



**Homeland  
Security**

February 1, 2013

*Via Federal Express*

Ms. Carolyn N. Lerner  
Special Counsel  
Office of Special Counsel  
1730 M Street, Suite 300  
Washington, D.C. 20036-4505

RE: OSC File No. DI-11-3547

Dear Ms. Lerner:

The attached report is in response to your referral of the above-captioned matter regarding allegations that a Federal Protective Service (FPS) Regional Director (RD) was involved with a procurement fraud scheme concerning the purchase of surveillance equipment. The Department of Homeland Security (DHS or Department), Office of the Inspector General (OIG) investigated the matter. Per 5 U.S.C. § 1213, the head of the agency or her designee must review and sign the report sent in response to this matter. Pursuant to DHS Delegation No. 17007.001 entitled "Delegation to the Director for the Federal Protective Service," I have authority to review and sign the report on behalf of the Secretary. The OIG's findings, to include the information required under 5 U.S.C. § 1213(d)(1) to (4), are included in the attached report. This report may be made available to the public.

In addition, I am providing you information as required by 5 U.S.C. § 1213(d)(5). By way of background, the subject of the OIG investigation number I11-FPS-CHI-00785 is a FPS RD. The RD reports to Assistant Director for Field Operations (ADFO) Patrick D. Moses. ADFO Moses oversees the Central Zone for FPS. ADFO Moses reports to the Deputy Director of Operations FPS, Richard K. Cline. Deputy Director Cline reports to me.

On December 18, 2012, ADFO Moses was briefed by FPS counsel regarding the allegations. ADFO Moses understands that, as the RD's immediate supervisor, he will be the proposing official for purposes of evaluating what, if any, disciplinary action will be taken by FPS in response to the findings in the OIG report.

On January 23, 2013, FPS counsel received the attached OIG report from OIG Counsel's office. On January 25, 2013, ADFO Moses was provided the entire OIG investigative report, to include the exhibits, in his capacity as the proposing official. In this capacity, it is ADFO Moses' responsibility to review the report and any other documentation that he believes is pertinent, and then render a decision as to whether any and what disciplinary action may be proposed. ADFO

Moses has the ability to consult with FPS counsel and the Employee and Labor Relations team in reaching his decision. FPS will continue to keep your office apprised of ADFO Moses' *decision*.

Please do not hesitate to contact my office should you require further information regarding these matters at 202-828-8000.

Sincerely,

A handwritten signature in black ink, appearing to read "E. Eric Patterson", with a long horizontal line extending to the right.

E. Eric Patterson  
Director  
Federal Protective Service  
U.S. Department of Homeland Security

Attachment:   OIG Report of Investigation in OIG Case No. I11-FPS-CHI-00785 (for response to OSC File No. DI-11-3547)



**REPORT OF INVESTIGATION**

<i>Case Number:</i>	I11-FPS-CHI-00785
<i>Case Title:</i>	Regional Director, GS-15 Federal Protective Service
<i>Report Status:</i>	Final
<i>Alleged Violation(s):</i>	41 USC § 423 - Prohibition on Disclosing Procurement Information; recodified at 41 USC § 2102 Prohibitions on Disclosing and Obtaining Procurement Information (eff. Jan. 4, 2011) FAR 9.505-2 - Preparing Specifications or Work Statements

**SYNOPSIS**

On May 6, 2011, the U.S. Department of Homeland Security (DHS), Office of Inspector General (OIG) received an allegation from a confidential source that a Federal Protective Service (FPS) Regional Director (RD) was possibly involved in a procurement fraud scheme concerning the purchase of surveillance equipment. The OIG Chicago Field Office initiated an investigation into this allegation concerning the RD. On February 6, 2012, the U.S. Office of Special Counsel (OSC), Washington, DC, received the same allegation from a whistleblower regarding the RD. The whistleblower alleged that the RD violated agency regulations and Federal Acquisition Regulations (FAR) when he arranged for a friend, a neighbor who owns and operates a security and communication systems company (hereinafter referred to as “Contractor”), to draft a Statement of Work (SOW) for the purchase, at a cost of more than \$250,000, of surveillance equipment with an actual market value of \$10,000. The complaint alleged that the Contractor became the successful bidder for the contract, in violation of 41 USC § 423, and the FAR. The complaint further alleged that the RD violated the FAR when he failed to disclose a possible conflict of interest in connection with the award of a contract to the Contractor’s company for surveillance equipment. The complaint finally alleged that FPS officials with oversight responsibilities permitted the company’s costly surveillance system to be held unused in storage for one year.

The OIG investigation produced evidence which revealed that the RD did improperly influence and facilitate the award of FPS Contract #HSHQC6-10-P-00006 to his neighbor and friend, the Contractor. In addition, the investigation revealed that the Contractor wrote the SOW for the contract and discussed procurement information with the RD regarding the contract approval process and the steps needed to expedite the contract approval approximately eight months prior to the contract being posted for bid. This was discovered in an email sent from the Contractor to the RD. Further investigation also revealed that the RD did fail to disclose his personal relationship with the Contractor to the agency prior to the award of the contract, which created an appearance of lack of impartiality.

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Further investigation produced evidence which revealed that FPS violated FAR 9.505-2 (Preparing specifications or work statements) when FPS awarded the above mentioned contract to the Contractor after the Contractor prepared the SOW for said contract. Per the FAR, "If a contractor prepares and furnishes complete specifications covering non-developmental items, to be used in a competitive acquisition, that contractor shall not be allowed to furnish these items, either as a prime contractor or as a subcontractor, for a reasonable period of time including, at least, the duration of the initial production contract." 48 C.F.R. § 9.505-2(a)(1).

However, the OIG investigation did not produce any evidence that FPS wasted funds on the purchase of this surveillance equipment. FPS demonstrated a need for countermeasures (i.e., a backup security system) in the event that the building surveillance cameras failed following a natural disaster and/or emergency. In addition, three companies bid on this contract: company A--\$293,520.00, company B--\$347,541.32, and Contractor's company --\$257,472.00. The Contractor's company was awarded the contract after submitting the lowest bid.

This case was declined for criminal prosecution by the relevant United States Attorney's Office.

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## DETAILS

On May 6, 2011, the U.S. Department of Homeland Security (DHS), Office of Inspector General (OIG) received an allegation from a confidential source that a specific Federal Protective Service (FPS) Regional Director (RD) was possibly involved in a procurement fraud scheme concerning the purchase of surveillance equipment. The OIG Chicago Field Office initiated an investigation into this allegation concerning the RD. On February 6, 2012, the U.S. Office of Special Counsel (OSC), Washington, DC, received the same allegation from a whistleblower regarding the same RD. The whistleblower alleged that the RD violated agency regulations and Federal Acquisition Regulations (FAR) when he arranged the Contractor (also identified by the whistleblower), who owns and operates a security and communications system company, to draft a Statement of Work (SOW) for the purchase, at a cost of more than \$250,000, of surveillance equipment with an actual market value of \$10,000. The complaint alleged that the Contractor became the successful bidder for the contract, in violation of 41 USC § 423 and the FAR. The complaint further alleged that the RD violated the FAR when he failed to disclose a possible conflict of interest in connection with the award of a contract to the Contractor's company for surveillance equipment. The complaint finally alleged that FPS officials with oversight responsibilities permitted the Contractor's company's costly surveillance system to be held unused in storage for one year.

### **Allegation #1: The RD arranged for the Contractor to draft the SOW for a FPS contract.**

Based on information provided in the complaint, DHS-OIG interviewed an FPS Supervisory Special Agent (SSA) who stated that he received direction from an FPS Deputy Regional Director (DRD) to ensure that all FPS agents attended training for the use of a Rapid Deployment Kit (RDK) Video Surveillance System that was being delivered to the office. The system was ordered by the RD. The SSA later consulted with an FPS Supervisory Security Specialist (SSS) and obtained a copy of the procurement package associated with the acquisition system. The SSA stated that an examination of the package indicated that the acquisition of the video surveillance system was awarded to the Contractor's company.

Further research by the SSA revealed that the Contractor was also the neighbor of the RD. Upon further review of the email with an attached SOW used for the solicitation, the SSA identified the Contractor's first name embedded within the properties section of the document. The SSA asked the RD if he knew that the Contractor drafted the SOW. The RD explained that the Contractor is his neighbor and contributed to the preparation of the SOW which is customary when technical guidance is needed for an acquisition.

DHS-OIG conducted several law enforcement database queries and confirmed that the Contractor and the RD were indeed neighbors. Further investigation of the official FPS contract file revealed that the Contractor's company was awarded the contract identified as HSHQC6-10-P-00006. The Contractor is listed as the president of the company.

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DHS-OIG interviewed the Contractor who related that he has known the RD for approximately eight years as his neighbor. The Contractor further related that he knew the RD was responsible for providing physical security for federal buildings. The Contractor stated that he has spent time with the RD socially to play golf or drink a couple of beers. The Contractor reported that eight months prior to the contract, he was asked by the RD if he had the capability to provide information regarding video surveillance systems that could deploy rapidly and be used for multiple weeks or a month. The interviewing agents presented a copy of the SOW from the official FPS contract to the Contractor and he subsequently confirmed that it was the document he provided to the RD. The Contractor was not sure if he forwarded the document to the RD's personal and/or government email. The Contractor further stated that he did go through the normal channels to get the contract. The Contractor referred to the SOW as the technical specifications.

DHS-OIG interviewed an FPS Inspector in the region. The Inspector related that he is the Law Enforcement Program Manager who normally reviews countermeasure purchases for the region. The Inspector related in October of 2010, he was tasked by the DRD to develop a SOW and an independent cost estimate for a portable camera system for purchasing approval. He further related that sometime later, the FPS SSS advised that the contract was already awarded to a vendor. The Inspector stated that he was surprised to find out that the contract was awarded even though he did not provide any input. He related that he and the SSS typically review all countermeasure purchases and in this instance, he did not provide any information. The Inspector reiterated that he was never consulted on the SOW for this contract. The Inspector stated that federal employees are required by the FAR to construct the SOW and vendors may provide technical requirements. He was unaware if a government employee prepared the SOW by FAR requirements for this contract.

(Agent Note: During DHS-OIG's interview of the DRD, the DRD denied asking the Inspector to develop a SOW for a portable camera system.)

DHS-OIG interviewed the SSS who stated that the DRD sent the SSS an email dated April 12, 2010, instructing the SSS to send the package forward for the purchase of RDKs. The SSS forwarded to DHS-OIG agents a copy of this email which revealed the friend's first name as the author of the SOW. The SSS related that the package received contained the SOW and pictures of the requested equipment. To the best of the SSS's knowledge, no one else was involved in preparing the SOW to include inspectors or anyone else with technical knowledge. The SSS is not aware of a vendor providing the SOW in the SSS's ten years of procurement experience.

The SSS further related that the government entity requesting the equipment would typically be responsible for writing the SOW and developing an Independent Government Estimate (IGE). This entity would have the technical knowledge of the requirement. The SSS reported upon receipt of the SOW, the SSS will typically submit a requisition worksheet listing the equipment and cost to the FPS Finance Division. The Finance Division then processes the G514, Purchase Card Transaction work

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sheet. The final package is ultimately sent to a FPS Contracting Officer (CO). Although not located in the same region, the CO handles all FPS contracts for the RD's region.

DHS-OIG interviewed the DRD who stated that he received an e-mail dated December 7, 2009, that was addressed to all Region Management Staff from the RD, asking for comments on a SOW for portable security equipment identified as RDKs. The email string originated from the RD's friend on November 24, 2009, and it was addressed to the RD. The email included an attached SOW drafted by the friend. The DRD provided a copy of the email to the interviewing agents.

The DRD further stated that, in April 2010, he was instructed by the RD to initiate the purchase of the equipment for the FPS Region Office. The DRD related that a request was subsequently sent to the CO through the SSS. The DRD stated that his next involvement with this contract was an email from the CO which indicated that the Contractor's company won the bid for the contract.

When asked "who drafted the SOW," the DRD stated that the Contractor completed it and that it is customary for vendors to do this all the time. The interviewing agents advised the DRD of FAR 9.505-2 which states that a vendor can participate and/or draft a SOW if it is the sole source contract; if the vendor has participated in the development and design work of the product; or if more than one contractor has been involved in preparing the SOW. The DRD denied having any conversations with the RD regarding the contract prior to the purchase of the RDK and he was initially unaware of the relationship between the RD and the Contractor.

DHS-OIG interviewed the RD and the RD admitted to requesting technical specifications which he referred to as "cut sheets" from the Contractor, but denied that the Contractor prepared the SOW for the contract. The RD denied having any conversations with the Contractor regarding the solicitation and/or bidding of the contract. The interviewing agents presented a copy of the SOW that was attached to the FPS contract to the RD and advised him that the Contractor admitted to creating the document. The RD reviewed the document and responded "I don't know that for certain." The interviewing agents asked the RD again if the Contractor prepared the SOW and the RD reiterated that he was uncertain. The RD further advised that he was also unsure if any of his staff created the SOW document. The RD reiterated that he requested "Cut Sheets" from the Contractor.

### **Allegation #2: The RD failed to disclose a possible conflict of interest in connection with the award of a contract to the Contractor for surveillance equipment.**

During his interview, the Inspector stated that he was surprised to find out that the Contractor's company/RDK contract was awarded even though he did not provide any input. The Inspector stated that he and the SSS typically review all countermeasure purchases made by the Region and in this instance, he did not provide any information. The Inspector reiterated that he was never consulted on the SOW for this contract.

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The SSS believed that no one other than the Contractor was involved in preparing the SOW to include inspectors or any other FPS employees with technical knowledge. The SSS stated that after receiving the SOW and IGE, the requisition worksheet listing the equipment and cost is typically sent to Finance for the G514 to be processed.

The DRD reported that he did not have any conversations with the RD prior to the purchase of the RDK and that he was initially unaware of the relationship between the RD and the Contractor. The DRD related that his job was to submit the request for the equipment to the SSS after the initial request came from the RD.

The RD reported that he identified a need for the systems and he started looking into purchasing portable surveillance equipment back in 2004 while working in another FPS region. After being assigned to the Regional Director position in his current region, he continued to pursue the purchase of the equipment. The RD related that he knew the Contractor was in the business (i.e., security systems) because the Contractor had worked with FPS while employed at other companies.

The RD denied sending or having any conversations with the Contractor regarding the solicitation. The RD admitted to requesting technical specifications from the Contractor, which he also referred to as “cut sheets,” for the RDK contract. The RD stated that he was not sure if the Inspector or the SSS were involved with the solicitation and/or purchase of the RDKs. The RD related that a lot of employees get involved with contracts and he was uncertain as to who was involved. The RD reported that his role in securing the FPS contract was that he received the “Tec Specs” from the Contractor and he forwarded them to the DRD and the rest of the management staff for comments. The RD stated he did not have any further involvement and admitted to not telling anyone at FPS involved in the procurement that the Contractor was his neighbor.

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**During the course of the investigation, the OIG developed evidence that the Contractor discussed procurement information with the RD regarding the GSA schedule contract approval process approximately eight months before the bid process began.**

During his interview, the DRD provided interviewing agents with an email dated November 24, 2009, that was sent to the RD from the Contractor. In the email the Contractor states the following (identity of individuals removed by DHS OIG):

The video surveillance Rapid Deployment Kit (RDK) Statement of Work is in the attached Word doc. I would classify it as more of a technical specification. I've also included the pricing model we've submitted to GSA under schedule # 84, Solicitation # 7FCI-L3-030084-B. The pricing for the Rapid Deployment Kits is on the last page, page 36 of the pdf document. [Identity removed by DHS OIG] runs # 84's solicitation contract approval and is the person who has the ability to expedite our contract approval. The only way [Identity removed by DHS OIG] will expedite the approval process is if a government end user has a need and wants to use products or services offered by the company waiting for GSA contract approval. [Identity removed by DHS OIG] said the best way to do this is to have your contracting officer contact [Identity removed by DHS OIG] in order to expedite a contract approval. [Identity removed by DHS OIG] can then move us to the front of the line and start the approval process.

The RDK's are pretty straight forward and are modular in design. For example, if you wanted two RDK's deployed in your region, you would need two of the Portable DVR Wireless Camera Systems (A) and then add whichever camera kits best fit the application (I, ii, iii). See below:

- A Portable DVR Wireless Camera System (one required per RDK – then choose any or all of the camera kits depending on requirements)
  - i Portable Wireless PTZ Camera Kit
  - ii Portable Wireless Indoor Camera Kit
  - iii Portable Wireless Outdoor 5 Mega-Pixel Camera Kit

I've attached a picture of the wireless camera system and the portable wireless PTZ camera kit to give you a feel for what it looks like. If you have any questions let me know and I'll be glad [to] assist. Thanks.

(Agent Note: The above-noted email indicated that the RD and the Contractor had specific communications regarding the RDK contract prior to the solicitation.)

DHS-OIG interviewed the CO. The CO reported that the RDK contract was initially solicited on July, 1, 2010, and it closed July, 9, 2010. In accordance with FAR regulations, at least three GSA Schedule Holders must submit bids in order for the agency to award a contract. However, only one

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company bid in response to the July solicitation. A second solicitation for the FPS contract was opened on August 16, 2010, and it closed August 27, 2010. Three companies submitted bids: Company A--\$293,520.00, Company B--\$347,541.32, and the Contractor-- \$257,472.00. The Contractor was awarded the contract after making the lowest bid. Although the Contractor was listed as a source on the 514 worksheet that was provided to the CO by the FPS Office, the CO stated that he received no other guidance about source selection.

DHS-OIG recovered a subsequent email dated December 4, 2009, from the server at FPS evidencing further communication between the RD and the Contractor. In the email the Contractor stated the following:

Hi [RD], Just checking in to see how the RDK systems looked for your team and if you had any questions. If there is anything I can do let me know and I'll be glad to assist. FYI - A GSA evaluator named [*Identity removed by DHS OIG*] currently is assigned to our offer. I would assume [*Identity removed by DHS OIG*] is on [*Identity removed by DHS OIG*] team.  
Thanks

(Agent Note: The above-noted email further validated that the RD and the Contractor had specific communications regarding the RDK contract prior to the solicitation.)

**Allegation #3: FPS agency officials with oversight responsibilities permitted the Contractor's costly surveillance system to be held unused in storage for one year.**

During this investigation, the OIG found that the RD facilitated the purchase of the RDK surveillance systems. Further investigation by OIG identified that the equipment was in storage for an extended period of time, however DHS-OIG obtained performance plans/objectives for FPS management that reflect the need for countermeasure equipment (i.e., a backup security system) should the normal building surveillance cameras fail. Although the RDKs have never been deployed, FPS personnel have been trained to use them and they are available in the event facility cameras fail at any location in the region.

DHS-OIG presented this case to the relevant United States Attorney's Office which declined to prosecute.

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