



Office of Audits
Office of Inspector General
U.S. General Services Administration

PBS is not Enforcing Contract Security Clearance Requirements on a Project at the Keating Federal Building

*Report Number A150120/P/2/R16002
March 17, 2016*



Office of Audits
Office of Inspector General
U.S. General Services Administration

REPORT ABSTRACT

OBJECTIVES

Our objective was to determine whether PBS complies with policies and requirements for contractor security clearances on the Keating 1st Floor District Courtroom and Chambers Project at the Kenneth B. Keating Federal Building located in Rochester, New York.

*Northeast and
Caribbean Region
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WHAT WE FOUND

We identified the following during our audit:

Finding – The contracting officer’s representative is not enforcing contract requirements for contractor security clearances, which could result in greater security risks to the federal government.

WHAT WE RECOMMEND

Based on our audit finding, we recommend that the PBS Commissioner, Northeast and Caribbean Region, direct management in PBS’s Upstate Service Center to:

1. Ensure personnel in charge of the Keating 1st Floor District Courtroom and Chambers Project enforce contractor security clearance requirements in accordance with the contract.
2. Establish and implement internal controls to mitigate any conflicts of interest between project management and the enforcement of security clearance requirements.
3. Determine and implement the appropriate corrective actions needed for not enforcing the contract’s security clearance requirements.

MANAGEMENT COMMENTS

The Regional Commissioner, PBS Northeast and Caribbean Region, agreed with the audit finding and concurred with our recommendations. Management’s written comments to the draft report are included as **Appendix B**.



**Office of Audits
Office of Inspector General
U.S. General Services Administration**

DATE: March 17, 2016

TO: Frank Santella
Regional Commissioner
Public Buildings Service
Northeast and Caribbean Region (R2)

FROM: Victoria Nguyen *Victoria Nguyen*
Audit Manager
Northeast and Caribbean Region Audit Office (JA-2)

SUBJECT: PBS is not Enforcing Contract Security
Clearance Requirements on a Project at the
Keating Federal Building
Report Number A150120/P/2/R16002

This report presents the results of our audit of security clearance requirements on a project at the Keating Federal Building. Our finding and recommendations are summarized in the Report Abstract. Instructions regarding the audit resolution process can be found in the email that transmitted this report.

Your written comments to the draft report are included in **Appendix B** of this report.

If you have any questions regarding this report, please contact me or any member of the audit team at the following:

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On behalf of the audit team, I would like to thank you and your staff for your assistance during this audit.

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Introduction

PBS service centers and field offices, located throughout the country, have the responsibility for assuring that tenant needs are met efficiently and economically in federally owned buildings. PBS's Upstate Service Center awarded Contract Number GS-02P-14-PW-C-0025 to Construction and Service Solutions Corporation on August 15, 2014, for renovations requested by the United States District Court at the Kenneth B. Keating Federal Building in Rochester, New York.

The renovation project includes construction of a new courtroom, judge's chamber, and jury suite on the first floor and modifications to connected rooms in the basement. Optional work involves selective demolition of another courtroom and construction of a judge's chamber suite. The renovations are expected to be completed in May 2016.

After the renovation project began, security concerns arose regarding PBS's enforcement of contract requirements for contractor personnel to receive clearances before they started working on the project site. The contract outlines security clearance requirements for all contractor employees who will be working on the construction project. It also specifies that it is the responsibility of the PBS contracting officer's representative (COR), as delegated by the contracting officer, to ensure that contractors are cleared before starting work on the project.

For purposes of this report, a security clearance is defined as obtaining a favorable suitability determination through GSA's credentialing policies and procedures. These policies and procedures are integral to GSA's implementation of Homeland Security Presidential Directive-12 (HSPD-12).

HSPD-12, entitled *Policy for a Common Identification Standard for Federal Employees and Contractors*, was signed by the President on August 27, 2004. HSPD-12 requires the development and agency implementation of a mandatory, governmentwide standard for secure and reliable forms of identification for federal employees and contractors. HSPD-12 is intended to increase security of federal facilities by requiring employees and contractors to obtain standard, common identification (*i.e.*, a Personal Identity Verification, or PIV card) when access to these facilities is needed. Obtaining and presenting this security credential provides assurance to federal facility security that the employee or contractor has successfully passed a suitability test.

Objective

Our objective was to determine whether PBS complies with policies and requirements for contractor security clearances on the Keating 1st Floor District Courtroom and Chambers Project at the Kenneth B. Keating Federal Building located in Rochester, New York.

See **Appendix A** – Purpose, Scope, and Methodology for additional details.

Results

Finding – The contracting officer’s representative is not enforcing contract requirements for contractor security clearances which could result in greater security risks to the federal government.

The COR is not enforcing contract requirements for contractor security clearances.¹ Instead, the COR is allowing contractor employees who have not received security clearances to work on the construction project. Contractors allowed to enter the building and project site without having received a favorable suitability determination could pose a security risk to building tenants and visitors. Also, according to the contract requirements, any instance of a contractor working on the project site who has not been cleared will be considered a serious breach of contract.

The security requirements for contractor employees on the project are prescribed by GSA’s Homeland Security Presidential Directive-12 Personal Identity Verification and Credentialing² (HSPD-12 Policy) and the contract terms. The HSPD-12 Policy distinguishes security requirements based on the length of time a contractor will be on site. The HSPD-12 Policy states that if a temporary contractor will be on site for less than 6 months, then that person may be escorted by a PIV card holder. However, long-term contractor employees who need routine access to GSA facilities are required to have a personnel security investigation.

Further, the contract requirements specified in the solicitation explicitly state that, because the project will last longer than 6 months, it is a long-term project.³ As a result, all contractors requiring routine access are considered to be long-term and need to obtain a favorable security clearance before starting work. The contract also incorporates time to allow employees to obtain clearances. Therefore, the provision of an escort is not applicable. It is the responsibility of the COR to follow and enforce the contract security requirements.

However, not all contractors working on the project site obtained clearances prior to starting work. We were informed that GSA’s Office of Mission Assurance, in its security oversight role, identified the issue and notified the COR. However, we were informed that no corrective action was taken. We also concluded that the COR was allowing un-cleared contractors to be escorted by contractors who have obtained a PIV card.

¹ In its March 1, 2016, response to our draft report, PBS noted that the term “contract security clearance requirements” should be replaced with “background investigation process or fitness determinations.” However, the subject contract references *security clearances* and the need for the contractor to comply with *requirements pertaining to security clearances*. It is in this context that we are using this terminology. Consequently, we opted not to change our report language.

² GSA Order CIO P 2181.1.

³ The Final Project Specifications incorporated by reference into the solicitation represents the requirements of the customer agency.

After being notified of the issue, we examined certified payroll documents and cross-referenced contractors to a database of security clearance statuses to determine if contractors were on-site without security clearances.⁴ We found that for the weeks ending November 2, 2014, to February 1, 2015, 16 of 24 contractor employees were on-site without security clearances. This includes 5 contractor employees on certified payrolls who started work on the project prior to receiving security clearances and 11 contractor employees on the same payrolls who had no record of clearance.

We also examined certified payroll documents for the weeks ending February 8 to May 24, 2015, and cross-referenced contractors to an updated database. We found that three of seven employees who were not on the previous payrolls examined were not cleared before starting work on the project.

It is important that security policies and requirements are followed to minimize security risks to the federal government. HSPD-12 was implemented to help ensure the safety of government employees, tenants, and guests in government-controlled buildings. The clearance process involves a thorough and complete background check to make a determination that a contractor or employee has no ties to terrorism and is suitable and safe to work in government-controlled buildings. Without receiving a favorable suitability determination, the government is unaware if a contractor poses a security risk to the building and its tenants and guests. Contractor employees for this project have the same access to the building as the general public, but unlike the general public, they also have access to internal structural components of the building. Having long-term contractor employees on-site without a security clearance poses a continuing security risk to the government.

The COR acknowledged that, per GSA's policy, this project is considered a long-term project and all contractor employees need to obtain full clearances. Despite this, the COR is treating long-term contractors as if they were "temporary" contractors and is allowing them to be escorted by a PIV card holder rather than obtain a favorable security clearance. The contract itself does not mention or define temporary contractors because it is a long-term project and all contractors are considered long-term under the contract. GSA's facility access policy defines temporary contractors as those who will be in the building for less than 5 calendar days in 1 year and permits them to be escorted by a PIV card holder. However, the COR is incorrectly interpreting the policy by categorizing employees who have submitted their long-term paper work and are awaiting clearance as temporary contractors. The fact that they submitted this paper work confirms that they are long-term employees and should not be allowed an escort. Additionally, it is unclear whether the security risks posed by these contractor employees were minimized by using an escort because there was no evidence that they were actually escorted or if the escort monitored the uncleared contractors.

⁴ Certified payroll records contain the name of each worker, his or her correct classification, hourly rate, daily and weekly number of hours worked, and are signed by an authorized person of the contractor or subcontractor responsible for supervising payment of wages.

The contracting officer delegated COR duties, including the enforcement of the security clearance requirements, to the project manager. In the current environment, the project manager is also responsible for ensuring the project progresses and is completed on time. Removing un-cleared contractors from the project site would likely delay progress and project completion. Consequently, since the COR is also the project manager, this represents a conflict of interest and an internal control weakness regarding compliance with requirements due to the lack of segregation of duties.⁵

Recommendations

We recommend that the PBS Commissioner, Northeast and Caribbean Region, direct management in PBS's Upstate Service Center to:

1. Ensure personnel in charge of the Keating 1st Floor District Courtroom and Chambers Project enforce contractor security clearance requirements in accordance with the contract.
2. Establish and implement internal controls that mitigate any conflicts of interest between project management and the enforcement of security clearance requirements.
3. Determine and implement the appropriate corrective actions needed for not enforcing the contract's security clearance requirements.

Management Comments

In its comments, PBS management agreed with the audit finding and concurred with the recommendations (see **Appendix B**).

⁵ U.S. Government Accountability Office's *Standards for Internal Control in the Federal Government* (GAO-14-704G, September 2014.)

Other Observation

We reviewed the contract file as part of our audit fieldwork. During this review, we found that contractor employees began demolition work on the project prior to the issuance of the Notice to Proceed (NTP). Contract terms and conditions specifically state that “The Contractor shall not commence the work until the contracting officer has issued [the] NTP.” In addition, Federal Acquisition Regulation 52.211-10 requires that the contracting officer insert a clause into the contract that requires the contractor to commence work under the contract within a specified number of days *after* it receives the NTP.

The NTP was issued by the contracting officer on December 12, 2014. We reviewed the work start dates on the Construction and Service Solutions Corporation Construction Schedule and received confirmation from the project manager that work on the project started in November 2014. The Construction Progress Report, dated December 5, 2014, showed the COR’s approval of payment for this work. The contracting officer claims that the work performed was “light” demolition associated with pre-construction site inspections, which is allowed prior to the NTP. However, as this work was actually billed as part of the construction contract, it should not have started until after the NTP was issued.

Although not specifically part of the audit objective, this issue highlights another conflict of interest between the duties of the COR to ensure contract provisions are enforced and the project manager goal to complete the project on schedule.

Conclusion

PBS is not complying with policies and requirements for contractor security clearances on the Keating 1st Floor District Courtroom and Chambers Project at the Kenneth B. Keating Federal Building. The COR, who is also the project manager, is not enforcing contract requirements by allowing contractor employees who have not received security clearances to work on the construction project. This could pose a security threat to building tenants and visitors. It is important that security policies and requirements are followed to minimize security risks to the federal government. To prevent these issues from continuing, management in PBS's Upstate Service Center must ensure personnel in charge of the project enforce contractor security clearance requirements in accordance with the contract. Additionally, PBS management needs to create internal control mechanisms to mitigate conflicts of interest between project management and the enforcement of security clearance requirements. PBS management should also determine and implement the appropriate corrective actions needed for the non-compliance.

Appendix A – Purpose, Scope, and Methodology

Purpose

We initiated this audit as a result of a security concern that was brought to the attention of the General Services Administration, Office of Inspector General in the Northeast and Caribbean Region.

Scope and Methodology

This audit focused on PBS compliance with security clearance requirements for contractors working on the 1st Floor District Courtroom and Chambers Project at the Kenneth B. Keating Federal Building located in Rochester, New York.

To accomplish our objective, we:

- Obtained background and organizational structure information regarding security and escorting requirements for GSA buildings;
- Reviewed HSPD-12, the Office of Management and Budget's memorandum for implementation of HSPD-12, USAccess' acceptable forms of identification per HSPD-12, GSA's policy and procedure for HSPD-12 and contractor clearances, and GSA's acquisition letter implementing HSPD-12;
- Reviewed the finger-printing process per GSA's implementation of HSPD-12;
- Obtained the contract file and the project management schedules for the Keating 1st Floor District Courtroom and Chambers construction project;
- Obtained certified payroll documents from the construction project contracting officer to analyze contractor employee clearances;
- Obtained lists of cleared contractor employees in the Kenneth B. Keating Federal Building from GSA's Office of Mission Assurance;
- Interviewed the contracting officer, project manager, construction supervisor, building manager, and other relevant personnel related to contractor clearances and security in the Kenneth B. Keating Federal Building;
- Surveyed the Kenneth B. Keating Federal Building entrance area;
- Obtained a sample of sign-in sheets for the Kenneth B. Keating Federal Building;
- Compared the ordering agency's security clearance requirements from the contract to GSA's policies and PBS's definition and treatment of "temporary" contractor employees;
- Analyzed the NTP and compared the date of issuance to the project schedule and certified payroll work start dates;
- Reviewed Federal Acquisition Regulations 4.8 and 52.211-10 and the General Services Administration Acquisition Manual 528.202-70; and
- Reviewed the U.S. Government Accountability Office's GAO-14-704G - *Standards for Internal Control in the Federal Government*.

We conducted the audit between March and July 2015 in accordance with generally accepted government auditing standards. 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 finding and conclusions based on our audit objective.

Internal Controls

We limited our assessment of internal controls to those related to the policies and requirements for contractor security clearances on the Keating 1st Floor District Courtroom and Chambers Project at the Kenneth B. Keating Federal Building located in Rochester, New York. This assessment involved evaluating the roles of PBS personnel responsible for project management and the enforcement of security clearance requirements to determine if PBS was compliant with applicable criteria.

Appendix B – Management Comments




GSA Northeast & Caribbean Region

March 1, 2016

MEMORANDUM FOR: STEVEN JURYSTA
REGIONAL INSPECTOR GENERAL FOR AUDITING
NORTHEAST and CARIBBEAN REGION AUDIT OFFICE
(JA-2)

THROUGH: NORMAN DONG
COMMISSIONER
PUBLIC BUILDINGS SERVICE

FROM: FRANK SANTELLA 
REGIONAL COMMISSIONER
PUBLIC BUILDINGS SERVICE
NORTHEAST and CARIBBEAN REGION (R2)

SUBJECT: Limited Scope Audit - PBS is not Enforcing Contract Security
Clearance Requirements on a Project at the Keating Federal
Building Report Number A150120

This memorandum is in response to your correspondence dated November 30, 2015, transmitting the above-referenced Limited Scope Audit report draft. The report identified several issues that require a written response.

It should be noted that throughout the report the term "contract security clearance requirements." is used. The correct term should be "background investigation process or fitness determinations."

Finding 1 - The contracting officer's representative is not enforcing contract requirements for contractor security clearances which could result in greater security risks to the federal government.

Response 1 - PBS concurs with this finding.

Recommendation 1 - Ensure personnel in charge of the Keating 1st Floor District Courtroom and Chambers Project enforce contractor security clearance requirements in accordance with the contract.

U.S. General Services Administration
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Response 1 – The PBS Regional Commissioner will direct the management in PBS's Upstate Service Center to evaluate current escorting practices as described in Homeland Security Presidential Directive -12 (HSPD-12) and review contract language for security compliance with all its project teams, including the Contracting Officer and Contracting Officer's Representative, to ensure proper enforcement of these contract clauses.

Recommendation 2 - Establish and implement internal controls to mitigate any conflicts of interest between project management and the enforcement of security clearance requirements.

Response 2 - The PBS Regional Commissioner will direct the management in PBS's Upstate Service Center to: (1) reinforce security clearance procedures at all pre- and post-award contract meetings with the entire project team; and (2) reevaluate and update its escort policy to ensure regional policy properly reflects HSPD-12 policy.

Recommendation 3 - Determine and implement the appropriate corrective actions needed for not enforcing the contract's security clearance requirements.

Response 3 - Pursuant to GSAM 501.604(f)(3), "The contracting officer is authorized to revoke a COR appointment. Any revoked COR appointment must be documented in writing, notifying the COR, the COR's supervisor, the contractor and the BCM." The PBS Regional Commissioner will direct the management in PBS's Upstate Service Center to revoke any COR appointments for employees who are not enforcing the contract's security clearance requirements.

If you have any questions or need additional information, please contact me at (212) 264-4285.

Appendix C – Report Distribution

GSA Administrator (A)

Commissioner, PBS (P)

Regional Administrator, Northeast and Caribbean Region (2A)

Regional Commissioner, PBS, Northeast and Caribbean Region (2P)

Deputy Commissioner, PBS (PD)

Chief of Staff, PBS (P)

Regional Counsel, Northeast and Caribbean Region (LD2)

Director, EbM Service Center (2SE)

Deputy Regional Director, Eastern Region, Office of Mission Assurance (DEB)

Chief Administrative Services Officer (H)

Director, PBS Executive Communications (ZACB)

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