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PBS's National Capital Region is Failing to Adequately Manage and Oversee the Building Services Contracts at the FDA's White Oak Campus

Report Number A190021/P/5/R21003
May 17, 2021

Executive Summary

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Why We Performed This Audit

We initiated this audit after confirming the merits of a hotline complaint expressing a variety of concerns at the U.S. Food and Drug Administration's (FDA's) White Oak campus in Silver Spring, Maryland. These concerns included deficiencies in contract administration, such as unsupported payment for services, inadequate contract oversight, failure to enforce contract requirements, and a lack of required deliverables. The objective of our audit was to determine whether the GSA Public Buildings Service's National Capital Region (PBS NCR) is administering and managing the building services contracts at the FDA's White Oak campus in accordance with applicable regulations and policies.

What We Found

PBS NCR is failing to manage and oversee building services at the White Oak campus. We found multiple issues with PBS NCR's management and oversight of the White Oak campus, especially with its oversight of the Energy Savings Performance Contract (ESPC) task order that provides operations and maintenance (O&M) building services on the campus.

As discussed in the report, we found that:

1. PBS NCR is not enforcing requirements of the ESPC task order. As a result, PBS NCR has no assurance that the contract is achieving the guaranteed cost savings needed to fund the \$1.2 billion contract and is planning to pay for repairs that are the contractor's responsibility.
2. Due to mismanagement and lack of oversight of the after-hours O&M services, PBS NCR is charging FDA for overpriced services that are not being provided.
3. Security at the White Oak campus is impaired because PBS NCR does not ensure that security protocols are followed.
4. PBS NCR mismanaged fire, life, and safety services for the White Oak campus, placing the facilities and personnel at risk.
5. PBS NCR allowed employees to perform contracting officer's representative duties although they lacked the required certification.
6. PBS NCR improperly provides the contractor with the "right of first refusal" for all O&M work on the campus, undermining competition and pricing.
7. PBS NCR improperly destroyed contract file documentation, violating the Federal Records Act, the Federal Acquisition Regulation, and GSA policy.
8. PBS NCR is not providing a clean, sanitary, safe, and healthy space at the child care center due to unresolved performance issues with the custodial contractor.

What We Recommend

Based on our findings, we made 12 recommendations to improve PBS NCR's oversight of the administration and management of the building services contracts at the FDA's White Oak campus. Our recommendations include: improving oversight of ESPC savings; withholding payment until the ESPC contractor is able to verify energy savings; renegotiating O&M services; conducting a risk assessment of security vulnerabilities; improving the oversight of the fire, life, and safety contract; removing the "right of first refusal" from task orders; proper handling of contract documentation; and identifying contractors that can meet the clinical cleaning requirements needed at the child care center. A complete list of our recommendations is included in the **Conclusion** section of this report.

In its written response to our draft report, PBS NCR acknowledged that "the [Office of Inspector General] has raised several significant issues requiring immediate attention," but did not agree with the report in its entirety. PBS NCR's specific areas of disagreement, and our response, are described in the **Conclusion** section of this report. We made certain revisions to the report based on PBS NCR's response; however, those revisions did not affect our findings and conclusions.

PBS NCR's response memorandum is included in its entirety in **Appendix B**. PBS NCR's response also included 11 attachments; however, we did not include those attachments due to the volume of the documentation. We will make the attachments available upon request.

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Introduction

We performed an audit of GSA's Public Buildings Service National Capital Region's (PBS NCR's) administration and management of the building services contracts at the U.S. Food and Drug Administration's (FDA's) White Oak campus in Silver Spring, Maryland.

Purpose

We received a hotline complaint expressing a variety of concerns at the FDA's White Oak campus. These concerns included deficiencies in contract administration, such as unsupported payment for services, inadequate contract oversight, failure to enforce contract requirements, and a lack of required deliverables. We initiated a formal audit based on our research into the merits of the complaint.

Objective

The objective of our audit was to determine whether PBS NCR is administering and managing the building services contracts at the FDA's White Oak campus in accordance with applicable regulations and policies.

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

Background

In 1990, FDA personnel were located in 23 different buildings at seven different sites in the Washington, D.C., area. In November 1990, Congress passed the FDA Revitalization Act, with the primary goal to consolidate the FDA into one facility. In 1995, the White Oak campus was selected as the FDA consolidation project site after the Base Realignment and Closure Commission decided to close the Naval Surface Warfare Center at White Oak. By this time, the Washington, D.C., area FDA locations had increased to approximately 40 buildings at 18 sites.

The FDA consolidation at White Oak was completed in multiple phases. In July 2002, PBS NCR awarded phase one to Honeywell, Inc. (Honeywell) under a U.S. Department of Energy (DOE) contract for the design and implementation of one Central Utility Plant, which was intended to provide off-grid, dedicated utilities to the White Oak campus. In May 2005, PBS NCR awarded phase two to Honeywell using the same DOE contract to expand the Central Utility Plant.

In December 2010, PBS NCR awarded phase three to Honeywell using a DOE Super Energy Savings Performance Contract (ESPC). Under an ESPC, a government agency enters into a long-term performance contract with an energy savings company (ESCO) that privately finances and installs energy-efficiency improvements. DOE's Super ESPCs are umbrella contracts with pre-qualified ESCOs that comply with Federal Acquisition Regulation (FAR) requirements. Super

ESPCs give agencies, including GSA, the ability to award task orders quicker because the competitive selection process is already complete.

Using DOE's Super ESPC, GSA awarded Task Order GS-P-11-11-MK-0002 for phase three to: (1) provide additional electrical generation equipment at the Central Utility Plant and (2) add related operations and maintenance (O&M) services to support expansion in the southeast quadrant of the White Oak campus.

Since its award in December 2010, the ESPC task order value has grown 58 percent (from approximately \$785.8 million to its current value of \$1.2 billion). After awarding the phase three task order, PBS NCR requested that Honeywell submit a proposal to: (1) incorporate upgraded O&M specifications for the buildings in the first two phases and (2) expand those O&M services to the entire campus. To include these changes, PBS NCR noncompetitively issued Modifications 20 and 26, for just over \$309 million in O&M services, to Honeywell. In addition, in September 2009, PBS NCR awarded Task Order GS-11P-09-YE-D-0180 to Honeywell for \$450,000 for O&M services that were not related to the ESPC.

The 3.8 million-square-foot campus currently supports over 10,900 employees—more than 20 percent over the originally planned capacity. Over the next 14 years, FDA anticipates the number of employees at the campus to grow to more than 18,000.

ESPC Requirements

According to DOE:

Energy savings performance contracts (ESPCs) are a partnership between a federal agency and an energy service company (ESCO). After being selected for a potential award, the ESCO conducts a comprehensive facility energy audit and identifies improvements to save energy. In consultation with the agency, the ESCO designs and constructs a project that meets the agency's needs and arranges financing to pay for the project.

The ESCO guarantees that the improvements will generate sufficient energy cost savings to pay for the project over the term of the contract. After the contract ends, all cost savings accrue to the agency. The agency is responsible for contract administration for the entire term of the contract.

Essentially, ESPCs allow federal agencies to implement cost-saving facility energy improvements with no upfront capital costs, using projected energy savings to pay for the improvements. These savings generally come from upgrading equipment to reduce energy costs, but can also come from O&M efficiencies (such as reduced manpower needed to maintain more efficient equipment). The agency needs to be able to verify the savings, using measurement and verification (M&V) of the improvements to ensure they are operating according to plan. If the savings are not realized, the agency should adjust the payment schedule.

Energy Savings. The Federal Energy Management Program (FEMP) is a DOE program that provides federal agencies with information and tools to track and meet energy savings goals. FEMP defines energy savings as a reduction in the cost of energy, water, and wastewater treatment relative to a pre-project baseline cost. These savings are generally recurring savings that occur annually. Savings are calculated as the difference between the baseline energy cost and the energy cost after the energy-efficiency improvements are in place. ESPCs are required to guarantee that upgrades to building equipment and services will generate enough energy cost savings to pay for the improvements.

O&M Savings. FEMP defines O&M savings as a decrease in expenses (other than energy cost savings) related to energy- and water-consuming equipment. ESPCs that include O&M savings in the contract should follow the DOE guidance, *How to Determine and Verify Operating and Maintenance (O&M) Savings in Federal Energy Savings Performance Contracts*.

According to the DOE guidance, there must be a real reduction in O&M expenses after the ESPC task order is implemented to show the savings were achieved. Based on this guidance and our September 2016 ESPC audit report, which found overstated and unachieved O&M savings in excess of \$1 million, PBS issued an internal policy titled *Operational Guidance and Instructions Outlining Roles, Responsibilities, Administration and Reporting Requirements for Energy Savings Performance Contract (ESPCs)*.¹ This policy requires regions to: (1) provide a case analysis of the potential savings prior to including O&M savings in an ESPC task order and (2) ensure that the O&M savings are accurate.

Measurement and Verification. M&V is the process used to determine energy, water, and related cost savings of an ESPC. M&V is used to ensure that the installed equipment or systems are operational and have the potential to generate savings. Verification methods may include inspections, surveys, and short-term metering. The contractor and agency agree to perform the required M&V activities using the following key documents:

M&V Plan: The agency and the contractor develop the projected annual energy and financial savings and create a plan that will verify the projected savings. This is called an M&V plan. The plan specifies the M&V option for each energy conservation measure in the project, where and how cost savings are going to occur, and how they are to be calculated and verified. M&V options and methods proposed for each energy conservation measure shall comply with *DOE/FEMP M&V Guidelines: Measurement and Verification for Federal Energy Projects*.

M&V Report: During the performance period, the ESCO submits an annual report showing the measurement and savings calculations and O&M services and identifies any items that may require additional follow-up. The report is not required to show that the

¹ *PBS Energy Savings Performance Contract Awards May Not Meet Savings Goals* (Report Number A150009/P/5/R16003, September 27, 2016).

project met the savings for each energy conservation measure but that the project achieved the overall cost savings guarantee. The savings figures are used to determine if the guaranteed cost savings were met and if not, whether payments to the energy service company must be adjusted.

Savings Shortfalls and Impacts. The ESCO is paid from the savings it guarantees the government. During the performance period, beginning from government acceptance of the project until the end of the contract term, the cost savings must exceed the payments to the ESCO each year. If actual savings are lower than the guaranteed savings, there is a shortfall. DOE guidance specifies that once the agency reviews the M&V plan and report, the agency should compare the annual report to the guaranteed cost savings on the ESPC task order before payment. The DOE Super ESPC guidance specifies that in the event of a shortfall, the agency should adjust the payment schedule to recover overpayments from the previous year in order to pay back the shortfall over the next year.

Responsibilities for ESPCs at GSA

At GSA, responsibilities for ESPCs are split between the ESPC National Program Management Office (PMO), which oversees GSA's ESPC program, and regional contracting staff, who are responsible for delivering specific projects.

ESPC National Program Management Office. In 2012, GSA established the ESPC National PMO to "standardize and streamline the ESPC contracting process." The PMO coordinates with the regions after an ESPC task order is awarded and requires copies of all modifications and annual M&V reports. The PMO's oversight should ensure that the processes agreed upon by PBS and the ESPC contractor are followed and that the savings were accomplished prior to processing the next payment. The PMO also assists in responding to audit findings to integrate corrective action.

Contracting Officer and Contracting Officer's Representative Responsibilities. The enormous scale and cost of GSA contracts at White Oak require diligent contract oversight and proper execution of contractual obligations. The contracting officer is responsible for administering the contract. The contracting officer is authorized to amend, modify, or deviate from the contract terms, conditions, requirements, specifications, details, and delivery schedules on behalf of the government. The contracting officer makes final decisions on disputed deductions from contract payments for nonperformance or unsatisfactory performance; they can terminate the contract for convenience or default.

The contracting officer's representative (COR) is primarily responsible for ensuring that GSA contractors are performing work that meets the terms and conditions of the contract. The COR acts as the government's representative and, among other things, is responsible for notifying the contractor of proposed deductions for unsatisfactory performance or nonperformance. One way the COR manages contractor performance is by inspecting and signing off on completion of

the contractor work before payment. The COR is responsible for documenting the contractor's compliance and that the work was completed in accordance with the contract.

GSA Acquisition Manual 501.604, *Contracting Officer's Representative (COR)*, states that any GSA employee who is assigned to perform COR duties must obtain the Federal Acquisition Certification for Contracting Officer's Representatives (FAC-COR) and be certified at the appropriate level no later than 6 months after their appointment. The contracting officer must provide appointment letters to the COR outlining their responsibilities.

Prior Audit Report Findings

As noted previously, in August 2017, we issued an audit report titled *PBS National Capital Region's \$1.2 Billion Energy Savings Performance Contract for White Oak was Not Awarded or Modified in Accordance with Regulations and Policy*.² We found that PBS NCR violated the Competition in Contracting Act of 1984 (CICA) and the competition requirements set forth in the FAR by making a cardinal change to the contract that substantially increased the contract's scope of work for O&M services. This action eliminated price competition and denied opportunities for other contractors. In addition, the O&M services were not awarded and administered in compliance with contract requirements, acquisition regulations, and internal policy.

In our 2017 audit report, we made six recommendations for improvements to PBS NCR's internal controls of the award and administration of this and future ESPC task orders. In response, PBS NCR disagreed with our first recommendation to procure a new O&M contract that adheres to competition requirements specified in the CICA and the FAR.

PBS NCR also disagreed with the second recommendation in our 2017 audit report to determine and implement the appropriate corrective action needed for PBS NCR personnel's noncompliance with competition requirements. PBS NCR's response was that the contracting officer for Modification 20 was retired and proposed no corrective action for the current contracting officer.

In January 2019, after several attempts to reach agreement with PBS on the outstanding recommendations were unsuccessful, we provided a Decision Paper for Resolution Action to the GSA Deputy Administrator requesting resolution of the disagreement. In February 2019, the Deputy Administrator responded that the Agency's responses were appropriate. In accordance with GSA's audit resolution policy, the Deputy Administrator's decision effectively resolved the audit.³ Nonetheless, we maintain that PBS NCR's sole-source procurement of expanded O&M services for the entire White Oak campus violated federal competition requirements, and that O&M services were not awarded and administered in accordance with applicable requirements.

² Report Number A150009/P/5/R17006, August 24, 2017.

³ GSA Order ADM P 2030.2D, *Internal Audit Follow-Up Handbook*.

We also stand by our recommendation that management should have determined and implemented appropriate corrective action to address PBS NCR personnel's noncompliance with competition requirements. As discussed in *Finding 6* of this report, PBS NCR personnel are continuing to take actions that undermine federal competition requirements when issuing task orders in support of the White Oak campus, indicating that the problems our 2017 audit revealed may not be an isolated incident.

Hotline Complaint

On December 18, 2017, the GSA Office of Inspector General (OIG) received a hotline complaint alleging concerns with PBS NCR's contract practices and management of the White Oak campus. The complaint outlined numerous claims of mismanagement at the campus related to the ESPC contract and other contracts associated with the White Oak campus. The original complaint noted specific concerns about managing the award and administration of the after-hours tours part of the ESPC contract. We met with the complainant, who disclosed more specific contract abuses, including the lack of verification that preventative maintenance was being performed, mismanagement of the fire services contract, and use of the "right of first refusal" in task orders.

Results

PBS NCR is failing to manage and oversee building services at the FDA's White Oak campus. We found multiple issues with PBS NCR's management and oversight of the White Oak campus, especially with its oversight of the ESPC task order that provides O&M building services on the campus.

Based on our audit, we found that:

1. PBS NCR is not enforcing requirements of the ESPC task order. As a result, PBS NCR has no assurance that the contract is achieving the guaranteed cost savings needed to fund the \$1.2 billion contract and is planning to pay for repairs that are the contractor's responsibility.
2. Due to mismanagement and lack of oversight of the after-hours O&M services, PBS NCR is charging FDA for overpriced services that are not being provided.
3. Security at the White Oak campus is impaired because PBS NCR does not ensure that security protocols are followed.
4. PBS NCR mismanaged fire, life, and safety services for the White Oak campus, placing the facilities and personnel at risk.
5. PBS NCR allowed employees to perform COR duties although they lacked the required certification.
6. PBS NCR improperly provides Honeywell with the "right of first refusal" for all O&M work on the campus, undermining competition and pricing.
7. PBS NCR improperly destroyed contract file documentation, violating the Federal Records Act, the FAR, and GSA policy.
8. PBS NCR is not providing a clean, sanitary, safe, and healthy space at the child care center due to unresolved performance issues with the custodial contractor.

Finding 1 – PBS NCR is not enforcing requirements of the ESPC task order. As a result, PBS NCR has no assurance that the contract is achieving the guaranteed cost savings needed to fund the \$1.2 billion contract and is planning to pay for repairs that are the contractor's responsibility.

In order for an ESPC task order to include O&M services in the cost savings, there must be a decrease in O&M expenses, such as reduced maintenance and repair costs. Under the ESPC task order for the White Oak campus, the guaranteed savings for the O&M services were expected to include savings partly generated from preventative maintenance that Honeywell, the contractor for the ESPC task order, was going to perform. To measure and verify the savings, the task order required Honeywell to meet performance standards for the preventative maintenance and submit quality control inspection reports for both preventative maintenance and service call tickets.

However, PBS NCR is not enforcing the ESPC task order requirements for O&M services at the White Oak campus. PBS NCR has not ensured that Honeywell met the requirements for the preventative maintenance order and the quality control inspections reports. As a result, PBS has paid Honeywell over \$205 million for unverified, and therefore unrealized, O&M cost savings. If PBS NCR does not enforce the ESPC task order requirements for the remaining 14 years of the ESPC task order, it risks paying over \$1 billion for O&M cost savings that will not be achieved.

In addition, PBS NCR has failed to ensure that Honeywell performed repairs required under the ESPC task order. Specifically, PBS NCR has not required Honeywell to repair actuators that control the flow of air and smoke in buildings on the campus. Although Honeywell is required to replace the actuators under the terms of the ESPC task order, it is refusing to do so. As a result, PBS NCR is planning to repair and replace the actuators as part of a \$2.2 million project.

PBS NCR has not enforced the ESPC task order requirements for Honeywell to perform preventative maintenance and quality control reviews.

PBS NCR has not enforced the ESPC task order requirements for Honeywell to perform the preventative maintenance and conduct quality control inspection reviews that were included in the M&V plan of the ESPC task order. As a result, PBS has paid Honeywell over \$205 million despite the fact that the guaranteed O&M cost savings are unverified and therefore unrealized. Further, if PBS NCR does not enforce the ESPC task order requirements for the remaining 14 years of the ESPC task order, it risks paying over \$1 billion for additional O&M cost savings that will not be achieved.

According to the M&V plan of the ESPC task order, Honeywell is required to complete 90 percent of preventative maintenance tickets. The ESPC task order also specifies that Honeywell must perform the monthly preventative maintenance on time and in full or “the Government will deduct \$100 per hour for non-performed or improperly performed preventative maintenance.”

However, we found that Honeywell is not meeting—and PBS NCR is not enforcing—the preventative maintenance requirements. We reviewed all 16,078 of the preventative maintenance tickets submitted for May and June 2019 and found that Honeywell completed only 74 percent of the May tickets and 80 percent of the June tickets. As of December 2019, Honeywell still had not completed the preventative maintenance tickets necessary to meet the 90 percent requirement.

In fulfilling its contract oversight responsibilities, PBS NCR should have tracked Honeywell’s compliance with the preventative maintenance requirements and deducted nonperformance penalties from Honeywell’s payment; however, PBS NCR did not do either. Based on our calculations, we estimate that PBS NCR should have deducted \$1 million from payments to Honeywell because of its failure to meet the 90 percent completion requirement from July through December 2019.

We also found that PBS NCR failed to enforce the ESPC task order requirements for Honeywell to complete and submit quality control inspection reports. The ESPC task order requires that Honeywell complete quality control inspection reports for 5 percent of its preventative maintenance and service call tickets in order to verify the O&M cost savings on the task order. Honeywell is also required to make those reports available to PBS NCR monthly. In addition, according to the ESPC task order, PBS NCR was required to verify that Honeywell had performed the O&M services by reviewing 10 percent of the quality control inspection reports submitted by Honeywell.

However, we found that Honeywell only completed and submitted a fraction of the required quality control inspection reports. Of the preventative maintenance tickets submitted for May and June 2019, Honeywell only completed quality control inspection reports for 0.2 percent, instead of the required 5 percent. Further, Honeywell did not complete any inspection reports for service call tickets during that time. When the project facilitator for PBS NCR asked Honeywell why it was not meeting the inspection requirement, Honeywell said it would need to complete 4,500 inspections each year to meet the 5 percent requirement and it would not be able to achieve this requirement.

Likewise, PBS NCR did not verify that Honeywell had performed the O&M services. Although PBS NCR was required to review 10 percent of Honeywell's quality control inspection reports, it did not do so. According to the PBS ESPC/O&M program manager, they did not have enough staff to perform the reviews and therefore only reviewed what they consider to be the critical preventative maintenance tickets. As a result, PBS NCR's oversight did not verify that Honeywell's contractual obligations had been met.

In sum, PBS NCR did not enforce Honeywell's contractual requirements to perform preventative maintenance and complete quality control inspection reports. Since these requirements were not met, PBS NCR could not and did not measure and verify the guaranteed O&M costs savings. As a result, PBS NCR has no support for its payments of over \$205 million to Honeywell because the guaranteed O&M cost savings needed to fund payments are unverified and unrealized. Further, if PBS NCR does not enforce the ESPC task order requirements for the remaining 14 years of the ESPC task order, it risks paying over \$1 billion for additional unachieved O&M cost savings.

Due to PBS NCR's failure to enforce the ESPC task order requirements, it is preparing to pay for repairs that are Honeywell's responsibility under the guaranteed O&M cost savings.

Under the terms of Honeywell's contract, it is responsible for the maintenance, repair, and replacement of, among other things, actuators that control the flow of air and smoke in a building. These actuators fall under Honeywell's maintenance requirement in the ESPC base contract, which establishes Honeywell's responsibility for "the replacement of equipment...with costs less than \$350." The actuators used at the White Oak campus cost approximately \$150 to replace. Although this is below the contractual replacement threshold of \$350, Honeywell has

stopped replacing the actuators and PBS NCR has not enforced the contract requirement for Honeywell to do so. As a result, the actuators are in a state of disrepair, leading PBS NCR to include the costs to repair and replace the actuators in a planned \$2.2 million project.

Actuator failures surfaced at the White Oak campus almost a decade ago. As the pace of the failures started to increase, Honeywell stopped replacing them as required. PBS NCR did not realize that Honeywell was not fulfilling this requirement until March 2013, when Honeywell reported that it stopped replacing actuators in two buildings in 2011 due to the rapid pace of the failures. Subsequently, PBS NCR held numerous discussions with Honeywell about the number of failing actuators to determine which party was responsible for the repair and replacement costs.

The PBS NCR project team concluded that the actuators failed because Honeywell did not perform preventative maintenance on the actuators as required by the O&M contract. As a result, in March 2017, the COR requested that the contracting officer issue a cure notice to Honeywell, requiring it to replace the failing actuators in accordance with the contract. The contracting officer told us that they did not issue this notice because the project team could not substantiate its claims with written documentation. According to the contracting officer, conversations between the project team and Honeywell revealed that “the failures were due to a latent defect and/or design deficiency,” which Honeywell would not be responsible for under its contract.

We could not substantiate the contracting officer’s claims. Moreover, the contracting officer’s assertions were contradicted by the consulting engineer hired to assist PBS NCR with managing the ESPC task order. The consulting engineer examined the actuators and determined that they were not defective. The consulting engineer also did not find any records of recall notices issued due to defects in the design or manufacture of the actuators, which would be expected if the deficiencies described by the contracting officer existed.

PBS NCR’s failure to enforce the O&M contract has resulted in inoperable and unreliable actuators. It will also result in significant cost to the government. In 2019, PBS NCR requested \$2.2 million for a project to, among other things, repair and replace the actuators, address problems with the controller activating the actuators, and update the associated software programming.

As described above, PBS NCR is not enforcing requirements of the \$1.2 billion ESPC task order for the White Oak campus. PBS should take appropriate measures to ensure that Honeywell fulfills its contractual obligations to perform preventative maintenance and quality control reviews and repair failing actuators.

Finding 2 – Due to mismanagement and lack of oversight of the after-hours O&M services, PBS NCR is charging FDA for overpriced services that are not being provided.

As a result of PBS NCR’s mismanagement and lack of oversight, the FDA is paying PBS NCR for overpriced after-hours O&M services that are not being provided. In 2015, the FDA requested 24-hour coverage for the White Oak campus to manage after-hours maintenance and emergencies. In response, PBS NCR noncompetitively awarded Modification 26 to Honeywell for \$145 million for five technicians to perform 14 hours of service (5 p.m. to 7 a.m.) each weekday, and 24-hour coverage on weekends and holidays. PBS NCR provides these services to FDA on a reimbursable basis whereby FDA pays PBS NCR for the cost of the services plus a fee.

However, PBS NCR is charging the FDA for overpriced services that are not being provided. We found that the contract price for the after-hours O&M services is overpriced because its calculation includes hours for O&M services that are being provided through the base contract. We also found that Honeywell provided fewer staff than required by the after-hours O&M agreement and that Honeywell charged PBS NCR for 14-hour shift coverage while providing only 12-hour shift coverage. Finally, we found three after-hours technicians asleep during their shift.

PBS NCR overcharged FDA by \$5.6 million for overpriced after-hours O&M services that are included in the base contract.

As described above, the FDA requested 24-hour coverage for the White Oak campus to manage after-hours maintenance and emergencies. In response to the FDA’s 2015 request, PBS NCR contracted with Honeywell to provide five technicians for after-hours O&M services outside of the services under the base contract. However, in establishing the contract price, PBS NCR did not fully deduct the work already being performed and paid for under the base contract. As a result, the after-hours O&M services were overpriced because the cost for the after-hours staff was inflated by approximately 5,000 hours each year.

The contract price for the after-hours O&M services is based on a cost estimate for the services. In the “After-Hours Labor Estimate,” four of the five technicians are hourly positions (the fifth technician is provided via subcontract). The “After-Hours Labor Estimate” calculates the price for the four hourly positions (two Steamfitter Journeyman and two Building Automation Systems Techs) by calculating the hours for each position and multiplying the hours by the applicable labor rates.

In determining the price, the estimate calculated the total hours in a year for two positions (24 hours multiplied by 365 days for two positions is 17,520 hours) and deducted the hours for the base contract (2,500 hours). In calculating the contract price, the estimate then multiplied the applicable hourly rate for each labor category (Steamfitter Journeyman and Building Automation Systems Tech) by 15,020 hours (17,520 less 2,500 hours). The “After-Hours Labor Estimate” calculation is shown in *Figure 1* below:

Figure 1 – “After-Hours Labor Estimate” Calculation

24 hours x 365 days x 2 positions	17,520 hours
Deduction: 10 hours x 5 days x 50 weeks	<u>(2,500 hours)</u>
Net: After-Hours O&M Services	15,020 hours

However, the hours were miscalculated because PBS NCR did not fully deduct the O&M services provided under the base contract. Specifically, PBS NCR only deducted the base contract hours for one position in each labor category rather than two. The correct deduction is demonstrated in *Figure 2* below:

Figure 2 – Calculation with Deduction Corrected

24 hours x 365 days x 2 positions	17,520 hours
Deduction: 10 hours x 5 days x 50 weeks x 2 positions	<u>(5,000 hours)</u>
Net: After-Hours O&M Services	12,520 hours

Because PBS NCR did not fully deduct the hours under the base contract, its estimate incorrectly calculated the contract price using 15,020 hours for each labor category rather than 12,520 hours. As a result, PBS NCR’s estimate for after-hours O&M services was inflated by 5,000 hours (2,500 hours a year for each of the two labor categories) and the after-hours O&M services are overpriced.

PBS NCR’s lack of oversight and poor management of the contract directly led to the faulty estimate and overpriced services. It has also resulted in a waste of taxpayer dollars. To date, PBS NCR has overpaid Honeywell by approximately \$5.6 million for the after-hour O&M services. If the pricing is not corrected, PBS NCR will overpay an additional \$18.2 million over the remaining 14 years of the contract. Further, since PBS NCR is providing these services on a reimbursable basis, the FDA is bearing the cost the of the overpriced after-hour O&M services.

PBS NCR failed to ensure that Honeywell provided the required number of after-hours technicians.

The contract requires Honeywell to provide five technicians for after-hours, campus-wide facility maintenance tours. Honeywell is also required to provide a daily after-hours report to the FDA and PBS NCR to confirm it is providing the required level of services. The contracting officer told us that PBS NCR uses these reports to verify contract compliance. The contracting officer added that PBS NCR compares the daily after-hours reports to the Personal Identity Verification (PIV) card logs to confirm that Honeywell provided the requisite number of after-hours staff. Notwithstanding the contracting officer’s assertions, we found that PBS NCR: (1) failed to ensure that Honeywell provided the required number of after-hours technicians and (2) paid Honeywell for services that were not provided.

We reviewed 79 daily after-hours reports submitted between August 2017 and April 2018, and found that 72 (91 percent) showed that Honeywell short-staffed the after-hours shifts. Although the reports clearly showed that Honeywell short-staffed these shifts, PBS NCR took no action to address the problem. Instead, PBS NCR paid Honeywell over \$350,000 for services that were not provided. PBS NCR then passed those costs onto FDA along with overhead fees under a reimbursable agreement.

In April 2018, the FDA notified PBS NCR that Honeywell's after-hours reports demonstrated that Honeywell was short-staffing the contract. PBS NCR discussed the FDA's concerns with Honeywell, which subsequently began sending after-hours reports that no longer indicated short-staffing. Based on our analysis of the PIV card logs for buildings across the White Oak campus, those reports were not accurate. For example, Honeywell's after-hours reports showed that technicians worked on a particular day; however, the technicians did not appear on the PIV card logs for the same day. In another example, the after-hours reports showed that a Honeywell technician worked a shift after being terminated. Although Honeywell officials told us that this was a mistake, PBS NCR neither identified nor addressed the error.

On May 23, 2019, we performed a random onsite inspection and confirmed that Honeywell was continuing to short-staff the after-hours shifts. During our inspection, we found four technicians present on the after-hours shift, rather than the five required under the contract. We asked the contracting officer and COR about the short-staffing we observed; however, neither could provide an explanation. They also stated that they had not noticed that Honeywell only sent four time sheets for after-hours technicians who worked on the night of our inspection, even though five technicians are required under the contract.

We also compared the after-hours reports for May 2019 to the PIV card logs and found that the after-hours reports were inaccurate. Of the 200 shifts required to be filled for the month, 44 shifts were short-staffed. Because PBS NCR failed to detect the short-staffing, it paid Honeywell over \$97,000 for services that were not provided.

As shown above, PBS NCR failed to provide adequate oversight of the Honeywell's after-hours O&M services. As a result, PBS NCR did not receive the level of service required under the contract and overpaid Honeywell more than \$447,000. PBS NCR passed these overpayments—along with an overhead fee—on to the FDA under the terms of a reimbursable agreement.

PBS NCR did not verify that Honeywell was charging the correct hours and paid Honeywell over \$1.2 million for services it did not provide.

The statement of work for O&M services required Honeywell technicians to work a 14-hour shift for the weekday after-hours tours. We examined the technicians' time sheets for the period 2015 to 2017 and determined that although PBS NCR paid Honeywell for 14-hour shifts, the technicians only worked 12 hours. Honeywell officials told us that they believed the contract only required 12-hour shifts; the PBS NCR contracting officer stated that she was unaware that Honeywell was only providing 12 hours. Due to poor contract oversight, PBS NCR

paid Honeywell \$1,255,276 for services it did not provide and then charged FDA for the services.

After-hours inspection found Honeywell employees sleeping during their shift.

During the May 23, 2019, random inspection noted above, we also found three of the four Honeywell technicians asleep during their shift; one of those technicians was the after-hours shift supervisor.

We notified PBS NCR of our findings during the inspection and PBS NCR informed Honeywell. Honeywell responded that it took the OIG findings seriously and investigated the incident. The investigator recommended pursuing corrective action, including demotion of the supervisor and loss of pay, which Honeywell said it would implement. Honeywell provided the investigator's report to PBS NCR.

In response, PBS NCR issued a letter to Honeywell with a reminder of its contractual obligations, but did not pursue further action because the contracting officer believed that Honeywell's actions taken in response to the incident were sufficient. PBS NCR's contract with Honeywell defines sleeping during a shift as a form of misconduct, which violates the contract terms. Although PBS NCR has the authority to request the removal of those employees from the contract, we found that as of June 2019, the employees were still working on the ESPC task order during the day shift.

In sum, as a result of PBS NCR's lack of management and oversight of the contract, the FDA is paying PBS NCR for overpriced after-hours O&M services that are not being provided. We found that the after-hours O&M services are overpriced and as a result, GSA has overpaid the contractor by approximately \$5.6 million to date and will overpay Honeywell \$18.2 million over the remaining 14 years of the contract. We also found that PBS NCR's lack of oversight has allowed the contractor to: (1) short-staff the contract and (2) provide 12-hour shifts rather than the 14-hour shifts required by the contract, resulting in overpayments of at least \$350,000 and \$1.2 million respectively. Finally, we found that the Honeywell staff providing after-hours O&M services under the contract were sleeping during their shifts.

PBS NCR must take appropriate corrective action to improve its management and oversight of the contractor and recover overpayments for services that were not provided. Since PBS NCR is providing these services to FDA on a reimbursable basis, PBS NCR should also ensure that any recoveries are refunded to FDA.

Finding 3 – Security at the White Oak campus is impaired because PBS NCR does not ensure that security protocols are followed.

PBS NCR's failure to ensure the ESPC contractor follows security protocols at White Oak impairs the overall campus security. We found that a Honeywell employee without a security clearance was able to bypass security turnstiles and enter FDA buildings and mechanical rooms

unimpeded. We also found that security for the [REDACTED] is lacking because [REDACTED] is [REDACTED] and Honeywell is not providing the required security logs to PBS NCR.⁴

A Honeywell employee without a security clearance was able to bypass security protocols to enter FDA buildings unescorted.

According to the O&M services specifications, Honeywell employees who do not meet the security clearance requirements are mandated by the O&M contract to be escorted by a cleared contract employee at all times. The O&M services specifications state:

All un-cleared [sic] contract employees must be escorted in a non-public space by a government employee or another responsible cleared contract employee who is approved by the contracting officer or his/her designee.... An un-cleared [sic] employee cannot be left alone or out of eyesight at any time they are in non-public space.... Any security violation of escort requirements by a cleared and approved contract employee will result in immediate removal from the contract of all contract employees involved and may be grounds for termination of the contract.

However, we found that a full-time, after-hours Honeywell employee worked for over a year in FDA buildings on the campus without a security clearance. Despite this, the employee was able to bypass the FDA security turnstiles to enter the FDA buildings and mechanical rooms. We reviewed security camera footage and found that this uncleared Honeywell employee was allowed into the building without an escort. Campus security also admitted that they did not follow protocol and allowed the uncleared Honeywell employee to enter non-public spaces without an escort.

The O&M services specifications state that the “contractor shall protect Government property, buildings, materials, equipment, supplies, records and data that are within the contractor’s control against unauthorized access, loss or damage.” Both PBS NCR and Honeywell are responsible for maintaining security requirements in accordance with the O&M services specifications of the task order. However, Honeywell has allowed this uncleared employee to have unrestricted access to buildings on the campus and PBS NCR failed to provide the necessary oversight to ensure that Honeywell complied with this security requirement.

PBS NCR is not ensuring that security for the [REDACTED] is maintained.

PBS NCR is failing to oversee and ensure that security is maintained for the [REDACTED]. Although the [REDACTED], PBS NCR does not ensure that security protocols are performed.

⁴ Redactions in this report represent sensitive information related to federal building security.

The contract requires that all Honeywell employees, contractors, and subcontractors sign in and out on a log located at the [REDACTED] at the beginning and end of their shifts. Honeywell is then required to provide the log to the COR on a weekly basis and certify in writing that the information provided in the logs is true and correct.

However, PBS NCR has not enforced this requirement and Honeywell has not provided records for the past 6 years. When we asked the contracting officer, COR, and ESPC/O&M program manager for the logs, the contracting officer stated that they have not received the logs from Honeywell. The contracting officer also told us that Honeywell employees accessing the [REDACTED] are not required to sign in and out, even after we clarified that this was in fact a contract requirement.

When we questioned PBS NCR officials about this issue, they responded that they were not concerned because the overall campus access is restricted and controlled by the security guards hired under a contract with the Department of Homeland Security's Federal Protective Service. Among other things, the security guards are responsible for checking the PIV cards of employees and contractors before allowing entry onto the campus. However, we found that

[REDACTED]

PBS NCR officials told us that although the [REDACTED] . They also confirmed that the [REDACTED] . Taken together with the [REDACTED]

[REDACTED] is vulnerable to the risk of [REDACTED] . Notwithstanding this risk, PBS NCR has no knowledge or records of who is entering and exiting [REDACTED] because it is not enforcing Honeywell's contractual responsibility to maintain logs that identify who has entered and exited [REDACTED] .

As described above, PBS NCR is failing to ensure that contract employees are adhering to security protocols designed to protect employees, buildings, and other critical assets from unauthorized access. PBS NCR should conduct an assessment to identify any other threats arising from its failure to enforce the security requirements established in Honeywell's contract. PBS NCR should also take measures to [REDACTED]

Finding 4 – PBS NCR mismanaged fire, life, and safety services for the White Oak campus, placing the facilities and personnel at risk.

PBS NCR mismanaged fire, life, and safety services at the White Oak campus. We found that PBS NCR allowed the fire services contract for the campus to lapse for over a year before awarding a replacement contract. During this period, PBS NCR did not ensure that the fire

protection equipment for the campus was inspected, tested, and maintained. In addition, PBS NCR did not test, maintain, or repair backflow preventers at the campus for 4 years, potentially endangering the health of employees.

PBS allowed the fire services contract at the White Oak campus to lapse, resulting in no fire services for almost a year.

The White Oak campus fire services contract provides management, supervision, labor, materials, equipment, supplies, and services to perform inspection, testing, and required maintenance of fire protection equipment.

PBS NCR had a fire services contract in place at the White Oak campus from September 2010 through March 19, 2016. However, PBS NCR allowed the fire services contract to expire in 2016. The COR told us that they had numerous discussions with the contracting officer concerning the need to secure a replacement contract. Despite this, the contracting officer neglected to award a new fire services contract. The lapse in the fire services contract at the White Oak campus caused a gap in service for almost a year, from March 20, 2016, to March 15, 2017.

Fire services contracts are critical for ensuring that all fire protection equipment is operating properly to protect building occupants and assets. For example, the fire services contract for the White Oak campus included a requirement to test the fire pumps, which provide water to the sprinkler system at high pressure. However, as a result of the lapse of the fire services contract, the fire pumps for multiple buildings, including the child care center, were not tested and PBS NCR did not know whether the fire pumps would work in the event of a fire.

When the fire services contract lapsed, the contracting officer could have instructed Honeywell to take over fire services responsibilities. According to the task order, if PBS NCR's fire services contract lapses, PBS NCR has the option to notify Honeywell to address fire service issues, including testing. The ESPC phase three task order specifically states that "Fire protection systems and equipment are operated, maintained, and sustained in operational condition throughout the course of the contract." However, the contracting officer neglected to notify Honeywell to take over these responsibilities when the fire services contract lapsed.

PBS NCR is responsible for allowing the White Oak campus fire services contract to lapse, thereby putting campus occupants at risk in a fire emergency due to inoperable or malfunctioning fire protection equipment. It was not until March 15, 2017—almost a year after the lapse—that PBS NCR awarded a new fire services contract for inspections, testing, and maintenance of the fire protection equipment.

PBS NCR did not test and repair backflow preventers for over 4 years, potentially endangering employees' health.

Backflow preventers are installed on pipes to allow water to flow only in one direction. This prevents drinking water from being polluted with soaps, chlorine, fertilizers, pesticides, and human waste.

National Fire Protection Association Standard 25, *Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems*, requires annual inspection and testing of backflow preventers. In addition, the Washington Suburban Sanitary Commission (WSSC), the local water utility, recommends that “backflow assemblies should be tested annually or as otherwise directed by WSSC and devices that are non-testable shall be replaced or re-built [sic] every 5 years.”

For the White Oak campus, the annual testing of backflow preventers is included in O&M services and involves a joint effort between Honeywell and PBS NCR. In April 2012, Honeywell contacted PBS NCR to test and repair failed backflow preventers; however, PBS NCR did not respond until November 2012 when they asked Honeywell to resend the information on the backflow preventers. After this point, PBS NCR took no further action, even after receiving a notice from WSSC dated September 1, 2015, identifying 40 backflow preventers that were past due for testing.

The backflow preventers were again raised as an issue in August 2016, when a PBS building manager noticed there were backflow preventers at the White Oak campus that had failed inspections since 2012 and notified the COR of the issue. Then, in October 2016, FDA officials also became aware of the failing backflow preventers and asked PBS NCR for an explanation and resolution. That same month, PBS's Acting Deputy Director of the Metropolitan Service Center responded to FDA and confirmed that there are multiple backflow preventers with maintenance issues and that the matter should have been corrected long ago. It was not until April 2017—over 5 years after the first backflow preventers started to fail—that PBS NCR restarted testing of the backflow preventers.

As described above, PBS NCR's mismanagement and lack of oversight led to a lapse in the fire services contract and failing backflow preventers, thereby creating an environment that potentially endangered the health and safety of campus employees and visitors. Accordingly, PBS NCR should take corrective action to improve oversight of the fire services contracts and ensure that backflow preventers are in proper working order.

Finding 5 – PBS NCR allowed employees to perform COR duties although they lacked the required certification.

The COR plays a key role in providing contract oversight and ensuring that the contractor meets the terms and conditions of its contract. According to GSA's *Inspection Report on Work Under Contract* (GSA 220), the COR is responsible for ensuring that contractors meet the

commitments of their contracts by, among other things, delivering quality goods and services within the time frames specified under their contracts. GSA Acquisition Manual 501.604 also requires that any GSA employee assigned to perform COR duties, regardless of series, must obtain a FAC-COR certification.

Compliance with these requirements is critical in order to provide effective contract management and oversight. Nonetheless, we found that PBS NCR allowed personnel who were not certified CORs to perform COR duties. For example, although COR duties were a requirement for the ESPC/O&M program manager position at the White Oak campus, the ESPC/O&M program manager was assigned to ESPC contract responsibilities, despite not being certified as a COR. Although the GSA Acquisition Manual requires CORs to be certified at the appropriate level no later than 6 months from the date of their appointment, the ESPC/O&M program manager was not certified as a COR until almost 2 years after being hired and assigned to the contract. Despite this, the contracting officer continued to assign COR duties to the ESPC/O&M program manager and the ESPC/O&M program manager continued to act as the COR for the task order.

In another instance, a PBS NCR customer service manager with an expired COR certification approved emergency repair work during a government shutdown and authorized payments for these emergency repairs. This official also signed off on a contract inspection report 8 months after the inspection, although another employee was listed as the COR on the project. When we asked the contracting officer why the PBS NCR customer service manager with the expired COR certification signed the form, they told us that they were unaware of the requirement that only CORs could do so.

According to officials at the GSA Acquisition Workforce Division, which is tasked with ensuring individuals meet requirements for COR certification, “No one’s COR certification should expire and if they are not keeping it current, that’s a material weakness and a risk to the individual. It’s the [contracting officer]’s responsibility to remove them from the contract.” CORs play a pivotal role in the effective management and oversight of contracts. Accordingly, PBS NCR should strengthen controls to ensure that only qualified CORs are assigned to contracts as required.

Finding 6 – PBS NCR improperly provides Honeywell with the “right of first refusal” for all O&M work on the campus, undermining competition and pricing.

PBS NCR CORs improperly provide Honeywell with the “right of first refusal” for all O&M-related work on campus, which undermines competition and potentially causes the government to overpay for repairs.

In accordance with the CICA and the FAR, there is no principle of “right of first refusal” requiring GSA to offer the incumbent contractor new work before seeking proposals from other firms.⁵

⁵ 41 U.S.C. 253(a)(1)(A); FAR 1.102(b)(1)(iii) and (b)(3).

The CICA and the FAR clearly establish the importance of competition to ensure the integrity of the federal acquisition process. As provided under FAR 1.102, *Statement of guiding principles for the Federal Acquisition System*, the Federal Acquisition System should promote competition and conduct business with integrity, fairness, and openness.

However, as noted in the *Background* section of this report, our 2017 ESPC audit report highlighted the improper application of the “right of first refusal” by the PBS NCR contracting officer. Although we made recommendations to address the contracting officer’s actions, PBS NCR refused to take corrective action, a decision that was ultimately upheld by GSA’s Deputy Administrator. During this audit, we found that CORs are also operating under the same assumption.

We examined task orders awarded for non-ESPC O&M services for the period January through September 2018 and found that 35 percent specified that Honeywell had the “right of first refusal” to complete any O&M work. For example, the scope of work for replacement of a supply fan stated:

Honeywell Building Solutions, the operations and maintenance contractor, holds the right of first refusal on any work involving building systems across the campus (electrical, HVAC [heating, ventilation, and air conditioning], plumbing, building automation controls, elevators, etc.)....

When we asked why “right of first refusal” language was included in the task orders, some contracting officers told us that they believed Honeywell had the right to complete the O&M work first because Honeywell was responsible for the ESPC O&M services. However, this is incorrect. Honeywell has no such rights. Moreover, by incorporating this language in the contract statement of work, the CORs undermined competition and potentially caused the government to overpay for repairs.

PBS NCR’s use of the “right of first refusal” is improper and violates federal competition requirements. It is also a pervasive problem for task order awards at the White Oak campus. As noted above, we have documented evidence of PBS NCR’s use of this language in contracts for the White Oak campus in our 2017 audit report as well as during this audit. The persistent use of this clause indicates that neither the contracting officer nor CORs understand that its use is improper. PBS NCR must strengthen its contract management and oversight to ensure that future task orders do not include “right of first refusal” language. Among other things, PBS NCR should consider: (1) taking appropriate administrative action to counsel contracting officers and CORs who have incorporated this language into task orders and (2) issuing guidance making it clear that use of this language in task orders is inappropriate.

Finding 7 – PBS NCR improperly destroyed contract file documentation, violating the Federal Records Act, the FAR, and GSA policy.

Under the Federal Records Act, the FAR, and GSA policy, contract files are federal records that must be preserved and maintained. In accordance with the Federal Records Act, GSA is required to preserve records that document its decisions, procedures, and transactions and its employees must protect records against unauthorized removal or loss.⁶ Under FAR 4.805, *Storage, handling, and contract files*, the retention period for a contract file is for 6 years after final payment is made. GSA records management policy emphasizes that managers and employees need to maintain and preserve records and prohibits the destruction of records before the end of their retention period.⁷

In accordance with these requirements, PBS NCR should have maintained current, accurate, and complete contract file documentation for the ESPC White Oak task order, which does not end until January 2033. However, in February 2020, we were notified that PBS NCR shredded some of this contract file documentation. We subsequently examined a storage room where PBS NCR had maintained hard copies of some ESPC files and found that the room was empty.

We then interviewed the COR responsible for a shredding services contract at the White Oak campus who confirmed that he authorized the contractor to shred all paper files in the storage room. Although he was not familiar with the ESPC task order and could not tell us exactly what was destroyed, the COR stated that the files dated back to 2006 or 2009 and were no longer relevant. The COR stated that the contract files were shredded in response to a request from PBS NCR officials. However, the COR could not provide any documentation to support his statement.

The contracting officer responsible for the ESPC task order also verified that the contract file documents were destroyed. The contracting officer told us that they were unaware that the contract files were being shredded, though they had previously warned the COR against shredding them. The contracting officer also stated that they did not have the task order files scanned and electronically stored prior to the destruction.

The destruction of the ESPC task order contract files violated federal law, federal regulations, and GSA policy. It also impairs PBS NCR's ability to provide proper management and oversight of the task order. Instead, PBS NCR is now dependent upon Honeywell to provide the missing contract documents, some of which may be necessary to enforce compliance with contract terms and conditions.

PBS NCR should conduct a review to identify all missing contract file documentation and replace, at a minimum, contract file documents necessary for providing oversight of contract

⁶ 44 U.S.C. 2904.

⁷ GSA Order OAS P 1820.1, *GSA Records Management Program*.

performance. Additionally, PBS NCR should investigate the circumstances behind the improper destruction of the contract file documentation and take appropriate administrative action.

Finding 8 – PBS NCR is not providing a clean, sanitary, safe, and healthy space at the child care center due to unresolved performance issues with the custodial contractor.

PBS NCR has not resolved performance issues with the custodial services contractor at White Oak’s child care center. The custodial contractor, Didlake, has not cleaned the child care center in accordance with the contract’s clinical cleaning requirements. As a result, PBS NCR is not providing a clean, sanitary, safe, and healthy space at the child care center.

Under its custodial services contract, Didlake is responsible for approximately 1.2 million square feet of space in eight buildings at the White Oak campus, including the child care center. From December 2016 through November 2017, GSA paid Didlake more than \$11.2 million for these services.

In accordance with GSA’s *Property Managers Child Care Desk Guide*, PBS is “responsible for providing the full range of building services to all child care centers including clinical cleaning custodial service.” The clinical cleaning custodial service requires disinfection and sanitizing spaces to kill germs and is a requirement of Didlake’s custodial services contract.

However, Didlake has not been cleaning the child care center in accordance with the contract’s clinical cleaning requirements and PBS NCR has been unable to resolve the performance issues. We reviewed a sample of 13 cleaning inspection reports for the child care center completed between April and July 2019 and found that 121 out of 196 (61 percent) standard inspection items were marked as deficient. Deficiencies included cobwebs near doors and dust on cabinets, refrigerators, tiles, windowsills, supply vents, and over light fixtures. In addition, the COR noted that Didlake left spray bottles containing cleaning solution in cribs and mops on the floor.

As a result of recurring issues at the child care center, PBS NCR requested multiple corrective action plans from the custodial contractor. Didlake has attempted to improve performance by: (1) requiring supervisors to take formal training on the advanced custodial process, inspections, and quality control; and (2) providing training to custodial staff. In addition, PBS NCR requested that Didlake train its employees on how to respond to the cleaning inspection report. Didlake adjusted its inspection schedules to clarify cleaning requirements. As of May 2019, PBS NCR implemented further measures to try to address the problem, including biweekly meetings with Didlake, increasing after-hours inspections, and COR-led training with PBS NCR buildings management staff.

Despite these efforts, during our July 24, 2019, inspection of the child care center, we found classrooms that were not sanitized, including an instance of what appeared to be fecal matter and used toilet tissue around the toilet in a bathroom, poor dusting, dirty floors, dusty cabinets, and fingerprint-stained windows.

PBS NCR is responsible for ensuring that Didlake maintains a “clean, sanitary, safe, and healthy physical environment for children and teachers” of the child care center. Accordingly, PBS NCR needs to resolve the contractor’s performance issues or find an alternative to the current contractor.

Conclusion

PBS NCR is failing to manage and oversee building services at the FDA's White Oak campus. As a result, we identified the following deficiencies:

1. PBS NCR is not enforcing requirements of the ESPC task order. As a result, PBS NCR has no assurance that the contract is achieving the guaranteed cost savings needed to fund the \$1.2 billion contract and is planning to pay for repairs that are the contractor's responsibility.
2. Due to mismanagement and lack of oversight of the after-hours O&M services, PBS NCR is charging FDA for overpriced services that are not being provided.
3. Security at the White Oak campus is impaired because PBS NCR does not ensure that security protocols are followed.
4. PBS NCR mismanaged fire, life, and safety services for the White Oak campus, placing the facilities and personnel at risk.
5. PBS NCR allowed employees to perform COR duties although they lacked the required certification.
6. PBS NCR improperly provides Honeywell with the "right of first refusal" for all O&M work on the campus, undermining competition and pricing.
7. PBS NCR improperly destroyed contract file documentation, violating the Federal Records Act, the FAR, and GSA policy.
8. PBS NCR is not providing a clean, sanitary, safe, and healthy space at the child care center due to unresolved performance issues with the custodial contractor.

PBS needs to take comprehensive action to ensure proper oversight and management of the White Oak campus, particularly with respect to its oversight of the ESPC task order that provides O&M building services on the campus. PBS NCR should also assess whether additional oversight measures are needed based on the deficiencies identified in this report.

Recommendations

We recommend that the PBS Regional Commissioner for the National Capital Region:

1. Take appropriate action to address the deficiencies in Honeywell's performance. At a minimum, PBS NCR should:
 - a. Enforce contract provisions to ensure GSA is achieving the guaranteed cost savings and withhold future payment until Honeywell is able to provide evidence of cost savings in accordance with contract requirements.
 - b. Develop a comprehensive plan to address GSA's oversight of the quality assurance plan for preventative maintenance and service tickets.
 - c. Issue a cure notice to Honeywell to enforce O&M repair or replace requirements for the actuators.

- d. Determine and implement the appropriate personnel action needed to address the contracting officer's failure to enforce Honeywell's contractual obligation to repair or replace the actuators.
2. Improve oversight of the White Oak ESPC with coordinated involvement of PBS NCR and the PMO to develop policies that establish: (1) clear roles and responsibilities for the contracting officers and CORs to review and approve M&V reports before making payments; and (2) training for contracting officers, CORs, and building managers on the ESPC contract requirements.
3. Take appropriate action to address the issues associated with oversight of the O&M building services contract. At a minimum, PBS NCR should:
 - a. Ensure that the "After-Hours Labor Estimate" contains valid, reliable data and that it reflects actual cost and schedule conditions; require Honeywell to provide an updated estimate based on actual performance and renegotiate the contract; and perform a procurement contract review to evaluate the effectiveness of its policies and make improvements.
 - b. Conduct an assessment to: (1) identify staff required to be present during the after-hours shift, (2) enforce the statement of work, and (3) monitor staffing of the after-hours shift.
 - c. Perform a comprehensive review of the after-hours staffing from August 2015 to the present, determine the total amount of overpayment for shifts that were understaffed and inadequately staffed, recover the overpayment from Honeywell, and return any overpayment to FDA.
4. Take corrective action against all parties involved in allowing unescorted after-hours staff to enter utility buildings at any time and enforce current procedures to restrict unescorted access.
5. Take appropriate action to address building security vulnerability concerns. At a minimum, PBS NCR should:
 - a. Conduct a risk assessment of the security vulnerabilities at the White Oak campus.
 - b. Implement additional security measures to protect [REDACTED]
6. Improve the oversight of the fire services contract and preventative maintenance of backflow preventers by:
 - a. Providing training to the PBS NCR building managers, CORs, and the contracting officer to ensure adherence to contract provisions. Communicate these requirements throughout the organization.
 - b. Establishing procedures to ensure compliance with National Fire Protection Association standards.

- c. Developing a comprehensive plan to address the preventative maintenance of the backflow preventers.
7. Determine and implement the appropriate personnel action needed to address the contracting officer's failure to secure a replacement fire services contract.
8. Restrict non-COR-certified officials from signing inspection reports. Provide training to PBS NCR staff on COR requirements for signing inspection reports.
9. Ensure future task orders do not contain the "right of first refusal" in the statement of work.
10. Improve oversight of contract document destruction in accordance with the FAR.
11. Address the improper destruction of contract file documentation identified in *Finding 7* by:
 - a. Conducting a review to identify all missing contract file documentation and replace, at a minimum, contract file documents necessary for providing oversight of contract performance.
 - b. Investigating the circumstances behind the improper destruction of the contract file documentation and take appropriate administrative action.
12. Perform a comprehensive assessment to identify contractors that can meet the clinical cleaning requirements needed at the child care center and expedite action to hire a new contractor that is able to handle the requirements of the contract.

GSA Comments

In its written response to our draft report, PBS NCR acknowledged that "the OIG has raised several significant issues requiring immediate attention," but did not agree with the report in its entirety. PBS NCR's specific areas of disagreement, and our response, are described under the heading "OIG Response" below. We made certain revisions to the report based on PBS NCR's response; however, those revisions did not affect our findings and conclusions.

PBS NCR's response memorandum is included in its entirety in **Appendix B**. PBS NCR's response also included 11 attachments; however, we did not include those attachments due to the volume of the documentation. We will make the attachments available upon request.

OIG Response

We reviewed PBS NCR's response and determined that it did not include information that affected our findings and conclusions. We also identified certain inaccuracies in PBS NCR's response.

Finding 1 – PBS NCR is not enforcing requirements of the ESPC task order. As a result, PBS NCR has no assurance that the contract is achieving the guaranteed cost savings needed to fund the \$1.2 billion contract and is planning to pay for repairs that are the contractor's responsibility.

PBS NCR partially concurred with *Finding 1* and certain related recommendations. In general, PBS NCR asserted that it is enforcing task order requirements through a "multitude of tools" implemented as part of a "sound contract administration infrastructure." In its response, PBS NCR also stated that it has assurance that the contract is achieving guaranteed cost savings and is enforcing Honeywell's preventative maintenance requirements. Finally, PBS NCR stated that "the CO [contracting officer] determined that Honeywell is not responsible for the failure of the actuators."⁸

Response 1a – PBS NCR is not enforcing requirements of the ESPC task order. In response to our overarching finding that it is failing to enforce task order requirements, PBS NCR described a series of tools and practices it has implemented to hold the contractor accountable. These include a Contract Administration Plan, Deliverables Matrix, weekly meetings with the contractor, daily inspections, and contract administration training. Although PBS NCR asserts that these tools and practices were adopted in August 2017, we nonetheless found significant failures in contract oversight in 2019, as described in *Finding 1*.

Failures in PBS NCR's contract oversight are also clearly demonstrated in our other audit findings. For example, in *Finding 2*, we report that PBS NCR was not aware that Honeywell was short-staffing the after-hours contract.⁹ In *Finding 3*, we report that PBS NCR was not aware that Honeywell was required to submit weekly logs on who has entered and exited the [REDACTED]. PBS NCR has not enforced this security requirement for the past 6 years.¹⁰

Taken together, these findings clearly demonstrate that improvements are necessary in PBS NCR's contract oversight. Therefore, we reaffirm our finding that PBS NCR is not enforcing the requirements of the ESPC task order.

⁸ See **Appendix B**, pg. B-5.

⁹ See *Finding 2*, pgs. 12-13.

¹⁰ See *Finding 3*, pg. 16.

Response 1b – PBS NCR has no assurance that the contract is achieving guaranteed cost savings. PBS NCR countered this subfinding by asserting that it has verified cost savings through use of a project facilitator, EMP2. According to PBS NCR’s response, “GSA works directly with EMP2 to review the Annual Savings Report ... from Honeywell.”¹¹ PBS NCR asserts that these reviews demonstrate that the contract is achieving the guaranteed cost savings.

We disagree. PBS NCR’s reviews of the Annual Savings Reports alone do not provide a sufficient basis for determining whether Honeywell is achieving guaranteed cost savings. In accordance with the contract, PBS NCR must also conduct M&V activities to ensure that Honeywell is completing preventative maintenance work as required and verify the resultant cost savings. To fulfill this requirement, PBS NCR must review 10 percent of Honeywell’s quality control inspection reports by physically inspecting the work described in the reports to verify that it was completed. However, as described in the report, PBS failed to perform these inspections.¹² Therefore, PBS NCR has no assurance that the contract is achieving guaranteed cost savings.

PBS NCR also disagrees with our statement that for an ESPC task order to include O&M services in cost savings there must be a decrease in O&M expenses.¹³ PBS NCR further states that as long as “the Energy Services Company (ESCO) continues to provide full O&M services for the buildings, the savings will continue to be realized because they are built into the monthly cost.”¹⁴ This is true, but only so far as Honeywell is providing the required level of service specified under the contract. Because PBS NCR is failing to perform the M&V necessary to ensure Honeywell is providing the required level of service, it cannot verify savings.

PBS NCR is obligated to complete the required M&V activities to guarantee the ESPC is achieving cost savings. PBS NCR failed to perform those M&V activities and is not meeting its responsibility for the performance of M&V. As a result, PBS could not and did not measure and verify the guaranteed O&M cost savings. If PBS NCR is not performing its required M&V, any computations of cost savings are suspect and cannot be counted as realized savings. We reaffirm our finding.

Response 1c – Enforcement of preventive maintenance and quality control review. In its response to *Finding 1* and *Recommendation 1b*, PBS NCR asserted that our preventative maintenance rate calculations “incorrectly include Fire Alarm [preventative maintenance tickets] that are not the responsibility of the O&M [Honeywell].” PBS NCR asserted that by removing these tickets, Honeywell “completed 91% and 98%” of its required tickets.

¹¹ See **Appendix B**, pg. B-3.

¹² See *Finding 1*, pgs. 8-9.

¹³ See *Finding 1*, pg. 7.

¹⁴ See **Appendix B**, pg. B-3.

We worked with PBS NCR to verify the rates provided in its response; however, PBS NCR was unable to provide documentation sufficient to support its calculations. Therefore, we reaffirm our original finding and recommendation.

Response 1d – PBS NCR is paying for repairs covered under the O&M task order. PBS NCR stated in its response to *Finding 1* that it determined that Honeywell is not responsible for the failure of the actuators because improperly tuned Building Automation System controllers were putting excessive wear on the actuators. As a result, PBS NCR disagreed with the following recommendations:

- *Recommendation 1c* – Issue a cure notice to Honeywell to enforce O&M repair or replace requirements for the actuators.
- *Recommendation 1d* – Determine and implement the appropriate personnel action needed to address the contracting officer’s failure to enforce Honeywell’s contractual obligation to repair or replace the actuators.

In support of its position, PBS NCR argues that a “consultation” conducted by a forensic engineer determined that the actuators were failing due to an “improperly tuned Building Automation System.” According to PBS NCR, the forensic engineer concluded that the actuators were subject to excessive wear as they “hunted” for an expected signal from the Building Automation System that was never received. On the basis of this assessment, PBS NCR asserts that the contracting officer concluded that Honeywell was not responsible for the cost of the repair or replacement of the actuators.

While we acknowledge that it is within the contracting officer’s discretion to determine Honeywell’s liability for the repair and replacement of the actuators, the consultation was inadequate for making this determination. This consultation was not a comprehensive study. Documentation and interviews show that the forensic engineer “stopped by” at the request of the ESPC/O&M program manager, and looked at only 3 or 4 of the over 160 actuators at the building. The forensic engineer subsequently provided the results of this “quick visit” in an email, rather than a formal, comprehensive report. Based on these limitations, this consultation does not appear to provide a sufficient basis for determining the cause of the failed actuators.

Moreover, while we were made aware of this explanation during the course of our audit, it is inconsistent with the final explanation received from the contracting officer, which is detailed in the audit report. In February 2020, when we asked the contracting officer why a cure notice was not issued to direct Honeywell to repair or replace the actuators, the contracting officer stated that the actuator problem was due to a latent defect and design in the actuators themselves. However, as noted in the report, we could find no evidence that would support this assertion.¹⁵

¹⁵ See *Finding 1*, pg. 10.

Regardless of the cause of the actuator failures, we maintain that PBS NCR must hold Honeywell accountable for the repair and replacement of the actuators. Our assertion is supported by PBS NCR's own response to *Finding 1*, which states that Honeywell "assumed the maintenance, repair, and replacement responsibility for the buildings on the campus."¹⁶ Honeywell's assumption of this risk is clearly defined in the *Risk, Responsibility, and Performance Matrix* included in the contract, which provides that "Honeywell will be responsible for the replacement of equipment...with costs of less than \$350." The actuators used at the White Oak campus fall under this threshold because they cost less than \$200 to replace. Therefore, Honeywell is contractually obligated to replace the actuators.

PBS NCR has not provided sufficient information to demonstrate that Honeywell is not responsible for the repair and replacement of the actuators. Therefore, we reaffirm our finding and *Recommendations 1c* and *1d*.

Finding 8 – PBS NCR is not providing a clean, sanitary, and safe space at the child care center due to unresolved performance issues with the custodial contractor.¹⁷

PBS NCR did not concur with *Finding 8*, asserting that at no time was the health and safety of children at risk. We disagree.

Under its contract with PBS NCR, Didlake is required to provide clinical cleaning services designed to kill illness-causing viruses and bacteria. This level of cleaning must conform to stringent disinfecting and sanitizing requirements that go beyond standard cleaning services. However, during our July 2019 inspection of the child care center, we found that the contractor was not complying with these stringent requirements. Among other things, we observed what appeared to be fecal matter and used toilet tissue on the floor of one of the bathrooms of the child care center. We also observed excessive dust buildup in the classroom and on top of cabinets. These conditions are clearly inconsistent with clinical cleaning requirements designed to protect the health of the children and others at the child care center.

PBS NCR's inspection reports further support our finding that the contractor failed to meet the contract's clinical cleaning requirement. As described in the report, PBS NCR observed excessive dust throughout the child care center. PBS NCR also noted several safety hazards, including spray bottles containing cleaning solution in cribs and mops on the floor.¹⁸

Taken together, these observations clearly demonstrate that the health and safety of the children at the center was potentially placed at risk. Therefore, we reaffirm our finding.

¹⁶ See *Appendix B*, pg. B-3.

¹⁷ Title of *Finding 8* was revised in response to PBS NCR Memo.

¹⁸ See *Finding 8*, pg. 21.

Inaccuracies in PBS NCR's Response

In addition to the areas of disagreement discussed above, we identified the following inaccuracies in PBS NCR's response:

- *Finding 4 – PBS NCR mismanaged fire, life, and safety services for the White Oak campus, placing the facilities and personnel at risk.* In its response to *Finding 4*, PBS NCR agreed that there was a lapse in the inspections, testing, and maintenance contract from March 2016 through March 2017, and that this lapse was unacceptable. However, they assert that, during that time, the campus fire, life, and safety efforts continued to be supported through supplemental contracts.

We found no evidence that supplemental contractors provided the full scope of work required under the fire services contract, including the inspections, testing, and maintenance services to ensure the proper operation of fire protection equipment.

- *Finding 6 – PBS NCR improperly provides Honeywell with the “right of first refusal” for O&M work on the campus, undermining competition and pricing.* In its response to *Finding 6*, PBS NCR acknowledged that a number of contract documents incorrectly contained the phrase “right of first refusal.” However, PBS NCR incorrectly asserts that no actions were taken based on this language.

During the course of our audit, we interviewed multiple contracting officers who told us that they were aware that the “right of first refusal” was included in the task order. The contracting officers stated that because Honeywell had the “right of first refusal,” they would send requests for quotation for O&M services to Honeywell as needs arose. Upon receipt of Honeywell's price quote, the contracting officers would award task orders to Honeywell at the quoted price without seeking competitive offers. These included awards of over \$24,000 for unidirectional flushing of the water systems of the campus, over \$7,000 for a supply fan, and over \$4,000 for access doors to an air handler unit.

PBS NCR's recognition that O&M services contract improperly included “right of first refusal” language is a positive step. However, as demonstrated above, PBS NCR's assertion that no actions were taken based on this language is incorrect.

- *Finding 7 – PBS NCR improperly destroyed contract file documentation, violating the Federal Records Act, the FAR, and GSA policy.* While PBS NCR agrees with this finding, it asserts that no ESPC contract files were discarded or destroyed—an assertion that directly contradicts statements made by the contracting officer during our audit. In support of its assertion, PBS NCR provided a listing purporting to show contracts maintained at the White Oak campus. However, this listing does not prove ESPC files were not destroyed.

Further, the contracting officer was unable to provide documentation we requested that was previously included in the hard copy file. Based on the above, we stand by our conclusion that the ESPC contract file documentation was improperly destroyed.

Audit Team

This audit was managed out of the Great Lakes Region Audit Office and conducted by the individuals listed below:

Adam Gooch	Regional Inspector General for Auditing
Michael Lamonica	Audit Manager
Sherese Shy-Holmes	Auditor-In-Charge
Dana Johnson	Auditor

Appendix A – Scope and Methodology

We assessed PBS NCR’s compliance with administering and managing building services contracts at the FDA’s White Oak campus in accordance with applicable regulations and policies.

To accomplish our objective to review the hotline complaint, we:

- Reviewed the background and history of the ESPC program, including legislation and DOE and FEMP guidance;
- Reviewed the background and history of the hotline complaint, which spanned issues from 2012 through 2020;
- Selected and evaluated contract documentation that contained the most relevant representation of the period of the hotline complaint;
- Examined contract file documentation, including award, payment information, annual M&V reports, and supporting review documentation;
- Performed site visits to buildings on the White Oak campus. The site visits consisted of walk-throughs to review the energy conservation measures installed, viewing demonstrations of building automation systems, and conducting interviews with GSA officials (including building managers, project managers, contracting officers, and CORs);
- Reviewed contract and building information in PBS NCR’s Google Drive;
- Reviewed an investigation report provided by Honeywell;
- Evaluated and analyzed preventative maintenance and service call ticket information;
- Evaluated and analyzed previous GSA Office of Inspector General audit reports of ESPCs;
- Examined contract file documentation and independent government estimates;
- Interviewed tenant agency officials and Honeywell officials; and
- Researched PBS’s Reimbursable Work Authorization Entry and Tracking Application database for project documentation.

We conducted the audit between December 2018 and February 2020 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 findings and conclusions based on our audit objective.

Internal Controls

Our assessment of internal controls was limited to those necessary to address the objective of the audit.

Appendix B – GSA Comments

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GSA National Capital Region

March 19, 2021

MEMORANDUM FOR ADAM GOOCH
REGIONAL INSPECTOR GENERAL FOR AUDITING
GREAT LAKES REGION AUDIT OFFICE (JA-5)

THROUGH: ALLISON H. AZEVEDO
ACTING COMMISSIONER *Allison Azevedo*
PUBLIC BUILDINGS SERVICE (P)

FROM: DARREN J. BLUE *DocuSigned by:
Darren J. Blue*
REGIONAL COMMISSIONER *Since Whitman*
PUBLIC BUILDINGS SERVICE (WP)

SUBJECT: Response to Draft OIG Report: *PBS's National
Capital Region is Failing to Adequately Manage
and Oversee the Building Services Contracts at
the FDA's White Oak Campus (A190021)*

Thank you for the opportunity to review and comment on the Office of the Inspector General's (OIG) report titled, *PBS's National Capital Region is Failing to Adequately Manage and Oversee the Building Services Contracts at the FDA's White Oak Campus*. The Public Buildings Service's National Capital Region (NCR) believes that your report has identified opportunities to strengthen the Energy Savings Performance Contract's management and oversight for the Food and Drug Administration's (FDA) campus to deliver the expected savings.

While PBS does not agree with every facet of the report, we do agree that the OIG has raised several significant issues requiring immediate attention. Proper campus management is a complex undertaking that we are committed to getting right.

In addition to the immediate actions we have already taken to address deficiencies noted in your report, as well as our forthcoming Corrective Action Plan, PBS has also taken initial steps to implement these enhanced oversight and management measures:

- Assign a dedicated Contracting Officer to support all of NCR's ESPCs;
- Assign a dedicated onsite Senior ESPC Manager to augment the Campus Manager;

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1800 F St NW
Washington, DC 20405-0002
www.gsa.gov

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- Assign additional Mechanical Engineering Technicians to the campus to enhance inspections; and
- Strengthen our partnership with the Department of Energy to provide additional consultive review and recommended enhancements to our campus ESPC management.

Finding 1) *PBS NCR is not enforcing requirements of the Energy Savings Performance Contract (ESPC) task order. As a result, PBS NCR has no assurance that the contract is achieving the guaranteed cost savings needed to fund the \$1.2 billion contract and is planning to pay for repairs that are the contractor's responsibility;*

PBS NCR partially concurs with this finding.

Response 1a) *Not enforcing requirements of the ESPC task order*

PBS NCR offers the following updates that demonstrate PBS is enforcing the requirements of the ESPC task order. In August 2017, there was a sound contract administration infrastructure put in place that includes a multitude of tools that the Contract Administration Team utilizes daily to ensure that all of the contract requirements are being enforced. For example, we have a comprehensive Contract Administration Plan that provides guidance for each team member to ensure that our contractor is in compliance with all the terms and conditions that govern the contract. Our Contract Administration Plan addresses the technical, financial, and business aspects of the contract and the governmental responsibilities to reduce risk, manage performance, conduct quality oversight, and adjust to changing priorities.

We created a Deliverables Matrix that the team uses to identify everything that our contractor is contractually required to submit, how often it is to be submitted, how it is required to be submitted, and which team member is responsible for ensuring that it is submitted. We hold weekly meetings to discuss the status of the submittals and follow-up with the contractor if there are any delays, discrepancies, or omissions.

We conduct weekly meetings with the contractor to ensure all contract performance matters are addressed timely. These meetings are facilitated through a dashboard that was created for the purpose of tracking and reporting out on the key project milestones.

Further, the Contracting Officer Representatives (CORs), building managers, and mechanical/electrical technicians conduct daily inspections to ensure that the contractor is performing in accordance with the contract requirements. Findings are documented and kept in the contract files for reference.

Lastly, we provide contract administration training for all of our team members to ensure that they understand all aspects of the contract. Training was provided in December 2018 and June 2019.

Appendix B – GSA Comments (cont.)

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As a result of the measures NCR has taken to enforce the contract requirements, the guaranteed minimum cost savings has been consistently achieved or exceeded every year the contract has been in place.

Response 1b) *No assurance that the contract is achieving the guaranteed cost savings*

PBS NCR has assurance that the contract is achieving the required guaranteed cost savings by hiring an experienced and approved Department of Energy (DOE) project facilitator, EMP2, to verify the annual measurement and verification (M&V) reported savings. GSA works directly with EMP2 to review the Annual Savings Report (ASR - Attachment A) from Honeywell. The most recent report (Attachment B - 10/5/2020) shows that the verified savings of \$79,212,607 exceeded the guaranteed savings of \$63,558,828 for all ESPCs.

Since award, independent M&V of the ESPC contracts have confirmed that they have met and or exceeded their required Annual Guaranteed Savings. Specific to ESPC 3, to date, the Annual Verified Savings Achieved, as reported by annual independent M&V reports, has been on average 33% greater than the Annual Required Savings. At this rate, GSA anticipates achieving verified savings in excess of the guaranteed \$1.2 billion required (Attachment C - ESPC Guaranteed/Verified/Projected Savings Report).

The draft report states, on page 7, "In order for an ESPC task order to include O&M services in the cost savings, there must be a real decrease in O&M expenses, such as reduced maintenance and repair costs. Under the ESPC task order for the White Oak Campus, the guaranteed savings for the O&M services were expected to include savings partly generated from preventative maintenance that Honeywell, the contractor for the ESPC task order, was going to perform." These statements do not apply to the White Oak ESPC because the White Oak ESPC was used to finance new construction rather than the more common practice of improving an existing facility. Because of this, there was no historical data to calculate a baseline for how much it was going to cost the government to operate and maintain the facility once construction, or a phase of construction, was complete.

GSA utilized industry and market data to obtain cost per square foot figures and applied those figures to the respective space types within the White Oak project. This is the same approach GSA would have taken to estimate and budget for operating and maintenance (O&M) if the services were being procured outside of the ESPC. Because Honeywell assumed the maintenance, repair, and replacement responsibility for the buildings on the campus, these avoided maintenance costs became an annual recurring cost savings and were built into O&M savings in the ESPC Task Order schedules. In other words, O&M savings for the White Oak ESPCs are stipulated savings. As long as the Energy Services Company (ESCO) continues to provide full O&M services for the buildings, the savings will continue to be realized because they are built into the monthly cost.

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Response 1c) Enforcement of preventive maintenance and quality control review

PBS partially agrees with this finding. PBS demonstrates that preventative maintenance (PM) is being completed to at least 90%, however we do realize that the quality control (QC) process in place does not meet the QC originally proposed by Honeywell.

A review of the latest M&V report, dated October 5, 2020, shows that, as a whole, the total project achieves targeted guaranteed savings. The most recent report shows a total verified savings of \$79,212,607 against the guaranteed savings of \$63,558,828. Per the DOE FEMP M&V Guide (Attachment D), "For federal ESPC projects, M&V needs to show only that the overall cost savings guarantee has been met and not that the predicted savings for each ECM have been achieved." (Department of Energy, page 81) The contract savings are calculated across all measures. For reference, we have shared our latest final report that shows that we have holistically met the guaranteed savings for the overall project.

Specifically regarding O&M savings and missed PM marks, our count using the National Computerized Maintenance Management System (NCMMS) data shows Honeywell is consistently completing at least 90% of the monthly PM marks for all of the building equipment and systems covered under its contract. Honeywell regularly completes 95-100% of assigned PMs within their responsibility. The completion rate of PMs is reviewed on a weekly basis with Honeywell and the GSA contract administration team.

The OIG draft report indicates that in May and June 2019 preventative maintenance for the campus shows completion rates of 74% and 80% respectively. GSA believes that these calculations incorrectly include Fire Alarm PMs that are not the responsibility of the O&M. Removing Fire Alarm PMs from the target population shows that Honeywell was responsible for 7,461 and 5,887 in May 2019 and June 2019 respectively. Using the corrected denominator shows that Honeywell completed 91% and 98% of their required PMs in May and June 2019 (see table below):

	May 2019	June 2019
Total issued PMs - (Fire Alarm + Honeywell)	8,884	7,748
Total Fire Alarm PMs (Not Honeywell's Responsibility)	1,423	1,861
PM's - Honeywell's Responsibility	7,461	5,887
Honeywell Completed by End of Month	6,779	5,774
Honeywell % complete by End of Month	91%	98%

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The OIG report also indicates that the ESPC task order requires Honeywell to complete quality control inspection reports for five percent of its preventative maintenance and service call tickets. This requirement was included in the Honeywell proposal under its QC and PM Plan.

Honeywell has not met the required quality control inspections and GSA has not enforced the requirement. The contract administration team has determined that 5% is not achievable. GSA will negotiate a revised QC plan which will ensure an appropriate level of performance.

Response 1d) Paying for repairs covered under the O&M task order

While GSA agrees that actuators have failed, GSA has not determined that the contractor is responsible for that failure. The Contracting Officer (CO) consulted with the project team and a forensic engineer. Based on this consultation, the CO found that the failure was attributable to improperly tuned Building Automation System (BAS) controllers putting excessive wear on the parts. (Site Visit Summary Email Attachment E). The Contracting Officer also reviewed the product specifications for the actuators. The specification sheet states no preventative maintenance is required; however, an improperly tuned loop will shorten the life of the actuator. Based on both the advice of the engineer and the technical specifications, the CO determined that Honeywell was not responsible for the failure of the actuators.

Finding 2) Due to mismanagement and lack of oversight of the after-hours O&M services, PBS NCR is charging FDA for overpriced services that are not being provided;

GSA agrees with this finding, and agrees that FDA may have been overcharged for after-hours O&M services. We are currently investigating the issue in order to identify the amount, recover any overpayment as appropriate and return any overpayment to FDA.

A detailed cost estimate for the after-hours service was developed in 2015. Since the concern was raised regarding the calculations on the number of hours, GSA is reviewing the original estimate to determine if a correction is needed. (Attachment F).

The IG draft report indicates that Honeywell only worked 12 hours of the contracted 14 hours for the after-hour services early in the contract. The Occupancy Agreement between FDA and GSA covered a 10-hour day. FDA requested coverage for the remaining 14 hours from 5 PM to 7 AM. Honeywell personnel worked from 5 PM to 7 AM. When the CO became aware that there was no longer a need for 14 hours of coverage, and after confirmation with FDA, the contract was reduced to 12 hours in January 2018.

GSA promptly requested payroll and timecard data from Honeywell and will

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investigate any overcharges.

In regard to the CO's decision [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED] The CO immediately addressed the issue with Honeywell, who also took immediate action. All actions taken were documented in a Corrective Action Plan (CAP) accepted by the CO in July 2019.

Regarding the recommendation from the auditors [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

GSA also took steps to increase oversight as follows:

- Random night inspections conducted by White Oak staff since September 14, 2019.
- The hiring of a full-time night building manager to perform inspections beginning July 2020.
- Continued monitoring of adherence to the accepted Corrective Action Plan during Weekly Honeywell Performance meetings.

Finding 3) Security at the White Oak campus is impaired because PBS NCR does not ensure that security protocols are followed;

GSA agrees that this is an issue that needs to be addressed. FDA oversees overall security on the campus; however, GSA plays a supporting role.

Current campus policy states that, "All contract individuals must go through the necessary steps to obtain the required clearance and badging." Contractors must be fully escorted by badged staff if performing duties on campus while they are awaiting clearance.

In an effort to raise awareness of the escorting policy on the campus, on January 21, 2021, the FDA Director of Security Operations re-issued guidance on the escorting policy to all of the occupants of the campus and the Federal Protective Service (FPS) guard staff. On February 17, 2021, the FDA Director of Security Operations also issued guidance to the FPS guard staff to properly review badges at the vehicle entry gates. Additionally, on February 19, 2021, the PBS NCR ESPC Contracting Officer issued guidance to Honeywell to properly follow the escorting guidance for the campus (Attachment H).

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An effort between GSA and FDA Security is currently underway [REDACTED]

GSA has been working with Honeywell and FDA Security [REDACTED]

Finding 4) PBS NCR mismanaged fire, life, and safety services for the White Oak campus, placing the facilities and personnel at risk;

GSA agrees that there was a lapse in the inspections, testing, and maintenance contract from March 2016 through March 2017; and that such a lapse was unacceptable.

During that time, the campus fire/life safety efforts continued to be supported through the service and repair contract and the Regional Fire Alarm Shop. All fire alarm services, including emergency response, troubleshooting, and repairs were immediately addressed, as evidenced by over 100 documented events of technicians performing services on campus (Attachment G). In addition, fire alarm and sprinkler system modifications associated with PBS facilities management and repair and alterations programs were supported by the regional fire alarm shop, and acceptance testing was witnessed by GSA regional fire protection engineers or their approved third-party representatives.

Additionally, GSA's Fire Protection Branch, also the authority having jurisdiction, reviewed the inspections, testing, and maintenance records and concluded that there were no significant failures during that time. Further, daily building tours were conducted by building management and the O&M contractor to ensure that all building systems were operating properly. These protocols were continued until the new contract was awarded on March 15, 2017.

Finding 5) PBS NCR allowed employees to perform contracting officer's representative duties although they lacked the required certification;

PBS NCR agrees with this finding and will ensure that appropriate guidance will be provided to all contract administration personnel to avoid future occurrences.

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These issues were reported by the OIG in September 2019 and immediate corrective action was taken.

Finding 6) PBS NCR improperly provides the contractor with the "right of first refusal" for all O&M work on the campus, undermining competition and pricing;

A number of contract documents incorrectly contained the phrase "right of first refusal." There is no such right in the contract. Despite inclusion of the incorrect language, no actions were taken based on it.

Honeywell is contractually responsible for the operation and maintenance of all equipment and building systems covered by the contract. In accordance with Section C.29, Repairs, when a repair is necessary and the cost exceeds the repair threshold (i.e., \$2,500), the specification states that Honeywell is to submit a proposal. The Government reserves the right to order parts and repairs from an outside source. The CO administers the contract in accordance with these provisions and has provided training to ensure that all stakeholders are aware of these contractual requirements.¹

Finding 7) PBS NCR improperly destroyed contract file documentation, violating the Federal Records Act, the Federal Acquisition Regulation, and GSA policy;

GSA agrees with this finding and is aware of several contract files that were destroyed prior to the expiration of their retainage date; This is unacceptable.

It is important to clarify which documents were improperly destroyed. The Contracting Officer maintained a list of the contracts stored in the facility that included contracts for various projects at White Oak that were not related to the ESPC. There were 388 contracts unrelated to ESPC that were closed out, of which 23 files were prematurely destroyed. No ESPC contract files were discarded/destroyed. A complete log has been provided for review (Attachment I).

Finding 8) PBS NCR has not resolved the performance issues of the custodial services contractor at the child care center, potentially putting the children's health and safety at risk;

GSA does not concur with this finding. GSA maintains multiple redundant processes to ensure that children's health and safety are protected. This includes daily sweeps

¹ Of note, it is a standard business practice to solicit proposals from the incumbent contractor because they are the entity ultimately responsible for the operations of the building equipment and building systems. A similar result could be obtained through the use of a modification to the contract pursuant to FAR Subpart 43, Changes Clause. Contracting officers are generally permitted to make changes, in designated areas, that are within the scope of the contract. See FAR 43.201(a). In the current situations, the repairs needed were all in scope and therefore could have been accomplished, alternatively, through a modification issued by the CO. While the use of the term "right of first refusal" may have been incorrect, use of the Honeywell contract for the subject repairs was not necessarily improper.

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of the center, prior to opening, to ensure safety and cleanliness standards are maintained. While there was indeed a contractor failure, since addressed, the redundant processes worked and prevented any harm. At no time were any children in the child care center at risk.

Our custodial vendor, Didlake, is considered a mandatory source per FAR 8.7. As such, PBS NCR follows the GSA/Ability One Strategic Alliance agreement to resolve all performance issues. In early 2019, routine campus contract management inspections revealed lapses in Didlake's custodial performance at the child care center. Following discovery of these issues, PBS NCR requested a Corrective Action Plan in April of 2019 and worked with Didlake to provide an acceptable plan in June of 2019.

PBS NCR has since worked with the contractor on process improvements and implementing better supervisory practices. Since November 2019, there have been no incidents of concern or significant complaints regarding the custodial services at the child care center (Attachment J).

GSA also performs certain contract administration measures to ensure proper performance in the childcare center. These include increased inspections by the GSA building managers (with the use of SF1181a's), weekly meetings with the custodial contractor's supervisors and a daily review of the custodial contractor's inspection report.

Additionally, regarding future custodial services for the campus, PBS NCR is currently working on a new competitive procurement for these services in collaboration with PBS Region 3, Office of Acquisition Management. The scope of work will clearly identify the clinical requirements for cleaning the child care center. All offerors will have the ability and expertise to meet the cleaning requirements.

Recommendation 001a: *Take appropriate action to address the deficiencies in Honeywell's performance. At a minimum these should include: Enforce contract provisions to ensure GSA is achieving the guaranteed cost savings and withhold future payment until Honeywell is able to provide evidence of cost savings in accordance with contract requirements.*

PBS NCR agrees with the OIG's recommendation and is already performing the recommended tasks. PBS NCR is currently enforcing the ESPC contract provisions and achieving the guaranteed cost savings (See comments on Finding 1 for additional details). If Honeywell fails to achieve the guaranteed cost savings in the future, the appropriate payments will be held.

Recommendation 001b: *Take appropriate action to address the deficiencies in Honeywell's performance. At a minimum these should include: Develop a comprehensive plan to address GSA's oversight of the quality assurance plan for preventative maintenance and service tickets.*

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PBS NCR agrees with the OIG's recommendation and is already performing the recommended tasks. PBS NCR has a comprehensive contract administration plan (implemented in 2017) in place to address performance deficiencies [see comments on Finding 1(a) above]. In addition, GSA is in the process of implementing mandatory documentation of O&M contractor performance directly within NCMMS, which will provide greater ability of oversight and inspections by responsible parties. This new requirement is an agency-wide initiative to better document performance of the O&M and Custodial contractors.

Recommendation 001c: *Take appropriate action to address the deficiencies in Honeywell's performance. At a minimum these should include: Issue a cure notice to Honeywell to enforce O&M repair or replace requirements for the actuators.*

PBS NCR does not agree with this recommendation because the Contracting Officer has not determined the Contractor to be responsible for the failed actuators. The CO's decision was based upon subject matter expertise of project team members as well as a forensic engineer's site visit and preliminary assessment (Attachment E).

Recommendation 001d: *Take appropriate action to address the deficiencies in Honeywell's performance. At a minimum these should include: Determine and implement the appropriate personnel action needed to address the contracting officer's failure to enforce Honeywell's contractual obligation to repair or replace the actuators.*

PBS NCR does not agree with this recommendation because the Contracting Officer has not determined the Contractor to be responsible for the failed actuators. The CO's decision was based upon subject matter expertise of project team members as well as a forensic engineer's site visit and preliminary assessment (Attachment E).

Recommendation 002: *Improve oversight of the White Oak ESPC with coordinated involvement of PBS NCR and the PMO to develop policies that establish: (1) clear roles and responsibilities for the contracting officers and CORs to review and approve M&V reports before making payments; and (2) training for contracting officers, CORs, and building managers on the ESPC contract requirements.*

PBS NCR agrees with this recommendation and is already performing the recommended tasks. COR designation letters, which clearly identify the roles and responsibilities, have been issued and training has been provided to improve oversight of the ESPC task orders. In addition, the PMO Office issued "ESPC Instructional Memorandum Revision 2020" (Attachment K) on November 13, 2020 that clearly identifies the roles and responsibilities of the Contracting Officers, CORs, and other ESPC Support Personnel in the pre-award and post-award process for ESPCs. Training on the revised memorandum is scheduled for February 23 and 24, 2021.

Appendix B – GSA Comments (cont.)

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Recommendation 003a: *Take appropriate action to address the issues associated with oversight of the O&M building services contract. At a minimum, PBS NCR should: Ensure that the "After-hours Labor Estimate" contains valid, reliable data and that it reflects actual cost and schedule conditions; require Honeywell to provide an updated estimate based on actual performance and renegotiate the contract; perform a procurement contract review to evaluate the effectiveness of its policies and make improvements.*

PBS NCR agrees with this recommendation and will take appropriate action. The Contracting Officer requested that Honeywell review their proposal and report their findings back to GSA. The CO requested this information on February 19, 2021 and expects that the response be provided within three weeks of the request.

Recommendation 003b: *Take appropriate action to address the issues associated with oversight of the O&M building services contract. At a minimum, PBS NCR should: Conduct an assessment to: (1) identify staff required to be present during the after-hours shift, (2) enforce the statement of work, and (3) monitor staffing of the after-hours shift.*

PBS NCR agrees with this recommendation and has already taken several actions. Since the notice of the initial findings, GSA started random in-person audits of the after-hours Honeywell staff. The White Oak team also hired a nighttime building manager who started on July 7, 2020. The night manager is responsible for inspecting any night contract work to include the 24/7 after-hours tour staff and CUP operators. GSA will continue random inspections on weekends and other hours not covered by the night building manager.

Recommendation 003c: *Take appropriate action to address the issues associated with oversight of the O&M building services contract. At a minimum, PBS NCR should: Perform a comprehensive review of the after-hours staffing from August 2015 to the present; determine the total amount of overpayment for shifts that were understaffed and inadequately staffed; recover the overpayment from Honeywell; and return any overpayment to FDA.*

PBS NCR agrees with this recommendation and will take appropriate action. The GSA CO has requested that Honeywell provide payroll and timecard data dating back to 2015 for the after-hours services. The CO requested this information on February 19, 2021 and the information is expected within three weeks of the request.

Recommendation 004: *Take corrective action against all parties involved in allowing unescorted after-hours staff to enter utility buildings at any time and enforce current procedures to restrict unescorted access.*

PBS NCR agrees with this recommendation and will take appropriate action.

Appendix B – GSA Comments (cont.)

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Recommendation 005a: *Take appropriate action to address building security vulnerability concerns. At a minimum, PBS NCR should: Conduct a risk assessment of the security vulnerabilities at the White Oak campus.*

PBS NCR agrees with this recommendation and corrective actions are already underway. The Federal Protective Service (FPS) is tasked with producing a Facility Security Assessment for the campus. The latest version is dated January 10, 2020. This assessment is periodically reviewed by FDA, GSA, and the Facility Security Committee to make security-related decisions for the campus.

The annual Facility Security Meeting for the campus was held on February 24, 2021. Representatives from the FDA, GSA, Air Force, and FPS were in attendance. The recent Facility Security Assessment was discussed as well as the escorting policy for the campus. The meeting included discussions regarding the security vulnerabilities identified in the latest Facility Security Assessment. The Facility Security Committee is currently developing a plan to address certain vulnerabilities that were agreed upon for further action.

Recommendation 005b: *Take appropriate action to address building security vulnerability concerns. At a minimum, PBS NCR should: Implement additional security measures to protect [REDACTED].*

PBS NCR agrees with this recommendation and will take appropriate action. GSA has been working with Honeywell and FDA Security [REDACTED]. This effort has been hampered by the onset of the COVID-19 Virus. GSA is currently working on a plan [REDACTED].

[REDACTED] The goal is to have this enhancement done by May 30, 2021.

Recommendation 006a: *Improve the oversight of the fire services contract and preventative maintenance of backflow preventers by: Providing training to the PBS NCR building managers, CORs, and the contracting officer to ensure adherence to contract provisions. Communicate these requirements throughout the organization.*

PBS NCR agrees with the recommendation and is already performing the recommended tasks.

NCR currently conducts COR training for all facilities and support staff on new service contracts and ESPCs. The backflow preventer maintenance is programmed into the NCMMS and regular training is provided to CORs and inspectors. NCR will continue to deliver these ongoing training sessions.

Appendix B – GSA Comments (cont.)

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Recommendation 006b: *Improve the oversight of the fire services contract and preventative maintenance of backflow preventers by: Establishing procedures to ensure compliance with National Fire Protection Association standards.*

PBS NCR agrees with the recommendation and is already performing the recommended tasks.

Procedures have been established and are currently in place to ensure compliance with National Fire Protection Association (NFPA) standard. The required monthly, semi-annual, and annual NFPA tests are coordinated by the Fire Alarm shop through the Kinetix contract. They coordinate with White Oak building managers and technicians who then coordinate with FDA for testing. Reports are delivered to the local management team for review. Repairs that are identified are completed through a separate repair blanket purchase agreement with Johnson Controls Incorporated.

NCR is in the process of procuring a new, comprehensive fire alarm service contract for the campus. Target award is February 2022. There will be a dedicated COR and inspection team to administer the work performed under this contract. In addition, the White Oak team will coordinate NFPA training with the Fire Protection Branch.

Recommendation 006c: *Improve the oversight of the fire services contract and preventative maintenance of backflow preventers by: Developing a comprehensive plan to address the preventative maintenance of the backflow preventers.*

PBS NCR agrees with the recommendation and is already performing the recommended tasks.

All backflow preventers and required maintenance is programmed into the NCMMS and regular training is provided to CORs and inspectors. NCR will continue to deliver these ongoing training sessions.

Recommendation 007: *Determine and implement the appropriate personnel action needed to address the contracting officer's failure to secure a replacement fire services contract.*

PBS NCR agrees with this recommendation and will take appropriate action.

Recommendation 008: *Restrict non-COR-certified officials from signing inspection reports. Provide training to PBS NCR staff on COR requirements for signing the report.*

PBS NCR agrees with this recommendation and has already performed the recommended tasks. When these issues were brought to our attention in September 2019 by the auditors, they were immediately addressed and guidance was issued to all contract administration personnel to avoid future occurrences.

Appendix B – GSA Comments (cont.)

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Recommendation 009: *Ensure future task orders do not contain the "right of first refusal" in the statement of work.*

PBS NCR agrees with this recommendation and has already performed the recommended task. PBS NCR has created templates to be used that do not contain "right of first refusal" language.

Recommendation 010: *Improve oversight of contract document destruction in accordance with the FAR.*

PBS NCR agrees with this recommendation and will take appropriate action.

Recommendation 011a: *Address the improper destruction of contract file documentation identified in Finding 7 by: Conducting a review to identify all missing contract file documentation and replace, at a minimum, contract file documents necessary for providing oversight of contract performance.*

PBS NCR agrees with this recommendation and will take appropriate action.

Recommendation 011b: *Address the improper destruction of contract file documentation identified in Finding 7 by: Investigating the circumstances behind the improper destruction of the contract file documentation and take appropriate administrative action.*

PBS NCR agrees with this recommendation and will take appropriate action.

Recommendation 12: *Perform a comprehensive assessment to identify contractors that can meet the clinical cleaning requirements needed at the child care center and expedite action to hire a new contractor that is able to handle the requirements of the contract.*

PBS NCR agrees with this recommendation and is currently working on a new competitive procurement for these services in collaboration with PBS Region 3, Office of Acquisition Management. The scope of work will clearly identify the clinical requirements for cleaning the child care center. All offerors will have the ability and expertise to meet the cleaning requirements.

It should also be noted that the existing custodial contractor is performing at an acceptable level in the child care center and meeting the specification outlined in the contract.

Attachments

Attachment A - EMP2 Review of ASR Year 6 Report (dated 2/4/2021)
Attachment B - Annual Savings Report Year 6 Rev1 (dated 10/5/2020)
Attachment C - ESPC Guaranteed/Verified/Projected Savings Report

Appendix B – GSA Comments (cont.)

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Attachment D - DOE FEMP M&V Guidelines V4.0 (dated November 2015)
Attachment E - Engineer Email on FDA White Oak Building 21&22 Damper actuator
Attachment F - Contracting Officer's Letter to Honeywell requesting documentation
on After Hours Service (dated 2/19/2021)
Attachment G - Fire/Life Safety Records
Attachment H - Contracting Officer's Letter to Honeywell regarding Security
Requirements (dated 2/19/2021)
Attachment I - Contract Information White Oak Spreadsheet
Attachment J - Child Care Letter
Attachment K - ESPC Instructional Memorandum Revision 2020 (dated 11/13/2020)

Appendix C – Report Distribution

Acting GSA Administrator (A)

GSA Deputy Administrator (AD)

Acting PBS Commissioner (P)

Deputy PBS Commissioner (P)

PBS Chief of Staff (P)

PBS Deputy Chief of Staff (P)

Assistant Commissioner for Strategy Management (P)

Chief Financial Officer (B)

Office of Audit Management and Accountability (BA)

Assistant Inspector General for Auditing (JA)

Director, Audit Planning, Policy, and Operations Staff (JAO)