



STATE OF NEW YORK
OFFICE OF THE STATE COMPTROLLER

August 3, 2020

Ms. RoAnn M. Destito
Commissioner
Office of General Services
Corning Tower – 32nd Floor
Albany, NY 12242

Re: Report 2019-BSE3-001

Dear Commissioner Destito:

Our Office examined¹ payments the Office of General Services (OGS) made to Summit Security Services Inc. (Summit) under Statewide contract PS65725 (the Contract). Under the Contract, OGS paid Summit nearly \$2.8 million for security guard and fire safety director services provided at the Shirley A. Chisholm State Office Building; the Adam Clayton Powell, Jr. State Office Building; and the James A. Farley Building in New York City during the period January 1, 2017 through December 31, 2017. These payments included more than \$867,000 for security guard services performed by Summit's subcontractor, Bestworth Security Services (Bestworth). Our objective was to determine whether individuals performing security guard and fire safety director services met the Contract qualifications.

Ordinarily, this Office receives most or all information pertinent to our examination directly from the contracting agency. While OGS provided the documents it had on file, the information maintained by OGS was not sufficient to determine whether individuals met the Contract qualifications. Therefore, this Office obtained the necessary information directly from the vendors. This is not uncommon in order to validate certain information usually maintained by the vendor, such as employee qualifications or registration information. However, it does delay the examination and reporting process as this Office waits to receive and validate the supporting materials provided by the vendors.

A. Results of Examination

In general, we found the security guards and fire safety directors directly employed by Summit met the Contract qualifications. However, we found OGS paid Summit more than \$867,000 for

¹ We performed our examination in accordance with the State Comptroller's authority set forth in Article V, Section 1 of the State Constitution, as well as Article II, Section 8(1) and (7), and Article VII, Section 111 of the State Finance Law.

40 individuals provided by Summit's subcontractor, Bestworth, who did not meet the Contract qualifications for security guards. Bestworth's President acknowledged none of the 40 employees who provided security guard services at the Adam Clayton Powell, Jr. State Office Building took a drug test. Furthermore, 27 of these individuals lacked other necessary qualifications, including the New York State Department of State (DOS) Security Guard registration (DOS registration), which is required for any individual providing security guard services in New York. According to OGS officials, Bestworth no longer provides security guard services under the new contract with Summit.

Neither Summit nor Bestworth could provide sufficient evidence to demonstrate Bestworth's employees met the Contract qualifications. It is critical to ensure these individuals meet Contract requirements to help guarantee the safety and security of building occupants, particularly in the event of an emergency. Furthermore, if a vendor knows OGS does not substantiate the qualifications of its contracted security personnel, that vendor could potentially gain an unfair advantage over its competitors by providing unqualified personnel at a lower cost.

We shared a draft report with OGS and considered their response (Attachment A) in preparing the final report. This Office's comments to the OGS response are included in Attachment B. OGS officials agreed with and began to implement our recommendations including improving their monitoring procedures by requiring security guards to show their DOS photo ID registration upon first reporting to a facility, and performing periodic reviews of personnel files for accuracy and completeness. Despite the use of individuals who did not meet all legal and Contract qualifications, OGS disagrees these conditions could have endangered public safety and security.

In addition to the findings contained in this report, we conveyed other matters to OGS officials verbally during our closing conference and did not include them in this report.

B. Background and Methodology

OGS procured the \$103.5 million Statewide Contract with Summit for security guard and fire safety director services for the period July 24, 2012 through January 23, 2019 (PS65725). When the Contract expired, OGS procured an additional \$27.7 million Statewide contract with Summit (PS68269) for the period January 24, 2019 through January 23, 2024.

While the Contract allows the use of subcontractors, Summit is ultimately responsible for fulfilling all Contract obligations. Additionally, Summit is obligated to inform subcontractors of all Contract

requirements, and contractually accepts full responsibility for any subcontractors performing services under the Contract.

To accomplish our examination objective, we analyzed the Contract; researched applicable laws; interviewed OGS and vendor officials; and reviewed invoices, personnel files, and other pertinent documentation. We did not review the personnel files of individuals who performed security guard services at the James A. Farley Building because OGS stopped managing this building in July 2017, and Summit no longer provides services at that location.

C. Details of Findings

Qualified, properly trained and credentialed security guards are a critical component of a public safety protection system. State law requires security guards to be registered with DOS and to comply with background and training requirements (General Business Law, Article 7-A). While DOS authorizes applicants for a security guard registration to perform security guard services while their DOS registration is in progress, the OGS Contract specifically requires security guards to have a minimum of six months security guard experience while holding a current, valid DOS registration. In addition, the Contract requires an initial drug test to detect any illegal drugs.

Security guards play an essential role in ensuring building occupants are safe from harm. Specifically, these guards are responsible for monitoring and securing all building entrances; preventing prohibited articles from entering the building; protecting the building, grounds, and occupants against potential incidents; and ensuring all fire suppression equipment is free of damage or deficiency. Security guards are also responsible for assisting guests with questions or directions; communicating with law enforcement, State agencies and city departments, building occupants, and facility management; and for defusing potentially dangerous situations.

We found OGS paid Summit more than \$867,000 for 40 individuals who did not meet the minimum Contract qualifications for security guard services performed during calendar year 2017. For example, none of the 40 individuals Bestworth used to provide security guard services at the Adam Clayton Powell, Jr. State Office Building took a drug test. Bestworth's President acknowledged the company does not perform drug tests on any employees, despite contractual requirements to do so. It is critical to ensure security guards are not under the influence of illegal drugs while working to help guarantee the safety and security of building occupants, particularly in the event of an emergency.

In addition to not meeting the drug test requirement, 27 of the 40 individuals did not meet one or more additional Contract qualifications including the minimum education and minimum work experience requirements. Of those 27, 10 individuals also worked without active DOS registrations. This consists of:

- 7 individuals who provided services for up to eight months prior to applying for a DOS registration;
- 2 individuals who never applied for a DOS registration; and
- 1 individual whose registration expired in 1997 and was not renewed.

Neither Summit nor Bestworth performed supplemental background checks on the security guards. Therefore, prior to the DOS registration process, which includes background and criminal history checks, a significant number of individuals performed services for OGS with unknown backgrounds and criminal histories. Further, these ten individuals failed to meet the requirements of both State law and the Contract during much or all of the one-year examination period.

Summit and Bestworth could not provide sufficient evidence to demonstrate Bestworth's employees met Contract qualifications. OGS officials advised us on several occasions they rely on Summit to ensure the security guards have the appropriate Contract qualifications, which indicates a lack of oversight. Failure to perform drug tests or background checks could endanger public safety and security by placing unqualified, and potentially criminal, individuals in a position of authority. Furthermore, if a vendor knows OGS does not substantiate the qualifications of its contracted security personnel, that vendor could potentially gain an unfair advantage over its competitors by providing unqualified personnel at a lower cost.

Recommendations

- 1) *Continue work to establish an oversight process to ensure Summit, and any subcontractor, provides security guards who meet Contract qualifications.*
- 2) *Ensure Summit, and any subcontractor, maintains documentation to demonstrate all security guards meet the Contract qualifications.*
- 3) *Determine whether the individuals provided by Bestworth were qualified to provide security guard services and recover funds, if warranted.*

We thank the management and staff of the Office of General Services for the courtesies and cooperation extended to our auditors during this examination. Please provide a response to this final report by September 2, 2020, indicating any additional actions planned to address the recommendations in this report.

Sincerely,

Bernard J. McHugh
Director of State Expenditures

Encl: Attachment A
Attachment B

cc: Theresa Bonneau, Director of Internal Audit


**Office of
General Services**
ANDREW M. CUOMO
Governor

ROANN M. DESTITO
Commissioner

April 1, 2020

 Mr. Bernard J. McHugh
 Director of State Expenditures
 Office of the State Comptroller
 Division of the State Expenditures
 110 State Street
 Albany, NY 12236-0001

Re: Draft Audit Report - 2019-BSE3-001, Issued 02/10/2020

Dear Mr. McHugh:

The Office of General Services (“OGS”) has reviewed the Office of the State Comptroller’s (“OSC”) above-referenced draft report relating to Contract PS65725 Summit Security Services, Inc. OGS takes issue with some of the statements in the Report and disagrees with OSC’s assertion that conditions exist that “endanger public safety and security by placing unqualified, and potentially criminal, individuals in a position of authority.” The Report indicates that Summit did not provide evidence demonstrating that the security guards met the contract qualifications, which does not support OSC’s position that the guards are not qualified. A failure by Summit to meet every contract requirement does not mean that the guards supplied were unqualified.

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Comments
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The safety and security of our building occupants is OGS’s highest priority and the safeguarding of those public assets under our stewardship in an effective and efficient manner is at the core of OGS’s mission. Security guards are supervised by OGS building management staff to ensure the safety and security of building occupants and to maintain emergency readiness.

Under the terms of the contract, all the supporting documentation for the guards’ qualifications is reasonably maintained by Summit, which would have been available for OGS to evaluate if we elected to do so, on a risk-basis, to monitor for compliance. There would be no reason for OGS to hold all the same records that Summit holds. However, to supplement Summit’s obligations under the contract and as communicated to OSC previously, OGS has developed and implemented additional controls to enhance contract compliance monitoring.

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Comment
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Pre-employment drug testing is not an effective predictor to measure the risk of possible future impairment on the job. Although such testing was a requirement in the contract for security guards reviewed in this audit, it is no longer required as a pre-employment qualification under the terms of the current contract and is not required as a prerequisite to a Department of State (DOS) registration. The contract terms, as well as OGS policies, clearly prohibit security guards from being under the influence or consuming substances that could impair performance of the duties required under the contract. Moreover, OGS retains the authority to request drug testing under the terms of the contract, and OGS procedures also require drug testing to be performed, without exception, in the event of an accident or an incident in which impairment is suspected. Bestworth, whose president acknowledged 40 security guards did not take a drug test, is no longer providing security guard services under the contract. More importantly, during the timeframe of the audit, OGS did not determine a need to exercise its authority to request a drug test of the security guards

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Comment
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in question because the guards did not demonstrate behavior that would cause OGS to question any impairment in their ability to discharge their duties.

Of the 40 security guards identified in the Report, 29 possessed DOS registrations at the time they were working and therefore met the DOS registration requirements. These requirements include that “[an applicant shall] not have been convicted of a serious offense, or of a misdemeanor in the state or of any offense in any other jurisdiction which, if committed in this state, would constitute a misdemeanor, and which, in the discretion of the secretary, bears such a relationship to the performance of the duties of a security guard, as to constitute a bar to employment.” Eight guards were working while their registration application was in process, which is permitted under General Business Law, Article 7-A, and those applications were subsequently approved. The hours worked and the amount billed for three guards for which a registration record was not identified during the audit timeframe represent less than one-half of 1% of the total billed hours.

* Comment 4

Responses to Recommendations:

OSC Recommendation 1: Establish an oversight process to ensure Summit, and any subcontractor, provides security guards that meet Contract qualifications.

OGS Response: We agree with this recommendation. Summit is responsible to ensure all security guards provided (including those guards provided by any sub-contractor utilized by Summit) meet the contract qualifications. Upon first reporting to the facility for assignment, the security guard must present to the building manager the following items: a valid NYS DOS photo ID registration and a notarized Certification of Compliance before being allowed to provide security services. Additionally, OGS has implemented periodic reviews to enhance contractor compliance. This review entails OGS randomly requesting the contractor to provide the master file for employees working at various OGS facilities. The employees’ master files are then reviewed for accuracy and completeness, and any deficiencies are immediately brought to the contractor’s attention for appropriate remedy.

OSC Recommendation 2: Ensure Summit, and any subcontractor, maintains documentation to demonstrate all security guards meet the Contract qualifications.

OGS Response: We agree with this recommendation. Summit is required by Appendix A to establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under its contract. This includes documentation for all security guards provided (including those guards provided by any sub-contractor utilized by Summit) that demonstrates that the security guards meet the contract qualifications. While OGS does not and will not maintain a separate copy of the master file for each Summit employee at facilities, OGS has implemented periodic reviews to enhance contractor compliance. These reviews entail OGS randomly requesting the contractor provide the master file for employees working at various OGS facilities. The employees’ master files are then reviewed for accuracy and completeness, and any deficiencies are immediately brought to the contractor’s attention for appropriate remedy.

OSC Recommendation 3: Determine whether the individuals provided by Bestworth are qualified to provide security guard services and respond, as appropriate. Recover funds, if warranted.

OGS Response: We agree with this recommendation. As noted above, OGS maintains that the individuals provided were qualified to perform the job of security guard even if the subcontractor did not comply with all contractual requirements. We will evaluate these security guards and any possible recovery taking into consideration Bestworth's removal from providing services under the contract and its limited records.

Thank you for the opportunity to comment on the draft audit report. Please let me know if you have any questions or require further clarification.

Sincerely,

Theresa Bonneau

Director of Internal Audit
(518) 402-5846
theresa.bonneau@ogs.ny.gov

State Comptroller's Office Comments on Auditee Response

1. Vendors submitted their bid proposals based on OGS's stated qualifications for consideration to receive the contract. All security guards must, by law, be registered with the Department of State. However, OGS required its security guards to possess additional qualifications (e.g., six months of work experience as a registered guard), which would seem to indicate that the necessary qualifications were carefully considered and deliberate. By definition, then, an individual employed by the vendor must be deemed unqualified if they did not meet the minimum requirements under the Contract. It is unclear how OGS takes exception to the OSC finding that certain individuals were unqualified when these individuals clearly did not meet the requirements established by OGS itself.
2. Summit did not maintain documentation for the individuals it subcontracted with through Bestworth. This was more than half of the individuals assigned to work at the Adam Clayton Powell, Jr. State Office Building during our scope period.
3. While OGS paid for pre-employment drug testing as part of the approved contract rates, Summit's subcontractor failed to drug test the 40 individuals working during our scope period. In addition, by waiting to perform drug tests after an incident or after someone displays impaired behavior, OGS could be putting building occupants at risk, particularly from the time a security guard is on duty to the time the potential impaired behavior is detected, if it is even detectable. That no such behavior was noticed does not alter the fact that this was a contractual requirement that was not provided.
4. Of the ten individuals who did not register with DOS prior to providing security guard services, three never held the DOS registration as required by law during the scope period. Two never obtained a DOS registration and one has not had an active DOS registration since 1997. As a result, no criminal background checks were performed on these three individuals under this Contract. Without knowing the results of a criminal background check on these three individuals, we maintain the security and safety of building occupants could have been put at risk.

In our draft report, we also included one individual who began working three days before DOS received such individual's application. It is reasonable to conclude that individual's application was submitted when the individual began providing services. While the individual was permitted to work under General Business Law Article 7-A, the individual

still did not comply with Contract experience requirements. We revised the report to clarify this information.

Regardless of the status of their DOS application, none of the eleven individuals met the Contract's requirement of having six months security guard experience as a DOS registered guard. There were an additional ten individuals who also did not meet this experience requirement.



August 27, 2020

Mr. Bernard J. McHugh
Director of State Expenditures
Office of the State Comptroller
Division of State Expenditures
110 State Street
Albany, NY 12236-0001

Re: Audit Report- 2019-BSE3-001, Issued 08/03/2020

Dear Mr. McHugh,

Thank you for the opportunity to respond to the Office of the State Comptroller's ("OSC") above-referenced final audit report relating to payments made to Summit Security Services Inc ("Summit"). On behalf of the Office of General Services ("OGS") and pursuant to Executive Law § 170, I write to provide confirmatory information concerning OGS's responses to OSC's three recommendations detailed in the final audit report.

We agree that Summit's subcontractor, Bestworth, provided some security guards that did not meet one or more of the requirements contained in the contract to provide security guard services. Bestworth is no longer a subcontractor under the contract.

Response to Recommendations:

OSC Recommendation (1): Establish an oversight process to ensure Summit, and any subcontractor, provides security guards that meet Contract qualifications.

OGS Response: We agree with this recommendation. Summit is responsible to ensure all security guards provided (including those guards provided by any sub-contractor utilized by Summit) meet the contract requirements. Upon first reporting to the facility for assignment, the security guard must present to the building manager the following items: a valid NYS DOS photo ID registration and a notarized Certification of Compliance before being allowed to provide security services. Additionally, OGS has implemented periodic reviews to test Summit's compliance with the Master File contract requirement. This review entails OGS randomly requesting Summit to provide the Master File for employees working at various OGS facilities. The contents of the employees' Master Files are compared to the contract requirements. Deficiencies are immediately brought to Summit's attention for appropriate corrective action.

OSC Recommendation (2): Ensure Summit, and any subcontractor, maintains documentation to demonstrate all security guards meet the Contract qualifications.

Mr. Bernard J. McHugh

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August 27, 2020

OGS Response: We agree with this recommendation. Summit is required by Appendix A to establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under its contract. Additionally, Summit is contractually required to maintain a Master File for each security guard that includes documentation which demonstrates that all security guards provided (including those guards provided by any sub-contractor utilized by Summit) meet the contract requirements and proof of qualification. Although OGS does not and will not maintain a separate copy of the Master File for each Summit employee at facilities, as stated above OGS has implemented a process to periodically test Summit's compliance with the contract documentation requirements.

OSC Recommendation (3): Determine whether the individuals provided by Bestworth are qualified to provide security guard services and respond, as appropriate. Recover funds, if warranted.

OGS Response: We agree with this recommendation. OGS maintains that the individuals provided were qualified to perform the job of security guard even if the subcontractor did not comply with all contractual requirements. We will evaluate these security guards and any possible recovery taking into consideration Bestworth's removal from providing services under the contract and its limited records.

Sincerely,

Theresa Bonneau

Director of Internal Audit

(518) 402-5846

theresa.bonneau@ogs.ny.gov



**Office of
General Services**

ANDREW M. CUOMO
Governor

ROANN M. DESTITO
Commissioner

January 26, 2021

Honorable Thomas P. DiNapoli
Comptroller
Office of the State Comptroller
110 State Street, 15th Floor
Albany, NY 12236

Re: Audit Report- 2019-BSE3-001, Issued 08/03/2020

Dear Comptroller DiNapoli:

In accordance with Section 170 of the Executive Law, the Office of General Services ("OGS") is providing the attached Corrective Action Plan related to Audit Report 2019-BSE3-001 titled Summit Security Services Inc. We appreciate your time and efforts in conducting this audit and are confident that we have addressed all of the recommendations.

If you have additional questions or comments, please contact Theresa Bonneau at Theresa.Bonneau@ogs.ny.gov or (518) 402-5846.

Sincerely,

RoAnn M. Destito

Attachment

cc: Hon. Andrew M. Cuomo
Hon. Andrea Stewart-Cousins
Hon. Robert G. Ort
Hon. Carl E. Heastie
Hon. Crystal Peoples-Stokes
Hon. William A. Barclay
Hon. Liz Krueger
Hon. Thomas O'Mara
Hon. Helene E. Weinstein
Hon. Edward P. Ra

**Corrective Action Plan for Audit 2019-BSE3-001
Summit Security Services Inc. ("Summit")**

OSC Recommendation 1: *Establish an oversight process to ensure Summit, and any subcontractor, provides security guards that meet Contract qualifications.*

OGS Implementation Plan: All contractors are responsible for ensuring that all security guards provided, including those provided by any sub-contractor, meet the contract qualifications. Upon first reporting to the facility for assignment, the security guard must present a valid NYS DOS photo ID registration and a notarized Certification of Compliance to the building manager before being allowed to provide security services. To monitor contractor compliance, OGS conducts periodic reviews in every building where OGS uses contract security guards. This review entails OGS randomly requesting that the contractor provide the master file for security guards working at various OGS facilities. The master files are then reviewed for accuracy and completeness, and any deficiencies are immediately brought to the contractor's attention for appropriate remedy.

Implementation Date: September 2019

Person Responsible for Implementation: Michael Liberi

OSC Recommendation 2: *Ensure Summit, and any subcontractor, maintains documentation to demonstrate all security guards meet the Contract qualifications.*

OGS Implementation Plan: All contractors are required by Appendix A to establish and maintain complete and accurate books, records, documents, accounts and other evidence directly pertinent to performance under its contract. This includes documentation that demonstrates that the security guards, including those provided by any subcontractor, meet the contract qualifications. While OGS does not and will not maintain a separate copy of the master file for each contract security guard at facilities, OGS has implemented periodic reviews to monitor contractor compliance. These reviews entail OGS randomly requesting that the contractor provide the master file for security guards working at various OGS facilities. The master files are then reviewed for accuracy and completeness, and any deficiencies are immediately brought to the contractor's attention for appropriate remedy.

Implementation Date: September 2019

Person Responsible for Implementation: Michael Liberi

OSC Recommendation 3: *Determine whether the individuals provided by Bestworth are qualified to provide security guard services and respond, as appropriate. Recover funds, if warranted.*

OGS Implementation Plan: Summit stopped providing Bestworth guards before OSC began its audit in May 2018. All the Bestworth individuals satisfactorily performed security guard services under the supervision of OGS Building Managers. Further, the hours worked and the amount billed for the three guards who had not applied for a Department of State registration during the audit scope period represents less than one half of one percent of the total amount paid for Bestworth guards; therefore, further action is unwarranted.

Implementation Date: Complete

Person Responsible for Implementation: N/A