price amount on the relevant task orders. In addition, the FBI should analyze prior OIG reported contract issues to determine if additional action is needed to enhance the FBI's contracting practices due to similar issues occurring in this contract.**

Resolved. The FBI concurred with our recommendation. The FBI stated in its response that it reviewed the vendor submitted invoices and noted the payment discrepancy that occurred during the task order change. The FBI stated that it will take action to resolve the discrepancy. The FBI also acknowledged that it has taken substantial steps to mitigate and address all concerns previously identified by the OIG and has determined that no additional action is needed at this time. As a result, this recommendation is resolved.

This recommendation can be closed when we receive documentation that the FBI evaluated the lapses that occurred in the FBI's management and oversight of this contract and determined the best course of action for resolving the \$4,928 payment discrepancy, while taking into consideration Contractor-1 receiving less than the firm-fixed-price amount on the relevant task orders. In addition, the FBI should provide evidence of the substantial steps it has taken to mitigate and address all concerns and contract issues previously reported by the OIG and also identified by the OIG as having occurred in this contract.