



Office of the Inspector General
U.S. Department of Justice



**Audit of the
United States Marshals Service's
Judicial Facility Security Program
Task Order DJM-13-A32-D-0066
Awarded to Akal Security, Inc.**

**AUDIT OF THE UNITED STATES MARSHALS SERVICE'S
JUDICIAL FACILITY SECURITY PROGRAM
TASK ORDER DJM-13-A32-D-0066 AWARDED TO
AKAL SECURITY, INC.**

EXECUTIVE SUMMARY

Akal Security, Inc. (Akal) is one of the largest providers of contract Judicial Security services, protecting 112 federal courthouses in 12 states. In May 2011, the United States Marshals Service (USMS) awarded to Akal an Indefinite Delivery/Indefinite Quantity time-and-materials (T&M) contract to provide court security services for federal courts within the Third U.S. Judicial Circuit. Through this contract, in November 2012, the USMS issued a task order, effective October 1, 2012, and nine subsequent modifications in the total amount of approximately \$5.8 million, for Akal to provide court security services specifically for the U.S. Eastern District Court of Pennsylvania, a court within the Third U.S. Judicial Circuit. We audited security services performed during fiscal year 2013 at the James A. Byrne U.S. Courthouse in Philadelphia, Pennsylvania, which reflected approximately \$3.9 million of the \$5.8 million total task order amount. The objective of this audit was to assess Akal's compliance with contract terms and conditions in the following areas: (1) incurred costs, (2) contract billings, and (3) contractor performance.

We determined that Akal's performance was satisfactory in the areas of Court Security Officer (CSO) performance monitoring, medical examinations, background checks, firearms qualifications, and training. However, we found that Akal did not account for its contract costs in sufficient detail, as required by the contract and the Federal Acquisition Regulation (FAR). As a result, neither the USMS nor we were able to identify and evaluate whether the costs incurred by Akal and billed to USMS were allowable and allocable. We believe that without detailed cost information, the ability of the USMS to mitigate the risks associated with T&M contracts is impaired, including the ability to identify whether effective cost controls are in place to limit material expenditures to the minimum cost required to perform the work in accordance with the terms stipulated in the contract.

We also found that Akal incorrectly billed the USMS for start-up costs, such as uniform expenses, medical examinations, and weapons qualification costs, using the contract ceiling rate instead of lower actual costs as required by the FAR for T&M contracts. We found that the actual start-up costs were \$19 lower per CSO than the costs charged by Akal, or \$1,271 for all 65 CSO positions that we audited in this task order from October 1, 2012, through September 30, 2013. Akal and the USMS stated that while our interpretation of the contract language is correct, the intent was to allow Akal to bill the USMS for start-up costs at the ceiling rate established in the contract.

USMS officials stated that tracking the start-up costs for each judicial district with a similar contract would be an administrative burden. Therefore, the USMS has since changed the contract type for these services to a labor hour-fixed price hybrid contract. Changing the type of contract to a labor hour contract, with a fixed-price element for start-up costs, eliminates the applicability of the FAR clause that requires that materials be reimbursed based on actual cost. USMS officials also stated that some contracted locations have higher start-up costs than others and believe that Akal, as the contractor for multiple judicial districts, has incurred costs that exceed the ceiling rate stated in the contract in some locations. Nevertheless, we believe that actual cost rates should be used rather than a ceiling rate since, even accepting the USMS's rationale, there is no assurance that Akal will maintain contracts in high cost areas in the future.

We discussed both the start-up and tracking issues with USMS officials who told us that while they agree that Akal did not comply with these contract requirements, the USMS does not intend to continue including these requirements in future CSO contracts. The USMS believes it can provide adequate oversight of contractor performance and exercise effective billing controls over contract security services by monitoring and preauthorizing the number of CSOs and associated hours necessary to perform the contract security work at each site in accordance with the requirements stated in each individual task order. As the objective of this audit was to determine Akal's compliance with the existing contract and not an evaluation of USMS future CSO contract policies, we do not take a position on USMS's response. However, we currently are conducting a separate audit of USMS's overall court security procurement practices and plan to assess the USMS's assertions as well as other USMS contracting practices related to its CSO program.

As a result of our findings in this audit, we make two recommendations to the USMS to help improve its oversight of the Akal contract. The USMS should: (1) determine whether Akal should implement internal controls that include changes to the way it uses its accounting system to track contract costs in sufficient detail to determine whether costs incurred are reasonable, applicable to the contract, and not prohibited by contract or regulation, or that the task order be modified so that the requirement no longer exists; and (2) determine whether Akal billings for start-up costs should be based on actual costs or ceiling rates specified in the contract when a T&M contract is issued.

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INTRODUCTION

The Department of Justice Office of the Inspector General (OIG), completed an audit of the USMS Task Order DJM-13-A32-D-0066 and nine subsequent modifications awarded to Akal Security, Inc. The purpose of this task order is to provide security services for the Third Judicial Circuit, U.S. Eastern District Court of Pennsylvania, James A. Byrne U.S. Courthouse in Philadelphia, Pennsylvania.¹ The task order, effective October 1, 2012, and the nine subsequent modifications, has a value totaling \$5.8 million. The security services we audited were limited to the James A. Byrne U.S. Courthouse and amounted to approximately \$3.9 million of the total task order and modifications amount.²

United States Marshals Service

The USMS is the primary provider of court security services to the federal judiciary. The USMS's Judicial Facilities Security Program, which is administered by USMS headquarters and funded by the federal judiciary, provides 2 primary services to more than 400 United States federal court facilities nationwide: (1) court security officers (CSO), and (2) security systems and equipment. The USMS contracts with private security firms to provide the CSOs that ensure the safety of all federal courts and court employees against unauthorized, illegal, and potentially life-threatening activities.

The USMS oversees the daily operation and management of court security services performed by more than 5,000 CSOs within the 94 U.S. District Courts and 13 federal judicial circuits of the U.S. Court of Appeals. There are approximately 440 court locations under USMS protection and approximately 2,200 federal judges that preside over these courtrooms. The number of court-related officials, including U.S. Attorneys, Assistant U.S. Attorneys, and other DOJ and judicial branch employees, working within these locations is approximately 10,000.

¹ Court security officer duties include screening visitors and packages, monitoring security systems, roving patrols of the interior and perimeter of the courthouse, and protecting federal judges. In addition, court security officers must meet minimum qualification standards as specified in the contract, including 3 years of verifiable experience as a certified law enforcement officer or its military equivalent, provided the experience includes general arrest authority.

² The James A. Byrne U.S. Courthouse is one of four federal courthouses in the Eastern District of Pennsylvania covered by this task order and comprises 68 percent of the total task order.

Akal Security, Inc.

Established in 1980, Akal Security, Inc. (Akal) is one of the largest contract security companies in the United States and one of the largest providers of contracted federal judicial security services, protecting 112 federal courthouses in 12 states.³ Akal specializes in providing security for federal government facilities, state and local government agencies, and military installations. Akal presently has contracts with the Department of Homeland Security, Department of Defense, Department of Transportation, Department of State, commercial and public transportation entities in several states, and other clients in the private sector.

Task Order DJM-13-A32-D-0066

In May 2011, the USMS awarded contract DJMS-11-D-0503, an Indefinite Delivery/Indefinite Quantity (IDIQ) time-and-materials (T&M) contract for an estimated \$116.7 million to Akal, with four option years extending through fiscal year (FY) 2016. The purpose of this IDIQ contract is to provide court security services to federal courthouses within the Third Judicial Circuit.⁴ The USMS issued task order DJM-13-A32-D-0066 and nine subsequent modifications in the amount of approximately \$5.8 million under this contract for the U.S. Eastern District Court of Pennsylvania within the Third U.S. Judicial Circuit. We audited the court security services Akal provided at the James A. Byrne U.S. Courthouse in Philadelphia, Pennsylvania, which comprised approximately \$3.9 million of the total task order.

Office of the Inspector General Audit Approach

The objectives of our audit were to assess Akal compliance with the terms of the contract and determine whether: (1) incurred costs are reasonable, allocable to the contract, and allowable as defined by the terms of the task order, the Federal Acquisition Regulation (FAR), and internal control standards; (2) contract billings are properly supported and calculated using rates established by the contract; and (3) the contractor provided services in compliance with performance standards stated in the contract.

³ Akal Security, "Our Customers," <http://akalsecurity.com/our-customers/>, states that Akal 'is the largest provider of contract Judicial Security services, protecting 300 federal courthouses in 40 states.' However, Akal officials told us that they plan to update their website to state that they are no longer the largest provider of these services and report that they protect 112 federal courthouses in 12 states.

⁴ The Third U.S. Judicial Circuit encompasses the districts of Delaware; New Jersey; Eastern, Middle, and Western Pennsylvania; and the Virgin Islands. The Eastern District of Pennsylvania has five staffed courthouse locations: the James A. Byrne U.S. Courthouse in Philadelphia, the Robert N.C. Nix Federal Building in Philadelphia, the Edward N. Cahn U.S. Courthouse and Federal Building in Allentown, the Madison Building in Reading, and the Holmes Building in Easton. However, the Easton location was not included in this task order or the nine subsequent modifications.

FINDINGS AND RECOMMENDATIONS

We determined that Akal's performance was satisfactory in the areas we tested, including CSO performance monitoring, medical examinations, background checks, firearms qualifications, and training. However, Akal was not able to provide actual cost information in sufficient detail to determine whether costs incurred were allowable, allocable, and monitored appropriately. We also found that Akal billed the USMS for start-up costs using a ceiling rate provided in the task order rather than actual, lower costs incurred, as required by the terms of the contract. As a result, there is an increased risk that due to the inherent risks associated with a T&M contract, USMS oversight of contractor performance does not provide reasonable assurance that Akal is using effective cost controls to limit expenditures to the minimum cost required to perform the work in accordance with the terms stipulated in the contract. In addition, the lack of detailed cost data increases the risk that costs billed to the task order may not be allocable or allowable under the terms of the contract.

Incurred Costs

The USMS task order awarded to Akal was a T&M task order, which contains materials such as uniforms and other direct costs. This type of contract provides for acquiring services on the basis of direct labor hours at specified fixed hourly rates that include wages, overhead, general and administrative expenses and profit; and the actual cost for materials. According to FAR 16.601(c)(1), T&M contracts are considered the least preferable because such contracts provide no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, appropriate government surveillance of contractor performance is required to give reasonable assurance that efficient methods and effective cost controls are being used. T&M contracts may only be used when it is not possible, at the time of placing the contract, to estimate accurately the extent or duration of the work, or to anticipate costs with any reasonable degree of confidence.⁵

To determine whether costs incurred related to this task order are allowable, allocable, and reasonable, we asked Akal to provide documentation to support the costs incurred during the performance of this contract at the James A. Byrne U.S. Courthouse in Philadelphia, Pennsylvania during FY 2013. Akal officials told us that their accounting system is not designed to provide cost data at the level of detail we requested for costs incurred. During our review of the task order, we found that the USMS included a clause in the task order requiring Akal to comply with FAR 52.215-2, which reserves the Contracting Officer's right "to examine and audit all records and other evidence sufficient to reflect properly all costs claimed to have been incurred or anticipated to be incurred directly or indirectly in performance of this contract." The task order also included a FAR 52.216-7(d)(2)(i) clause, which

⁵ FAR Clause 16.601(c), *Time-and-materials contracts*.

requires the contractor to “submit an adequate final indirect cost rate proposal” to the USMS 6 months after the contractor’s fiscal year end. In accordance with FAR 52.216-7(d)(2)(iii)(h), this proposal should also include a *Schedule of Direct Costs by Contract and Subcontract*. Akal did not deliver an indirect cost rate proposal or a schedule of costs by contract and subcontract to the USMS as required by the terms of the contract.

We did not audit the costs incurred under task order DJM-13-A32-D-0066 and its nine subsequent modifications because Akal did not design and implement accounting practices and procedures to record transactions at a detailed level sufficient enough to capture the costs incurred for each element in the task order. We discussed our audit process with Akal and specifically explained that we first define the universe of transactions that make up each cost element under the task order. Subsidiary ledgers are then used to identify transactions related to each cost element that is pertinent to the task order in order to define the universe and select a sample to test for allowability, allocability, and reasonableness. We explained that, due to the deficiencies in Akal’s bookkeeping practices, we were not able to do this with regard to this task order.

We discussed this issue with USMS contracting officials who told us that they do not consider cost information necessary for approving billings or otherwise monitoring contractor performance for the reason discussed below. However, USMS officials did agree that Akal did not comply with the aforementioned FAR clauses that were included in the IDIQ contract. They told us that the clauses in the IDIQ contract requiring compliance with FAR 52.215-2 and FAR 52.216-7 will be reviewed to determine if these clauses should be included in future IDIQ contracts and task orders, since the current contract is now a hybrid labor hour-fixed price contract. A labor hour contract is a variation of a T&M contract, differing only in that materials are not supplied by the contractor. The fixed-price portion of the start-up costs can be justified because all items purchased in the task orders will be commercial in nature, which is allowable per FAR 16.201 (a). Changing the type of contract to a labor hour contract, with a fixed-price element for start-up costs, will eliminate the need for FAR clause 16.601(b)(2), which requires that materials be reimbursed based on actual cost.

Although both USMS and Akal officials maintain that cost information is not necessary to provide adequate oversight of this contract, the OIG does not agree. Due to the inherent risk of overspending associated with T&M contracts, we believe these contracts should include clauses to safeguard records and audit rights, provide insight into contractor costs, and ensure that costs are appropriately monitored. USMS officials stated that they are able to provide adequate oversight of contractor performance and billing controls of T&M contracts by monitoring and preauthorizing the number of CSOs and associated hours necessary to perform the contract security work in accordance with the requirements stated in the task order. However, we believe that detailed cost data is critical for mitigating the inherent risks associated with T&M contracts and proper oversight of cost controls. During our post audit discussions, Akal told us that they are updating their accounting system to capture the detailed information. As mentioned above, the USMS has changed the contract type from T&M to a labor hour-fixed price hybrid contract,

which it believes eliminates the need for the aforementioned FAR clauses. We are currently conducting a separate audit of the USMS's overall court security procurement practices and plan to assess the USMS's assertions as well as other USMS contracting practices related to its CSO program.

Contract Billings

We found that contractor invoices were paid promptly and that contractor billings for labor and travel were calculated accurately, invoiced, authorized, and supported by proper documentation. However, we found that start-up costs were billed using the maximum ceiling rate specified in the contract rather than the actual costs incurred as required by the task order and FAR 16.601(b)(2). Start-up costs include annual contractor expenditures for CSO uniforms, weapons qualifications and range costs, and medical examinations required to demonstrate that the CSO meets performance standards described in the contract to establish that CSOs are fit for duty.

To ensure that the contractor's billings were accurate and complete, we reviewed a sample of the 34 monthly invoices totaling \$5.8 million that Akal submitted to the USMS for payment. The invoices were for CSO Labor, start-up costs, and travel costs provided between October 2012 and September 2013 under task order DJM-13-A32-0066 and its nine subsequent modifications. Table 1 shows a breakdown of the expense categories and the corresponding amounts billed.

Table 1
Expenses and Amounts Billed to the USMS
Between October 2012 and September 2013

Expense Categories	Task Order Amount	Audited Amount
CSO Labor	\$5,760,000	\$3,903,000
Start-up	\$44,000	\$35,000
Travel	\$6,000	\$5,600
Total	\$5,810,000	\$3,943,600

Source: OIG analysis of USMS and Akal data

We found that Akal correctly used the labor rates stated in the contract for the 65 CSO positions providing services under this task order that we audited.⁶ We also determined that labor hours billed were supported by Akal's CSO time and attendance system and we verified that the CSOs were paid for the hours worked. Our analysis did not identify any material discrepancies with the calculations or accuracy of the labor expenses.

However, we found that Akal incorrectly billed the USMS for start-up costs using the maximum ceiling rate awarded in the task order instead of actual cost

⁶ For the period we audited, the contract covered 65 CSO positions and 66 individuals filled those positions. During the period, one individual left the CSO position and the position was backfilled.

incurred as required by the task order and FAR 16.601(b)(2). For example, during our review of Akal's payment records we found that the difference between the amount billed and the actual costs incurred was approximately \$19 per CSO, or \$1,271 for all 65 CSO positions that we audited in this task order from October 1, 2012, through September 30, 2013. Although this amount is relatively small when compared to the total cost of this contract, it is unallowable under the terms of the task order and the FAR.

We discussed our finding with USMS contracting officials and who stated their intent was to treat these costs as fixed price items because they are relatively immaterial in nature and tracking the costs would be an administrative burden that would consume too many resources to track the many different areas where the costs are incurred across the country. In addition, USMS officials told us that some contracted locations have higher start-up costs than others and believe that Akal, as the contractor for multiple districts, has incurred costs that exceed the ceiling rate stated in the contract in some locations. In this regard, we believe that actual cost rates should be used since there is no assurance that Akal will maintain such contracts, in high or low cost areas in the future.

USMS contracting officials stated that they have revised the language in future task order awards to ensure that the contractor is allowed to bill for start-up costs based on amounts negotiated in the task orders. USMS officials further stated that the task order was awarded after full and open competition, which established reasonableness of the billing start-up costs using the ceiling rate.

We believe that although the difference between the actual start-up costs incurred and the amount billed is immaterial, the contractor should review the current and future task orders to ensure the contract terms and conditions reflect the intent to bill start-up costs at a fixed rate.

We also found that travel expenses related to CSO training are authorized under the task order and were appropriately billed based on actual travel expenses incurred. We reviewed Akal invoices and payment documentation and determined that CSO travel activities billed were reasonable and necessary in the performance of the court security services under the task order. Our analysis did not identify any material discrepancies with the calculations or accuracy of the travel expenses.

Contractor Performance

The purpose of this task order is to provide qualified CSOs at four locations in the Eastern District of Pennsylvania to assist the USMS with securing the federal courts and the safety of court employees against unauthorized, illegal, and potentially life-threatening activities. We found that the court security services provided by Akal complied with the terms, conditions, and performance standards in the task order related to: (1) monitoring CSO performance, (2) medical examinations, (3) background checks, (4) firearms proficiency, and (5) training.

Monitoring CSO Performance

This evaluation included interviews of James A. Byrne U.S. Courthouse and USMS personnel who observe CSOs on a daily basis and reviews of USMS reports related to disciplinary actions taken against CSOs. We found that USMS Judicial Security Inspectors are on site and monitor the CSOs. They maintain daily logs of the hours worked by each CSO and incident reports. We reviewed Judicial Security Inspectors logs and reports and found that the logs and reports documented Judicial Security Inspectors' oversight and monitoring of a random sample of 12 of the 66 individuals who worked as CSOs during the contract performance period. The reports described instances of insubordination and disciplinary actions related to abandonment of post, sleeping in the James A. Byrne U.S. Courthouse while on duty, and a negligent discharge of a firearm while on post. We verified that immediate actions were taken to address the instances of misconduct and found Akal's responses to the incidents were reasonable. While these reports of misconduct are concerning, they appear to be isolated incidents, since the courthouse is manned 24 hours a day and 7 days a week, utilizing 65 different CSO positions working on the task order during the audited period of performance. Therefore, we do not believe the incidents noted indicate systemic issues or poor CSO conduct in general.

This was confirmed by our interviews with the USMS and James A. Byrne U.S. Courthouse personnel who observe CSOs working on a daily basis. All of the personnel we interviewed, who included a federal judge and courtroom clerks, consistently told us that the CSOs they interacted with or observed were routinely conducting themselves in a professional manner.

As described below, to evaluate whether Akal provided CSOs that were qualified as defined by the IDIQ contract, we inspected records regarding CSO medical examinations, background checks, firearms proficiency, and training.

Medical Examination

To ensure that each CSO is medically qualified to perform their duties, each prospective CSO is required to complete a medical examination and meet all of the medical requirements stipulated in the governing contract, the IDIQ contract. Thereafter, Akal is required to ensure that each CSO undergoes and passes subsequent annual examination within 1 year of his or her last examination date to ensure continued fitness for duty.

We reviewed employee files for 13 CSOs working at the James A. Byrne U.S. Courthouse to ascertain if the medical examination followed the contract provisions as noted above and all required forms were completed. We also interviewed the CSOs to ensure they were aware of the medical requirements and followed the process as described in the IDIQ contract.

We found that all required medical forms were in the employee files we reviewed and that the CSOs were aware of the medical requirements as described in the IDIQ contract.

Background Check

The IDIQ contract requires that Akal conduct a preliminary background check on all applicants before they start work as a CSO, unless the Chief of the Office of Court Security at the USMS provides written authorization to the Contracting Officer to hire the CSO while the background check is still in process. The CSO applicant must complete an application package and answer questions regarding their eligibility. The contractor must also complete, certify, and submit a form to the USMS Contracting Officer to ensure a proper investigation of the applicant has occurred.

We reviewed the files of 13 CSOs working at the James A. Byrne U.S. Courthouse to determine whether a background investigation was conducted in accordance with the contract provisions. Nine CSOs were employed by the previous contractor when Akal assumed the contract in February 2012. The USMS Contracting Officer certified that the incumbent CSOs were qualified to work on this contract based on background checks conducted under a prior contract and still valid for the current IDIQ contract.

We also determined that Akal hired 3 of the 13 CSOs after February 2012 and that background checks were either completed or are in process.

Firearms Qualification

CSOs carry firearms during the performance of their duties. The IDIQ contract requires that Akal annually test both current and prospective CSOs to determine weapons-handling proficiency. In order to be eligible to perform in a CSO capacity, the individuals must successfully pass the weapons proficiency test in accordance with the USMS's policy.

The IDIQ contract requires all tests be administered by a certified firearm instructor and comply with the requirements documented in the CSO Semi-Auto Handgun Qualification Course form. The actual testing must be conducted with the CSO's United States government issued weapon. We reviewed the records for 12 CSOs and determined that all had met the qualifications standards within the past 12 months. The Site Supervisor was included in the 13 CSOs in our sample, but is not allowed or required to carry a firearm, so he was excluded from this review.

Training

The IDIQ contract also requires CSOs employed by Akal complete two training sessions at the start of employment. The first training session addresses basic policy and procedure as well as shadowing an experienced CSO. The second training session is a 3-day hands-on training course at a Federal Law Enforcement Training Center. We verified that all currently employed CSOs tested in our sample attended both training sessions.

Annual refresher training required by the IDIQ contract consists of in-house sessions performed at the James A. Byrne U.S. Courthouse, which includes updates

on performance standards, new screening techniques, and other USMS-required training.

Conclusion

We found that although contractor performance was satisfactory, Akal was not able to provide actual cost information in sufficient detail as required by the task order and the FAR to provide insight into contractor costs and ensure that costs are monitored appropriately by the government. We also found that Akal billed USMS for start-up costs using the ceiling rate established in the task order rather than actual costs incurred as required by the task order and the FAR.

We discussed both of these issues with USMS officials who told us that while they agree that Akal did not comply with these contract requirements, USMS does not intend to continue including these requirements in future CSO contracts because the USMS believes that it can provide adequate oversight of contractor performance and billing controls over court security services by monitoring and preauthorizing the number of CSOs and associated hours necessary to perform the contract security work at each site in accordance with the requirements stated in each task order. USMS officials also stated that they will review FAR 52.215-2 and FAR 52.216-7 to determine if the cost reporting requirements contained in these clauses should be included in future IDIQ contracts and task orders. As the objective of this audit was to determine Akal's compliance with the contract and not an evaluation of USMS CSO contract policies, we have not taken a position on USMS's response. However, we are currently conducting a separate audit of USMS's overall court security procurement practices and plan to assess the USMS's assertions as well as other USMS contracting practices related to its CSO program.

Recommendations

We recommend that the USMS:

1. Determine whether Akal should implement internal controls, that include changes to the way it uses its accounting system to track incurred costs in sufficient detail to determine whether incurred costs are reasonable, allocable to the contract or task order, and not prohibited by contract or regulation, or whether the contract provision requiring Akal to implement such a system be removed from the task order, and ensure the determination is implemented as needed.
2. Determine whether Akal billings for start-up costs should be based on actual costs or ceiling rates as required in all T&M contracts.

STATEMENT ON INTERNAL CONTROLS

As required by the *Government Auditing Standards*, we tested, as appropriate, internal controls significant within the context of our audit objectives. A deficiency in an internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to timely prevent or detect: (1) impairments to the effectiveness and efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations. Our evaluation of Akal Security, Inc.'s (Akal) internal controls was *not* made for the purpose of providing assurance on its internal control structure as a whole. Akal management is responsible for the establishment and maintenance of internal controls.

As noted in the Findings and Recommendations section of this report, we identified deficiencies in Akal's internal controls that are significant within the context of the audit objectives and based upon the audit work performed that we believe adversely affect Akal's ability to track incurred costs in sufficient detail to determine whether incurred costs are reasonable, allocable to the contract or task order, and not prohibited by contract or regulation. We also noted Akal billings for start-up costs are based on the ceiling rates specified in the contract, rather than actual cost.

Because we are not expressing an opinion on Akal's internal control structure as a whole, this statement is intended solely for the information and use of Akal's. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards* we tested, as appropriate given our audit scope and objectives, selected transactions, records, procedures, and practices, to obtain reasonable assurance that Akal Security, Inc.'s (Akal) management complied with federal laws and regulations, for which noncompliance, in our judgment, could have a material effect on the results of our audit. Akal's management is responsible for ensuring compliance with applicable federal laws and regulations. In planning our audit, we identified the following laws and regulations that concerned the operations of the auditee and that were significant within the context of the audit objectives:

- Federal Acquisition Regulation (FAR) 52.215-2
- FAR 52.216-7
- FAR 16.601(b)(2)
- FAR 16.601(c)(1)
- FAR 52.242-4

Our audit included examining, on a test basis, Akal's compliance with the aforementioned laws and regulations that could have a material effect on Akal's operations, through inspection of accounting and personnel records, interviews with Akal personnel, as well as United States Marshals Services personnel. As noted in the Findings and Recommendations section of this report, we found that Akal did not comply with the above noted FAR clauses that were required by the Indefinite Delivery/Indefinite Quantity contract.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objectives

The objectives were to assess Akal Security, Inc. (Akal) compliance with the terms of the contract and determine whether: (1) incurred costs are reasonable, allocable to the contract, and allowable as defined by the terms of the task order, the Federal Acquisition Regulation (FAR), and internal control standards; (2) contract billings are properly supported and calculated using rates established by the contract; and (3) contractor provided services in compliance with performance standards stated in the contract.

Scope and Methodology

We conducted this contract audit in accordance with generally accepted government auditing standards. These 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 provided a reasonable basis for our findings and conclusions based on our audit objectives. In conducting our audit, we interviewed officials at the United States Marshals Service and Akal; and James A. Byrne U.S. Courthouse personnel.

To determine whether incurred costs were reasonable, allocable to the contract, and allowable as defined by the terms of the task order, the FAR, and internal control standards, we randomly selected and reviewed a judgmental sample of billing invoices, timesheets and other evidential matter to ensure the costs existed, and tested payments to bank statements, since cost data was not available. We alternatively utilized invoices, instead of the cost data that was not provided, to test payroll and labor, start-up costs (medical examinations, range costs, and uniforms), and travel transactions to determine if the transactions were in compliance within the contract provisions and the FAR. We could not evaluate whether the costs incurred were allowable and allocable to the task order because detailed cost data was not provided.

To determine whether contract billings were properly supported and calculated using rates established by the contract, we randomly selected and reviewed a judgmental sample of billing invoices to ensure there were no cost overruns on the task order by reconciling the billing amounts to the task order amounts. We also verified the accuracy of the amounts billed by tracing the invoice amounts to the line items in the contract.

To determine whether the contractor provided services in compliance with performance standards required in the contract, we interviewed Akal personnel, Court Security Officers (CSO), and James A. Byrne U.S. Courthouse personnel. We also selected a judgmental sample of CSO personnel files to ensure that Akal's procurement of CSOs adhered to contract requirements, including background checks, weapons qualifications, medical requirements, training and orientation requirements, and 3 years of law enforcement experience. Our sample selection

methodologies were not designed with the intent of projecting our results to the populations from which the samples were selected.

**UNITED STATES MARSHALS SERVICE'S RESPONSE
TO THE DRAFT AUDIT REPORT**



U.S. Department of Justice

United States Marshals Service

Office of the Associate Director for Operations

Washington, DC 20530-0001

September 7, 2016

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

FROM: William Snelson *W. S. Snelson*
Associate Director for Operations

SUBJECT: Response to Draft Audit Report: Audit of the United States
Marshals Service's Judicial Facility Security Program Task Order
DJM-13-A32-D-0066 Awarded to Akal Security, Inc.

This memorandum is in response to correspondence from the Office of the Inspector General requesting comment on the recommendations associated with the subject draft audit report. Please find attached our response.

Should you have any questions or concerns regarding this response, please contact Andrew Barker, Audit Liaison, at 202-307-3435.

Attachment

cc: Carlos Uriarte
Associate Deputy Attorney General

Richard Theis
Audit Liaison Group
Internal Review and Evaluation Office
Justice Management Division

Andrew Barker
External Audit Liaison
United States Marshals Service

Response to Recommendations
Audit of the United States Marshals Service's
Judicial Facility Security Program
Task Order DJM-12-A32-D-0066 Awarded
to Akal Security, Inc.

Recommendation 1: Determine whether Akal should implement internal controls, that include changes to the way it uses its accounting system to track incurred costs in sufficient detail to determine whether incurred costs are reasonable, allocable to the contract or task order, and not prohibited by contract or regulation, or whether the contract provision requiring Akal to implement such a system be removed from the task order, and ensure the determination is implemented as needed.

USMS Response: The United States Marshals Service (USMS) awarded contract DJM-11-D-0503 to Akal Security in 2012. This contract was awarded as an ID/IQ, time and material/labor hour contract with firm-fixed pricing for all elements except travel (which are based on actual costs in alignment with FTR). Subsequently, Task Order DJM-13-A32-D-0066 was issued from this contract. The procurement was a negotiated, competitive procurement, which would preclude the need for cost data pursuant to FAR 15.403. FAR 15.403-1 states, *Prohibition on obtaining certified cost or pricing data*, paragraph (b)1 exceptions to the requirement for certified cost or pricing are granted when, "prices agreed upon are based on adequate price competition."

The referenced FAR clauses FAR 52.215-2 and 52.216-7, requiring the contractors to implement a cost accounting system, were added in error and the USMS has modified the contracts to remove these clauses. This awarded contract meets the requirements of FAR 15.403-1, for adequate price competition.

Recommendation 2: Determine whether Akal billings for start-up costs should be based on actual costs or ceiling rates as required in all T&M contracts.

USMS Response: At the time of award, the contract stated, "The Government is responsible for paying the actual start-up cost for each LCSO and CSO for each contract period up to the limit specified herein." However, the USMS' intent was for start-up to be billed based on the proposed fixed-price ceiling rates.

Currently, the Court Security Officers (CSO) contracts state, "Under this contract, start-up costs are considered to be incidental commercial services and supplies and as such are priced as firm fixed-priced items and are not subject to an annual price adjustment under Fair Labor Standards Act and Service Contract Act." Start-up costs are firm fixed-priced items to be invoiced at the fixed price.

The USMS will be modifying all CSO contracts to reflect the most current language that start-up costs should be billed at the fixed price.

**AKAL SECURITY, INC.'s RESPONSE
TO THE DRAFT AUDIT REPORT**



**AKAL
SECURITY**

7 Infinity Loop, Espanola, New Mexico 87532 (505) 692-6600 • An Akal Group Company

August 25, 2016

Jason R. Malmstrom, Assistant Inspector General for Audit
US Department of Justice
Office of the Inspector General
701 Market Street, Suite 201
Philadelphia, PA 19106

Subj: Akal Written Response to Draft Audit Report,

Dear Mr. Malmstrom,

Akal Security, Inc. ("Akal") has been a provider of contract Judicial Security services for the United States Marshals Service ("USMS") for over twenty-three years. Akal years of experience, encompassing thousands of Court Security Officers allows us to continue meeting and exceeding the requirements of the USMS while bringing a high quality service and improving efficiency and cost control across the program.

The Department of Justice Office of Inspector General provided two recommendations to the USMS as a result of the audit conducted with Akal; first was regarding internal cost controls related to Akal's accounting system, second was related to the billing process for start-up costs under the subject contract for the Third Judicial Circuit.

Since this contract period, Akal has implemented full utilization the capabilities of its enterprise system to track expenses at a task order and site level. Additionally, the company has implemented new processes and procedures with its vendors to segregate costs at the task order and site level for better accountability.

Sincerely,

A handwritten signature in black ink, appearing to read "R. Chad Riebsomer".

R. Chad Riebsomer
Director, Contract Administration
Akal Group of Companies

I N G O D W E T R U S T

**OFFICE OF THE INSPECTOR GENERAL
ANALYSIS AND SUMMARY OF ACTIONS
NECESSARY TO CLOSE THE REPORT**

The Office of the Inspector General (OIG) provided a draft of this audit report to Akal Security, Inc. (Akal) and the United States Marshals Service (USMS). The USMS's response is incorporated in Appendix 2 of this final report and Akal's response is incorporated in Appendix 3. The following provides the OIG analysis of the response and summary of actions necessary to close the report.

Recommendations:

- 1. Determine whether Akal should implement internal controls, that include changes to the way it uses its accounting system to track incurred costs in sufficient detail to determine whether incurred costs are reasonable, allocable to the contract or task order, and not prohibited by contract or regulation, or whether the contract provision requiring Akal to implement such a system be removed from the task order, and ensure the determination is implemented as needed.**

Resolved. In its response to our report, the USMS did not state specifically whether it agreed with the recommendation. However, the USMS stated that the contract clauses requiring detail incurred cost information were erroneously included in its contracts with Akal, and it has since modified the contract to remove the clauses. Although the USMS did not intend to include the clause in the contract because it does not believe the cost information was necessary, the clause was included in the contract at the time the task order was awarded and therefore was required to be followed.

In its response to our report, Akal did not state specifically whether it agreed with the recommendation. However, Akal stated that it has implemented full utilization of the capabilities of its enterprise system to track and segregate expenses at a task order and site level. We believe that Akal's stated action will advance the resolution of the recommendation.

As a result of USMS's and Akal's stated actions, we consider this recommendation resolved. This recommendation can be closed when USMS demonstrates that it has implemented proper internal controls to ensure that appropriate FAR clauses, by contract type, are included in its future task orders. Further, USMS should ensure, and provide us support, that Akal has demonstrated its ability to segregate and track contract expenses at the task order and site level.

2. Determine whether Akal billings for start-up costs should be based on actual costs or ceiling rates as required in all T&M contracts.

Resolved. In the USMS's response to our report, it did not state specifically whether it agreed with the recommendation. However, the USMS stated that although the contract stated that the government would pay actual start-up costs for each Court Security Officer, the intent was for start-up costs to be billed based on the proposed fixed-price ceiling rates included in the contract. The USMS further stated that it will modify all Court Security Officer contracts to reflect that start-up costs should be billed at the fixed-price rate.

In its response to our report, Akal did not state specifically whether it agreed with the recommendation. However, Akal stated that it has implemented new processes and procedures with its vendors to segregate costs at the task order and site level for better accountability.

We determined that the USMS's and Akal's stated actions should remedy the issues we identified concerning start-up costs. As a result, we consider this recommendation resolved. To close this recommendation, the USMS should provide us with documentation demonstrating that future start-up costs are a firm fixed-price contract item.

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