Audit of the Drug Enforcement Administration's Diversion Control Support Task Orders Awarded to Ocean Bay Information and Systems Management, LLC

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AUDIT DIVISION

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The Office of the Inspector General has redacted procurement-sensitive information that cannot be publicly released. Redactions were also made for privacy reasons and are contained only in Appendix 6, the auditee's response, and are of an individual's phone number.

EXECUTIVE SUMMARY

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Objectives

The Department of Justice (DOJ) Office of the Inspector General (OIG) audited four task orders, totaling $20 million, that the Drug Enforcement Administration (DEA) issued to Ocean Bay Information and Systems Management, LLC (Ocean Bay) as of December 2022. The task orders were issued under an Indefinite Delivery/Indefinite Quantity contract vehicle (ID/IQ) that supports the DEA's Diversion Control Program (DCP). Our objectives were to assess: (1) the DEA's task order administration; and (2) Ocean Bay's performance and compliance with applicable terms, conditions, laws, and regulations.

Results in Brief

While Ocean Bay and its subcontractor generally provided DEA with the contractually agreed-upon services, we could not confirm that the contract workers only engaged in diversion-related activities that were allowable and consistent with the positions for which they were hired. We also could not determine whether the services provided contributed meaningfully to the overall DCP. We identified several concerns with the DEA's and Ocean Bay's compliance with laws, regulations, and policies governing service contracts like the 2022 DCP ID/IQ. We determined that these issues resulted from the DEA's insufficient acquisition planning, deficient post-award administration of the task orders, and contracting office being 83 percent understaffed. For example, the DEA did not: (1) complete a required pre-award assessment of the prospective services and (2) properly designate the DEA personnel who served as task monitor equivalents or train them on contracting authority and its limitations related to their duties. We also identified potential funds to be put to better use related to the DEA's payment for services from contract workers who did not meet position qualifications due to the DEA's misapplication of contract flexibilities. The DEA also paid travel costs that Ocean Bay billed without required pre-approvals and underpaid some contract workers due to not consulting federal labor experts.

Audit Results

The DEA is responsible for the planning and operation of the DCP and its self-sustaining Diversion Control Fee Account (DCFA). For at least 20 years, the DEA has relied on contractors to fulfill its DCP responsibilities because, as stated in the DEA's acquisition planning documents, the DEA lacks the "requisite skill-mix and labor force sufficient to meet the challenges of planning and executing the DCP effectively...without contract support..."

In April 2022, to support the DCP, the DEA leveraged the DCFA and the Small Business Administration's (SBA) 8(a) Business Development Program (the 8(a) Program) to award Ocean Bay the 2022 DCP ID/IQ (Contract Number 15DDHQ22D00000001). The 2022 DCP ID/IQ had a base year, with 4 option years, and a contract ceiling of $156 million. As of December 2022, the DEA had issued four time-and-materials task orders, totaling $20 million, to Ocean Bay and its subcontractor Bennett Aerospace (Bennett) for the services of over 150 contract workers at DEA offices across the United States and Puerto Rico. Our audit examined the services performed via 15 labor categories under these task orders in support of the DEA's diversion activities and investigations.

As described below, we identified several concerns regarding compliance with laws, regulations, and policies applicable to the 2022 DCP ID/IQ and its task orders, which appear partly rooted in the DEA's insufficient planning and communication to its personnel to prepare them for post-award administration of the blended government-contractor workforce. Many of our concerns reflect the DEA's departure from corrective actions that the DEA agreed to take following prior OIG audits, which led to the closure of recommendations in the: (1) 2018 report on the DEA's financial investigative task orders supporting the Asset Forfeiture Program, (2) 2020 DOJ-wide management advisory on contract administration and oversight, and (3) 2021 report on the DEA's Laboratory Information Management System support contracts.

Prohibitions on Contractors Performing Inherently Governmental Functions and Assigning Contractors to Work on non-DCP Matters

Although the Controlled Substances Act allows the DEA to contract for certain diversion-related activities, it does not supplant the Federal Acquisition Regulation's (FAR) prohibitions on contractors performing inherently governmental functions and personal services. Previous OIG audits have identified concerns with the DEA's use of contractors to perform inherently governmental functions. In this audit we found similar issues in that some of the Ocean Bay and Bennett contract workers were assigned by the DEA to tasks, or put in situations, that could be construed as inappropriate for non-government personnel. For example, we found that a Data Analyst IV and a Subject Matter Expert II were involved in the receipt and disposition of drugs at prescription take-back events, which appears to place these contract workers in a custodial position over surrendered drugs beyond their contractual duties. These activities did not align with the duties in the ID/IQ, task order statements of work, or job descriptions. Further, although DCFA funds can only be used to support DCP work, we determined that DEA personnel assigned Ocean Bay and Bennett contract workers non-DCP-related work and permitted them to charge 100 percent of the efforts to the DCFA.

We believe that the above deficiencies occurred because the DEA did not: (1) train or properly designate its personnel that served as government leads (effectively task monitor equivalents) on contracting authority and its limitations related to their duties in line with the FAR; and (2) perform the pre-award assessment of its prospective ID/IQ labor categories for inherently governmental functions and personal services as required by DOJ policy and the FAR.

DEA Involvement in Contract Worker Hiring

The DEA Contracting Officer's Representatives (COR) Manual prohibits DEA personnel from directing, or attempting to influence, who a contractor hires because doing so is characteristic of a prohibited personal services contract. However, we found that DEA personnel dictated contract hiring decisions through "meet-and-greets" despite the ID/IQ explicitly assigning Ocean Bay the responsibility of screening and selection.

Need to Enforce Contractual Requirements for Education/Experience Waivers and Travel Pre-Approval

We determined that the DEA effectively changed the 2022 DCP ID/IQ terms by: (1) accepting a sizeable portion of the contract workforce that did not meet the qualifications for the assigned positions and (2) not enforcing the contractual requirement for Ocean Bay and Bennett to obtain a waiver from the DEA contracting officials before such individuals started work. As a result, the DEA paid over $2.9 million in costs that the OIG considers unreasonable (and potentially unallowable), which were billed between June 2022 and February 2023 and which may represent an opportunity for reducing future costs. Similarly, we found that Ocean Bay and Bennett billed (and the DEA subsequently paid) travel costs, while for contract-related purposes, did not receive the contractually required COR pre-approval before they were incurred.

Need to Monitor Subcontractor Compliance with the 8(a) Program

To ensure that eligible small businesses receive the benefits of the 8(a) Program, the SBA requires prime contractors to perform at least 50 percent of the work on a contract. We found that neither the DEA, nor Ocean Bay, nor Bennett monitored the division of labor between the prime contractor and the subcontractor as required by the FAR and SBA rules. This risks compromising small business program eligibility.

Need to Properly Apply Labor Law Exemptions and Wage Determinations

The Service Contract Labor Standards required that Ocean Bay and Bennett contract workers, absent an exception, not be paid less than the wages and fringe benefits required by law. The DEA applied exemptions to all but 1 of the 15 labor categories used; however, it did so without consulting labor experts and did not include in the acquisition planning documents the rationale for doing so. Our audit found that the services provided via at least 3 of the 15 labor categories may not qualify for exemptions. Separately, we found that the DEA applied an outdated wage determination for one labor category, which resulted in underpayments to the three contract workers assigned to that labor category.

Recommendations

We made 11 recommendations to help the DEA improve its stewardship of the 2022 DCP ID/IQ as well as its overall service contracting. We provided the DEA and Ocean Bay with a draft of this report, and their written responses are in Appendices 6 and 7, respectively. Our analysis of the responses and actions needed to close the report can be found in Appendix 8.

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Introduction

The Drug Enforcement Administration (DEA) Diversion Control Division's mission is to plan and oversee its Diversion Control Program (DCP), which aims to: (1) prevent, detect, and investigate the diversion of controlled substances, such as pharmaceuticals (e.g., narcotics, stimulants, and depressants) and certain listed chemicals (e.g., ephedrine), from legitimate channels and (2) ensure an adequate and uninterrupted supply for legitimate medical, commercial, and scientific needs.[1] To sustain the DCP, federal law requires the DEA to fully fund the program operating costs with the fees charged to registrants, such as manufacturers, distributors, dispensers (including physicians and other health care providers), importers, and exporters. The Diversion Control Fee Account (DCFA) houses these proceeds.[2]

Pursuant to 21 U.S.C. § 872 (2022), the Attorney General is authorized to award contracts for the following activities that directly relate to enforcement of controlled substance laws:

1. Educational and training programs on drug abuse and controlled substances law enforcement for local, state, tribal, and federal personnel.
2. Studies or special projects to compare the deterrent effects of various enforcement strategies on drug use and abuse.
3. Studies or special projects to assess and detect accurately the presence in the human body of drugs or other substances which are or may be subject to control under this subchapter, including the development of rapid field identification methods which would enable agents to detect microquantities of such drugs or other substances.
4. Studies or special projects designed to evaluate the nature and sources of the supply of illegal drugs throughout the country.
5. Studies or special projects to develop more effective methods to prevent diversion of controlled substances into illegal channels.
6. Studies or special projects to develop information necessary to carry out functions under 21 U.S.C. § 811 (which relates to the authority and criteria for classification of substances).

The Attorney General has designated this authority to the DEA, and the DEA uses the DCFA as the funding source for such contracts. For at least 20 years, the DEA has relied on contracts funded by the DCFA to support the DCP because, as stated in DEA acquisition planning documents, the agency lacks the "requisite skill-mix and labor force sufficient to meet the challenges of planning and executing the DCP effectively…without contract support…" According to USAspending.gov, since fiscal year (FY) 2017, the DEA used nearly $328,956,123 of its $743,769,498 (44 percent) DCFA total on support from various contractors.

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[1] The Office of Diversion Control became the Diversion Control Division (DC) in 2015, comprised of the: (1) Office of Diversion Control Policy, (2) Office of Diversion Control Operations, and (3) Office of Diversion Control Regulatory.

[2] In October 1992, the U.S. Congress passed Public Law (PL) 102-395, codified at 21 U.S.C. § 886a (2022), which led to the creation of the DCFA. 21 U.S.C. § 821, 886a (2022), and 958 (2022) together authorize the DEA, through its DCP, to charge reasonable fees to ensure the recovery of the full cost of the DCP's operations related to the registration and control of the manufacture, distribution, dispensing, importation, and exportation of controlled substances and listed chemicals.

In March 2016, the DEA leveraged the DCFA and Small Business Administration's (SBA) 8(a) Business Development Program (the 8(a) Program) to award a $148 million, 5-year time-and-materials Indefinite Delivery/Indefinite Quantity contract vehicle (ID/IQ) as a set-aside to Bennett Aerospace, Inc. (Bennett) — an advanced technology company that has expanded into various professional support services since 2008.[3] The ID/IQ was developed to provide the DEA with a broad range of professional, technical, financial, administrative, and clerical direct labor categories to support the DCP efforts to regulate, train, and disseminate critical, life-saving information to practitioners, industry professionals, other state and local regulatory officials, the general public, and other stakeholders in response to agency priorities (e.g., the Opioid Crisis) at DEA facilities across the United States and Puerto Rico. Specifically, the ID/IQ intended for the contract workers to assist DEA personnel with:

- financial planning, budgeting, and execution activities for the DCFA as well as logistical support for DCP-sponsored events;
- administrative support to facilitate the appropriate and efficient use of DCFA resources including personnel, property, facilities, and finance at DEA Headquarters' Program Offices, Field Offices (including Diversion Groups and Tactical Diversion Squads), and Foreign Offices; and
- consolidation of investigative research and information from various data sources/systems (e.g., eDiscovery and legal search software).

Toward the end of the performance period, Bennett graduated from the 8(a) Program and thus became ineligible for any DEA follow-on contract award under the 8(a) Program.[4] To keep the contractor support while continuing to use the 8(a) Program, the DEA sought a new eligible contractor, ultimately awarding a $156 million, 5-year ID/IQ to Ocean Bay Information and Systems Management, LLC (Ocean Bay) in April 2022 under Contract Number 15DDHQ22D00000001.[5] Ocean Bay has provided training, program management, administrative services, physical security systems support, and logistic support to various law

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[3] Through an amendment to the Small Business Act of 1953 (Pub. L. No. 85-536), which established authority to agencies to partner with the SBA to reserve or "set-aside" competitively or non-competitively awarded contracts for businesses in the SBA's certification programs, such as those designated 8(a). The 8(a) Program is a federal contracting and training program for experienced small business owners who are socially and economically disadvantaged, www.sba.gov/federal-contracting/contracting-assistance-programs/8a-business-development-program. In accordance with FAR Subpart 19.804-2, *Agency Offering*, once an agency determines that requirements for a prospective contract can be accomplished by an 8(a) Program small business, the agency must send an offer letter to the SBA to propose its intent to award an 8(a) Program contract. The agency may submit an offer letter with a contractor in mind or request that the SBA recommend a small business with the capacity to fulfill the contract requirements.

[4] The 8(a) Program has a statutorily set 9-year eligibility period intended to allow certified businesses to build their competitive and institutional knowledge. After this time, the certified business is said to have "graduated" from the program better equipped to compete in the federal arena. Keenly aware of the SBA restrictions, the DEA contracting officials understand that they must continuously consider tradeoffs between: (1) agency progress toward fulfilling annual small business contracting goals set by the Department in conjunction with the SBA, (2) effects on agency operations, and (3) open competition.

[5] FAR Subpart 19.815, *Release for Non-8(a) Procurement*, states that once the SBA accepts a contractual requirement into the 8(a) Program, any follow-on requirements must remain in the program unless the: (1) contracting agency awards the requirement to one of the mandatory sources listed in FAR Subpart 8.002 or 8.003 or (2) SBA agrees to release the follow-on requirement from the 8(a) Program upon receipt of the contracting officer's written request in accordance with 13 C.F.R. § 124.504(d).

enforcement and military customers since 2006. As shown in Table 1, as of April 2026, the DEA had obligated more than $73.4 million of the over $155 million total contract ceiling.

Table 1

DEA DCP Support ID/IQ and Task Order History with Ocean Bay as of April 2026

	Base Year	Option Year 1	Option Year 2	Option Year 3	Option Year 4	Total
Performance Period	6/27/2022 - 6/26/2023	6/27/2023 - 6/26/2024	6/27/2024 - 6/26/2025	6/27/2025 - 6/26/2026	6/27/2026 - 6/26/2027	6/27/2022 - 6/26/2027
Contract Ceiling	$29,950,280	$30,524,740	$31,110,120	$31,708,480	$32,317,820	$155,611,440
Obligated Amount	$15,795,046	$17,595,477	$18,909,595	$21,149,797	_	$73,449,915

Task Order Number	Service Description	Performance Period	Task Order Value	Obligated Amount	Percentage Obligated
15DDHQ22F00000715 (Task Order 1)	Headquarters Support	6/27/2022 - 6/26/2023	$7,399,827	$5,546,890	75%
15DDHQ22F00000721 (Task Order 2)	Field Division Administrative Officer Support	6/27/2022 - 6/26/2023	$2,769,594	$2,366,886	85%
15DDHQ22F00000722 (Task Order 3)	Diversion Group and Tactical Diversion Squad Support	6/27/2022 - 6/26/2023	$7,093,680	$5,276,628	74%
15DDHQ22F00000723 (Task Order 4)	Diversion Program Manager (DPM) Outreach/Liaison Support	6/27/2022 - 6/26/2023	$3,130,701	$2,604,642	83%
Totals			**$20,393,802**	**$15,795,046**	

Note: Our audit scope was limited to the four active task orders issued from June 2022 to June 2023, which totaled nearly $15.8 million.

Source: OIG Analysis of 2022 DCP ID/IQ and Task Orders.

Ocean Bay awarded Bennett a subcontract under the ID/IQ to help it staff certain aspects of the DEA's DCP using over 150 contract workers across the labor categories seen in Table 2.

Table 2

2022 DCP ID/IQ Labor Categories by Task Order

Labor Categories	Task Orders			
	1	2	3	4
1. Program Manager	✓			
2. Deputy Program Manager	✓			
3. On-site Supervisor	✓			
4. Business Analyst	✓			
5. Economist	✓			
6. Management Analyst II	✓			
7. Program Analyst I	✓			
8. Program Analyst II	✓	✓		
9. Program Analyst III	✓	✓		
10. Program Analyst IV	✓			
11. Secretary III	✓			
12. Data Analyst IV			✓	
13. Subject Matter Expert II	✓			✓
14. Subject Matter Expert III	✓			
15. Subject Matter Expert VI	✓			

Note: While the 2022 DCP ID/IQ and task orders make 24 labor categories available to the DEA, the DEA only used 15 of the categories as of December 2022.

Source: 2022 DCP ID/IQ and task orders.

OIG Audit Approach

With respect to the four active task orders awarded as of December 2022, the objectives of this audit were to assess: (1) the DEA's administration of the task orders, and (2) Ocean Bay's performance and compliance with the terms, conditions, laws, and regulations applicable to the task orders in the areas of: (a) contractor performance; (b) billings and payments; and (c) contract management, oversight, and monitoring. To accomplish these objectives, we:

- Consulted, via interviews and other interactions, DCP ID/IQ stakeholders, including the DEA's: (1) current and former personnel responsible for the acquisition lifecycle (i.e., planning, award, administration, and oversight), (2) program and funding personnel, (3) senior officials, and (4) the designated Labor Advisor.[6]

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[6] The DEA personnel responsible for the acquisition lifecycle that we consulted included: (1) the Acquisition Management Section Chief, (2) a former Contracting Officer, and (3) three Contracting Officer's Representatives (COR).

Continued

- Consulted, via interviews and other interactions, the contractors' key personnel and a judgmental sample of 35 of the over 150 contract workers who serviced the task orders, across 15 labor categories, as of December 2022.[7]
- Reviewed various documents to understand the history of the DEA's diversion control contracts, including support for the decision to indefinitely outsource DCP-related positions.[8]
- Examined support for 2022 DCP ID/IQ contractor billing and government payment of costs.

We evaluated the aforementioned information and considered whether the processes practiced by the DEA and its contractors complied with the laws, regulations, internal policies, and applicable contract requirements.[9] References to the DCFA are limited to how the DEA administered the 2022 DCFA-funded contract awarded to Ocean Bay. We did not assess the DEA's use of the DCFA as a whole or the effectiveness of the DCP.

Additionally, we considered how the current circumstances relate to concerns that the OIG highlighted in its: (1) 2018 report on the DEA's financial investigative task orders supporting the Asset Forfeiture Program, (2) 2020 DOJ-wide management advisory on contract administration and oversight, and (3) 2021 report on the DEA's laboratory information management system support contracts.[10]

Appendix 1 further details our audit objectives, scope, and methodology.

The program and funding personnel that we consulted included 13 government leads (i.e., task monitor equivalents) from the Diversion Control Division and two Program Analysts from the Diversion Financial Unit. The senior officials we consulted included: (1) one individual from the Office of Resource Management Cost Analysis Section, (2) the Deputy Assistant Administrator for the Financial Policy Section, and (3) the Section Chief for the Financial Policy Section. FAR Subpart 22.001 defines an "agency labor advisor" as an individual responsible for advising contracting agency officials on federal contract labor matters. The FAR makes specific reference to agency labor advisors in carrying out or supporting certain activities. For example, FAR Subpart 22.1003-7 requires Contracting Officers (CO) to request the advice of the agency labor advisor in addressing questions on the applicability of the Service Contract Labor Standards.

[7] The four key personnel we consulted included: the Ocean Bay Program Manager, two On-site Supervisors, and a Bennett Deputy Program Manager. The 35 contract workers interviewed included 21 workers provided by Ocean Bay and 14 provided by Bennett.

[8] Such documents included the Acquisition Plan, Statement of Work, Source Selection Plan, Technical Evaluations, Best Value Determinations, Invoices, Contractor Proposals, Waivers for Contractual Education and Experience Qualifications, Wage Determinations, Performance Monitoring Documents, and SBA-DOJ Partnership Agreement.

[9] On April 15, 2025, Executive Order 14275, *Restoring Common Sense to Federal Procurement*, mandated a comprehensive review and simplification of the FAR. In response, DOJ issued class deviations that included revised FAR language. In this report, the OIG applied the FAR and DOJ supplemental acquisition regulation that existed at the time the acquisition-related actions occurred. The OIG understands that although the specific FAR language may change, the overarching expectations remain. We also recognize that future revisions may impact the DEA's acquisition processes and oversight responsibilities.

[10] U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), *Audit of the Drug Enforcement Administration's Asset Forfeiture Program Task Orders Awarded to Maximus, Inc., for Financial Investigative Services*, Audit Report 18-026 (April 2018), oig.justice.gov/reports/audit-drug-enforcement-administrations-asset-forfeiture-program-task-orders-awarded-maximus. DOJ OIG, *Management Advisory Memorandum Concerning the Department of Justice's Administration and Oversight of Contracts*, Audit Report 20-082 (July 2020), oig.justice.gov/reports/management-advisory-memorandum-concerning-department-justices-administration-and-oversight.

Audit Results

We determined that the DEA has used contracts, such as the April 2022 ID/IQ awarded to Ocean Bay, to support its planning and execution of the DCP by assigning contract workers in various disciplines to diversion control offices. We believe that Ocean Bay and its subcontractor generally provided the DEA with the contractually agreed-upon services. However, we could not confirm that the contract workers only engaged in diversion-related activities that were allowable and consistent with the labor categories for which they were hired. We also could not definitively determine whether the services provided contributed meaningfully to the overall DCP. This was especially concerning in offices where the contract workers were co-located with DEA personnel responsible for both diversion and non-diversion work. Specifically, the DEA provided some evidence that contract workers worked diversion-related tasks; however, within our sample, we found instances where contract workers performed tasks that appeared unrelated to diversion control, which the contract workers corroborated while the most senior Contracting Officer's Representative (COR) (who worked on the legacy ID/IQ) acknowledged that multiple CORs permitted prime contract and subcontract workers to perform tasks to support the non-diversion work in the DEA offices where they are assigned. We found that in these instances, the DEA did not consistently track tasks assigned to contract workers.

We also identified several concerns regarding the DEA's and Ocean Bay's compliance with the laws, regulations, and policies governing service contracts like the 2022 DCP ID/IQ. Notably, we found that DEA personnel directly assigned tasks to contract workers or placed contract workers in roles that could be construed as inherently governmental functions (or those closely associated with such functions) or personal services, which federal laws and regulations generally do not permit.[11] We further found that the DEA paid nearly $3 million for services from contract workers who did not meet position qualifications and travel costs without required pre-approvals, and the DEA underpaid some contract workers due to not availing itself of opportunities to consult federal labor experts. These issues appear rooted in the DEA's:

(1) Insufficient acquisition planning and communication to its personnel (e.g., Contracting Officers (CO), CORs, and task monitor equivalents referred to as government leads) and procedures on roles and responsibilities related to the government leads.

[11] FAR Subpart 2.101, *Definitions*, defines inherently governmental functions as activities that are so intimately related to the public interest as to mandate performance by Government employees. Inherently government functions include activities that require exercising discretion in applying Government authority or making value judgments in making decisions for the Government. FAR Subpart 7.503(a) expressly prohibits the government from contracting for inherently governmental functions. Additionally, Office of Federal Procurement Policy (OFPP) Policy Letter 11–01, *Performance of Inherently Governmental and Critical Functions* provides examples and tests to help agencies identify inherently governmental functions. In this document, OFPP advises agencies to consider if the level of management and oversight that would be needed to retain government control of the operation and preclude the transfer of inherently governmental responsibilities to the contractor would result in unauthorized personal services. In such cases, the function should not be contracted out. This is consistent with FAR Subpart 37.104(d)(6).

FAR Subparts 2.101 and 37.104, *Personal Services Contracts*, define a personal services contract as one that, by its express terms or as administered, makes the contract personnel appear to be, in effect, Government employees and involves the relative continuous supervision and control of contract personnel by a government employee.

(2) Insufficient pre-award assessment of the services to be procured, which could have helped the DEA to preemptively: (1) identify tasks and roles best suited for government employees and (2) establish an appropriate shared oversight structure for DEA personnel and the contractors' management.

(3) COs and CORs not enforcing contract requirements for performance monitoring, billing, and payments; and

(4) Lack of consideration of prior OIG audit reports and recommendations concerning DEA weaknesses in contract planning and improper use of service contracts.[12]

We believe that if the DEA does not consider lessons learned from the results of this and prior OIG audits during its acquisition planning and consistently apply contract terms and conditions, the DEA risks using its service contracts in a manner that exceeds its authorities and policies. Moreover, the DEA risks paying for unallowable costs billed by its contractors.

Acquisition Planning Techniques

To ensure that a federal agency meets its needs in the most effective, economical, and timely manner, Federal Acquisition Regulation (FAR) Subpart 7.104 states that an agency should undertake acquisition planning as soon as a need is identified. In addition, Justice Acquisition Regulation (JAR) Subpart 2807.105 required that the Heads of Contracting Activities prescribe the format and content of acquisition planning documents commensurate with the complexity and dollar-value of the acquisition. The acquisition planning team should consist of those responsible for significant aspects of the acquisition, such as contracting, small business, fiscal, legal, and technical functions.[13]

We determined that some key acquisition planning documents for the 2022 DCP ID/IQ either were not completed or lacked consideration of the risks associated with service contracting and the DEA's acquisition planning team missed opportunities to obtain input from government labor experts, which contributed to or caused the post-award issues that we discuss throughout this report. Such contributors or causes included: (1) unclear contracting authority and limitations, (2) insufficient frameworks to prevent contract workers from performing unallowable services, (3) insufficient framework to continuously monitor the prime and subcontract workloads to ensure compliance with Small Business Administration (SBA) program limitations, and (4) insufficient consideration of the applicability of labor laws to the ID/IQ labor categories.

DEA Needs to Clearly Communicate Contracting Authority and Limitations for Government Personnel with Oversight Roles

The FAR gives COs the authority to designate CORs and authorize (in writing) such individuals to perform certain technical or administrative contract functions and, at a minimum, the COR file should include the CO's written designation and other documents describing the COR's duties and responsibilities as well as

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[12] In this report, we collectively refer to personnel furnished by prime contractor Ocean Bay and subcontractor Bennett as "contract workers."

[13] The Department removed this portion of the JAR as part of a broad effort to streamline supplemental guidance and policies that duplicated requirements contained elsewhere (e.g., the FAR).

the limitations on the COR's authority.[14] Such designations reduce the risk of a COR performing tasks outside the limits of their authority or re-delegating tasks that could improperly authorize the contractor to perform tasks outside the scope of the contract, effectively changing the contract terms and conditions, as well as possibly exposing themselves to personal liability for unauthorized contract actions. Further, we believe that without a written designation, there is an increased risk that CORs may not fully understand the breadth of their administrative and oversight responsibilities, including how to determine whether the government is receiving and paying for services within the scope of the contract and of an acceptable quality.

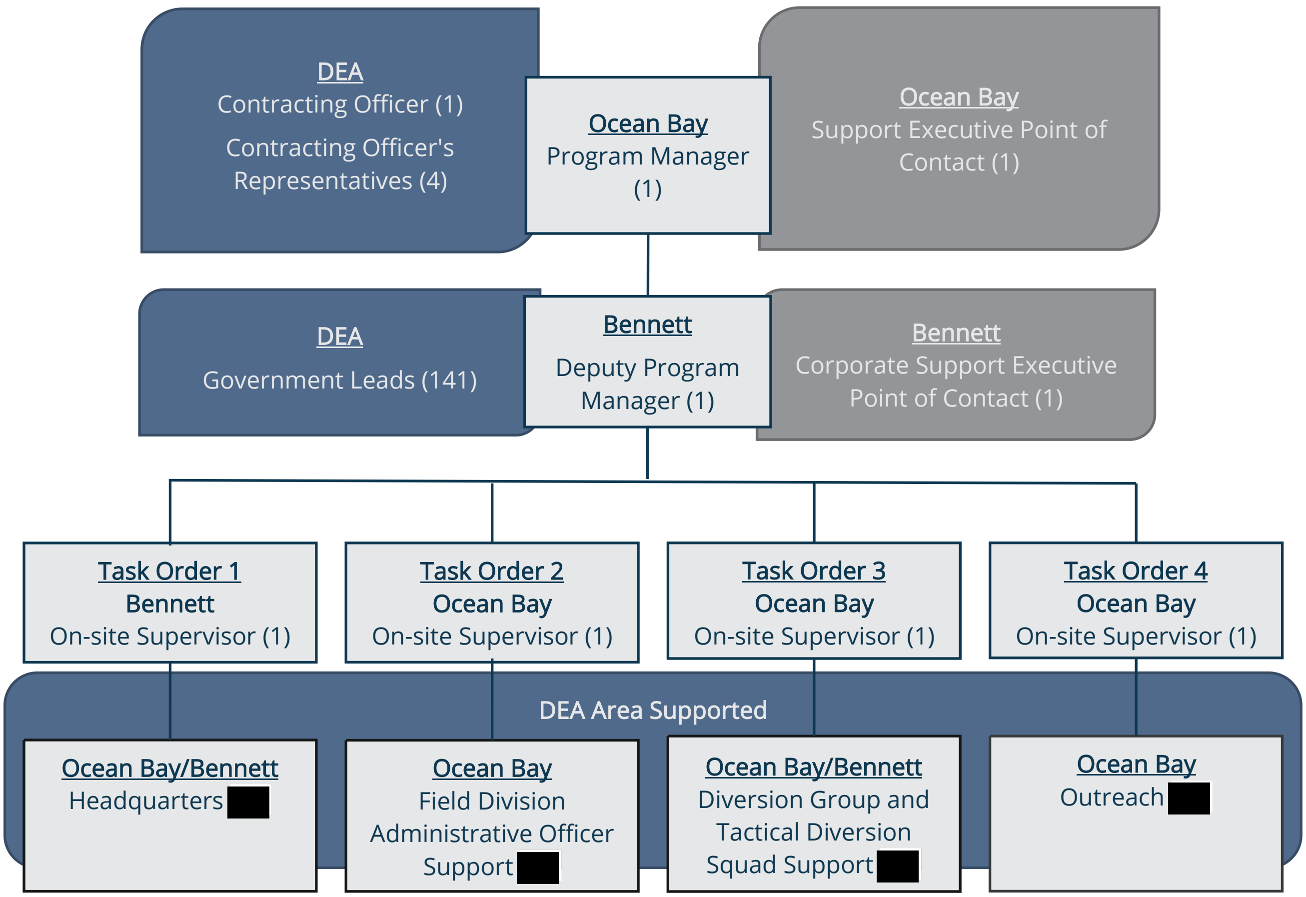
Additionally, the DEA 2021 COR Manual states that the COR will normally be responsible for the technical direction and observation of the contractor's performance, certifying acceptance of services and supplies, as well as preventing inappropriate federal government supervision or administration of contract workers that could result in an unauthorized personal services contract. The COR Manual also states that CORs cannot re-delegate their roles and responsibilities. However, we determined that at least two of the four CORs assigned to the 2022 ID/IQ did not receive written COR designations explaining the extent and limitations on their authority before they began administering and overseeing the ID/IQ. One of the CORs informed us (and we later confirmed through observation) that other DEA personnel referred to as "government leads" oversee the contract workers' day-to-day efforts.[15] This approach is integrated into the oversight structure for the 2022 DCP ID/IQ seen in Figure 1.

[14] FAR Subpart 1.602-2(d), *Responsibilities* and FAR Subpart 1.604(a), *Contracting Officer's Representative*.

[15] According to the DEA Officials and the 2021 COR Manual, the COR is responsible for the CO-delegated tasks, prioritizing assignments, and approving overtime/scheduling; however, the COR also relies on government leads (such as Diversion Program Managers, Unit Chiefs, Section Chiefs, Group Supervisors, Administrative Officers, and Special Agents-in-Charge) to perform these duties.

Figure 1

2022 DCP ID/IQ Shared Oversight Structure with Number of Government and Contractor Personnel Assigned to a Role



Note: Ocean Bay and Bennett furnish a total of six personnel (i.e., Program Manager, Deputy Program Manager and On-site Supervisor) to oversee the 170 total contract workers who are assigned to DEA offices nationwide. In addition to being overseen by the four designated CORs for the ID/IQ, within the DEA offices the contract workers are assigned to government leads (also called Technical Leads) who are DEA personnel, such as: Diversion Program Managers, Unit Chiefs, Section Chiefs, Group Supervisors, Administrative Officers, and Special Agents-in-Charge.

Source: OIG Analysis of Ocean Bay Technical Proposal and 2022 DCP ID/IQ documents.

This oversight structure also resembles that of the DEA's past financial investigative support task orders, which a 2018 OIG report found demonstrated several characteristics of a personal services contract.[16] Since FAR Subpart 37.104(c)(2) requires that each contractual arrangement be judged in the light of its own facts and circumstances, we evaluated the propriety of the government leads' involvement in oversight under the 2022 DCP ID/IQ by interviewing a judgmental selection of 13 of the approximately 141 (9 percent) government leads who interact with the Ocean Bay and Bennett contract workers. These government leads

[16] DOJ OIG, *Asset Forfeiture Program Task Orders Awarded to Maximus, Inc.*, 11-15.

account for 43 percent of the leads assigned to the 35 contract workers we interviewed and based on our interviews we learned that their responsibilities include the COR duties detailed in Table 3.[17]

Table 3

COR Duties Compared to Government Leads Involvement in the 2022 DCP ID/IQ

Duties Reserved for CORs in the DEA COR Manual	Number of Government Leads Interviewed Who Perform These Duties
(1) Observing, documenting, and communicating contractor performance to the contractor and DEA CO.	5 of 13 (38 Percent)
(2) Providing technical direction to the contractor's technical or program manager concerning day-to-day contract performance.	11 of 13 (85 Percent)
(3) Inspecting contract work.	12 of 13 (92 Percent)
(4) Notifying the contractor of lapses in contract compliance.	2 of 13 (15 Percent)

Source: OIG Analysis.

The DEA's use of its government leads is concerning since neither the 2022 DCP ID/IQ acquisition planning documents, nor the Statement of Work (SOW), nor the DEA 2021 COR Manual defined the government leads' authority, limitations, and duties. These contract documents also did not require the government leads to be trained in any aspect of federal contracting before or after assuming duties that the DEA reserves for the COR.[18] Furthermore, we emphasize that this is not the first time the DEA has inappropriately re-delegated the CORs' technical oversight to DEA personnel who lack a proper written delegation to perform such duties. The OIG previously reported that the DEA improperly used task monitors or equivalent personnel (similar to government leads) to assist the COR with their technical oversight responsibilities without properly training or designating those individuals in writing as required by the FAR. As a result, the DEA took a series of actions to address this prior finding; however, we are concerned that these actions did not have the lasting and institutional impact desired.[19] Among other things, the DEA told

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[17] We used a list of all the government leads as of January 2023 that the DEA provided. However, the list is not all inclusive and is continuously updated to account for changes in the number of government leads assigned to the 2022 DCP ID/IQ.

[18] To prevent instances of contract workers performing inherently governmental functions (and those closely associated with such functions) and personal services among other unallowable activities, FAR Subpart 2.101 and DEA policies state the acquisition planning team should document how the contract will be managed.

[19] In a June 2021 audit of the contracts that support the DEA's Laboratory Information Management System, the OIG recommended that the DEA evaluate and update its policies and procedures to ensure that all individuals that assist the

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the OIG in 2022 that as of 2019 it was no longer using task monitors or task monitor equivalents. Yet, 4 years later, the DEA resumed using task monitor equivalents (albeit calling them government leads) without proper delegation and training.

In this audit, we found that the government leads did not fully understand the limitations of their authority, including how to avoid assigning work outside of the ID/IQ and task order scope, which only a CO is authorized to do. Specifically, based on our interviews with government leads, we found that the government leads treated contract workers as if they were performing a personal services contract, directly assigning them tasks that appeared to be inherently governmental functions (and those closely associated with such functions). The assigned work also was not always the diversion activities specified in the ID/IQ and 21 U.S.C. § 872. We discuss these likely unallowable services further in the next section.

We discussed our preliminary findings with the DEA multiple times (during fieldwork and in subsequent briefings), which included the institution of processes or controls to promote better communication and written memorialization of CORs' and government leads' procurement authority and limitations (e.g., development and maintenance of written COR designation letters and proactive succession planning via enhancements to the COR Manual). During our audit, the DEA partially addressed our concerns by providing Acquisition Policy Letter (APL) 2025-10, dated August 20, 2025; revised DEA Form 171-A, *Exit-Reassignment Clearance Record*; and the COR Transition Checklist. However, we were unable to determine how these documents facilitate the DEA's proper use of COR designation letters to delegate responsibilities to CORs. Therefore, we recommend that DEA institute a process or control that ensures written designation letters are used to properly delegate COR responsibilities in accordance with CORs' procurement authority and limitations. We further recommend that the DEA provide training to DEA personnel upon their assignment to a technical contract oversight role and thereafter on an interval that sustains awareness within its workforce.

DEA Needs to Strengthen its Framework to Prevent Contract Workers from Performing Unallowable Services

DOJ Instruction 1301.02.01, *Acquisition Policy Oversight Inherently Governmental and Critical Functions* (effective April 2019) requires program officials at the various DOJ components to affirmatively determine whether contemplated contracted tasks or duties may approach inherently governmental functions (and

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CO with contract monitoring, receive a written delegation from the CO and appropriate training regarding their roles and responsibilities. U.S. Department of Justice (DOJ) Office of the Inspector General (OIG), *Audit of the Drug Enforcement Administration's Laboratory Information Management System Support Contracts*, Audit Report 21-079 (June 2021), oig.justice.gov/reports/audit-drug-enforcement-administrations-laboratory-information-management-system-support, 17-20. To close this recommendation, in July 2022, the DEA: (1) identified all personnel that assist the CO with contract monitoring on the previously mentioned contracts, (2) confirmed that these individuals met training requirements via the certification system of record, and (3) provided copies of the: (a) updated COR Manual; (b) COR Assignment and Designation Memoranda, which outline the COR responsibilities; and (c) personnel responsible for administration and oversight of the contracts that have taken the previously mentioned training who subsequently received delegated authority from the CO; (4) updated the COR Manual to define the COR role and responsibilities along with certification standards, appointment procedures, training, and other useful information; (5) stated that as of 2019, it no longer had Task Monitors or written delegations for other personnel assisting with COR responsibilities as task monitor equivalents; and (6) the Head of Contracting Activity issued a memorandum to the DEA heads of offices to affirm that only CORs have the authority to perform COR functions.

those closely associated with such functions). This policy requires the CO to state in the contract file, before issuing a solicitation, whether, among other items, the contract function is closely associated with an inherently governmental function. If so, the contracting agency must document its commitment to overseeing contractor performance to mitigate conflicts and the provision of unauthorized personal services.[20] In addition, FAR Subpart 7.503(e) requires the agency head or designated requirements official to provide the CO, concurrent with the transmittal of the SOW (or any modification thereof), a written determination that none of the work to be performed constitutes inherently governmental functions (and those closely associated with such functions). Further, FAR Subpart 37.104(b) prohibits agencies from awarding personal services contracts unless they are specifically authorized by statute.

We determined that the DEA did not perform a pre-award assessment of prospective 2022 DCP ID/IQ labor categories sufficient to meet any of the FAR, Department-wide, or DEA-specific requirements (i.e., the "Frequently Asked Questions for Managing On-Site Contractor Employees" document, which is described below) designed to ensure that the government did not procure inherently governmental functions (and those closely associated with such functions) or avoid the appearance of personal services. The DEA's planning documents for the 2022 DCP ID/IQ merely referenced FAR Subpart 7.503(c), which lists instances considered inherently governmental functions, and states that the contract requirements are "specified and limited to the [Statement of Work]."

We found that the contract workers on the 2022 DCP ID/IQ were at risk of performing personal services and inherently governmental functions. Specifically, all 35 of the contract workers interviewed told us that they received daily direction and performance feedback from government leads.[21] The government leads we interviewed and other DEA personnel who interact with the contract workers generally corroborated the contract workers' statements about the working relationship between DEA personnel and contract staff.

We further found that DEA personnel and contract workers lacked clarity and overlooked situations that appeared to be inherently governmental functions (and those closely associated with such functions) or personal services. For example, we noted that a contracted Data Analyst IV and a Subject Matter Expert II were involved in the receipt and disposition of drugs at prescription take-back events, which appears to place these contract workers in a custodial position over surrendered drugs. These activities did not align with the duties in the ID/IQ, task order statements of work, or job descriptions and are so intimately intertwined with the diversion control mandate delegated by the Attorney General that it puts the DEA in a situation where the contract workers appear to be, in effect, government employees.

We also identified a contracted Subject Matter Expert II who attended diversion control conferences and outreach events with and without DEA personnel. For instance, this contract worker decided to still attend an event, as the DEA's representative, when the cognizant DEA employee was unable to attend. Upon realizing that the event entailed outreach to a specific demographic of which the contract worker did not

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[20] Both FAR Subpart 7.503(c) and (d), and the April 2019 DOJ policy include lists of tasks that contract workers can and cannot perform.

[21] The contract workers that we interviewed informed us that they primarily discuss their performance with their assigned government lead and Ocean Bay and/or Bennett management subsequently follows up with the government lead to fill in a Performance Questionnaire Form. As shown in Appendix 5, the form includes the government leads' names, a rating scale, and overall assessment of the contract worker.

speak the language, the contract worker called the Diversion Program Manager (DPM, which is a type of government lead) and received permission to leave the event. We find it concerning that the language barrier, rather than the appearance of a contract worker participating in an activity that could be construed as inherently governmental or personal services, was the reason the contract worker and DPM agreed that the contract worker should leave the event. This situation combined with others highlighted in the previous paragraph, as well as in Appendices 3 and 4, are examples of the government leads' (e.g., DPMs) actions placing contract workers in situations that could inadvertently lead to them performing inherently governmental functions, such as representing the DEA and its interests during interactions with other attendees at the event. It further demonstrates the DEA's need to establish boundaries in its environment where contract workers and government employees continue to work side-by-side.

We find these circumstances indicative of a weakness in the DEA's application of its guidance and controls designed to prevent DEA personnel from having a role in the supervision of contract workers, including the assignment of work and review of the contract workers' performance. At the very least, the DPM's act of providing direction and permission to the contract worker is a type of direct interaction that creates the appearance of a personal services contract. This threatens the government's stewardship of the DCFA by placing inherently governmental functions in the hands of contract workers.

We attribute these issues to the DEA using the same problematic structure to administer and oversee the 2022 DCP ID/IQ as it used for the financial investigative support task orders issued under the Professional Assistance Contracts ID/IQ, on which the OIG reported in 2018.[22] This entails using DEA personnel to supplement the four contractor-provided "On-site Supervisors" who oversee the over 150 contract workers geographically dispersed across the country at DEA facilities.

The DEA's guidance on the level of involvement in the selection of task order workers and subsequent management of their on-site work, implemented in response to the 2018 audit recommendations, from its "Frequently Asked Questions for Managing On-Site Contractor Employees" document, states that:

1. Federal employees should not supervise contract workers and approve leave. However, the COR's role is to ensure that contract workers comply with the contract terms. Workload assignments for contract workers should be assigned by the contractor's designated On-site Supervisor, or project/program manager, who should coordinate with the government personnel. Similarly, the contractor's On-site Supervisor should ensure that he/she coordinates leave with the federal staff and provides office coverage when applicable.
2. The government may assign daily tasks to the contract workers, but the assignment coordination should go through the COR. If the government personnel have concerns with the products created by the contract workers, those concerns should be communicated to the contractor's On-site Supervisor, and the COR. If there is only one contract worker on the government's premises, the communication should be directly with the contract worker, but the concerns should be shared with the COR. The COR ensures that contract workers comply with the contract. The COR must report repeated problems, or critical issues, to the CO.

[22] DOJ OIG, *Asset Forfeiture Program Task Orders Awarded to Maximus, Inc.,* 2-5.

In addition, we identified several concerns about the DEA's policies on inherently governmental functions, including its application of affirmative statements, which the DEA instituted in response to a prior OIG report to mitigate the risk of prohibited interactions between government employees and contract workers, and DEA personnel's continued participation in the hiring process for contract workers.

Affirmative Statements

To provide awareness and prevent DEA personnel from procuring inherently governmental functions (and those closely associated with such functions) and personal services, the DEA Performance Monitoring Plan for the 2022 DCP ID/IQ required DEA personnel responsible for contract oversight activities or who closely interact with contract workers, to read and sign an "Affirmative Statement Regarding the Rules and Regulations of DEA Clause 2852.203-70 and FAR Section 37.104" (DEA Affirmative Statement).[23] The DEA instituted its Affirmative Statement to close a prior OIG audit recommendation and requires applicable personnel, at the start of a new service contract, to re-certify on an annual basis that they understand that contract workers, including subcontractors, must not perform inherently governmental functions (and those closely associated with such functions) or personal services.[24] These Affirmative Statements include an acknowledgement of compliance with FAR Subpart 37.104, which requires DEA personnel to remove themselves from directing who contractors hire.

We requested Affirmative Statements for the 13 government leads who oversaw contract workers in our sample and found that 5 (38 percent) did not sign the statements until after the contract workers' start dates and 8 (62 percent) had not signed the statements at all or signed after we requested them. Three of these government leads told us that they did not believe that they were required to sign the Affirmative Statement because they were not at least a GS-15 or COR.

Hiring and Recruiting Contract Workers—Meet-and-Greets

As in the OIG's prior audit of the DEA's financial investigative support task orders, we noted inappropriate involvement from the DEA COR and government leads in the screening and hiring of contract workers. The 2022 DCP ID/IQ stipulates that the prime contractor is responsible for performing all activities associated with recruiting and hiring contract workers and does not give the DEA a role in the process. Moreover, the

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[23] Effective January 19, 2018, the DEA Affirmative Statement must be signed by the following individuals: Office Heads, Special Agents-in-Charge, Assistant Special Agents-in-Charge, Associate Special Agents-in-Charge, Regional Directors, Country Attaches, Laboratory Directors, GS-15s, Administrative Officers, and CORs.

Further, DEA-2852.203-70 *Former Employment or Assignment with the DEA* (February 2019) requires DEA personnel to ensure that any offeror or contractor who intends to employ any individual who either currently works for or had been employed by the DEA, as a federal employee, within the previous 5 years, supporting a prospective or active DEA contract to notify the DEA of its intent to hire a current or former DEA personnel. If an offeror or contractor fails to provide the required information, the prospective worker will not be approved to work under the DEA contract or order.

In addition, DEA personnel overseeing contract workers and Ocean Bay's contract workers who perform services on-site at DEA offices are responsible for reading and understanding FAR Subpart 37.104, *Personal Services Contracts*.

[24] In its April 2018 report on the DEA's financial investigative support task orders, the OIG recommended that the DEA ensure that Asset Forfeiture Program contractors develop and provide training to all contract personnel regarding the characteristics of personal services and the rules for who may supervise and review their work on the task orders. Based on the DEA's implementation of its Affirmative Statement and DEA Clause 2852.203-70 in September 2018, the OIG closed the recommendation. DOJ OIG, *Asset Forfeiture Program Task Orders Awarded to Maximus, Inc.,* 33.

DEA COR Manual and Affirmative Statement prohibit DEA personnel from directing who a contractor hires or attempting to influence who is selected as it is considered a characteristic of a personal services contract. However, 11 of the 13 (85 percent) government leads we interviewed informed us that they participated in “meet-and-greets,” reviewed résumés, and/or provided informal feedback to the contractor and/or subcontractor on the candidates after the meeting. DEA officials corroborated this, explaining that after receiving a candidate’s résumé from Ocean Bay or Bennett, DEA government leads and CORs often hold a meet-and-greet to assess suitability to work on the DCP task orders. The COR told us that Ocean Bay hires potential candidates after the meet-and-greet with DEA to ensure that there is concurrence to proceed. The COR also informed us that the meet-and-greet is a courtesy, but in practice there have been a few occasions when they have not occurred because the government lead was unavailable, and the screening process needed to continue to avoid service delays.

After briefing the DEA on our preliminary findings in this area, the DEA acknowledged our concerns regarding government-contractor relationships on the 2022 DCP ID/IQ resembling personal services contracts and inherently governmental functions. The DEA informed us that it planned to automate its compliance efforts and include in the DEA Learning System (DEALS): (1) training on inherently governmental functions, personal services, and former DEA employees seeking employment with a contractor; and (2) a mandatory certification process (i.e., an electronic Affirmative Statement embedded in the training that expanded Affirmative Statement requirements to include GS-14s). While the DEA has started offering the new training to personnel in its Headquarters, Field Divisions, and foreign offices, we noted that some of the materials did not include all relevant requirements (e.g., DOJ-wide policy) or used less nuanced guidance that risks misleading the trainees on what qualifies as an “acceptable function.”

In an October 2024 communication, the DEA attributed the conditions partly to its contracting officials mistakenly excluding from the 2022 DCP ID/IQ the DEA Clause 2852.237-70, *Preventing Personal Services Contract and Performance of Inherently Governmental Functions* (dated June 2018), because its contract writing system cannot detect when contract clauses are missing. The DEA subsequently modified the ID/IQ by adding the clause. The DEA further explained that when it developed the aforementioned clause to close the previous audit recommendation in 2018, the DEA created a contract clause matrix to guide contracting officials through drafting contracts above the Simplified Acquisition Threshold (SAT). However, the DEA never incorporated the matrix into its official policies and procedures. While the DEA told the OIG that it planned to update its policy to incorporate the matrix, we discussed with the DEA that beyond its proposed actions, we believed more was needed to provide further assurance that DEA personnel understand the nuanced dos and don’ts of interacting with contract workers, including avoiding personal services and inherently governmental functions, to lessen the likelihood of non-compliance with these requirements.

Furthermore, we determined that the Affirmative Statement procedures excluded through omission some of the DEA personnel who closely interact with contract workers (e.g., government leads who are Fiscal Management Specialists, Supervisory Fiscal Specialists, Group Supervisors, Inspectors, Special Agents, Legislative/Diversion Policy Analysts), and determined based on this observation that the DEA’s internal policies should be revised to require, on a case-by-case basis, the Affirmative Statement to be signed by personnel with close proximity to contract workers. As a result, not all individuals with contract oversight responsibility signed the DEA Affirmative Statements or were properly tracked for compliance. For example, we found that for the period under audit some of these individuals serving as government leads, including alternate points of contact, did not appear in the CORs’ current tracking lists.

Throughout the audit, we discussed our observations and concerns. Following the audit exit conference, the DEA provided additional information indicating that, effective September 2024, Contracting Officers were required to incorporate an updated version of the DEA-2852.237-70 clause into all service contracts exceeding the SAT. The DEA also stated that it issued APL 2025-08, *Affirmative Statement Requirements*, on August 14, 2025, and has automated and expanded its mandatory Affirmative Statement certification process in DEALS to include GS-14s and anyone with direct oversight over contract personnel while also updating its training on inherently governmental functions, personal services, and former DEA employees seeking employment with a contractor. Therefore, the DEA has addressed certain issues that we identified during the audit: implementing preventative measures to decrease the likelihood of contract workers performing activities that violate the FAR and DOJ prohibitions on inherently governmental functions (and those closely associated with such functions), and including in its communication and training disseminated to DEA personnel (e.g., contracting officials and government leads, etc.) processes or controls that decrease the likelihood of contract workers performing inherently governmental functions (and those closely associated with such functions) and the appearance of personal services.

However, because the DEA did not detail the tracking mechanism for monitoring its list of government leads overseeing contract workers, we recommend that the DEA require the COs and CORs to discuss and maintain a current list of the individuals serving as government leads, including alternate points of contact.

DEA Needs to Plan for Post-Award Monitoring of Performance and Compliance

FAR Subpart 16.601(c)(1), *Government Surveillance* addresses post-award monitoring of performance and compliance for time-and-materials contracts. This provision states that a time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, the government must manage services purchased under time-and-materials contracts carefully (via a quality assurance framework) to control costs and to ensure that the services conform to contract terms.[25] The Quality Assurance Surveillance Plan (QASP) is the primary surveillance tool for the contractor's quality program and helps the COR to document contractor performance. A QASP or equivalent documents prepared with the SOW specify all activity requiring surveillance (i.e., monitoring and evaluation) and the method of surveillance (e.g., inspection, reconciliation, etc.). A well-designed QASP or equivalent documents specify the timing, location, and extent of surveillance activities to guide government oversight personnel in performing their contract monitoring roles and responsibilities.[26]

The DEA's COR Manual states that the COR serves as the CO's eyes and ears, but the COR's authority is limited to monitoring technical performance and reporting potential or existing problems to the CO. The DEA's COR Manual further states that the COR will normally be responsible for the technical direction and observation of the contract workers' performance and certifying acceptance of services/supplies. Federal

[25] FAR Subpart 16.601(c)(1), *Time and Materials Contracts*.

[26] FAR Subpart 46.4, *Government Contract Quality Assurance*.

government supervision or administration of individual contract workers must be avoided to preclude the effort from becoming a personal services contract.[27]

In response to the OIG's June 2021 *Audit of the Drug Enforcement Administration's Laboratory Information Management System Support Contracts* (DEA LIMS), the DEA: (1) in July 2021, provided Contract Performance Assessment and Reporting System (CPARS) training to its CORs, and created an Intranet page for CPARS policy and resources; and (2) in March 2022, updated its policies and procedures, and developed a QASP template to ensure that its contracting officials conduct proper surveillance on a contract.[28] As part of the QASP template, the DEA incorporated the COR Monthly Report template to facilitate contracting officials' continuous documentation of contractor performance.

The 2022 DCP ID/IQ performance monitoring document requires the CORs to memorialize the contractor's monthly performance, by the first business day, in the COR Monthly Report (which is relevant to a QASP), and forward a copy to the CO and Contract Specialist. To determine whether the COR Monthly Reports complied with the 2022 DCP ID/IQ requirements, for all four active task orders, we reviewed 48 COR Monthly Reports from June 27, 2022, through June 30, 2023.

However, we found that the CORs did not always complete the required COR Monthly Reports on time or include all required elements (i.e., quality, schedule, cost control, and management), which are used to support the performance evaluations submitted in the CPARS. Specifically, DEA CORs completed 15 of the 48 (31 percent) COR Monthly Reports that we reviewed an average of 54 days late (including a 5-day grace period for each). We also found that the CORs did not always: (1) preserve a copy of the COR Monthly Report, (2) complete the COR Monthly Report for the entire evaluation period, and (3) include a narrative to address all four required elements to include whether the contractor's performance did or did not meet the contractual requirements.

Delayed or incomplete reports limit the DEA's ability to immediately identify and act on any current issues or challenges. When the DEA does not adhere to its own policies regarding contractor performance monitoring and documentation, the likelihood of inaccurate CPARS submissions is increased. This harms all stakeholders that rely on the CPARS data to appraise the performance and value of the services that Ocean Bay and Bennett provide when making future contracting decisions.

The DEA attributed the COR Monthly Report discrepancies to its contracting office being 83 percent understaffed, evidenced by the four different COs over the life of the 2022 DCP ID/IQ. This resulted in

[27] DEA's COR Manual, Version 2.0 dated 2021.

[28] FAR Subpart 42.15, *Contractor Performance Information*, advises that past performance information (including the ratings and supporting narratives) is relevant, for future source selection purposes, regarding a contractor's actions under previously awarded contracts or orders. As such, the FAR requires agencies to monitor their compliance with the past performance evaluation requirements outlined in FAR Subpart 42.1502 and to use the CPARS metric tools to measure the quality and timely reporting of past performance information. Also, FAR Subpart 42.1503 requires agencies to assign responsibility and management accountability for the completeness of past performance submissions, as well as the past performance evaluation system procedural requirements.

contracting officials not being aware in December 2022, when they issued and signed task orders, of the requirements specified in the performance monitoring plan that was prepared in June 2022.

After discussing this matter with the DEA, DEA officials informed us of plans to enhance its internal processes to address this deficiency. Specifically, the DEA provided an updated performance monitoring plan, signed in September 2023 to: (1) allow the CORs 6 days after the month ends to assess and document the contractor's performance, and (2) ensure the COR narratives are complete and sufficient to support the CPARS submissions.

We find the degree of understaffing in the contracting office very concerning; however, all four CORs assigned to the Ocean Bay contract, are responsible for ensuring the timeliness and completeness of the COR Monthly Report. Therefore, we recommend that the DEA reassess the procedures that it established in response to DOJ OIG audit report 21-079 on the DEA's LIMS support contracts to adequately train contracting officials on CPARS policies and procedures. The policies and procedures should include a process to facilitate preparation of complete, accurate, and timely contractor performance assessments (i.e., the COR Monthly Reports) with clear and relevant narratives.

DEA Needs to Enhance its Oversight of Contractor Billing

Allowability and Allocability of Contract Labor Hours Charged to the Diversion Control Fee Account

The DEA uses the DCFA to fund 100 percent of the 2022 DCP ID/IQ and its task orders, which must only be used in furtherance of the DCP. The DEA's Financial Management Division policies require that all obligations made against the DCFA be expended at actual cost when possible. If the entire cost is not allocable to the DCP, it must be expended in proportion to the financial commitment ratio established in the DEA's validation methodology, which aims to identify expenses that can reasonably be charged to the account (e.g., DCP contract support, equipment, sponsored conferences, and related travel).

Similarly, FAR Subpart 31.201-4 requires that allowable costs be allocable to a government contract. A cost is allocable if it: (1) benefits the contract and other contract-related work and (2) can be distributed in reasonable proportion to the benefits received.

Nonetheless, as previously discussed in the *Acquisition Planning Techniques* report section, we identified DEA offices where government leads regularly assigned non-diversion tasks to contract workers while allowing them to charge 100 percent of the time to the DCFA via the 2022 DCP ID/IQ designated job code in the DEA's accounting system.

Specifically, we found during interviews that two subcontract workers performed non-diversion activities related to, but not limited to: (1) analyzing DEA operations reports (e.g., non-diversion drug mission reports and drone reports) or (2) submitting obligation or de-obligation requests for non-DCFA activities received through the non-Diversion email inbox, such as DEA Form 19 - *Requisition for Equipment, Supplies or Services* (DEA Form 19) for law enforcement services and expenses. One of these subcontract workers stated that performing both diversion and non-diversion activities became overwhelming and stated that this concern was elevated to Ocean Bay's management and the DEA government lead. According to the subcontract worker, the DEA government lead told the subcontract worker to prioritize diversion tasks while continuing to support non-diversion activities.

Further, one of the 2022 DCP ID/IQ CORs told us that some CORs have permitted prime contract and subcontract workers to perform tasks to support the non-diversion work in the DEA offices where they are assigned. During our interviews with the subcontract workers, they indicated that the information collected as a part of their assigned work allows them to estimate that at least 25 percent of their time is dedicated to non-diversion activities. We also interviewed the DEA government leads who oversaw the two contract workers. One of the government leads did not know whether all the work assigned to the subcontract worker was diversion-related, while the other DEA employee stated a belief that the subcontract workers can work on non-diversion activities as long as they reported how it was split.

The following circumstances likely contributed to the questionable allowability and allocability of costs charged to the DCFA:

1. Vague labor category descriptions in the 2022 DCP ID/IQ SOW that end with "other duties as assigned."
2. The CORs are responsible for approving requests for reimbursement from the DCFA submitted via DEA Form 19, so the CO is not necessarily aware of what costs get approved.
3. The CO who planned, solicited, and initially oversaw the 2022 DCP ID/IQ left the DEA, and the successor CO had little knowledge of the DEA 2022 DCP ID/IQ award and oversight process.
4. Insufficient training and communication. For example, individuals assigned as government leads did not receive copies of the 2022 DCP ID/IQ SOW or understand the requirements. Also, these government leads informed us that they had minimal to no communication with or training from the CORs.
5. Only contract workers who either worked on previous iterations of the ID/IQ or were former DEA employees seem to understand the restrictions on the use of the DCFA.
6. DEA's DCFA policies and procedures did not include a process or control to facilitate the CO's and CORs' consideration of workloads that should be split between the DCFA and other accounts during the post-award oversight process. This is particularly concerning in offices where contract workers reside near DEA personnel who perform non-diversion tasks.

After discussing this matter with the DEA, DEA officials informed us that the DEA regularly provides DCFA training to the DEA contracting officials at its facilities. We believe that the CORs' interpretation of the DCFA policies and procedures and allowance of contract workers to perform non-diversion activities could result in further unallowable allocations to the DCFA and violate the 2022 DCP ID/IQ terms and conditions.

We discussed our concerns with the DEA at multiple points in our audit. Following the audit exit conference, the DEA provided a Monthly Status Report that it believed disproved the testimonial evidence provided by the subcontract workers and DEA personnel during our fieldwork. According to the DEA, the Monthly Status Report demonstrated that the two subcontract workers we interviewed only performed some incidental administrative tasks and that those tasks were allocable because they were necessary to the overall DCP operation. However, we found the Monthly Status Report provided high-level information on contract effort, presented by DEA office or Division, at the task order level rather than detail on contract workers' individual activities. The contract workers corroborated, and CORs acknowledged having permitted contract workers to support the non-diversion work in the DEA offices where they are assigned.

Because we do not have documentation that clearly delineates the work performed, we were unable to quantify what portion of time certain contract workers spent on non-diversion-related tasks. Nevertheless, we continue to have concerns that contract workers are performing tasks that appear unrelated to diversion control. Therefore, we recommend that the DEA: (1) require CO involvement in decisions related to non-diversion activities, rather than relying solely on the government lead and CORs, to strengthen internal controls; and (2) create a process or control for government leads and CORs to adequately track diversion and non-diversion tasks to facilitate an accurate accounting of both activities performed by contract worker and to minimize the potential risk of improperly charging costs to the DCFA.

Oversight of Contract Worker Job Qualification

Despite prior OIG recommendations, explicit federal regulations, and legally binding contract terms detailing what constitutes acceptable contract staffing and billing, we determined that the DEA effectively made a constructive change to the 2022 DCP ID/IQ terms post-negotiation, through acceptance of a sizeable portion of the total contract workforce who did not meet the contractual qualifications for their respective labor categories.[29] As a result, the DEA, at best, paid over $2.9 million, that included an indiscernible amount of labor costs that the OIG considers unreasonable and that also were potentially unallowable. In our attempt to understand the root cause of the DEA's deviations from the 2022 DCP ID/IQ terms related to workforce qualifications, we also determined that the DEA needs to revisit what mix of services and labor categories are needed to support its DCP.

Potentially Unallowable Labor Costs

FAR Subpart 31.201-2(a), which establishes the baseline for expressly unallowable costs, states that a cost is allowable only when (among other things) the cost is reasonable and complies with the contract terms. Further, the cost is reasonable if its nature and amount do not exceed what a prudent person would incur while engaged in a competitive business with no presumption of reasonableness just because a contractor incurred costs.[30]

In another section, the FAR also requires the government to pay the hourly rate for all labor that meets the qualifications specified in the contract. Labor hours incurred to perform tasks that have specific qualifications will not be paid if the work is performed by contract workers who do not meet the qualifications, unless specifically authorized by the CO.[31]

Recognizing infrequent circumstances when prospective contract workers may be capable of providing the contractual services sought without satisfying all labor category experience and education qualifications, the 2022 DCP ID/IQ and some of the DEA's historic contracts include a process for a contractor's management to

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[29] A constructive change occurs when an informal oral or written directive from a government official alters a contract's requirements or scope of work, even without a written order.

[30] FAR Subpart 31.201-2, *Determining allowability* and FAR Subpart 31.201-3, *Determining reasonableness*.

[31] FAR Subpart 52.232-7(a)(3), *Payments under Time-and-Materials and Labor-Hour Contracts*.

obtain from the DEA CO through the COR approval to substitute contract workers' education and experience.[32] According to the DEA, this process is intended to be: (1) a flexibility for contracting officials to exercise business judgment while safeguarding the interests of the United States in its contractual relationships, and (2) an internal control to protect the integrity of the procurement process. As a part of such internal controls, the contractor must include the DEA's Experience/Education Substitution Request Form, see Appendix 4, when the "waiver" request is submitted. If the CO approves the waiver, the COR and CO must retain in the contracting file copies of the supporting documents and subsequent waiver that includes the CO's signature on the contractor's written request.

Once a contractor's management receives an approved waiver, the contract workers specified in the waiver can begin working on the task orders. The approved waiver is valid for the duration of the 2022 DCP ID/IQ.[33] Considering the flexibilities afforded by the DEA's waiver process and prior OIG audit findings, we asked DEA contracting officials whether the DEA had approved any waivers for the 2022 DCP ID/IQ task orders issued in June 2022, and the DEA told us that the CO had approved only one waiver for one contract worker.[34]

However, during our review of a judgmentally selected sample of 74 contract worker résumés, we found that 54 (73 percent) did not appear to meet the contractual experience and education qualifications for the billed labor categories and were not covered by the single approved waiver. Specifically, we determined that:

- 6 (8 percent) did not appear to meet the experience requirements,
- 46 (62 percent) did not appear to meet the education requirements, and
- 2 (3 percent) did not appear to meet both the education and experience requirements.

Ocean Bay officials stated that they did not submit a waiver for the 54 contract workers because, during the 2022 DCP ID/IQ Kick-Off Meeting, the DEA CORs stated that written waivers were not needed for contract

[32] The SOW permits contractors to submit a written request to the COR that includes contract workers' education and/or experience. The contractor must also submit support for the waiver (i.e., a justification, a résumé, and any other document(s)). Once the COR reviews and concurs, the contractor's written request and accompanying documents are to be submitted to the DEA DCP Managers to validate whether the proposed concessions on the contract worker qualifications are acceptable. In all cases, the CO is ultimately responsible for reviewing and approving the proposed waiver after the COR and the DCP managers have validated the need for the waiver.

[33] The predecessor DCP ID/IQ awarded to Bennett only permitted substitution of education and experience for key personnel. Of the 74 sampled contract workers for the 2022 DCP ID/IQ, only 3 were key personnel who worked on the prior ID/IQ.

[34] In an April 2018 OIG audit of DEA financial investigative support task orders related to management of the Asset Forfeiture Program, the OIG found that the DEA did not issue a required written waiver to approve the substitution of qualifications, prior to multiple contract workers' service start dates. As a result, the OIG recommended that the DEA establish a process to ensure that it properly assesses the qualifications of individuals proposed to provide contracted services to ensure compliance with explicit contractual education requirements. To close this recommendation, in December 2018, the DEA: (1) created and incorporated the process for guiding contracting officials and contractors through education and/or experience substitution seen in the 2022 DCP ID/IQ SOW, (2) developed the education and/or experience substitution observed in the 2022 DCP ID/IQ SOW, and (3) developed the Education and/or Experience Substitution Request Form in Appendix 4 to facilitate the process. DOJ OIG, *Asset Forfeiture Program Task Orders Awarded to Maximus, Inc.*, 18-21.

workers who: (1) did not meet the contract education requirement but met the experience requirement or (2) transferred from the incumbent contract. Ocean Bay also stated that not all résumés highlight a person's complete qualifications and work history. Instead, Ocean Bay officials further stated the résumé is a general starting point to determine whether a person would be interviewed for the contract labor category.

After receiving Ocean Bay's response, we asked the DEA to provide the substantiating documents (e.g., waivers, emails, meeting minutes, contract workers' personnel files) that the 2022 DCP ID/IQ requires the CO to maintain as evidence of the deliberations and resolutions made regarding contract workers' qualifications. DEA contracting officials provided seven "verification sheets of experience and education," which simply listed the 2022 DCP ID/IQ labor category requirements and referenced the contract workers' résumés; however, the documents did not include the DEA's rationale for determining that the contract workers were suitable to perform the work on the 2022 DCP ID/IQ or indicate when and who (e.g., DEA contracting officials or DEA government leads) completed the verification. Table 4 shows when the 54 contract workers who did not meet the experience and education requirements were allowed to start work on the 2022 DCP ID/IQ without an approved waiver.

Table 4

Contract Workers in Sample Who Did Not Meet Contract Requirements

Start Date	Number of Contract Workers
June 27, 2022[a]	48[b]
September 2022	2
January 2023	4
Total	**54**

Notes:

[a] Start date of audited contract.

[b] This represents 29 percent (48 of 167) of the total contract workers working on the 2022 DCP ID/IQ.

Source: OIG Analysis of the 2022 DCP ID/IQ Invoices.

In January 2023, following our interview with DEA CORs in December 2022, the DEA CORs told Ocean Bay (contrary to previous verbal guidance provided by the DEA CORs) to submit written waivers for the 54 contract workers in our sample who did not meet the contract qualifications. The CO subsequently approved those waivers 2 months later in March 2023. DEA officials told us that the CO "retroactively" approved the waivers because DEA contracting officials mistakenly believed that the 2022 DCP ID/IQ included a clause that automatically allowed substitution of education with experience or vice versa.[35] While the DEA CORs intended the instructions to facilitate compliance with the contract terms, the DEA CORs'

[35] According to the DEA COR Manual, it is the COR's responsibility to: (1) understand all applicable contract terms and conditions to ensure that the contractor-provided services comply with the contract stipulations and (2) ensure the CO is consulted regarding the potential effect of the contractor not adhering to those stipulations prior to independently changing the terms of the contract, which we believe the DEA did by relieving the contractor of its responsibility to submit a qualification waiver supported by evidence of competency.

action and the CO's subsequent approval suggests concurrence with our observation that the 54 contract workers did not meet the qualifications in accordance with the contract terms.

We find the DEA's excessive use and approval of the waivers to be a misapplication of the contractual flexibility at the expense of an important internal control mechanism, which was intended to protect the integrity of the procurement process while safeguarding the interest of the government. This practice undermines the control that would ensure the review and consideration of each potential contract worker who did not expressly meet the contracted-for levels of experience and education. This control would seemingly prevent an inordinate number of contract workers who do not meet the qualifications in the contract from providing services, reduce the likelihood of receiving services that do not meet the labor category qualifications negotiated and competitively awarded as part of the contract terms, and maintain the sanctity of the competition process wherein other interested parties would have been bidding specific to the identified labor needs rather than something less.

The DEA negotiated the contract labor categories and rates based on the labor category qualification requirements stated in the contract. The competitive solicitation and award process did not account for the winning contractor's potential excessive use of less qualified contract workers to fulfill the contract terms. Therefore, Ocean Bay hiring contract workers to work on the 2022 DCP ID/IQ with less experience and education than what the contract specified, even with an approved waiver, effectively puts the DEA in the position of paying less qualified contract workers at the same rate as contract workers who meet the contract requirements. Moreover, by posting a competitive solicitation seeking workers with qualifications beyond what was needed when lesser or alternative qualifications sufficed, the DEA potentially encouraged higher bids. This also increased the DEA's risk of paying the same rate for less qualified contract workers throughout the performance of the active task orders. Posting qualifications more reflective of actual needs could save substantial money.

Based on our analysis of Ocean Bay's invoices between June 27, 2022, and February 28, 2023, we estimate that the DEA paid Ocean Bay over $2.9 million for work performed by the 54 contract workers who did not meet the educational and experience qualifications that were the basis for the negotiated labor rates.[36] See Table 5 for a breakdown of the amount paid.

[36] Except for the services provided by 1 of the 54 contract workers (who accounts for $32,302 of the $2.9 million or 1 percent), the services provided would have been otherwise allowable had Ocean Bay: (1) requested a waiver, (2) submitted the required supporting documents, and (3) received CO approval (after review and concurrence of the contract worker's competency) in advance of the contract worker being assigned to the 2022 DCP ID/IQ. The services provided by the one contract worker are potentially inherently governmental functions outside of the contract worker's assigned labor category, such as: (1) entering and validating hours in Task Force Officers' timesheets and (2) collecting and incinerating drugs obtained during prescription take-back events.

Table 5

Amount Paid for Contract Workers Who Did Not Meet Contractual Qualifications for Period When No Waiver was in Place

Task Order	Number of Contract Workers	Total Hours Billed by Contractor	Total Amount Paid by the DEA[a]
1	[redacted]	[redacted]	$626,270
2	[redacted]	[redacted]	$241,506
3	[redacted]	[redacted]	$1,295,733
4	[redacted]	[redacted]	$813,437
Totals	**54**	61,963	**$2,976,946**

[a] We used the labor category rate for the position to which the contract workers were assigned and calculated the associated cost for the hours incurred from the contract workers' start dates to the dates when the DEA approved the waivers (March 2023).

Source: OIG Analysis of the 2022 DCP ID/IQ Invoices.

After discussing the $2,976,946 in unreasonable (and potentially unallowable) labor costs with the DEA, DEA officials informed us of plans to enhance its internal processes. Specifically, the DEA stated it plans to: (1) enhance its contractual requirements process to require the CORs to document the proposed contract workers' contractual qualifications and involve the CO in the review and approval process, and (2) review applicable COR training related to contractor qualifications. In addition, the DEA officials told us that they do not believe that the DEA can remedy the over $2.9 million billed for the services of the less qualified contract workers because it has received, accepted, and paid for the services.[37] The DEA provided an analysis of the 54 sampled contract workers, which reduced the potential monetary impact from over $2.9 million to $294,627. However, we found that the DEA used the rates of what it determined to be the corresponding lower tier contract labor category for each of the 54 contract workers. We believe this approach was inadequate because it did not consider the following variables: (1) there was not always a corresponding lower tier labor category based on the nomenclature in the contract (e.g., Program Analyst III and Program Analyst II), (2) the duties associated with the lower tier labor categories were not necessarily commensurate with the services actually performed by the contract workers in our sample (e.g., sometimes the contract workers' activities spanned multiple labor categories), and (3) 33 of 54 (61 percent) contract workers in the DEA's analysis did not appear to meet the education and experience qualifications for the lower tier labor category.

We believe the plan to enhance the internal process is a step in the right direction. However, the plan and DEA's analysis do not address: (1) the need to design and implement a process or control to reinforce the DEA contracting officials' and contractors' obligation to adhere to the process for approving contract worker outlined in the 2022 DCP ID/IQ and future contracts with similar requirements; (2) assessment of the minimum education and experience qualifications necessary to provide the services that the DEA needs for

[37] The DEA accepted the services, signifying that a government representative (e.g., the CO or COR) appraised the quality of the services received from Ocean Bay and Bennett in accordance with FAR Subpart 8.406-2(b).

diversion support. Any recalculations of monetary impact should consider the difference between what was paid and those new rates without the need to apply waivers to such a great extent.

Developing Requirements that Consider the Optimal Mix of Services and Labor Categories

The previously discussed constructive changes to the contract stemming from the DEA's frequent use of contract workers who do not meet labor category qualifications appear related to how the DEA arrived at the mix of services and labor categories written into the 2022 DCP ID/IQ. Specifically, the SOW includes labor categories that cover a broad range of services. For example, the Subject Matter Expert II's functional responsibilities in Task Order 1 include legal advisory services and outreach activities in Task Order 4. To optimize its future use of the available DCP funds to support its operations while adhering to federal regulations and contract terms, we discussed our preliminary recommendation with the DEA to: (1) review the 2022 DCP ID/IQ labor qualification requirements to consider what mix of services and labor categories are needed for future task orders and (2) put to better use any portion of the remaining contract value that could result in cost savings due to the new labor analysis and lead to reduced spending, avoidance of unnecessary expenditures, or reallocation of funds to higher-priority areas.[38] This analysis would potentially reduce the need to use the waiver process and consider the opportunity costs associated with accepting services provided by contract workers who do not meet labor category qualifications.

The DEA told us that it has started acquisition planning for the next iteration of the 2022 DCP ID/IQ and is considering adjustments to the labor categories for the remaining 2022 DCP ID/IQ option year scheduled for June 27, 2026 to June 26, 2027. The DEA stated that it is also considering eliminating the waiver process that allows contractors to substitute labor qualification and instead will provide a "labor hour and labor category template" in the follow-on solicitation to capture the list of contract labor categories. The OIG reviewed the template and noted that it only prompts the contractors to enter the names of labor categories. It also does not ask for the information that we believe a prudent contracting professional would need to determine the optimal mix of services and labor categories to meet the DEA's operational expectations. For example, the template does not include job titles, labor category descriptions, and qualifications for the contract positions, or instructions for completing the template.

Therefore, we recommend that the DEA: (1) complete its review of the 2022 DCP ID/IQ labor qualification requirements to consider what mix of services and labor categories are needed for future task orders, and incorporate the proposed labor hour and labor category template, which should include information necessary to determine the appropriate mix of services and labor categories that are optimal to meet the DEA's operational expectations; and (2) complete the new labor analysis and put to better use any portion of the remaining contract value that could result in cost savings through reduced spending, avoidance of unnecessary expenditures, or reallocation of funds to higher-priority areas.

[38] As of April 2026, the remaining contract value was approximately $82,161,525. We calculated this figure by subtracting the funds obligated ($73,449,915) from the ceiling of the 2022 DCP ID/IQ ($155,611,440). We are not identifying this entire figure as funds to be put to better use because it is not possible for the OIG to estimate what portion may be impacted by the analysis that we recommend the DEA perform to improve its stewardship of the registrant-funded DCFA and its overall service contracting.

Oversight of Travel Charged to the Diversion Control Fee Account

Section 1.7.1 Travel in the 2022 DCP ID/IQ states that "The contractor may be required to travel as part of their duties with prior approval by the COR." The 2022 DCP ID/IQ also includes DEA Clause 2852.231-70 *Travel Requirements for Contractors*, which states that "All travel must be pre-approved in writing by the COR or Task Monitor" and "any expenses incurred by contract personnel without prior Government approval will be denied for payment." Further, the DEA COR Manual and COR designation memoranda also state that CORs should pre-approve all contractor travel and ensure these costs abide by the contract terms.

However, we found that the DEA CORs inconsistently enforced the pre-approval requirements, which resulted in contract workers incurring unallowable local travel expenses (i.e., mileage). When we initially asked DEA contracting officials whether contract workers had to obtain pre-approval for local travel, we were told that contract workers did not necessarily need pre-approval for local travel (i.e., a trip within 50 miles from the contract worker official station); however, DEA later admitted that the CORs had mistakenly allowed the contract workers to bypass the pre-approval requirement. Consequently, we found that the DEA paid at least 14 travel transactions, totaling $2,074, between June 2022 and February 2023 without the required COR pre-approvals.

Although we later determined that the aforementioned local travel was DCP-related and found that the CORs approved the expenses, we believe that the DEA's informal practice for approving contractor-submitted travel invoices lacked the internal controls necessary to ensure that the contract workers obtained the contractually required pre-approvals. Therefore, to facilitate CORs' consistent understanding of the required approval process for travel (i.e., local and not local), we recommend that the DEA: (1) provide written guidance on the handling of local travel approvals, and (2) require CORs to apply this guidance to the remaining 2022 DCP ID/IQ lifecycle.

DEA Needs to Monitor Contractor Workloads for Compliance with the 8(a) Program

In December 2012 and again in December 2022, the Small Business Administration (SBA) and DOJ entered Partnership Agreements (PA), which: (1) delegated the SBA's contract execution functions to DOJ through 13 C.F.R. § 124.501(a) and (2) detailed responsibilities and procedures for the award and oversight of 8(a) Program contracts. The PA requires DOJ to adhere to all the provisions in FAR Subpart 19.8, which includes the agency's responsibility to ensure that its 8(a) Program participants comply with the SBA's subcontract limitations.

Since the DEA awarded Ocean Bay the 2022 DCP ID/IQ using the 8(a) Program, the DEA and Ocean Bay must adhere to the FAR and SBA rules governing eligibility and compliance as partners in the SBA's mission. For set-aside awards, the SBA requires prime contractors to perform minimum levels of work (i.e., more than 50 percent) on a government contract. These limitations ensure that otherwise ineligible businesses do not use small or disadvantaged businesses merely to access set-aside contracts. In other words, the SBA intends for only eligible small businesses to receive the benefits of its programs (i.e., financial capital and business development) by gaining on-the-job experience through performing most of the work.[39]

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[39] FAR Subpart 19.505(b)(1)(i), *Limitations on Subcontracting,* states that for a contract or order assigned a North

Continued

Throughout the audit, we noticed that the DEA, Ocean Bay, and Bennett referred to the prime and subcontractor as "Team Ocean Bay," and some of the contract workers furnished by either company seemed unsure for whom they worked, despite the companies presenting as separate and distinct entities as of the 2022 DCP ID/IQ award date. We subsequently tested the DEA's and Ocean Bay's contract worker headcount trackers as of July 2023 to determine whether the division of labor between Ocean Bay and Bennett remained compliant with small business requirements. We found that as of July 2023 Ocean Bay furnished 55 percent of the total contract workforce, and Bennett furnished 45 percent. Although the division of labor had not exceeded the regulatory threshold, we found, as discussed below, that the DEA does not actively track the division of labor between the prime and subcontractor. Not monitoring the division of labor between the prime contractor and the subcontractor increases the risk of the subcontractor inappropriately performing more of the work, thus making such performance non-compliant with small business requirements.

When we asked the DEA about subcontract work, a contracting official told us that the DEA did not know the division of labor between Ocean Bay and Bennett. Also, Ocean Bay officials did not provide support demonstrating that Ocean Bay had adequately monitored the subcontractor personnel workload (i.e., cost percentages in its monthly billings records). Our concerns regarding limitations on subcontracting increased after we determined, via independent research, that Ocean Bay's parent company had announced its acquisition of Bennett in May 2023.

The DEA must appropriately track its adherence to the FAR and SBA requirements that impact SBA program eligibility, for its current as well as future 8(a) Program contractors. After discussing this matter with the DEA, DEA officials informed us of plans to enhance its internal processes to address the deficiencies we identified. Specifically, the DEA stated that it plans to require CORs to: (1) monitor prime and subcontractor activities for pass-through charges and (2) request an annual subcontracting agreement from the prime contractor. To ensure the DEA takes sufficient action, we recommended that the DEA design and implement a process or control (e.g., policies and procedures) to continuously monitor and comply with the appropriate division of labor restrictions between prime contractors and subcontractors, to include supporting documentation such as the subcontract agreement.

American Industry Classification System (NAICS) code for services (except construction), the concern will not pay more than 50 percent of the amount paid by the government for contract performance to subcontractors that are not similarly situated entities. Any work that a similarly situated entity further subcontracts will count towards the concern's 50 percent subcontract amount that cannot be exceeded. When a contract includes both services and supplies, the 50 percent limitation shall apply only to the service portion of the contract. The NAICS code for the 2022 DCP ID/IQ is 541990- All Other Professional, Scientific, and Technical Services.

U.S. Small Business Administration Website: *https://www.sba.gov/federal-contracting/contracting-assistance-programs/8a-business-development-program#section-header-0*

FAR Subpart 19.702, *Statutory requirements*, states any contractor receiving a contract with a value greater than the simplified acquisition threshold must agree in the contract that small business, veteran-owned small business, service-disabled veteran-owned small business, HUBZone small business, small-disadvantaged business, and women-owned small business concerns will have the maximum practicable opportunity to participate in contract performance consistent with its efficient performance.

U.S. Small Business Administration Website*: https://www.sba.gov/federal-contracting/contracting-guide/governing-rules-responsibilities#section-header-2*

DEA Would Benefit from Consulting Experts on Labor Law Authority

The U.S. Department of Labor (DOL) Wage and Hour Division (WHD) enforces the Service Contract Labor Standards (SCLS, formerly the Service Contract Act), which requires that employees working on federal service contracts greater than $2,500 not be paid less than the wages and fringe benefits required by law.[40] The SCLS also contains exemptions for individuals employed in a bona fide executive, administrative, or professional capacity.[41] These exemptions also apply to the Fair Labor Standards Act (FLSA).

Of the three exemptions, the professional capacity (or Professional Exemption) has the most stringent applicability requirements. Under 29 C.F.R. § 541.300 (2022), "in a bona fide professional capacity" means that the employee is compensated on a salary or fee basis and primarily performs work requiring knowledge of an advanced type in a field of science or learning customarily acquired by a prolonged course of specialized intellectual instruction, excluding knowledge acquired through apprenticeships and on-the-job training.[42]

The application of the SCLS impacts the calculation of labor rates for contract employees, which in turn impacts the overall contract award. It is important that agencies properly apply these standards when evaluating contract proposals to ensure that price proposals are fair and reasonable. Pursuant to FAR Subpart 15.404-1, the CO is responsible for evaluating the reasonableness of offered prices. FAR Subpart 15-404-1(a)(5) states that, in doing so, the CO may request the advice and assistance of other experts to ensure that an appropriate analysis is performed.

Specifically, we found that the services provided via at least 3 of 15 labor categories assigned to the 2022 DCP ID/IQ contract workers may not qualify for the professional SCLS exemptions that Ocean Bay and Bennett applied when the DEA awarded the ID/IQ. We requested justifications for all the exemptions and received documents with little detail and no evidence that the DEA sought expert advice from its Office of General Counsel (OGC) or DOL before awarding the ID/IQ, as suggested by the proposal analysis guidance in FAR Subpart 15.404-1(a)(5). Specifically, DEA officials informed us that the previous CO had not fully documented the methodology used to arrive at appropriate wage determinations and exemptions. Instead, the CO relied on the only rationale in the contract files, which stated that the previous CO had assumed that the SCLS applied to only one labor category after not being able to identify a wage determination for the rest of the labor categories on DOL's Occupational Listing. Based on this, we determined that the DEA did not adhere to FAR instructions on how to obtain wage determinations or consider changes in the breadth of contract work, such as revised labor categories, the increased number of contract workers, and the time

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[40] FAR Subpart 22.1002-2*, Wage Determinations Based on Prevailing Rates*.

[41] 29 C.F.R. § 779.101 (2022).

29 C.F.R. § 541.0 (2022), the SCLS exempt certain bona fide executive, administrative, professional capacity, information technology, and sales employees from federal minimum wage and overtime requirements.

[42] 29 C.F.R. § 541.300 (2022), General Rule for Professional Employees, and 541.3, Scope of the Section 13(a)(1) exemptions.

elapsed since the contracting officials initially drafted and awarded the 2022 DCP ID/IQ.[43] Ocean Bay told us that it simply followed the wage determination tables incorporated in the contract.

This is concerning since: (1) poorly classified labor categories could hinder the SCLS' purpose, which is to prevent contractors from underbidding each other on contracts by reducing wages or fringe benefits for service employees; and (2) incorrect application of the SCLS potentially affects the government's pre-award contract price analysis and subsequent negotiated rates. Succinctly, if the incorrect rates are used to negotiate the labor rate, the invoices may need to be adjusted to account for any potential under or overpayment to the contract worker for the life of the ID/IQ.[44]

Presenting the DEA with another opportunity for obtaining labor expertise, in January 2023, the Office of Management and Budget (OMB) issued its *Memorandum on Strengthening Support for Federal Contract Labor Practices* (January 2023 OMB Memorandum), which required federal agencies to designate labor advisors by February 15, 2023, to improve implementation and compliance with labor laws for federal contractors. Because the FAR and OMB intend for labor advisors to play a key role in federal contracting, OMB suggested that labor advisors have a working knowledge of contract labor laws and a general understanding of federal acquisition.[45]

While the DEA awarded the 2022 DCP ID/IQ before the effective date of the January 2023 OMB Memorandum, the responsibility to ensure that the government adheres to labor laws and does not award contracts to businesses that violate such laws have been in place since at least January 2019. In June 2023, we met with the DEA's Labor Advisor, who had been appointed in February 2023, and found that the DEA had not begun to meaningfully integrate the individual into the acquisition lifecycle. Specifically, the DEA had yet to provide guidance or training to the Labor Advisor or acquisition workforce regarding the Labor Advisor's responsibilities as a resource on labor laws, such as the SCLS and FLSA.

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[43] FAR Subpart 22.1008-1(a) states that COs may obtain most prevailing wage determinations using the Wage Determinations at SAM.gov website or use the DOL's e98 electronic process, located on the Wage Determinations at SAM.gov website, to request a wage determination directly from the Department of Labor. If the Wage Determinations at SAM.gov database does not contain the applicable prevailing wage determination, the CO must use the e98 process to request a wage determination from DOL.

[44] For the labor category that the DEA considered SCLS applicable (i.e., Secretary III), DEA contracting officials used a wage determination, which included minimum wages, fringe benefits, and work rules that DOL established for the District of Columbia, Maryland, and Virginia. However, this wage determination was 6 months old and did not consider all revisions in effect by the June 2022 award date of the DCP ID/IQ. As a result, Ocean Bay did not factor in an increase in the minimum wage rate required by Executive Order 14026, which increased the hourly rate from $25.29 to $25.33, which resulted in an underpayment of $196 for 4,910 hours worked.

[45] The January 2023 OMB Memorandum encourages collaboration across the contracting community as agencies integrate labor advisors into their contracting function. For example, OMB suggests that labor advisors work with the: (1) acquisition workforce and other agency personnel, including the agency's Office of General Counsel, to promote greater awareness and understanding of labor law requirements, including wages, benefits, recordkeeping, reporting, and notice requirements, as well as effective and promising practices for obtaining compliance with contract labor law requirements and (2) DOL, the Federal Acquisition Institute, the Defense Acquisition University, and Acquisition Career Managers on the development of federal workforce training, as needed, on labor law requirements, and tools and information that can be used by the acquisition workforce.

In the OIG's 2018 audit of financial investigative support task orders, the OIG reported concerns regarding the professional exemptions from the FLSA applied to the contract workers that serviced the DEA task orders and recommended that the Justice Management Division (JMD) enhance its process for pre-award analysis to ensure that contracting officials review ID/IQ bids for indications of potentially misclassified contract workers and, as appropriate, solicit guidance from DOL WHD on applicable labor laws and exemptions.[46] To close the recommendation, in March 2019, JMD resolved to increase its pre-award efforts to ensure contracting officials review future contract bids for potential misclassifications. JMD stated that it would solicit DOL WHD guidance on any potentially applicable labor laws and exemptions, if appropriate and following consultation with Department legal counsel. However, it is unclear whether this practice continues or if the DEA adopted something similar.

After discussing this matter with the DEA, DEA officials informed us of plans to enhance internal processes to address this deficiency. Specifically, the DEA stated that it would enhance its contract file procedures by retaining future 2022 DCP ID/IQ written SCLS determinations in the contract file. The DEA further stated that DOL told it that DOL only needs to review the determinations if the DEA requires assistance. Since the FAR advises agencies to consult technical experts regarding the applicability of labor law exemptions to ensure cost realism, we believe that by not consulting DOL or an agency Labor Advisor the DEA will miss an opportunity to alleviate our past and current concerns.[47]

Considering the concerns outlined above, including the DEA's history of potential non-compliance related to labor laws, we believe that integrating expert advice into acquisition planning activities for future iterations of the 2022 DCP ID/IQ could help to mitigate these deficiencies. We discussed our preliminary recommendation with the DEA that it design and implement policies and procedures to include its Labor Advisor, starting with the acquisition planning phase, to align with the goals of labor laws and related regulations and policies.

Following the exit conference, the DEA provided the OIG documents indicating that the DEA is discussing prospective policies and procedures to increase collaboration between the DEA Office of Chief Counsel and designated Labor Advisor on various contract matters. We support this effort since the still active January 2023 OMB memorandum lists an agency's legal professionals (i.e., Office of General Counsel) among the various personnel that the Labor Advisor should coordinate with regarding contract labor matters. However, the documents the DEA provided appear to assign the Labor Advisor an even lesser role than prescribed by the January 2023 memorandum and do not integrate the various aspects of the role that would address the repeat labor law compliance concerns identified in this audit report. Therefore, we recommend that the DEA ensure its upcoming policies and procedures give its Labor Advisor (who should have a working knowledge of contract labor laws and a general understanding of federal acquisition) a more active role in the acquisition lifecycle to align with the goals of labor laws, related regulations, and policies as detailed in the January 2023 OMB memorandum.

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[46] DOJ OIG, *Asset Forfeiture Program Task Orders Awarded to Maximus, Inc.,* 23-26.

[47] FAR Subpart 22.1003-7, *Questions Concerning Applicability of the Service Contract Labor Standards Statute* and FAR 15.404-1, *Proposal analysis techniques*.

Conclusion and Recommendations

Our audit identified several deficiencies regarding the DEA's planning, administration, and oversight of its 2022 DCP ID/IQ awarded to Ocean Bay. We found that the DEA's contract files did not demonstrate that the acquisition planning team fully considered the risks associated with service contracts that operate amidst a blended government-contractor workforce. This made the interaction between the DEA employees and contract workers appear to be inherently governmental (or those closely associated) or personal services, which federal laws and regulations generally prohibit. In fact, in reviewing the 2022 DCP ID/IQ the DEA awarded to support its planning and execution of the DCP, we could not confirm that the contract workers only engaged in diversion-related activities that were allowable and consistent with the labor categories for which they were hired.

We also found that the DEA contract oversight policies and procedures need to be improved or implemented to avoid paying for unreasonable and potentially unallowable labor charges and travel costs. Further, the DEA, Ocean Bay, and Bennett need to adequately monitor the division of labor between the prime contractor and the subcontractor as required by the FAR and SBA rules. Not doing so leaves the DEA and contractors unable to detect when they risk violating limitations on passthroughs, which can compromise the contractors' future small business program eligibility. Additionally, the DEA needs to consult federal labor experts and document its determination on the applicability of labor laws to all contract positions to avoid underpayment to contract workers.

Many of our concerns reflect the DEA's departure from agreed-upon remedial actions that led to the closure of recommendations that the OIG made in its: (1) April 2018 report on the DEA's financial investigative task orders supporting the Asset Forfeiture Program, (2) July 2020 DOJ-wide management advisory on contract administration and oversight, and (3) 2021 report on the DEA's laboratory information management support contracts. In addition to taking corrective action to address our recommendations, it is imperative that the DEA execute controls to ensure the lasting effect of the valuable improvements it makes.

As a result of our audit, we recommend that the DEA:

1. Institute a process or control that ensures written designation letters are used to properly delegate COR responsibilities in accordance with CORs' procurement authority and limitations.

2. Provide training to DEA personnel upon their assignment to a technical contract oversight role and thereafter on an interval that sustains awareness within its workforce.

3. Require the COs and CORs to discuss and maintain an updated list of the individuals serving as government leads, including alternate points of contact.

4. Reassess the procedures that it established in response to DOJ OIG audit report 21-079 on the DEA's LIMS support contracts to adequately train contracting officials on CPARS policies and procedures. The policies and procedures should include a process to facilitate preparation of complete, accurate, and timely contractor performance assessments (i.e., the COR Monthly Reports) with clear and relevant narratives.

5. Require CO involvement in decisions related to non-diversion activities, rather than relying solely on the government leads and CORs, to strengthen internal controls.

6. Create a process or control for government leads and CORs to adequately track diversion and non-diversion tasks to facilitate an accurate accounting of activities performed by the contract worker to minimize the potential risk of improperly charging costs to the DCFA.

7. Complete its review of the 2022 DCP ID/IQ labor qualification requirements to consider what mix of services and labor categories are needed for future task orders, and incorporate the proposed labor hour and labor category template, which should include information necessary to determine the appropriate mix of services and labor categories that are optimal to meet the DEA's operational expectations.

8. Complete the new labor analysis and put to better use any portion of the remaining contract value that could result in cost savings through reduced spending, avoidance of unnecessary expenditures, or reallocation of funds to higher-priority areas.

9. Provide written guidance on the handling of local travel approvals and require CORs to apply this guidance to the remaining 2022 DCP ID/IQ lifecycle.

10. Design and implement a process or control (e.g., policies and procedures) to continuously monitor and comply with the appropriate division of labor restrictions between prime contractors and subcontractors, to include supporting documentation, such as the subcontract agreement.

11. Ensure that its upcoming policies and procedures give its Labor Advisor a more active role in the acquisition lifecycle to align with the goals of labor laws, related regulations, and policies as detailed in the January 2023 OMB memorandum.

APPENDIX 1: Objectives, Scope, and Methodology

Objectives and Scope

Our audit focused on the four active task orders, as of December 2022, under the Drug Enforcement Administration's (DEA) Indefinite Delivery/Indefinite Quantity (ID/IQ) Contract Number 15DDHQ22D00000001 awarded to Ocean Bay Information and Systems Management, LLC (Ocean Bay). With respect to these task orders, the objectives of this audit were to assess: (1) the DEA's administration of the task orders; and (2) Ocean Bay's performance and compliance with the terms, conditions, laws, and regulations application to the task orders in the areas of: (a) contractor performance; (b) billings and payments; and (c) contract management, oversight, and monitoring.

Methodology

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.

DEA's Administration

To accomplish our objectives, we reviewed and analyzed various documents to understand DEA's: (1) acquisition history and strategy, including key decisions regarding Diversion Control Program (DCP) support; (2) administration; and (3) monitoring activities of the ID/IQ four task orders. In addition to the executed contract actions, the documents examined included, but were not limited to the:

- Acquisition Plan,
- Statement of Work,
- Source Selection Plan,
- Technical Evaluation,
- Best Value Determination,
- Invoices,
- Contractor Proposals,
- Waivers for Contractual Education and Experience Qualifications,
- Wage Determinations,
- Performance Documents, and
- Small Business Administration (SBA) documents.

We also reviewed relevant Federal Acquisition Regulation (FAR), Justice Acquisition Regulation (JAR), Department-wide as well as DEA policies governing acquisition processes, Office of Management and

Budget, and the SBA. We used the aforementioned criteria to evaluate the contract file content and insights provided by DEA personnel. For example, we compared the applicable FAR to the DEA's written planning considerations, such as market research and other acquisition planning documents to gain an understanding of post-award performance expectations. We also reviewed the supporting documents for the small business contract actions to determine if the DEA complied with SBA rules for selection and award.

Consultations

We consulted, via interviews and other interactions, 24 DEA personnel responsible for the acquisition lifecycle (i.e., planning, administration, and oversight), to understand their experiences, roles, and responsibilities, as well as to gain further insight into events surrounding the contract actions not necessarily captured in the contract files. These individuals included: (1) the Acquisition Management Section Chief, (2) a former Contracting Officer, (3) three Contracting Officer's Representatives (COR), (4) Diversion Control Division Personnel (e.g., 13 government leads and two Program Analysts for the Diversion Financial Unit), Office of Resource Management Cost Analysis Section, Financial Policy Section Deputy Assistant Administrator and Section Chief, and DEA's Designated Labor Advisor.

We also interviewed a judgmental selection of 39 Ocean Bay personnel, which included 4 Key Personnel responsible for the DCP performance metrics and contract monitoring (i.e., Ocean Bay Program Manager, 2 On-site Supervisors, and a Bennett Deputy Program Manager) and 35 contract workers assisting Diversion Headquarters and Field Offices.[48]

Ocean Bay's Performance and Compliance

We reviewed the contract agreement, contract modifications, and accompanying Statement of Work for the contracts 2022 DCP ID/IQ to identify the various contract terms, conditions, award deliverables, and other requirements. We then reviewed Monthly Status Reports, meeting minutes, performance evaluations, and other relevant documentation to determine if Ocean Bay was compliant with the requirements under the contract.

Ocean Bay's Billing and the DEA's Payments

We tested 14 contractor invoices, totaling over $3 million, or 34 percent of the total amount of invoices paid.

Ocean Bay's Contract Management, Oversight and Monitoring

To assess the adequacy of DEA's Contract Management, Oversight and Monitoring of the contracts, we reviewed the FAR, DEA and DOJ policies and procedures, Department of Labor, and OMB memoranda that establish pre-solicitation, solicitation, and award and contract administration in addition to Ocean Bay's policies and procedures. We analyzed all four task orders Statement of Work to gain an understanding of the contract requirements and updates to labor categories during the performance of the contract. We then identified key areas, which we evaluated as follows:

[48] The 35 contract workers supporting the DCP included: a Business Analyst, an Economist, 2 Management Analyst IIs, a Program Analyst I, 2 Program Analyst IIs, 6 Program Analyst IIIs, a Secretary III, 12 Subject Matter Expert IIs, a Subject Matter Expert III, a Subject Matter Expert IV, a Subject Matter Expert VI, and 6 Data Analyst IVs.

- written acquisition plan,
- assessment of inherently governmental functions and personal services,
- performance-based methods, and
- monitoring of subcontract services.

We also gained an understanding of the contract clauses and contracting officials' files, DEA's mission statement, strategic planning documents, and program area descriptions. Overall, we identified non-compliance with various contract requirements, which are discussed in the Audit Results section of this report. In our judgment, the areas of non-compliance we identified further demonstrate DEA's inadequate planning of the contract's oversight.

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 DEA to provide assurance on its internal control structure as a whole. The DEA's 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 DEA's internal control structure as a whole, we offer this statement solely for the information and use of the DEA.

We assessed the design, implementation, and operating effectiveness of these internal controls and identified deficiencies that we believe could affect the DEA's ability 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 also tested, as appropriate given our audit objectives and scope, selected transactions, records, procedures, and practices, to obtain reasonable assurance that the DEA's, Ocean Bay's, and Bennett's management complied with federal laws and regulations for which non-compliance, in our judgment, could have a material effect on the results of our audit. Our audit included examining, on a test basis, the DEA's, Ocean Bay's, and Bennett's compliance with the following laws and regulations that could have a material effect on the DEA's operations:

- 29 C.F.R. § 4, Labor Standards for Federal Service Contracts (2022)
- 29 C.F.R. § 541, Defining and Delimiting the Exemptions for Executive, Administrative, Professional, Computer, and Outside Sales Employees (2022)
- 29 C.F.R. § 779, The Fair Labor Standards Act as Applied to Retailers of Goods or Services (2022)
- 18 U.S.C. § 207, Restrictions on Former Officers, Employees, and Elected Officials of the Executive and Legislative Branches (2022)
- 21 U.S.C. § 872, Education and Research Programs of Attorney General (2022)

- 21 U.S.C. § 886, Payments and Advances (2022)
- 21 U.S.C. § 958, Registration requirements (2022)
- FAR and JAR:
    - FAR Subpart 1.6, Career Development, Contracting Authority, and Responsibilities
    - FAR Subpart 2.101, Definitions
    - FAR Subpart 4.8, Government Contract Files
    - FAR Part 7, Acquisition Planning
    - FAR Subpart 16.601(c)(1), Time-and-Materials Contracts
    - FAR Part 19, Small Business Programs
    - FAR Part 22, Application of Labor Laws to Government Acquisitions
    - FAR Subpart 31.201, General
    - FAR Part 37, Service Contracting
    - FAR Subpart 42.15, Contractor Performance Information
    - FAR Subpart 46.4, Government Contract Quality Assurance
    - FAR Subpart 52.232-7(a)(3), Payments under Time-and-Materials and Labor-Hour Contracts
    - JAR Part 2807, Acquisition Planning

This testing included analyzing contract files and related documents, interviewing DEA, Ocean Bay, and Bennett personnel, and reviewing invoices and supporting documentation. As noted in the *Audit Results* section of this report, we found that the DEA did not comply with federal regulations related to acquisition planning, post-award contract administration and oversight. We also found that Ocean Bay and Bennett did not comply with federal laws and regulations that require adherence to contract terms (including those stipulating responsibility for hiring and expressly requiring certain pre-approvals), monitoring subcontractors to maintain small business program eligibility, and ensuring correct application of labor rates.

Sample-Based Testing

To accomplish our audit objective, we performed sample-based testing of invoices and payments, 2022 DCP ID/IQ task order requirements related to labor categories job classifications and experience, Affirmative Statements, and personnel. We employed a judgmental sampling design to obtain broad exposure to numerous facets of the areas we reviewed. This non-statistical sample design did not allow projection of the test results to the universe from which the samples were selected.

Computer-Processed Data

We obtained information from Ocean Bay's general ledger and timekeeping system. We did not test the reliability of those systems; therefore, any findings identified involving information from those systems were verified with documentation from other sources.

APPENDIX 2: Potentially Unallowable Activities Performed by Contract Workers via the 2022 DCP ID/IQ

Labor Category	Number of Contract Workers Interviewed	Activities Performed	Compliant with Requirements?[a]	Appears Inherently Governmental Functions (or Closely Associated) ?[b]	Resembles Personal Services?[c]
Program Analyst III	2 of 7	Submits time and attendance in WebTA on behalf of the DEA secretaries. Involved in the recruiting process for DEA employees, including reviewing position descriptions.	NO	YES	YES
Management Analyst II	1 of 7	Validates and enters hours in WebTA for Task Force Officers' timesheets.	NO	YES	YES
Data Analyst IV	3 of 7	Validates and enters hours of the Task Force Officers' timesheets for DEA office, collects and incinerates drugs obtained during Prescription Take-Back events. Serves as assigned timekeeper for DEA's Syracuse and Albany Offices and escorts visitors. Serves as assigned timekeeper for DEA employees.	NO	YES	YES
Subject Matter Expert II	1 of 7	Represented the DEA at a diversion outreach and education community event without DEA personnel.	NO	YES	YES

Notes:

[a] These activities are not among the labor category functional responsibilities described in the 2022 DCP ID/IQ or its task orders, which include support activities, such as DCFA financial tasks and diversion investigative research nor relate to the permissible activities outlined in the controlled substance laws under 21 U.S.C. § 872 (2022).

[b] We found that at least one of the following references applied to the activities performed by the sampled contract workers:

- FAR Subpart 7.503(c)(7) states the direction and control of federal employees, are functions considered to be inherently governmental functions and shall be treated as such.
- FAR 7.503(d) lists certain functions generally not considered inherently governmental that can approach being in that category because of the nature of the function the manner in which the contractor performs the contract, or the manner in which the Government administers contractor performance. The list includes contractor participation in any situation where it might be assumed that they are agency employees or government representatives.

[c] FAR Subpart 37.104(d)(4) states that a contract may be personal in nature if it provides comparable services, meeting comparable needs, that are performed in the same or similar agencies using civil service personnel.

Source: OIG Analysis.

APPENDIX 3: 2022 DCP ID/IQ Work Resembling Personal Services Contract Descriptive Elements

FAR Personal Service Contract Descriptive Elements	DEA's Diversion Control Program ID/IQ
Performance on-site.	Contract workers assigned to the ID/IQ labor categories perform all services on-site at DEA facilities across the continental United States and Puerto Rico.
Principal tools and equipment furnished by the government.	Contract workers assigned to ID/IQ labor categories rely on the DEA's principal tools and equipment, such as government-issued cell phones and laptops to perform research and the other services purchased via the 2022 DCP ID/IQ.
Services are applied directly to the integral effort of agencies or an organizational subpart in furtherance of assigned function or mission.	The ID/IQ and supporting contract files specifically state that the contracted work is mission-essential for the Diversion Control Division, which cannot successfully plan and execute its DCP without contractors.
Comparable services, meeting comparable needs, are performed in the same or similar agencies using civil service personnel.	Some of the contract workers perform timekeeping, escorting, and recruiting functions for the DEA offices where they are assigned. These activities are ordinarily performed by DEA employees and do not align with the ID/IQ, SOW, external job descriptions for their respective labor categories.
The need for the type of service provided can reasonably be expected to last beyond 1 year.	The ID/IQ is the latest iteration of the DEA's contracts to support its diversion control activities, which the DEA has relied on for at least 20 years and indicated that it will renew through 2027. The objective of the ID/IQ is to have the appropriate level of skilled contract support to effectively perform activities as directed by the government in support of the DCP mission. The expected outcome is that the Diversion Control Division will continually maintain the requisite skills, expertise, and labor effort to meet the planning and operational requirements of the DCP and to maintain effective and efficient office operations.
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.	The Attorney General designated the DEA as the steward of the DCP. Because the DEA's Diversion Control Division has investigative and enforcement responsibilities, the contracted DCP support should be limited to the activities outlined in 21 U.S.C. § 872 (2022).

Source: FAR Subpart 37.104 and OIG Analysis.

APPENDIX 4: DEA's Experience/Education Substitution Request Form

Experience/Education Substitution Request Form

No individual requiring an applicable substitution is authorized to perform work under this task order until an authorized Contracting Officer has approved, signed and distributed this document.

Task Order: __________ **Date:** __________

Individual Name: __________

Resume: Attached

Substituting: __________ **For:** __________

JUSTIFICATION FOR SUBSTITUTION
(if additional space is needed indicate "See Attached")

____

____

____

____

____

____

____

____

By signing below; I acknowledge that I have reviewed, the individuals resume, justification, and supporting documentation. I agree that the proposed substitution will meet the qualifications specified in the Statement of Work.

CONTRACTOR PROGRAM MANGER: DATE

__________ __________ __________
(PRINT NAME) (SIGNATURE)

ALTERNATE CONTRACTING OFFICER REPRESENTATIVE: DATE

__________ __________ __________
(PRINT NAME) (SIGNATURE)

OPERATIONS MANAGEMENT SECTION CHIEF: DATE

__________ __________ __________
(PRINT NAME) (SIGNATURE)

CONTRACTING OFFICER: DATE

__________ __________ __________
(PRINT NAME) (SIGNATURE)

Source: DEA.

APPENDIX 5: Ocean Bay's Performance Questionnaire Form

OCEAN BAY LLC
AN OLD HARBOR COMPANY

Performance Questionnaire

Employee Name: ________________________ **Date:** ___________

Position: ______________________________ **Period of Performance:** __________

Government Technical Lead: _________________

The provided information is intended for use on the employee's evaluation. If you do not feel you have had adequate time to evaluate an employee, please state this in the comments section. If the employee's assessment is acceptable or unacceptable in any area, Program Manager/On-Site Supervisor will contact you for follow-up. We appreciate your input.

Rating Scale

Outstanding (5): Conspicuously meritorious performance. Consistently exceeds all requirements.
Excellent (4): Generally exceeds requirements with a minimum of guidance. Well above average performance.
Successful (3): Responsibilities are met in a wholly satisfactory manner. Normal guidance and supervision are required.
Acceptable (2): Improvement needed in several key job areas. Considerable guidance and supervision required to perform work.
Unacceptable (1): Major shortcomings in performance. Would recommend reassignment or separation if employee continues to perform at current levels.

Primary Factors	5	4	3	2	1
Analytical Skills					
Communication *(Oral and Written)*					
Quality of Work					
Productivity					
Initiative					
Professionalism					
Teamwork					
Time and Attendance					

Comments *(overall assessment of the employee)*:

If you have any questions, please contact Ocean Bay Manager
- Program Manager [redacted]
- On-Site Supervisor [redacted]
- On-Site Supervisor [redacted]

Source: Ocean Bay.

APPENDIX 6: DEA Response to the Draft Audit Report

U.S. Department of Justice
Drug Enforcement Administration
8701 Morrissette Drive
Springfield, Virginia 22152

www.dea.gov

MEMORANDUM

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

FROM: Eric W. Baldus
Deputy Chief Inspector
Office of Inspections

ERIC BALDUS

Digitally signed by ERIC BALDUS
Date: 2026.06.01 15:50:09 -04'00'

SUBJECT: DEA Response to the Office of Inspector General Draft Report titled, *Audit of the Drug Enforcement Administration's Diversion Control Support Task Orders Awarded to Ocean Bay Information and Systems Management, LLC.*

The Drug Enforcement Administration (DEA) has received the Department of Justice (DOJ) Office of the Inspector General's (OIG), Washington Regional Audit Office Report titled, *Audit of the Drug Enforcement Administration's Diversion Control Support Task Orders to Ocean Bay Information and Systems Management, LLC.*

Ocean Bay and its subcontractor generally provided the DEA with the contractually agreed-upon services. In the report, OIG identified alleged perceived overpayment of a specific dollar amount without providing the full context that the overpayment originated from a record keeping error, which risks creating a misleading impression that is not supported by the factual administrative record. While the OIG may characterize the payment as "unreasonable" or view it as a "constructive change" to contract terms, that judgment reflects a professional disagreement over pricing standards or timing—not evidence of misuse, waste, or improper expenditure. Although OIG explained their methodology, DEA disagrees with the OIG findings on this matter because OIG has not sufficiently explained how they identified this specific dollar amount as the alleged overpayment. Their analysis ultimately relies on an interpretive framework rather than a verified finding of financial loss. Under FAR 43.101 and 43.103(b), the retroactive waivers issued to the start of the contract (June 27, 2022) constitute administrative changes intended to reflect the actual agreement of the parties without affecting the substantive rights of the government, effectively neutralizing the period of alleged non-compliance.

Presenting a dollar figure in isolation invites readers to draw the erroneous conclusion that registrant user fees were lost, stolen, or misused, when in reality every dollar was spent for its intended purpose and in accordance with the Diversion Control Fee Account (DCFA). The primary issue, as outlined in the report, was an administrative delay in processing waivers in a timely manner—an oversight that has been corrected. Outside of that issue, the DEA properly paid for actual services received in accordance with the DCFA. Furthermore, per FAR 31.201-3, cost reasonableness must be determined based on the circumstances existing at the time the costs were incurred. Because the services were successfully completed to the necessary standard and subsequently covered by retroactive waivers, the costs align with prudent person standards for contract performance. Labeling these services fees as a finding incorrectly implies a factual intent to bypass regulations—an assumption not supported by the evidence of the DEA's prompt correction. To accurately reflect the facts, any reference to the disputed amount must be accompanied by a detailed explanation that the funds were properly expended, that the OIG's concern is limited to the question of reasonableness, and that no finding of fraud, abuse, or misappropriation has been made. Omitting the figure entirely in the report, or ensuring it is not presented without this qualifying context, is the most responsible way to protect the integrity of the record and prevent unwarranted reputational harm to DEA based on an outside interpretation that ignores the legal and regulatory effect of the retroactive waivers.

DEA provides the response below to the report's recommendations:

Recommendation 1: Institute a process or control that ensures written designation letters are used to properly delegate COR responsibilities in accordance with CORs' procurement authority and limitations.

DEA Response

> DEA concurs with this recommendation. The DEA, Office of Acquisition (FA) has established policies and procedures that provide specific guidance on the Contracting Officer Representative (COR) assignment process. The COR Guidance Standard Operating Procedures (SOP) Memorandum and the Updated COR Assignment Memorandum list the responsibilities and limitations within their role. To verify compliance, the COR Program Manager will audit all active contracts to ensure that every COR designation has been formally and correctly executed and will host a Quarterly Contract oversight and COR Responsibility Training in the COR Community of Practice (CoP) digital platform to ensure the CORs procurement authority is within its limitations.
>
> DEA has addressed this recommendation by instituting a process and controls that ensure written designation letters are used to properly delegate COR responsibilities. Documentation of DEA's actions has been provided to OIG under separate cover for closure of this recommendation.

Recommendation 2: Provide training to DEA personnel upon their assignment to a technical contract oversight role and thereafter on an interval that sustains awareness within its workforce.

DEA Response

DEA concurs with this recommendation. The DEA has expanded its COR support framework through dedicated training and the establishment of the following initiatives:

- One-on-one Guidance: The DEA has established a structured process for newly assigned CORs, where the COR Program Manager will be providing personalized, one-on-one guidance for the assigned contract. This initiative is integrated into the official COR Assignment SOP to ensure that each COR fully understands their specific technical and administrative responsibilities before beginning work on a contract.

- Quarterly Contract Oversight and COR Responsibility Training: The COR Program Manager will host quarterly COR training to promote continuous professional development. These sessions reinforce the importance of accurate oversight, delegated authority, and the specific limitations governing COR actions. This initiative promotes consistency among Program Managers, Contracting Officers, and Contract Specialists, ensuring all personnel are equipped to protect the Government's interests and support effective contract administration. The series began with a focus on Foundational COR Responsibilities and Oversight Discipline.

- COR CoP: The COR Program Manager is currently utilizing the COR CoP to centralize policy updates and program information and hold monthly meetings with the COR community. All CORs are encouraged to use this platform to share best practices and resolve administrative hurdles collaboratively.

- COR Mentoring Resource: The DEA newly established COR Mentoring Resource creates a formal pathway for senior-to-junior mentorship. By utilizing structured Mentoring Agreements, the program ensures that junior CORs gain the hands-on training and expert guidance essential for excelling in contract oversight.

In addition to the new training initiatives above, the DEA also offers the following training:

- DEA COR Training: This four-hour training session, conducted three times a year, provides a comprehensive overview of COR responsibilities and prohibitions. It is designed to fulfill introductory requirements for new appointees while serving as a recurring refresher for active CORs.

- Annual Acquisition Training Schedule: FA established a recurring training schedule in FY24 to provide continuous professional development. Key offerings include Contract Administration Training and How to Validate an Invoice, among others.

- First Thursday Acquisition Training: This is a monthly acquisition training that is offered to the DEA acquisition workforce to include CORs. Topics may include Contractor Performance Assessment Reporting System (CPARs), Managing the Contractor Relationship, etc.

DEA has completed actions for this recommendation by providing training to DEA personnel upon their assignment to a contract oversight role and has provided opportunities for additional training on an interval that sustains awareness within DEA's workforce. Documentation to close this recommendation has been provided to OIG under separate cover. Based on this information, DEA request closure of this recommendation.

Recommendation 3: Require the COs and CORs to discuss and maintain an updated list of the individuals serving as government leads, including alternate points of contact.

DEA Response

DEA concurs with this recommendation. Since the contract's inception, the COR Program Manager and CORs have maintained a current roster of government leads and designated Points of Contact (POCs) within the COR Virtual File (VF). To ensure continued alignment, the CO, COR Program Manager, and CORs will begin quarterly discussions with these leads and alternate POCs regarding COR authority. During these discussions, the contact roster will be validated and updated as needed.

DEA has completed the requirements of this recommendation by requiring the COs and CORs to maintain a list of individuals serving as government leads and alternate points of contact. Documentation to close this recommendation has been provided to OIG under separate cover to close this recommendation.

Recommendation 4: Reassess the procedures that it established in response to DOJ OIG audit report 21-079 on the DEA's LIMS support contracts to adequately train contracting officials on CPARS policies and procedures. The policies and procedures should include a process to facilitate preparation of complete, accurate, and timely contractor performance assessments (i.e., the COR Monthly Reports) with clear and relevant narratives.

DEA Response

DEA concurs with this recommendation. The DEA has reassessed the current CPARS procedures and continues to utilize weekly CPARS Metric Reports and the auto-registration for CPARS. The DEA remains committed to CPARS compliance by enhancing its training to focus on the development of clear, relevant, and comprehensive performance narratives. CPARS training was provided on January 16, 2025, and on May 20, 2026. This training will be provided on a quarterly basis going forward.

In addition to CPARS training, the DEA also provides Contract Administration Plan (CAP) Training, which also addresses the COR Monthly Reports. The most recent session took place on August 19, 2025, which emphasized how these reports serve as vital documentation to support final CPARS evaluations. This year training also occurred on May 27, 2026.

The COR Monthly Report template was recently revised and renamed COR Status Report to give COs the flexibility to dictate reporting frequency. To implement this change, the

DEA notified the CORs via the COR CoP and a targeted email broadcast. Additionally, a brief instructional session demonstrating the updated document was held on May 04, 2026, and the update was formally integrated into the CPARS training on May 20, 2026.

DEA has reassessed its procedures for training on CPARS policies and procedures that include a process to facilitate preparation of complete, accurate, and timely contractor performance assessments with clear and relevant narratives. Documentation of actions to support this recommendation has been provided to OIG under separate cover. DEA requests closure of the recommendation.

Recommendation 5: Require CO involvement in decisions related to non-diversion activities, rather than relying solely on the government leads and CORs, to strengthen internal controls

DEA Response

DEA concurs with this recommendation. The DEA is considering options which would strengthen controls and provide appropriate triggers to flag expenditures when the DCFA nexus needs to be fully explained. Because this contract is funded 100% by Diversion, there is no expectation that contractor personnel will perform work outside the scope of activities associated with non-diversion activities. However, if any work outside the funded scope is identified, the CO, COR and government lead should be made aware, and decisions should be made then. Once complete, DEA will provide support documentation for closure of this recommendation.

Recommendation 6: Create a process or control for government leads and CORs to adequately track diversion and non-diversion tasks to facilitate an accurate accounting of activities performed by the contract worker to minimize the potential risk of improperly charging costs to the DCFA.

DEA Response

DEA concurs with this recommendation. The DEA is considering options which would strengthen controls and provide appropriate triggers to flag questionable expenditures. Because this contract is funded 100% by Diversion, there is no expectation that contractor personnel will perform work outside the scope of activities associated with non-diversion activities. However, if any work outside the funded scope is identified, the CO, COR and government lead should be made aware and a process or control should be followed. Once complete, DEA will provide support documentation for closure of this recommendation.

Recommendation 7: Complete its review of the 2022 DCP ID/IQ labor qualification requirements to consider what mix of services and labor categories are needed for future task orders and incorporate the proposed labor hour and labor category template, which should include information necessary to determine the appropriate mix of services and labor categories that are optimal to meet the DEA's operational expectations.

DEA Response

DEA concurs with this recommendation. The DEA is currently conducting a labor analysis to optimize the mix of services and labor categories for the upcoming follow-on contract. Once the analysis is complete, DEA will provide support documentation for closure of this recommendation.

Recommendation 8: Complete the new labor analysis and put to better use any portion of the remaining contract value that could result in cost savings through reduced spending, avoidance of unnecessary expenditures, or reallocation of funds to higher-priority areas.

DEA Response

DEA concurs with this recommendation. See response to recommendation 7.

Recommendation 9: Provide written guidance on the handling of local travel approvals and require CORs to apply this guidance to the remaining 2022 DCP ID/IQ lifecycle.

DEA Response

DEA concurs with this recommendation. FA has updated clause DEA-2852.231-70, Travel Requirements for Contractors to include guidance on local travel which includes what constitutes as local travel as well as the proper procedures to request for local travel. Training and written guidance was provided to CORs during the COR CoP monthly meeting on May 4, 2026, as well as Project/Program Managers and contracting staff.

DEA has completed action to address this recommendation by providing written guidance on the handling of local travel approvals. Documentation to support the actions have been provided to OIG under separate cover. DEA requests closure of this recommendation.

Recommendation 10: Design and implement a process or control (e.g., policies and procedures) to continuously monitor and comply with the appropriate division of labor restrictions between prime contractors and subcontractors, to include supporting documentation, such as the subcontract agreement.

DEA Response

DEA concurs with this recommendation. The DEA has reviewed FAR Subpart 19.7 - The Small Business Subcontracting Program (RFO FAR Subsection 19.109) which is not applicable to the Ocean Bay IDIQ since Ocean Bay is a small business. However, Ocean Bay is required to follow FAR 52.219-14, Limitations on Subcontracting. This clause states the subcontractor cannot exceed 50% of the work performed.

Since September 2023, Ocean Bay has submitted monthly reports identifying each contractor's parent company. To date, the COR has verified Ocean Bay has been compliant with the terms of the FAR 52.219-14, Limitations on Subcontracting.

DEA has completed action to address this recommendation. Documentation to support the actions have been provided to OIG under separate cover. DEA requests closure of this recommendation.

Recommendation 11: Ensure that its upcoming policies and procedures give its Labor Advisor a more active role in the acquisition lifecycle to align with the goals of labor laws, related regulations, and policies as detailed in the January 2023 OMB memorandum.

DEA Response

DEA concurs with this recommendation. For future contracts, the DEA will follow the Promoting Efficiency, Accountability, and Performance in Federal Contracting Executive Order dated April 30, 2026, which directs agencies default to firm-fixed price contracts as defined in Part 16 of the FAR as much as possible.

For contracts that, by necessity include any non-fixed prices such as labor-hours, that justification will be in writing. The DEA has updated the Contracting and Acquisition Review Board (CARB) process to integrate the DEA Labor Advisor or another contracting attorney within the Office of Chief Counsel, Finance and Ethics Section, as a mandatory stakeholder. Under this revised process, the assigned contracting attorney will review the CO's determination regarding Service Contract Labor Standards (SCLS) applicability, including the specific wage determinations incorporated into solicitations and awards. In instances where an SCLS exemption is claimed (e.g., the Professional Exemption), the CO is required to provide supporting documentation to the contracting attorney for review and concurrence.

For acquisitions not subject to the CARB process, the DEA will issue guidance clarifying the DEA Labor Advisor/contracting attorney supporting role. In accordance with FAR Subpart 22.10, COs are encouraged to consult with the Labor Advisor to determine the applicability of SCLS whenever the need arises.

DEA has completed action to address this recommendation. Documentation to support the actions have been provided to OIG under separate cover. DEA requests closure of this recommendation.

If you have any questions regarding this response, please contact Janice Swygert, Acting Section Chief, External Audit Liaison Team, at [redacted].

APPENDIX 7: Ocean Bay and Bennett Joint Response to the Draft Audit Report

OCEAN BAY LLC
AN OLD HARBOR COMPANY

May 5, 2026

VIA: EMAIL

U.S. Department of Justice
Office of the Inspector General
Washington Regional Audit Office
950 Pennsylvania Avenue, NW
Washington, DC 20530

Attn: Jason R. Malmstrom, Assistant Inspector General for Audit

Re: Response to Draft Report for the Audit of the Drug Enforcement Administration's (DEA) Diversion Control Support Task Orders Awarded to Ocean Bay Information and Systems Management, LLC

Dear Mr. Malmstrom:

Ocean Bay Information and Systems Management, LLC (Ocean Bay) is in receipt of your letter dated April 21, 2026 providing a copy of the Office of the Inspector General's (OIG) draft report for the *Audit of the Drug Enforcement Administration's (DEA) Diversion Control Support (DCS) Task Orders Awarded to Ocean Bay Information and Systems Management, LLC*. Ocean Bay appreciates the opportunity to provide a formal response to the draft report and requests that the OIG include the substance of this response in its final report.

Ocean Bay acknowledges that the OIG took into account some of our previous comments on the initial draft report, but we disagree with several conclusions indicating or implying that Ocean Bay did not comply with certain contract requirements. Ocean Bay specifically disputes portions of the draft report suggesting that it failed to monitor and comply with FAR 19.505(b)(1)(i) and FAR 52.219-14, Limitations on Subcontracting, that it failed to provide qualified contractor staff, and that it permitted the DEA to participate in the hiring and recruiting of its personnel. We also respectfully disagree with the presentation of several issues in the Draft Report Executive Summary and Conclusion and recommend the narrowing of those sections, as outlined below.

To prevent misleading and reputationally harmful conclusions regarding Ocean Bay's performance, we request that the OIG revise the draft report before publication and include the substance of this response in any final report as appropriate.

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A. "DEA Needs to Enhance Its Oversight of Contractor Billing"

The draft report states that the DEA constructively changed the IDIQ contract terms by accepting 54 contract employees that did not meet the enumerated qualifications for their assigned positions without requiring Ocean Bay to obtain a written waiver from the DEA's Contracting Officer's Representative (COR). Report at ii, 20-23. The OIG concludes this resulted in the DEA's payment of over $2.9 million in labor costs with "an indiscernible amount" potentially unreasonable and unallowable costs. *See id.* at ii, 24.

Ocean Bay disagrees with OIG's determination. The DEA specifically determined that Ocean Bay's employees, and those of predecessor company Bennett Aerospace (Bennett), were qualified. As contracting agency, the DEA had inherent authority to approve personnel and did so. Therefore, all of Ocean Bay's associated costs were authorized and allowable.

Summarizing FAR requirements, the OIG states that costs are allowable if they are reasonable and incurred for performance and in accordance with contract requirements, unless specifically authorized by the Contracting Officer (CO):

- "[A] cost is only allowable when (among other things) the cost is reasonable and complies with the contract terms. *Id.* at 20 (citing FAR 32.201-2(a)).

- "[T]he cost is reasonable if its nature and amount do not exceed what a prudent person would incur while engaged in a competitive business with no presumption of reasonableness just because the contractor incurred costs." *Id.* (citing FAR 31.201-2; 31.201-3).

- "[T]he FAR also requires the government to pay the hourly rate for all labor that meets the qualifications specified in the contract. Labor hours incurred to perform tasks that have specific qualifications will not be paid if the work is performed by contract workers who do not meet the qualifications, unless specifically authorized by the CO." *Id.* citing FAR 52.232-7(a)(3).

To credibly conclude that costs for Ocean Bay's contractor personnel were unreasonable and unallowable, the OIG must demonstrate that Ocean Bay's 54 contract employees did not "meet the qualifications" and were not "specifically authorized by the CO" to perform the work required for their positions. *See id.* The OIG relies on several findings to support this conclusion:

- The IDIQ's and the DEA's "historic contracts" provide processes for the COR to permit the contractor to substitute education and experience requirements were implemented in "recogni[tion of the] infrequent circumstances when prospective contract workers may be capable of providing the contractual services sought without satisfying all labor category experience and education qualifications." *Id.* at 20-21.

- "According to the DEA, this process is intended to be: (1) a flexibility for contracting officials to exercise business judgment while safeguarding the interests of the United States in its contractual relationships, and (2) an internal control to protect the integrity of the procurement process." *Id*. at 20.

- Fifty-four of the OIG's "judgmentally selected sample of 74 contract worker resumes . . . did not appear to meet the contractual experience and education qualifications for the billed labor categories and were not covered by . . . approved waiver[s]." *Id*.

- After acknowledging that DEA had instructed Ocean Bay that it did not need to submit written waiver requests "for contract workers who: (1) did not meet the contract education requirement but met the experience requirement or (2) transferred from the incumbent contract," DEA officials did not provide the OIG with documents describing the "DEA's rationale that the contract workers were suitable to perform the work on the 2022 DCP ID/IQ or indicate when and who (e.g., DEA contracting officials or DEA government leads) completed the verification." *Id*. at 21-22.

- Following the OIG's December 2022 interview with the CORs and raising these concerns, the CORs requested that Ocean Bay submit waivers for the 54 individuals, which the DEA approved two months later, "suggest[ing] concurrence with [OIG's] observation that the 54 contract workers did not meet the qualifications in accordance with the contract terms." *Id*. at 22-23.

- "DEA's excessive use and approval of the waivers [is] a misapplication of the contractual flexibility at the expense of an important internal control mechanism, which was intended to protect the integrity of the procurement process while safeguarding the interest of the government and the integrity of the [DEA's self-sustaining Diversion Control Fee Account]." *Id*. at 23. This control was intended to "prevent an inordinate number of contract workers who do not meet the qualifications in the contract from providing services, reduce the likelihood of receiving services that do not meet the labor category qualifications negotiated and competitively awarded as part of the contract terms." *Id*.

- "DEA negotiated the contract labor categories and rates based on the labor category qualification requirements stated in the contract." That Ocean Bay hired contract personnel "with less experience and education than what the contract specified, even with an approved waiver, effectively puts the DEA in the position of paying less qualified contract workers at the same rate as contract workers who meet the contract requirements."

The OIG's findings disregard the fact that the DEA specifically determined that Ocean Bay's contractor personnel were qualified for their respective positions and waived the procedures outlined in the IDIQ SOW for substituting experience and education requirements. *See id*. at 20-21. Therefore, Ocean Bay's performance was fully compliant and authorized by the government. Given these facts, there is no basis for the OIG to suggest or imply that costs associated with its employees may not be allowable.

The IDIQ contract identified 23 labor categories and the education and experience requirements for each position. IDIQ at 3-12–3-24. The contract also allowed the DEA "to permit a substitution for the experience/qualifications requirements of the contract if it is determined to be in the best interest of the government." *Id.* at 3-24. For non-key personnel, the contract specifically provided that "[t]he education requirement may be substituted for years of experience in a related discipline," and that "in addition, the chart [on page 3-25] can be used for experience/education substitution." *Id.*

Degree	Equivalents
Associate's	2 years relevant experience
Bachelor's	4 years relevant experience or High School Diploma + 4 years relevant experience or Associates + 2 years relevant experience
Master's	6 years relevant experience or Bachelor's Degree + 2 years relevant experience
Doctorate	8 years relevant experience or Bachelor's Degree + 4 years relevant experience Master's Degree + 2 years relevant experience

Id. at 3-25. The contract required the contractor to submit a Substitution Request Form to the COR for "each case" providing "a justification, a resume, and any applicable supporting documentation." *Id.* "Upon receipt of the signed substitution form, the individual is authorized to perform under DEA task order issued under the contract." *Id.*

The DEA, however, waived these procedures at the 2022 kick-off meeting when it advised Ocean Bay that it did not need to obtain written waivers for any contract employees that "(1) did not meet the contract education requirement but met the experience requirement or (2) transferred from the incumbent contract." Report at 20-21; *see also, e.g., Sauer, Inc.*, ASBCA No. 61847, 2021-1 BCA P 37,939 at 184,271 (While "[t]he government is generally entitled to insist upon strict compliance with the contract specifications … [t]here are instances […] where the government may waive strict compliance with contractual requirements and is estopped from later re-imposing those requirements upon the contractor."). At the time, the DEA recognized that these two categories of employees were specifically qualified for their roles and waived the contract's procedures for obtaining approval. The draft report recognizes that the "DEA accepted the services, signifying that a government representative (e.g., the CO or COR) appraised the quality of the services received from Ocean Bay and Bennett in accordance with FAR Subpart 8.406-2(b)." Report at 24 n. 38. Therefore, Ocean Bay performed the contract precisely in conformance with the DEA's requirements, as properly communicated to Ocean Bay in advance of performance during the kick-off meeting.

The draft report concludes that the IDIQ contract and the DEA's historical practice of permitting substitutions "recogniz[es] *infrequent* circumstances when prospective contract workers may be capable of providing the contractual services sought without satisfying all labor category experience and education qualifications," but provides no support or analysis for why it would believe this practice to be uncommon. *See id.* at 20 (emphasis added). If anything, the existence of these procedures demonstrates the opposite—that the DEA understands that prospective contract workers are *frequently* capable of providing the services sought. The DEA's decision not to enforce the IDIQ SOW waiver process at the 2022 kick-off meeting (many of whom were incumbent employees) further underscores the frequency with which individuals are qualified to perform job duties despite not meeting every qualification requirement. *See id.* at 20-21.

The draft report reasons that the DEA's approval of waivers for the 54 employees following the OIG's December 2022 interview with the DEA CORs implies "concurrence with [OIG's] observation that the 54 contract workers did not meet the qualifications in accordance with the contract terms." Report at 22-23. The OIG's position conflates the DEA's decision to waive the SOW procedure for approving employees with the conclusion that these individuals were not qualified. The draft report overlooks the fact that the DEA specifically determined these employees were qualified at the kick-off meeting. *See id.* at 21. Rather than suggesting these individuals were not qualified, the DEA's effort to obtain written waivers for contract file documentation purposes reinforces the DEA's determination that these employees were qualified. *See id.* at 21-22. The OIG should not use the DEA's administrative action to address steps initially recommended by the auditors as somehow reflecting the DEA's position that Ocean Bay's employees were not qualified. Again, waiving procedural requirements does not mean that the DEA determined that these individuals lacked appropriate qualifications.

The draft report states that the DEA's approval of these employees was "excessive" and "a misapplication of the contractual flexibility at the expense of an important internal control mechanism, which was intended to protect the integrity of the procurement process while safeguarding the interest of the government and the integrity of the [Diversion Control Fee Account]." *Id.* at 23. With no support, the OIG concludes that 54 waivers is "excessive," and that the DEA necessarily undermined controls meant to prevent the receipt of "services that do not meet the labor category qualifications negotiated and competitively awarded as part of the contract terms." *Id*. The DEA, however, specifically determined these individuals were qualified. The draft report contains no contrary facts.

The OIG likewise offers nothing to support its conclusion that these individuals did not provide the same, if not greater value than the rates negotiated, due to their relevant and for many incumbent experience. The OIG seems to recognize, at least, that the DEA determined this to be true: "DEA accepted the services, signifying that a government representative (e.g., the CO or COR) appraised the quality of the services received from Ocean Bay and Bennett in accordance with FAR Subpart 8.406-2(b)." Report at 24 n. 38.

B. "DEA Needs to Monitor Subcontractor Compliance with the 8(a) Program"

Under FAR 19.505(b)(1)(i) and FAR 52.219-14, Limitations on Subcontracting, a prime contractor performing under a small business set aside (including the 8(a) program) assigned a North American Industry Classification System (NAICS) code for services and above the simplified acquisition threshold must "not pay more than 50 percent of the amount paid by the Government for contract performance to subcontractors that are not similarly situated entities." *See* FAR 19.505(b)(1)(i); *see also* Report at 26-27 n. 40. The OIG determines "that neither the DEA, nor Ocean Bay, nor Bennett [Aerospace] monitored the division of labor between the prime contractor and the subcontractor as required by the FAR and SBA rules." Report at ii; *see id.* at 27. OIG makes this determination based on four findings:

- "The DEA, Ocean Bay, and Bennett referred to the prime and subcontractor as 'Team Ocean Bay,' and some of the contract workers furnished by either company seemed unsure for whom they worked, despite the companies presenting as separate and distinct entities as of the 2022 DCP ID/IQ award date." *Id*. at 26-27.

- "When we asked the DEA about subcontract work, a contracting official told us that the DEA did not know the division of labor between Ocean Bay and Bennett." *Id*. a 27.

- That "Ocean Bay officials did not provide support demonstrating that Ocean Bay had adequately monitored the subcontractor personnel workload (i.e., cost percentages in its monthly billings records)." *Id*.

- That "[o]ur concerns regarding limitations on subcontracting increased after we determined, via independent research, that Ocean Bay's parent company had announced its acquisition of Bennett in May 2023." *Id*.

Ocean Bay disagrees with these findings and conclusions, as there is no basis for the OIG to report concerns associated with Ocean Bay's compliance with the limitations on subcontracting.

Referring to the contractor team collectively as "Team Ocean Bay" is common shorthand and does not in any way mean that the DEA, Ocean Bay, or Bennett failed to monitor subcontracting limitations. *See id*. at 26. This term merely reflects the realities of working on a contractor team in the government contracting space. It is misleading and unsupported for the OIG to imply that Ocean Bay did not monitor compliance with the limitations on subcontracting based on its general description of its contract team as "Team Ocean Bay."

In addition, the fact that certain contractor employees were "unsure for whom they worked" does not support the OIG's insinuation that Ocean Bay's or Bennett's leadership were not monitoring limitations on subcontracting. *See id*. at 26-27. The draft report is misleading because it was not the contractual responsibility of these employees to monitor the limitations on subcontracting. The draft report does not identify which employees it interviewed regarding these concerns, nor their respective roles with the DEA, Ocean Bay, or Bennett. While a DEA "contracting official" may have told the OIG that he or she did not personally know the division of labor between Ocean Bay and Bennett, it is unreasonable for the OIG to infer from the lack of knowledge of a single DEA official that Ocean Bay was not monitoring subcontracting limitations. *See id*. at 27. Had the OIG discussed these concerns with the employees responsible for monitoring this and other contract requirements at Ocean Bay, it would have learned that Ocean Bay's management appropriately monitors all contract requirements, including the limitations on subcontracting imposed by the FAR.

Further, Ocean Bay ***did*** monitor and compliance was not accidental, even if DEA did not. Specifically, and as Ocean Bay advised during the audit process, Ocean Bay ***does*** monitor compliance with the limitation on subcontracting requirements at the corporate level, and it has been continuously monitoring for compliance for this contract since the award. Indeed, the body of the Draft Report appears to tacitly acknowledge some monitoring by using the modifier "adequately"—"Also, Ocean Bay officials did not provide support demonstrating that Ocean Bay had *adequately* monitored the subcontractor personnel workload (i.e., cost percentages in its monthly billings records)." As Ocean Bay complied with limitations on subcontracting and *did* monitor the contract to ensure that compliance, the Draft Report should be amended on these points, including in their presentation the Draft Report Executive Summary. Critically, the Executive Summary fails to note that Ocean Bay complied with the applicable limitations on subcontracting, and instead suggests that there was a compliance issue because DEA did not actively monitor it. This is an unfair and inaccurate cloud to cast on Ocean Bay.

Moreover, as the draft report acknowledges, Ocean Bay was in fact compliant with this requirement. *Id.* ("We found that as of July 2023 Ocean Bay furnished 55 percent of the total contract workforce, and Bennett furnished 45 percent.") *Id*. This means Ocean Bay has performed exactly as required. There is simply no basis for the OIG to suggest that Ocean Bay's monitoring of contract requirements, such as the limitations on subcontracting, was inadequate.

C. "DEA Needs to Strengthen its Framework to Prevent Contract Workers from Performing Unallowable Services": "Hiring and Recruiting Contract Workers – Meet-and-Greets"

The draft report states that "DEA personnel dictated contract hiring decisions through 'meet-and-greets' despite the ID/IQ explicitly assigning Ocean Bay the responsibility of screening and selection." Report at ii, 14. This finding misrepresents Ocean Bay's and Bennett's hiring processes.

It is our practice to introduce candidates to an office environment, which includes DEA workspaces, as part of our vetting and onboarding process. This may involve informal interactions with DEA personnel. Doing so helps Ocean Bay assess the candidate's likelihood of assimilating with the project team, which is especially important in smaller office spaces. At no time, however, did the DEA ever screen, interview, select, or recommend candidates for hiring. DEA personnel merely interacted with our candidates when they were in the office as part of our interviewing process. While the DEA has occasionally provided feedback on candidates, it is strictly informal, provided as a courtesy, and entirely permissible. Ocean Bay handles the entire screening and hiring process on its own and does not defer in any way to the DEA. The OIG should revise the draft report to make clear that DEA personnel never dictated hiring decisions.

D. The Draft Report Executive Summary Lacks Context for Numerous Key Conclusions in the Draft Report

Ocean Bay also respectfully disagrees with the presentation of this cost issue in the Draft Report, including in the Draft Report Executive Summary, that relegates key conclusions, context, and bona-fide differences of perspective between DEA and OIG to footnotes.

The Draft Report Executive Summary provides: "the DEA paid over $2.9 million in costs that the OIG considers unreasonable (and potentially unallowable), which were billed between June 2022 and February 2023 and which may represent an opportunity for reducing future costs." The Draft Report Executive Summary also provides: "the DEA effectively changed the 2022 DCP ID/IQ terms by: (1) accepting a sizeable portion of the contract workforce that did not meet the qualifications for the assigned positions and (2) not enforcing the contractual requirement for

Ocean Bay and Bennett to obtain a waiver from the DEA Contracting Officer's Representative (COR) before such individuals started work."

However, the Executive Summary fails to adequately present key points identified in the substance of the Draft Report that provide context for the conclusions asserted in the Executive Summary. The Draft Report and Executive Summary downplay the extent to which DEA directly contributed to this scenario, and instead presents the issue in such a way as to be almost exclusively detrimental to Ocean Bay. Crucial points to the Draft Report appear in footnotes including, for example, Nos. 30, 37, and 38. This should be corrected by removal of the conclusions regarding reasonableness and allowability, or narrowing the focus of the Draft Report and Executive Summary to DEA.

Indeed, as framed by the Draft Audit Report, one potential takeaway is that Ocean Bay should have disbelieved or discarded DEA CORs and governmental leads' representations, guidance, and instructions during contract development and performance. But this runs counter to fundamental contracting norms as well as Ocean Bay's commitment to perform, and turns a strength—performance—into a weakness.

Ultimately, the Draft Report's recommendations for improvement to DEA's internal processes do not require numerous assertions regarding Ocean Bay, so those assertions regarding Ocean Bay should be removed, including the statements regarding "potentially unallowable" costs. This is particularly the case, for example, when and where are legitimate bases for differing perspectives between DEA and OIG, such as regarding the use of waivers. Indeed, the Draft Report is primarily concerned with DEA's contract administration: positions/roles, overall governmental staffing, clearer contract terms, delegations and/or designations of authority, internal training, internal DEA tracking, communication, and processes, written documentation, as well as varying perspectives between DEA and OIG.

Consistent with the foregoing, Ocean Bay believes that the Draft Report and Executive Summary should focus more narrowly on DEA, ensure context as to particular conclusions and assertions relative to Ocean Bay, if any remain, and/or ensure that presentation of the same has adequate information so as to avoid unfair impact on Ocean Bay given its overall performance. Ocean Bay remains fundamentally committed to transparency, improved communication and performance, and working with its federal partners to meet its obligations.

E. The Draft Report Should Also Narrow Its Conclusions and Executive Summary Regarding Labor Law Exceptions and Wage Determinations

Regarding labor law exceptions and wage determinations, the Draft Report provides the following:

> Specifically, we found that the services provided via at least 3 of 15 labor categories assigned to the 2022 DCP ID/IQ contract workers may not qualify for the professional SCLS exemptions that Ocean Bay and Bennett applied when the DEA awarded the ID/IQ. We requested justifications for all the exemptions and received documents with little detail and no evidence that the DEA sought expert advice from its Office of General Counsel (OGC) or the DOL before awarding the ID/IQ, as suggested by the proposal analysis guidance in FAR Subpart 15.404-1(a)(5). Specifically, DEA

> officials informed us that the previous CO had not fully documented the methodology used to arrive at appropriate wage determinations and exemptions.

The substance of the Draft Report provides greater detail as to DEA, and discusses a separate 2018 audit regarding Justice Management Division. The Draft Report specifically comments on "DEA's history of potential non-compliance related to labor laws," as a reason to integrate internal experts in the acquisition planning phase.

The Draft Report Executive Summary provides an overview regarding DEA applying exceptions to Services Contract Labor Standards, while noting deficiencies in DEA for failing to consult with internal labor experts and documenting its decisions:

> The Service Contract Labor Standards required that Ocean Bay and Bennett contract workers, absent an exception, not be paid less than the wages and fringe benefits required by law. The DEA applied exemptions to all but 1 of the 15 labor categories used; however, it did so without consulting labor experts and did not include in the acquisition planning documents the rationale for doing so.

But the Draft Report again provides key takeaways that highlight that differences between DEA and OIG that should not result in negative implications as to Ocean Bay:

- DEA and OIG have differing perspectives regarding the labor categories: "Specifically, we found that the services provided via at least 3 of 15 labor categories assigned to the 2022 DCP ID/IQ contract workers *may* not qualify for the professional SCLS exemptions that Ocean Bay and Bennett applied when the DEA awarded the ID/IQ."

- Ocean Bay followed the wage determination tables incorporated in the contract: "Ocean Bay told us that it simply followed the wage determination tables incorporated in the contract."

Ocean Bay paid its employees correctly under the wage determination added to the contract and in accordance with applicable exceptions authorized by the CO. Ocean Bay believes that the conclusions as presented as well as summarized in the Executive Summary should be removed as to it because the result is an implied underpayment, which relies on seemingly different perspectives and background between DEA and OIG, and that undermine the extent of Ocean Bay's execution of the agreement.

F. The Compliance with Laws and Regulations Portion of Appendix 1: Objectives, Scope, and Methodology Should Be Revised

At the conclusion of the Compliance with Laws and Regulations portion of the Methodology section of Appendix 1, a misstatement appears that is directly inconsistent with the Draft Report and Executive Summary conclusions in a way that is highly prejudicial to Ocean Bay:

> As noted in the *Audit Results* section of this report, we found that the DEA, Ocean Bay, and Bennett did not comply with federal regulations related to acquisition planning, post-award contract administration and oversight.

Ocean Bay believes that this Appendix 1 sentence should be removed or stricken. Alternatively, and at a minimum, narrowed so as to focus on the recommendations that the Draft Report proposes as to DEA in accordance with the substance of the Draft Report. This is because this statement stands in contrast with the Conclusion and Recommendations section of the Draft Report, which contains the following:

> Our audit identified several deficiencies regarding the DEA's planning, administration, and oversight of its 2022 DCP ID/IQ awarded to Ocean Bay.

This recognizes that any operational issues were due to the DEA's administration, and not Ocean Bay. As such, suggesting in Appendix 1 that Ocean Bay did not comply with federal regulations is not accurate and prejudicial. Regardless of whether this Appendix 1 clause was intended or remained due to oversight in the drafting process as conclusions shifted, the identified sentence should be removed or revised.

G. Proposed Redactions to the Draft Report

Finally, as requested in your April 21, 2026 letter, we request that the OIG redact the following:

- The data in the "Number of Contract Workers" and "Total Hours Billed by Contractor" columns in Table 6, on page 24 of the draft report. This information, along with the data provided in "Total Amount Paid by the DEA," could be utilized to reverse engineer Ocean Bay's confidential pricing information;

- The number of Ocean Bay and Bennett employees assigned to each task order in Figure 1 on page 9, which could likewise be used with pricing information on page 3 to reverse engineer Ocean Bay's confidential pricing information.

As proprietary financial information, this data should be protected from disclosure under the Freedom of Information Act and the Trade Secrets Act. *See* 5 U.S.C. § 552(b)(4); 18 U.S. Code § 1905.

Conclusion

Ocean Bay remains fully committed to accountability, transparency, and contract performance. We appreciate the opportunity to provide this response and look forward to continuing to partner with DEA, including in regards to any final recommendations and without waiving any rights or positions regarding Ocean Bay's past performance.

Respectfully submitted,

Sincerely,

Jennifer Graziani

Jennifer L. Graziani, President
Ocean Bay Information & Systems
Management, LLC

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

The U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) provided a draft of this audit report to the Drug Enforcement Administration (DEA), prime contractor Ocean Bay Information and Systems Management, LLC. (Ocean Bay), and subcontractor Bennett Aerospace (Bennett). The DEA's response is incorporated in Appendix 6 of this final report. Ocean Bay's and Bennett's joint response is incorporated in Appendix 7. The DEA also attached additional support to its response, which we considered in our analysis of its corrective actions but did not include as appendices to this report.

The DEA concurred with all 11 recommendations. As a result, the status of the overall audit report is resolved. In addition, based on our analysis of the corrective actions taken by the DEA, recommendations 1, 2, 4, and 9 are closed. Ocean Bay and Bennett neither agreed nor disagreed with the 11 recommendations but did provide additional comments related to the report's contents, which we discuss below and incorporate within our analysis of the responses to the recommendations, as applicable. The following provides the OIG analysis of the responses and summary of actions necessary to close the report.

OIG Analysis of Selected Comments in Responses from the DEA and from Ocean Bay and Bennett

In their response to our audit report, Ocean Bay and Bennett disagreed with the OIG's conclusion that the DEA paid over $2.9 million in unreasonable and potentially unallowable costs for the services of 54 contract workers. The DEA, in its response, refers to the over $2.9 million as "an overpayment originated from a record keeping error" and refers to providing "retroactive waivers" to satisfy the requirement, which: (1) is not a feature of the process detailed in the 2022 DCP contract and (2) the DEA did not pursue until after we raised the issue during the audit.

Factually, as discussed in the report, the DEA paid Ocean Bay for services provided by contract workers who did not meet the experience and/or education qualifications for the positions established in the 2022 DCP contract; and, thus, the DEA was required by the contract terms to approve any substitute to those requirements. However, we found that neither Ocean Bay nor the DEA's current contracting officials could provide contemporaneous documentation to substantiate that the government's agent (i.e., Contracting Officer (CO)), who had actual authority to change the contract requirements, approved the substitution of those requirements before the contract workers started working on the 2022 DCP contract. More importantly, the CO did not take any action to effectuate a legal change to the contract terms through a modification.

In its response, the DEA included general comments that mischaracterize the OIG's concerns regarding the over $2.9 million in potential funds to be put to better use, and the DEA inaccurately concludes that we found that the funds were lost or stolen. The OIG met with the DEA on multiple occasions throughout the audit and shared our methodology, including the calculations, for identifying the $2.9 million in potential funds to be put to better use, which we describe in the report. The OIG does not state that funds were lost or stolen; rather, we expect the DEA to administer its 2022 DCP contract according to the established terms and ensure it does not pay for contract workers with qualifications below the standard established in the contract.

Recommendations for the DEA:

1. **Institute a process or control that ensures written designation letters are used to properly delegate Contracting Officer's Representative (COR) responsibilities in accordance with CORs' procurement authority and limitations.**

   Closed. The DEA concurred with our recommendation. The DEA stated its Office of Acquisition has established policies and procedures that provide specific guidance on the COR assignment process. Specifically, the DEA's COR Guidance Standard Operating Procedures and the updated COR assignment memoranda list the responsibilities and limitations of the COR role. The DEA further informed us that to verify compliance, the COR Program Manager will be required to audit all active contracts and ensure that every COR designation has been formally and correctly executed. Additionally, the DEA plans to host quarterly training on contract oversight and COR responsibility on its COR Community of Practice (CoP) digital platform. The training will focus on ensuring the CORs' procurement authority is within its limitations. With its response, the DEA provided its COR Assignment Memorandum Directive, which detailed the process for assigning and distributing CORs, and included a COR Program Manager role responsible for monitoring the timing of when Contracting Officers (CO) and CORs are designated for contracts. The DEA also provided its COR Contract Assignment Memorandum, which highlights the CORs' procurement authority and limitations, which the CO, COR and COR Supervisor must acknowledge and sign, within 10 calendar days, before the COR starts performing its duties for that contract.

   Based on our review of the materials provided, we determined the DEA addressed our recommendation; therefore, this recommendation closed.

2. **Provide training to DEA personnel upon their assignment to a technical contract oversight role and thereafter on an interval that sustains awareness within its workforce.**

   Closed. The DEA concurred with our recommendation. The DEA provided details on its expanded COR support framework, which includes various trainings and initiatives, such as personalized one-on-one guidance for newly assigned CORs, Quarterly Contract Oversight and COR Responsibility Training, and the COR CoP digital platform. With its response, the DEA provided the materials used to train its acquisition workforce (e.g. Program Managers, Contracting Officers, and Contract Specialists). These materials included: (1) a notification with a schedule of occurrences for the Quarterly Contract Oversight and COR Responsibility Training, (2) presentation slides on the COR Mentoring Agreement Resource and DEA COR training, and (3) a listing of fiscal year (FY) 2024 and FY 2025 training events hosted by the DEA's Office of Acquisition.

   Based on our review of the materials provided, we determined the DEA has established a training framework that demonstrates effort toward sustaining awareness of the COR oversight role; therefore, this recommendation closed.

3. **Require the COs and CORs to discuss and maintain an updated list of the individuals serving as government leads, including alternate points of contact.**

   Resolved. The DEA concurred with our recommendation. The DEA stated that since the contract's [the 2022 DCP ID/IQ] inception, the DEA COR Program Manager and CORs have maintained a current roster of government leads and designated points of contact (POCs) within the COR Virtual File. The DEA further stated that to ensure continued alignment, the CO, COR Program Manager, and CORs plan to have quarterly discussions with the government leads and alternate POCs regarding COR authority. The CO, COR Program Manager, and CORs will use these meetings to validate (and update as needed) the contact roster. With its response, the DEA provided a spreadsheet that listed contract workers, the DEA POCs (i.e., government leads), and their assigned office locations. However, we did not see evidence of the government leads' validations or updates. We also noted that the spreadsheet contained at least two contract workers who did not have an assigned DEA POC or an annotation to explain the missing information.

   Ocean Bay and Bennett stated how the hiring and recruitment process for contract workers was intended to work according to the contract terms. However, we found instances where DEA personnel participated in "meet-and-greets" and provided informal feedback to Ocean Bay and/or Bennett before the candidates were hired, which indicates that the DEA did not carry forward previously implemented corrective actions to mitigate risks related to personal services and inherently governmental functions (and those closely associated with such functions). These risks led to the development of DEA contract clause 2852.237-70 and the Affirmative Statement certifications to close previous audit recommendations. While the DEA provided documentation to demonstrate that it began taking steps during this audit to sustain the previously established corrective actions, the documentation did not sufficiently address our concerns regarding appropriate monitoring of the government leads and alternate POCs.

   This recommendation can be closed when we receive evidence that the DEA has documented its validation (and updates as necessary) of the list of the DEA personnel who serve as government leads or alternative POCs for the contract.

4. **Reassess the procedures that it established in response to DOJ OIG audit report 21-079 on the DEA's Laboratory Information Management System (LIMS) support contracts to adequately train contracting officials on Contractor Performance Assessment Reporting System [CPARS] policies and procedures. The policies and procedures should include a process to facilitate preparation of complete, accurate, and timely contractor performance assessments (i.e., the COR Monthly Reports) with clear and relevant narratives.**

   Closed. The DEA concurred with our recommendation. The DEA stated that it reassessed its CPARS procedures, including updating the CPARS training to facilitate the development of clear, relevant, and more detailed performance narratives. The DEA also stated that it has conducted several training sessions for its contracting personnel focused on CPARS and COR performance monitoring reports. With its response, the DEA provided: (1) CPARS and Contract Administration Plan training slides, and stated that the most recent training occurred in May 2026, and (2) an updated COR performance monitoring report template (COR Status Report).

Based on our review of the materials provided, we determined that the DEA addressed this recommendation; therefore, this recommendation is closed.

5. **Require CO involvement in decisions related to non-diversion activities, rather than relying solely on the government leads and CORs, to strengthen internal controls.**

   Resolved. The DEA concurred with our recommendation. The DEA stated that it is considering options that would strengthen controls and provide appropriate triggers to flag expenditures when the Diversion Control Fee Account (DCFA) nexus needs to be fully explained. The DEA informed us that because the 2022 DCP ID/IQ is 100 percent diversion-funded, the DEA has no expectation that contract workers would perform non-diversion work, and if any work outside the scope is identified, the CO, COR and government lead should be alerted. The DEA stated that it will provide supporting documents for closure of this recommendation once it has completed consideration of its options.

   This recommendation can be closed when we receive evidence that the DEA requires CO involvement in decisions related to non-diversion activities, rather than relying solely on the government leads and CORs, to strengthen internal controls.

6. **Create a process or control for government leads and CORs to adequately track diversion and non-diversion tasks to facilitate an accurate accounting of activities performed by the contract worker to minimize the potential risk of improperly charging costs to the DCFA.**

   Resolved. The DEA concurred with our recommendation. In its response, the DEA basically reiterated its proposed approach to address Recommendation 5.

   This recommendation can be closed when we receive evidence that the DEA has created a process or control for government leads and CORs to adequately track diversion and non-diversion tasks to facilitate an accurate accounting of activities performed by the contract worker to minimize the potential risk of improperly charging costs to the DCFA.

7. **Complete its review of the 2022 DCP ID/IQ labor qualification requirements to consider what mix of services and labor categories are needed for future task orders, and incorporate the proposed labor hour and labor category template, which should include information necessary to determine the appropriate mix of services and labor categories that are optimal to meet the DEA's operational expectations.**

   Resolved. The DEA concurred with our recommendation. The DEA stated that it is conducting a labor analysis to optimize the mix of services and labor categories for the upcoming follow-on contract, and once the analysis is complete, the DEA will provide supporting documents to close this recommendation.

   This recommendation can be closed when we receive evidence that the DEA has reviewed the 2022 DCP ID/IQ labor qualification requirements to consider what mix of services and labor categories are needed for future task orders, and incorporate the proposed labor hour and labor category template that includes information necessary to determine the appropriate mix of services and labor categories that are optimal to meet the DEA's operational expectations.

8. **Complete the new labor analysis and put to better use any portion of the remaining contract value that could result in cost savings through reduced spending, avoidance of unnecessary expenditures, or reallocation of funds to higher-priority areas.**

   Resolved. The DEA concurred with our recommendation. The DEA indicated that the corrective actions proposed in its response to Recommendation 7 will also include corrective actions necessary to close this recommendation.

   This recommendation can be closed when we receive evidence that the DEA has completed a new labor analysis and put to better use any portion of the remaining contract value that could result in cost savings through reduced spending, avoidance of unnecessary expenditures, or reallocation of funds to higher-priority areas.

9. **Provide written guidance on the handling of local travel approvals and require CORs to apply this guidance to the remaining 2022 DCP ID/IQ lifecycle.**

   Closed. The DEA concurred with our recommendation. The DEA stated that it updated contract clause DEA-2852.231-70, *Travel Requirements for Contractors*, to include guidance on local travel, which addresses: (1) what constitutes local travel and (2) proper procedures for requesting local travel. The DEA further stated that it provided training and written guidance to its CORs, Project/Program Managers, and contracting staff during a May 2026 meeting. With its response, the DEA provided copies of: (1) the aforementioned contract clause and (2) guidance on local travel for its Financial Management Division and Office of Acquisition (effective May 2026).

   Based on our review of the documents, we determined that the DEA addressed our recommendation; therefore, this recommendation is closed.

10. **Design and implement a process or control (e.g., policies and procedures) to continuously monitor and comply with the appropriate division of labor restrictions between prime contractors and subcontractors, to include supporting documentation, such as the subcontract agreement.**

    Resolved. The DEA concurred with our recommendation. The DEA described the steps taken since September 2023 by Ocean Bay and the DEA COR who is currently assigned to the 2022 DCP ID/IQ to give assurance that the division of labor between the prime and subcontractor complied with the 50 percent limitation on subcontract work performed as specified in FAR Subpart 52.219-14, *Limitations on Subcontracting*. Specifically, the DEA provided an updated version of the Monthly Status Report submitted by the contractor to the DEA, which now includes a calculation of the division of labor. While the updated Monthly Status Report the DEA provided partially addresses our recommendation, we found it does not identify who will be responsible for validating the division of labor between the prime contractor and subcontractor; and whether this practice will carry forward to DEA service contracts beyond the task orders we reviewed.

In their response, Ocean Bay and Bennett disagreed with the OIG's findings and conclusions regarding subcontract monitoring, stating that the OIG has no basis for reporting concerns associated with Ocean Bay's compliance with the limitations on subcontracting. However, the documentation provided to the OIG was insufficient to demonstrate proper monitoring of the division of labor between prime contractor and subcontractor to ensure the subcontractor does not perform more than 50 percent of the work. As a result, our recommendation to the DEA remains.

This recommendation can be closed when the DEA provides evidence of the guidance provided to its acquisition workforce and contractors regarding how the updated Monthly Status Reports will be used to continuously monitor and comply with the appropriate division of labor restrictions between prime contractors and subcontractors.

11. **Ensure that its upcoming policies and procedures give its Labor Advisor a more active role in the acquisition lifecycle to align with the goals of labor laws, related regulations, and policies as detailed in the January 2023 OMB memorandum.**

Resolved. The DEA concurred with our recommendation. In its response, the DEA described how it plans to integrate various DEA personnel, including its Labor Advisor or another attorney with contract expertise, into its Contracting and Acquisition Review Board (CARB). The DEA further explained that the assigned attorney will be required to review the CO's pre-award determinations regarding Service Contract Labor Standards (SCLS) applicability, including: (1) the specific wage determinations proposed for incorporation into solicitations and awards and (2) supporting documentation for instances where an SCLS exemption is claimed (e.g., the Professional Exemption). The DEA explained that the CO will be required to provide supporting documents to the attorney for review and concurrence.

The DEA further stated that, for acquisitions not subject to the CARB process, the DEA will issue guidance clarifying the role of the DEA Labor Advisor or other contracting attorney supporting the acquisition. With its response, the DEA provided its DEA Labor Advisor Directive, which describes the responsibilities of the Labor Advisor role and details how DEA personnel can solicit the Labor Advisor's assistance. According to the DEA, this process gives the agency's Labor Advisor a more active role in the acquisition lifecycle that aligns with the goals of labor laws, related regulations, and policies as detailed in the January 2023 OMB Memorandum.

This recommendation can be closed when we receive the final version of the DEA Labor Advisor Directive and evidence of its dissemination to the responsible personnel referenced in the materials provided (i.e., DEA personnel responsible for contract management, Finance and Ethics, and the Labor Advisor as well as the other contracting attorneys within the Office of Chief Counsel).