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**United States Department of State
and the Broadcasting Board of Governors
Office of Inspector General**

Office of Audits

**Review of Best-Value Contracting for the
Department of State Local Guard Program
and the Utility of Expanding the Policy
Beyond High-Threat Posts in Iraq,
Afghanistan, and Pakistan**

Report Number AUD/CG-12-27, February 2012

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Spotlight: Review of Best-Value Contracting for the Department of State Local Guard Program and the Utility of Expanding the Policy Beyond High-Threat Posts in Iraq, Afghanistan, and Pakistan

Office of Inspector General
AUD/CG-12-27

Why OIG Conducted This Review

On June 27, 2011, the Office of Inspector General (OIG) received a request from the Senate Committee on Foreign Relations to examine the best-value contract award method and its possible application to local guard contracts worldwide.

Objective

The primary objective of this review was to determine the utility of applying the Department of State's authority to award contracts for local guard services using a best-value award method for local guard contracts worldwide.

What OIG Determined

OIG determined that best-value contracting for local guard services would generally be more expensive than lowest-price contracting, since award amounts under the best-value method would likely be higher. It is possible that oversight costs incurred both by Washington, DC, headquarters officials and officials at overseas diplomatic posts could be lower compared with costs associated with lowest-price contracting, since competition under the best-value method would likely increase and awards would therefore likely be made to better qualified vendors. In addition, OIG determined that the 10 percent price preference given to qualifying U.S. companies for local guard contracts has not been a factor in recent local guard competitions and is no longer relevant in the current local guard contracting environment.

Matters for Congressional Consideration

OIG offered two matters for the Senate Committee on Foreign Relations to consider:

1. Expand the Department's authority to use the best-value award methodology beyond Iraq, Afghanistan, and Pakistan for local guard services at overseas diplomatic posts.
2. Review the need for a 10 percent price preference given to U.S. companies bidding on local guard contracts because the preference has not been a factor in recent local guard competitions.



**United States Department of State
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PREFACE

This report was prepared by the Office of Inspector General (OIG) pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. It is one of a series of audit, inspection, investigative, and special reports prepared by OIG periodically as part of its responsibility to promote effective management, accountability and positive change in the Department of State and the Broadcasting Board of Governors.

This report is the result of an assessment of the strengths and weaknesses of the office, post, or function under review. It is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

It is my hope that this report will result in more effective, efficient, and/or economical operations. I express my appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in black ink, appearing to read "H. W. Geisel".

Harold W. Geisel
Deputy Inspector General

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TABLE OF CONTENTS

Section	Page
Executive Summary	1
Background	2
Review Objective	4
Results of Review	4
OIG Could Not Determine Whether Best-Value Local Guard Contracting Would Be More Cost-Effective, but it Would Likely Improve Contractor Performance	5
More Than Two-Thirds of Posts Responding to an OIG Survey Noted Problems With Their Local Guard Contract	9
The 10 Percent Price Preference Given to U.S. Companies Is No Longer Relevant in the Current Local Guard Contracting Environment	12
Conclusions	13
Matters for Congressional Consideration	14
Appendices	
A Scope and Methodology	15
B U.S. Senate Committee on Foreign Relations Letter	17
C Local Guard Program Survey	18
D Bureau of African Affairs Comments	21
Major Contributors to This Report	22

Acronyms and Definition of Terms

A/LM/AQM	Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management
best-value	best-value tradeoff
Department	Department of State
DS	Bureau of Diplomatic Security
FAR	<i>Federal Acquisition Regulation</i>
lowest-price	lowest-price, technically acceptable
OIG	Office of Inspector General
RSO	Regional Security Office or Regional Security Officer
WPS	Worldwide Protective Services

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Executive Summary

On June 27, 2011, the Office of Inspector General (OIG) received a request from the Senate Committee on Foreign Relations to examine the best-value contract award method and its possible application to local guard contracts worldwide. The Department of State (Department) was granted authority in 2009 to award best-value contracts in Iraq, Afghanistan, and Pakistan.¹ However, this authority does not currently apply to other overseas diplomatic posts. Instead, the Department is required to “award contracts to the technically acceptable firm offering the lowest evaluated price.”² Specifically, under the lowest-price, technically acceptable award method (lowest-price), an offeror considered technically acceptable and offering the lowest price is awarded the contract. Under the best-value tradeoff award method (best-value), the Government may consider factors beyond price in making the award, such as technical approach and past performance, when the perceived benefit merits the additional cost. (These two contract award methods are compared in Table 1.)

OIG determined that best-value contracting for local guard services would generally be more expensive than lowest-price contracting. Officials from the Bureau of Diplomatic Security (DS), which is responsible for managing the Local Guard Program, and officials from the Bureau of Administration (A), which is responsible for Department procurement, noted that oversight costs for best-value awards could be lower than oversight costs for lowest-price awards, since competition under best-value awards would likely increase and awards would likely be made to better qualified vendors.

OIG also ascertained from Department officials in Washington, DC, and officials at overseas diplomatic posts that the best-value award method would likely lead to improved contract performance and increased security at overseas posts compared with the lowest-price award method. DS headquarters officials stated that the best-value award method could work especially well in countries with high-threat security situations beyond Iraq, Afghanistan, and Pakistan.

OIG conducted a survey of officials at 104 overseas diplomatic posts with local guard contracts awarded under the lowest-price method and found that officials were generally satisfied with their current local guard contractor’s performance, according to the 86 responses received. However, more than two-thirds of survey respondents noted that they had experienced some problems with their current contractor, and over half of the respondents strongly believed that their post would benefit from having the option to use best-value contracting for the guard services.

OIG also found at some overseas posts that local guard contracts let under the current lowest-price award method had performance problems and an increased need for oversight from Department officials—a condition that may be alleviated by the use of the best-value method where price is not the overriding factor in awarding the contract. OIG’s survey revealed that Regional Security Officers (RSO) and/or their staff members spent an average of 23 hours per week monitoring contracts awarded using the lowest-price method. At some posts, the weekly oversight requirements reached 60 hours per week, or nearly three times the average reported. In

¹Pub. L. No. 111-117 § 7006.

²22 U.S.C. § 4864.

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addition, the current contracting method has allowed contractors with the lowest price to win contract competitions, although in certain instances they had marginal qualifications, despite being accepted by a technical evaluation panel reviewing their offers. According to A Bureau officials, in some cases lowest-price contracting has also resulted in limited competition because contractors that were otherwise qualified chose not to submit a proposal, believing they would be underbid on price.

Finally, OIG found that the 10 percent price preference given to U.S. companies for local guard contracts, as required by 22 U.S.C. § 4864(c)(3), has not been a factor in recent local guard contract competitions. Specifically, OIG examined contract competition documents for 35 local guard contracts and found that the 10 percent price preference had no effect on the outcome of the awards. Furthermore, OIG found that it is easy for foreign companies that want to take advantage of the price preference to become eligible by simply forming a joint venture with a U.S. company, thus largely negating the purpose of the preference.

OIG is offering two matters for the Senate Committee on Foreign Relations to consider:

1. Expand the Department's authority to use the best-value award methodology beyond Iraq, Afghanistan, and Pakistan for local guard services at overseas diplomatic posts.
2. Review the need for a 10 percent price preference given to U.S. companies bidding on local guard contracts because the preference has not been a factor in recent local guard competitions.

DS and A Bureaus did not have any comments on the draft report. The Bureau of African Affairs provided comments, which are presented in Appendix D.

Background

In FY 2010, the total cost to the Department for the Local Guard Program was \$505.53 million. DS manages the Local Guard Program and funds the majority of its costs (62 percent), with the remainder budgeted through the International Cooperative Administrative Support Services program,³ which allocates the costs for programs that benefit all post tenants in proportion to the benefits received by each organization at each post.

The U.S. Code (22 U.S.C. § 4864) addresses the solicitation and award of local guard contracts. Specifically, section 4864 was included to address Congressional concerns that U.S.-based firms were not being informed of opportunities for local guard contracts overseas, and the section requires that solicitations for such contracts be made available for review by U.S.-based firms in order to "ensure maximum competition." In 1998, section 4864(c)(3) was amended to provide contractors that met the definition of a "United States person" a 10 percent price preference for local guard contracts, giving a competitive advantage to U.S. companies bidding on those contracts.

³The International Cooperative Administrative Support Services is a voluntary interagency mechanism for managing and funding administrative services shared by participating foreign affairs agencies at overseas posts.

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Historically, local guard contracts were negotiated at each post using a standardized format established by the A Bureau's Office of the Procurement Executive. In 2008, the Under Secretary for Management endorsed a change in the local guard contracting process to regionalize guard contracts to cover many posts and centralize certain administrative operations in Washington, DC, under the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management (A/LM/AQM).⁴ As part of these efforts, AQM established a branch dedicated to awarding and administering local guard contracts. As of August 1, 2011, AQM was managing 88 local guard contracts, although the General Services Office and the RSO at each post with a local guard contract continue to be involved in contract administration.

On October 1, 2009, the Commission on Wartime Contracting issued a report⁵ concluding that the requirement to award local guard contracts to the lowest-priced offeror among those offerors considered technically acceptable was inappropriate for security at war-zone embassies because it forced the Government into an untenable choice (in the event of poor performance) between contract termination and recompetition under the same constraints, or continuing a "bad bargain" and accepting repeated poor performance. In the report, the Commissioners recommended that the law (22 U.S.C. § 4864) be amended to authorize the Department to award security services contracts using "the full continuum of best-value trade-off evaluation techniques as provided in the Federal Acquisition Regulation."

On December 16, 2009, the Commission's recommendation was included in the Consolidated Appropriations Act of 2010 and became law (Public Law 111-117). Section 7006 of this act gave the Secretary of State the authority to grant authorization to award local guard contracts on the basis of best value, as determined by a cost-technical trade-off analysis (performed per the requirements of the *Federal Acquisition Regulation* [FAR], FAR 15.101), in Iraq, Afghanistan, and Pakistan, notwithstanding the requirements of 22 U.S.C. § 4864(c)(3). Section 7006 noted that the legislative exception applied only to contracts or renewal options awarded during FY 2010 and required that the Secretary consult with the foreign relations committees of the U.S. House and Senate before issuing a solicitation for a contract to be awarded pursuant to the authority under section 7006.

Section 107 of the Foreign Relations Authorization Act for FYs 2010 and 2011 (S. 2971, introduced in the Senate in January 2010) contains a provision that, if passed into law, would revise 22 U.S.C. § 4864(c)(3) to give the Secretary of State permanent authority to award local guard contracts worldwide on the basis of best value, as determined by a cost-technical trade-off analysis. In addition, this provision would require the Secretary to submit a report to Congress not later than one year after the date of the enactment of the act that describes the implementation of this new expanded authority. As of October 28, 2011, the same provision was included in section 106 of the proposed Foreign Relations Authorization Act for FYs 2012 and 2013.

⁴OIG's Office of Inspections December 2006 report *Bureau of Administration's Office of the Procurement Executive, Office of Acquisitions Management, and Office of Small and Disadvantaged Business Utilization* (ISP-I-07-12) recommended that the Bureau of Administration, in coordination with DS, establish a plan to progressively consolidate local guard contracting in the Office of Acquisitions Management.

⁵*Lowest-Priced Security Not Good Enough for War-Zone Embassies*, Commission on Wartime Contracting in Iraq and Afghanistan, CWC Special Report 2, Oct. 1, 2009.

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Review Objective

On June 27, 2011, the Chairman and Ranking Member of the Senate Committee on Foreign Relations requested that OIG assess the utility of expanding the use of the best-value award method to local guard contracts worldwide. They explained that their request was based on Congressional concerns related to the increasing costs for the Department's local guard services. In addition, they stated that the Department was given the authority to use best value when awarding contracts for guard services at posts in Iraq, Afghanistan, and Pakistan because Congress was concerned that some of the local guard contracts awarded based on lowest price had resulted in either higher costs when vendors found their wage scales were unrealistic and were forced to pay more or when the performance of low-paid employees was substandard.

The primary objective of this review was to determine the utility of applying the Department's authority to award contracts for local guard services using a best-value award method for local guard contracts worldwide. Specifically, OIG's objective was to determine the following:

1. Is the best-value award method for local guard contracts more cost effective and conducive to promoting contractor performance than the lowest-price method?
2. Have local guard contracts that were awarded based on the lowest-price method required greater oversight and/or resulted in higher costs because of substandard contract performance?
3. Has the 10 percent price preference for firms that meet the statutory definition of a "United States person" (per the requirements of 22 U.S.C. § 4864(c)(3)) been negated by foreign firms establishing U.S.-based subsidiaries to be deemed eligible for the price preference?

Results of Review

OIG determined that best-value contracting for local guard services would generally be more expensive than lowest-price contracting, since award amounts under the best-value method would likely be higher, according to DS and A Bureau officials. However, it is possible that oversight costs incurred both by Washington headquarters officials and officials at overseas diplomatic posts could be lower overall compared with costs associated with lowest-price contracting, since competition under the best-value method would likely increase and awards would therefore likely be made to better qualified vendors, according to those same officials.

Respondents to an OIG survey sent to 104 overseas diplomatic posts (the Local Guard Program Survey is in Appendix C) generally indicated that the respondents were satisfied with their current local guard contractor's performance, all awards for which were made under the lowest-price method. However, more than two of three respondents also noted that they had experienced problems with their current contractor. Furthermore, survey respondents reported that they were strongly in favor of expanding the authority to use best value, with over half noting that they believed their post would benefit to either a "great extent" or a "very great

extent” by having the option of awarding local guard contracts on the basis of a best-value tradeoff.

OIG also found that the 10 percent price preference given to U.S. companies for local guard contracts, as required by 22 U.S.C. § 4864(c)(3), has not been a factor in recent local guard contract competitions and is no longer relevant in the current local guard contracting environment.

OIG Could Not Determine Whether Best-Value Local Guard Contracting Would Be More Cost Effective, but it Would Likely Improve Contractor Performance

According to DS and A Bureau officials, award amounts for local guard services under best-value contracting would likely be higher, generally, than the amounts they have been paying using the lowest-price award method. However, according to those same and other officials interviewed, oversight costs could be lower under the best-value method than they have been under the lowest-price method, since it is expected that better qualified firms will enter competitions for the best-value awards. In evaluating the anticipated higher contract award amounts with the anticipated lower oversight costs, OIG could not determine whether the best-value method for awarding local guard contracts would likely be more cost effective overall in comparison with the lowest-price method for awarding the contracts.

Based on interviews with Department officials in Washington, DC, and officials at selected overseas diplomatic posts, OIG determined that selective use of the best-value method for awarding local guard services has the potential to improve contractor performance as compared with the current lowest-price method of awarding contracts. OIG made this determination based on its finding that awarding local guard contracts under a lowest-price standard in some cases resulted in problems with contractors that proved themselves to be incapable of fully performing the required services, despite being deemed “technically acceptable” by an evaluation panel formed to review offerors’ proposals during the contract competition.

Under the lowest-price and the best-value methods, the technical evaluation panel assigns contractors the following ratings in descending order: “excellent,” “good,” “marginal,” “unacceptable,” and “neutral.”⁶ Using the contractors exemplified in Table 1, under the lowest-price award method, the offeror who was technically acceptable and had submitted the lowest bid would most likely be awarded the contract—in this instance, Offeror B.

However, under the best-value method, the Government may consider factors other than price in making the award, such as technical approach and past performance, when the perceived benefit merits the additional cost, per FAR 15.101-1. In the examples in Table 1, the Government could choose Offeror C based on best value to the Government, recognizing the better performance ratings in addition to the bid. The use of the best-value method does not mean that the Government will not award a contract to the offeror that submits the lowest bid. It just gives the contracting officer the option of considering performance ratings rather than the bid alone.

⁶The technical evaluation panel assigns a neutral rating only if the offeror has no relevant past performance or if past performance information is not available.

Table 1. Lowest-Price and Best-Value Methods of Awarding Contracts

Description	Offeror A	Offeror B	Offeror C
Past Performance	Marginal	Marginal	Excellent
Technical Approach	Marginal	Marginal	Excellent
Key Personnel	Good	Marginal	Good
Management Response	Marginal	Marginal	Excellent
Offeror's Price	\$4.83 million	\$4.76 million	\$4.86 million

Source: U.S. Department of State, A/LM/AQM.

Department officials stated that the best-value award method would likely give contracting officers greater flexibility in making awards for local guard services in countries with high-threat security situations.⁷ An official from one such high-threat post stated: “At this post, lowest cost would equal [the] least well-equipped. With the higher-cost local guard force, the enhanced communications network and access to the resources of the larger company is of great benefit.”

Lowest-Price Award Method Often Limits Competition

Department officials stated that the lowest-price award method often limits competition. In contrast, having the option to use the best-value method could have the effect of encouraging larger, more qualified companies to compete for the awards, thus improving local guard contract performance while promoting cost competition. Another result could be fewer demands from post officials for contract oversight and problem resolution, thus enabling them to focus on other post security and administration duties.

The AQM contracting officer responsible for local guard contracts stated that all such contracts had been subject to full and open competition except for a small number that were set aside for small businesses. During the review, however, OIG noted that many contract competitions for local guard services under the current lowest-price award method had few qualified companies submitting offers that could foster robust price competition. Specifically, 18 of the 35 active guard contracts awarded by AQM in Washington, DC, had only one or two bidders competing that were deemed acceptable by a technical evaluation panel reviewing their qualifications. (OIG’s methodology for selecting these 35 contracts is detailed in Appendix A.)

In contrast, a contract awarded on September 29, 2010, to provide security services in high-threat areas and higher-than-critical threat areas, the Worldwide Protective Services (WPS) contract, was awarded under the best-value method. Local guard service requirements were

⁷According to the Security Environment Threat List, published semiannually by the Department, over 50 percent of all posts fall under the terrorism threat levels of critical or high, based on a four-category threat rating of low, medium, high, or critical.

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included for awards to be made in Iraq and Afghanistan.⁸ The solicitation for the WPS contract stated that it would be awarded as a “best-value” to the Government rather than to the lowest-price proposal, which likely encouraged greater interest among potential security services vendors. The WPS solicitation emphasized contractor technical qualifications and past performance as having greater significant than price. Twelve contractors provided offers, and awards were made to eight contractors. The WPS contract is an indefinite delivery/indefinite quantity umbrella contract in which contractors will compete for task orders throughout the world.⁹

DS and A Bureau officials stressed the advantages of having the authority to use the best-value award method as an option to promote greater competition among technically qualified firms. In response to OIG’s survey, one post official stated, “The bottom line is you get what you pay for—the lowest bidder usually provides the least motivated/dedicated and worst performing guards.” Information obtained from OIG’s survey seems to confirm this statement. Specifically, “insufficient guard training” and “absenteeism” were cited by more than one-third of the respondents who were encountering difficulties with contractors. Problems pertaining to “equipment and uniforms” were also cited by more than one-third of the respondents.

The Best-Value Award Method Is a Better Alternative in Certain Cases

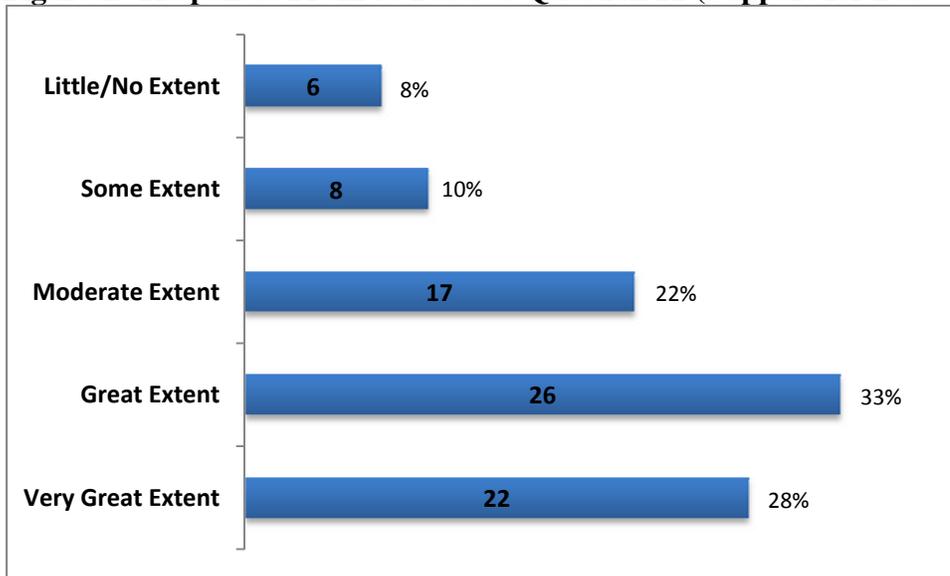
Department officials from both DS and the A Bureau stated that they would like to have the flexibility to utilize the best-value award method at selected posts worldwide. DS officials stated that they did not foresee utilizing these types of contracts “across the board” (that is, at all posts) but would welcome the opportunity to use best value based on some or all of the following factors: the post’s security needs; the country’s laws and regulations; and the availability of qualified, interested vendors. An AQM official stated that the Department does not have current experience using the best-value award method for local guard competitions and that Department officials therefore cannot directly compare the effectiveness of best-value with the lowest-price award method.

The results of OIG’s survey disclosed that 72 percent (62 of 86) of responding post officials stated that they had experienced problems with their current contractor (as discussed in the next section of this report). Additionally, survey respondents noted that on average, local guard contractors are monitored 23 hours per week, which could adversely impact post security. Given the problems that some posts have experienced with contracts awarded under the lowest-price method, it is understandable that 61 percent (48 of 79) of responding officials stated that they believed their posts would benefit to either a “great extent” or a “very great extent” from having the option of awarding local guard contracts on the basis of a best-value tradeoff. The responses for this particular survey question are depicted in Figure 1.

⁸Prior to WPS, the U.S. Embassies in Baghdad and Kabul had individual local guard force contracts.

⁹The WPS contract has a maximum value of \$10 billion for all task orders combined over the base year and four 1-year options.

Figure 1. Responses From 79 Posts to Question 11 (Support for Best-Value)



Source: OIG survey sent to posts.

As one respondent commented, “We feel that providing the highest level security for the lowest cost is the end goal and we are a big proponent of best value contracting in general.” Another respondent noted, “Based on my experience, best value is the way to go at any post that is rated Critical for crime, terrorism, and/or political violence.”

To supplement responses to the survey, OIG visited Embassies Paris (France) and Pretoria (South Africa) to interview post officials and observe local guards in action. The two posts were chosen because their local guard contracts were among the highest-cost contracts awarded by A/LM/AQM in Washington, DC. OIG also chose to visit these embassies because there had been significant performance deficiencies noted at these locations. (OIG’s methodology for selecting these two posts is presented in greater detail in Appendix A.)

Officials at Embassy Paris stated that they would like to have the option of using the best-value award method to better meet their post’s local guard needs. One Embassy Paris official stated that he “favor[s] getting the best qualified firms to provide the guard force [and not necessarily the lowest-cost].” Sentiments at Embassy Pretoria were similar. An RSO official there noted that the current local guard contractor had used the contract with the Mission to South Africa to help establish credibility and to be awarded other guard contracts in the country despite the performance deficiencies it has had with the Mission contract. Furthermore, South Africa has a well-developed guard industry, and the same post official noted that awarding the contract at a higher cost to a better qualified vendor using the best-value method would have likely avoided many of the problems the post has experienced with the current contractor, [REDACTED]

(b) (5)

Using the best-value award method, contracting officials can select the most advantageous local guard vendor by evaluating and comparing other factors in addition to cost. Potential local guard contractors can be closely examined, evaluated, and rated based on their qualifications and performance capabilities, and the best-qualified contractor that offered the best price can be chosen. In addition, the best-value method can be used to select local guard

contractors that present less risk and who are more likely to deliver the best overall value to the Government. In response to OIG’s survey, one RSO in the Bureau of Near Eastern Affairs stated:

I feel that best value guard contracts could minimize the risk of having very poorly paid guards. When guards do not make a living wage, problems snowball and one really can't have a decent guard program. There is also great value in strong contractor management, and a best value approach would allow us to take advantage of opportunities with contractors who have proven that they can find and retain good program managers and guard force commanders.

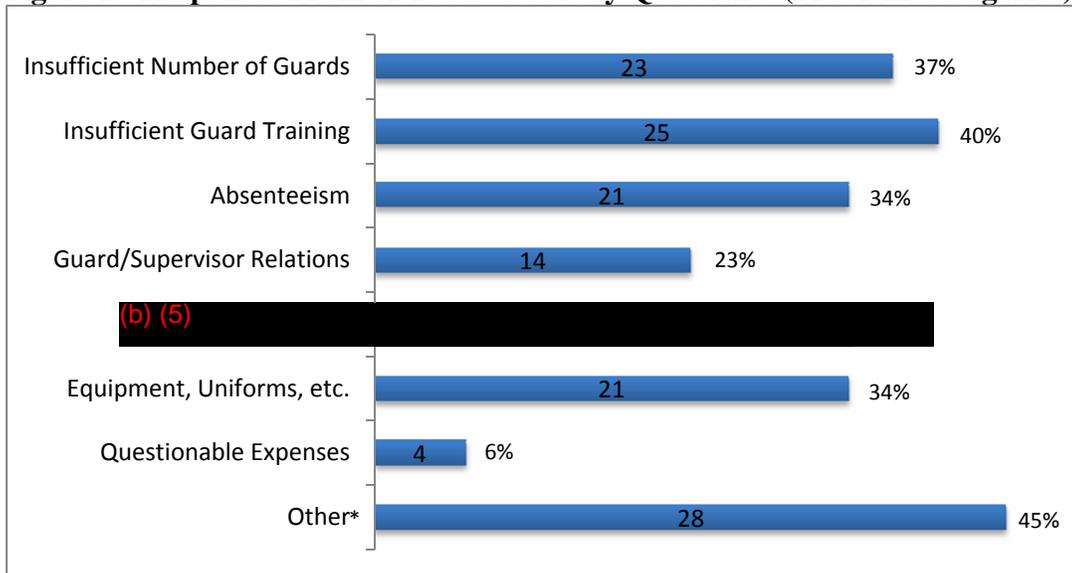
Another RSO stated:

A best value approach will minimize the burden of managing resources. The Regional Security Officers will have staff in the way of guards, supervisors, Project Managers[,] and administrative resources proportionate to the complexity of the security programs RSOs are expected to manage.

More Than Two-Thirds of Posts Responding to an OIG Survey Noted Problems With Their Local Guard Contract

Seventy-two percent (62 of 86) of survey respondents noted that they had experienced problems with their current contractor, as shown in Figure 2.

Figure 2. Responses From 62 Posts to Survey Question 9 (Problem Categories)



*Responses reported in the “Other” problem category included guards sleeping while on duty, guards not able to meet English language requirements, theft of government property, and labor actions (that is, strikes).

Source: OIG survey sent to posts.

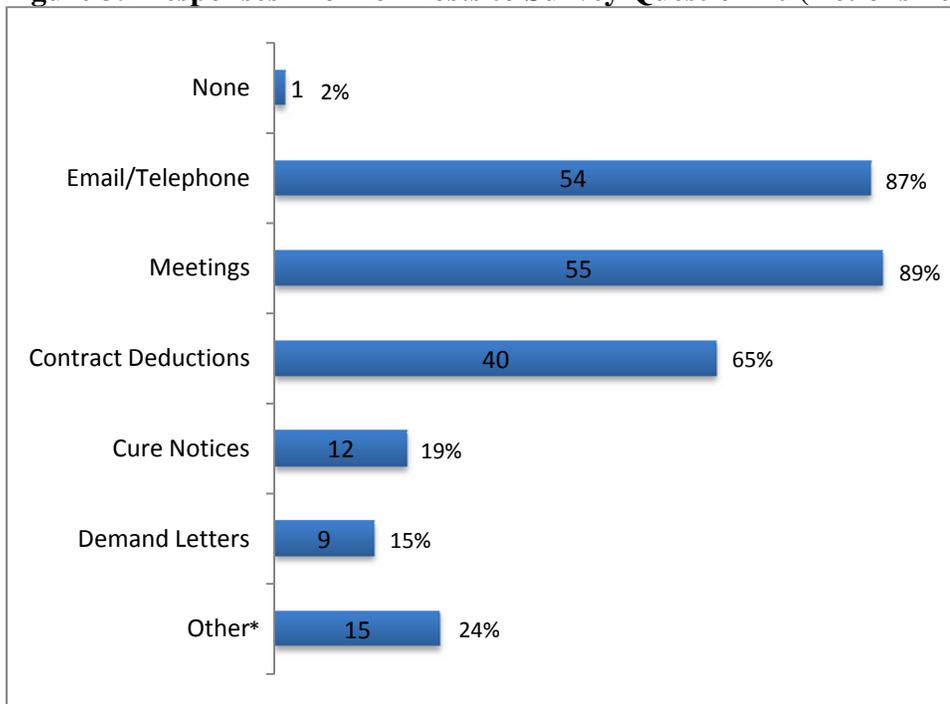
In France, OIG found that the contractor did not hire a replacement guard for a post in Marseille for at least 3 months but instead sent a guard from the Paris post for temporary duty.

In South Africa, the post identified all of the survey deficiencies noted in Figure 2. (b) (5)

Also in South Africa, the RSO’s locally employed guard supervisor noted the need to make periodic on-site security assessments of these family residences. Similarly, OIG accompanied RSO officials on an unannounced security assessment of a U.S. Agency for International Development facility in Pretoria, which is also protected by Embassy Pretoria’s local guard contractor. During the assessment, security deficiencies at the site were identified, and the guard supervisor was notified of the need to take immediate corrective actions.

Almost two-thirds of survey respondents reported that they had taken deductions (that is, monetary penalties) for performance deficiencies in an effort to correct local guard contractor performance problems. Almost 90 percent of respondents reported that they had had e-mail or telephone communications and/or face-to-face meetings with the contractor in attempts to remedy various problems, as shown in Figure 3.

Figure 3. Responses From 62 Posts to Survey Question 10 (Actions Taken)



*Responses reported in the “Other” category included personnel changes and remedial training.
Source: OIG survey sent to posts.

Recipients of Local Guard Contracts Are Not Always Sufficiently Qualified

OIG found that in some cases, minimally qualified companies that won contracts with unrealistically low offers were subsequently not able to fully meet the post guard needs specified in the contracts—a problem that may be mitigated by use of the best-value method. As a result, unexpected oversight and problem resolution demands have been placed on Department officials. In response to OIG’s survey, one RSO stated, “In my experience lowest bid is always equal to

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lowest level of service.” The same RSO observed that incumbent contractors often “low ball” offers to keep contracts and then immediately cut wages to generate any profit. (b) (5) present additional challenges for the RSO.

Of the 16 of 35 local guard contracts reviewed in which the Department noted performance problems and had issued one or more deficiency notices, OIG determined that significant price margins existed between the winning contractor’s offer and that of the next lowest-price offer. For example, at Embassy Bujumbura (Burundi), three contractors were qualified as technically acceptable. The winning contractor in that competition offered a price of \$3.8 million, while the next lowest offer was \$15.4 million, or a difference of \$11.6 million. At Embassy Santiago (Chile), two contractors were deemed technically acceptable. The winning contractor in that competition offered \$2.5 million, (b) (5) At Embassy Kampala (Uganda), for which the Department had issued nine deficiency notices, five contractors were deemed technically acceptable. The winning contractor in that competition offered \$11 million, while the next lowest offer was \$15 million, or a difference of \$4 million. At Embassy New Delhi (India), for which the Department had issued seven deficiency notices, four contractors were deemed technically acceptable. The winning contractor offered a price of \$8.6 million, while the next lowest offer was \$11.3 million, or a difference of \$2.7 million. Given these considerable differences in which price was the overriding factor in awarding these aforementioned problem contracts, use of the best-value approach could preclude this situation.

Local Guard Contracts Required Unexpected Oversight

OIG found that local guard contracts let under the current lowest-price award method often resulted in unexpected oversight and problem resolution demands being placed upon Department officials—a condition that may be alleviated by the use of the best-value method, where price is not the overriding factor in awarding the contract. For example, at Embassies Paris and Pretoria, local guard companies were not performing in accordance with their contracts. (b) (5)

Overseas staff indicated that substantial time was required to monitor the contracts, including hiring a full-time locally employed staff member to provide daily contract oversight. Based on an analysis of 35 local guard contracts at various overseas posts, OIG determined that 16 contracts (46 percent of those reviewed) had at least one or more problems that prompted post officials to issue deficiency notices to the contractor. For example, at Embassy Pretoria, Consulate General Johannesburg, and Consulates Durban and Cape Town, 60 deficiency notices had been sent to the local guard contractor. (b) (5)

The results obtained from the survey conducted for this review also were indicative of contract oversight challenges. Overall, post RSO personnel spent an average of about 23 hours per week to monitor their respective contracts, and at some posts, RSO personnel reported that the weekly oversight requirements reached 60 hours, or nearly three times the average reported. Regarding the oversight burden, 72 percent (62 of 86) of survey respondents noted that they had experienced one or more problems with their current contractor. The additional costs attributable

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to unexpected oversight and problem resolution for post officials can be substantial and include the time not devoted to other security responsibilities.

Department officials stated that some contractors with awards made under the lowest-price method performed unacceptably, although those vendors were rated “acceptable” by a technical evaluation panel examining their qualifications during contract competition. Moreover, despite financial penalties assessed for contract deficiencies, post officials at Embassy Paris stated that such penalties are often seen by the contractors as “just the cost of doing business” and “not sufficiently severe to force corrective actions to be taken in a timely manner.” An Embassy Pretoria official stated that, in his view, the current local guard contractor intentionally underbid the contract price, thus taking a loss, just to win that award because the U.S. Embassy contract was seen as prestigious and good for marketing the company’s brand. He further stated that the contractor is losing money because of deductions taken for poor contract performance and yet, in his view, there was still “insufficient incentive for the contractor to improve services or perform above the baseline of expectations.” He concluded by stating that for the next contract competition, the mission would benefit greatly from the best-value award method.

According to an AQM official, performance problems with local guard contractors at a number of posts have greatly increased post oversight burdens and have resulted in the issuance of multiple cure notices and show cause notices.¹⁰ One overseas official reported that he had experienced difficulties in managing the “problem contractors,” noting that such oversight expends administrative time that could be better spent on other tasks. Another post official stated that if the post’s local guard contract had been awarded to a more qualified company, RSO staff would likely not have to handle so many problems. The same official stated that the Department is “skimping on quality and service by going with the lowest-cost bidder” and that he believed there is an “inverse relationship between costs saved and the extra burden placed on post officials [for oversight].” Finally, one RSO suggested ways to improve contractor performance under a best-value award method as follows:

Currently the lowest bid is awarded the contract. This leads mostly to lower wages for guards. With lower wages, we see a direct correlation to guard performance and we lose a lot of guards through turnover. If RSO’s can have some input into wages for guards through the best-value tradeoff, we could see a tremendous increase in guard performance and lower turnover rates. (b) (5)

The 10 Percent Price Preference Given to U.S. Companies Is No Longer Relevant in the Current Local Guard Contracting Environment

OIG determined that the 10 percent price preference given to U.S. companies is not relevant in the current local guard contracting environment. The law¹¹ states that proposals from

¹⁰A cure notice is issued when a contractor fails to adhere to any elements of the contract. The notice identifies the problem and actions needed to correct or “cure” the problem. A show cause notice is issued to the contractor prior to termination of a contract for default. The notice identifies the contract deficiencies and demands the contractor explain or “show cause” why the contract should not be terminated. (Source: *Foreign Affairs Handbook*, 12 FAH-7 H-429.3.)

¹¹22 U.S.C § 4864.

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U.S. companies or qualified joint ventures “shall be evaluated by reducing the bid by 10 percent.” Based on an examination of contract competition documents for 35 local guard contracts, OIG found that the 10 percent price preference given to qualifying U.S. companies had no effect on the outcome of the awards. OIG further determined that it is easy for foreign companies wishing to take advantage of the price preference to become eligible by simply forming a joint venture with a U.S. company, thus largely negating the purpose of the preference. One Department official familiar with local guard contracting thought the 10 percent price preference was an “anachronism” in the current contracting environment, given the ease with which non-U.S. firms can partner with U.S.-based companies to claim the preference. An embassy official noted that embassies in developing countries often have local guard contracts that are awarded to local subsidiaries that have vague connections to a U.S. company or to a company that is simply a franchise of a U.S.-affiliated firm wholly owned and managed outside the United States. Such arrangements defeat the purpose of the price preference.

An AQM official identified only two contracts among the 35 contracts awarded by AQM in Washington, DC, in which the 10 percent price preference was applied: at Embassies Kinshasa (Democratic Republic of the Congo) and Seoul (Korea). Upon reviewing the files for these contracts, however, OIG found that in neither case did the price preference actually have an impact on the eventual award of the contract. For Embassy Kinshasa, one of the two bids that were found to be technically acceptable was submitted by a joint venture that was determined to be eligible for the 10 percent price preference. The second technically acceptable bid also qualified for a 10 percent price preference because it was submitted by a U.S. firm. The price preference made no difference in the outcome of the award, since both companies were qualified to receive the preference. For Embassy Seoul, the price preference provided to two technically acceptable U.S. companies made them more competitive cost-wise. However, even with the preference, a non-U.S. company was awarded the contract because that company’s offer was lower than the offers of the other companies, even after the price preference was applied to adjust the offer.

In addition, OIG found that for 28 of 35 local guard contract competitions, the 10 percent price preference made no difference in awarding the contract in most cases, either because all of the offerors claimed the preference or none of them did or because the preference was not enough for the offeror to win the award. The price preference was not applicable to the remaining five contracts OIG reviewed because the contracts were awarded on a sole-source¹² basis or were bridge contracts.¹³

Conclusions

OIG determined that the authority to apply the best-value award method would be a valuable option for encouraging qualified local guard firms to compete for contracts and for selecting local guard contractors best able to protect the Department’s diplomatic posts. The technical merit criteria applied by the best-value award method could provide an increased level

¹²“Sole-source” is a type of contract to a company without competition for the company to be the sole supplier of a product or service. (Source: FAR pt. 2.101).

¹³A “bridge” contract provides contractual coverage on a noncompetitive basis when needed at the expiration of a competitive contract. This type of contract will allow post time to complete the recompetition for a new contract. (Source: Overseas Contracting and Simplified Acquisition Guidebook [the “Cookbook”], ch. 4, pt. III.D)

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of security for posts, particularly those posts that have experienced problems with their current vendors under the lowest-price award method. The use of the best-value award method for local guard contracts could also permit RSO staff to spend more of their time on other matters within their purview of responsibilities, assuming reduced hours on oversight needed for better qualified vendors awarded contracts under the best-value method.

OIG also determined that the 10 percent price preference given to U.S. companies bidding on local guard contracts has not been a factor in recent local guard contract competitions and that this requirement may therefore no longer be needed.

Matters for Congressional Consideration

OIG offers the Senate Committee on Foreign Relations, in assessing application of the best-value contracting method for the Department's Local Guard Program, the following suggestions:

1. Expand Department of State authority to use the best-value award methodology beyond Iraq, Afghanistan, and Pakistan for local guard services at overseas diplomatic posts.
2. Review the need for a 10 percent price preference given to U.S. companies bidding on local guard contracts because the preference has not been demonstrated to be a factor in recent local guard competitions.

Scope and Methodology

The Office of Inspector General (OIG) conducted this review between July 2011 and January 2012 in Washington, DC, and at Embassy Paris and Embassy Pretoria. OIG interviewed officials from the Bureau of Diplomatic Security, Office of International Programs, Office of Overseas Protective Operations (DS/IP/OPO), as well as officials from the Bureau of Administration, Office of Logistics Management, Office of Acquisitions Management (A/LM/AQM). While conducting fieldwork overseas, OIG interviewed staff members at Embassies Paris and Pretoria. OIG judgmentally selected these two embassies as site-visit locations because the local guard contracts at these posts were among the highest cost local guard contracts awarded by A/LM/AQM in Washington, DC (first- and third-highest costs among such contracts over their full 5-year performance periods, at \$60.7 million and \$33.2 million, respectively). OIG also chose to visit Embassies Paris and Pretoria because there had been significant performance problems reported at these locations, including two deficiency notices¹ issued to the Paris local guard contractor and an unusually high 60 such notices issued to the Pretoria contractor.

Of the 104 local guard contracts that were active as of August 1, 2011, OIG reviewed documentation for all 35 contracts that were awarded by A/LM/AQM in Washington, DC. (The remaining 69 active contracts were awarded at overseas posts, and those contract files were not easily accessible for review.) During a review of these files, to analyze the relationship between contract performance and competition methods, OIG focused on documents that described performance problems, including cure notices, deficiency letters, and deduction letters.

OIG conducted a survey of officials at all 104 posts with an active local guard contract, whether that contract was awarded by AQM in Washington, DC, or at post. (The survey and its results are summarized in Appendix C.) In those instances where a response was received from more than one person at a particular post, the response from the individual who was believed to be more involved with contract oversight at that post was used. If an individual submitted more than one response, the response that had the most complete information was used.

OIG also reviewed information available on the Web site USAspending.gov to determine how many of the 104 contracts had been awarded to U.S.-based companies and to determine whether the U.S.-based companies were subsidiaries of foreign firms. In a number of instances, however, the information on the Web site about the U.S.-owned or foreign-owned status of local guard contractors was incomplete or unclear and therefore could not be used.

OIG briefed officials from DS and the A Bureau on the results of the review in November 2011, and those officials were generally in agreement with the report's findings.

¹A deficiency notice is a written notice issued by a contracting officer that states a deficiency the contractor has had in meeting the terms of the contract, and it requires the contractor to provide a remedy. (Source: Overseas Contracting and Simplified Acquisition Guidebook [the "Cookbook"], ch. 7, pt. XI.C)

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Neither bureau provided comments on the draft report. However, the Bureau of African Affairs provided written comments, which are presented in Appendix D.

This review was performed by the Office of Audits, Contracts and Grants Division.

JOHN F. KERRY, MASSACHUSETTS, CHAIRMAN

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United States Senate

COMMITTEE ON FOREIGN RELATIONS

WASHINGTON, DC 20510-6225

FRANK G. LOWENSTEIN, STAFF DIRECTOR
KENNETH A. MYERS, JR., REPUBLICAN STAFF DIRECTOR

June 27, 2011

Mr. Harold W. Geisel
Deputy Inspector General
Office of Inspector General
Department of State
Washington, DC 20520

Dear Inspector Geisel:

We write to you today regarding growing Congressional concerns related to the increasing costs of the Department of State's Local Guard program, which is used to provide protective services to our diplomatic missions and personnel overseas.

Current legislation allows the Department of State to award such contracts on a best value/technically-acceptable basis rather than simply on a lowest cost basis in Iraq, Afghanistan and Pakistan. This exception was made, in part, due to the unique challenges posed by each of these locations. Additionally, Congress was concerned that some guard contracts that were awarded based on lowest price resulted in either higher costs when as vendors found their wage scales were unrealistic and were forced to pay more or when low-paid employees provided sub-standard performance.

In order to determine the impact of this policy with regard to these three countries, and possible application of this award basis to guard contracts world-wide, we request that the Office of Inspector General examine the question of best-value contracting for local guards to determine, in an assessment, whether:

- best-value local guard contracting is more cost-effective and leads to improved service delivery than technically-acceptable, lowest cost contracting
- overseas posts require greater oversight for technically-acceptable, lowest cost basis contractors, and
- a 10% price preference for firms that that meet the statutory definition for "United States person" is viable in today's market.

Should you have any questions, please contact Steve Feldstein for the Majority (224-4934) and Paul Foldi for the Minority (224-1439).

Sincerely,



Richard G. Lugar
Ranking Member



John F. Kerry
Chairman



**United States Department of State
and the Broadcasting Board of Governors**

Office of the Inspector General

Local Guard Program Survey

At the request of the Senate Committee on Foreign Relations, the Office of Inspector General (OIG), Office of Audits, is conducting a review of Best Value Contracting for the Department of State Local Guard Program (LGP) and the Utility of Expanding the Policy beyond High Threat Posts in Iraq, Afghanistan, and Pakistan. This survey is being sent to solicit the views and other information from those persons who administer the local guard contracts at post.

Please take time to complete the short survey and return it to OIG within two weeks of the date of this e-mail. **Completing the survey will take approximately 10 minutes.**

Although the survey is addressed to the RSO and/or GSO, consultation with others may be helpful in responding to some of the questions. OIG encourages this approach but requests that only the RSO and/or GSO control the process and return a single post response to OIG. This will assist OIG efforts to timely compile the responses and report the findings.

Please open the attachment on the "Message" line to access the survey. If you have any questions, please contact (b) (6)

Completed surveys can be emailed as an attachment to oiglgpreview@state.gov.

Thank you for participating in this important survey.

- Notes:
- (1) Responses to the questions are first expressed in raw totals and then followed by percentages enclosed by parentheses, unless specified otherwise.
 - (2) Percentages may not add to 100 due to rounding; additionally, the number of responses to each question is not identical because respondents did not answer all questions.
 - (3) For questions 6 and 11, the asterisk in the last response choice indicates that "Don't know/no basis to judge" responses were filtered from the data for clarity of the analysis and presentation. Consequently, for question 6, only respondents actually providing assessments were included in calculating the rates pertaining to contractor performance, and for question 11, only respondents actually providing opinions were included in calculating the rates pertaining to the benefit, if any, from awarding local guard contracts on the basis of best-value tradeoff.

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1. What is your position at post? (*Check one.*)

- 1. [85 (99%)] RSO/ARSO
- 2. [0 (0%)] GSO
- 3. [1 (1%)] Other (*Please specify.*)_____

2. About how long have you been overseeing the local guard contract at post?

Responses averaged 12 months.

3. How would you characterize the awarding of your post's current LGP contract? (*Check one.*)

- 1. [78 (93%)] Competitive (i.e., two or more offerors)
- 2. [6 (7%)] Non-competitive (i.e., sole-source or only one offeror)

4. How satisfied or dissatisfied are you with the current LGP contractor's performance? (*Check one.*)

- 1. [20 (23%)] Very satisfied
- 2. [39 (45%)] Generally satisfied
- 3. [16 (19%)] Neither satisfied nor dissatisfied
- 4. [6 (7%)] Generally dissatisfied
- 5. [5 (6%)] Very dissatisfied
- 6. [0 (0%)] Don't know/no basis to judge

5. Was your current LGP contractor the incumbent? (*Check one.*)

- 1. [57 (66%)] Yes -----> **GO TO QUESTION 7.**
- 2. [29 (34%)] No

6. How would you evaluate the current LGP contractor's performance as compared to the previous contractor? (*Check one.*)

- 1. [4 (24%)] Very superior to the previous contractor
- 2. [5 (29%)] Somewhat superior to the previous contractor
- 3. [4 (24%)] About the same
- 4. [3 (18%)] Somewhat inferior to the previous contractor
- 5. [1 (6%)] Very inferior to the previous contractor
- 6. [*] Don't know/no basis to judge

7. On average, about how many hours per week is your current LGP contractor subject to monitoring?

Responses averaged 23 hours per week.

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8. Have you encountered any problem(s) with your current LGP contractor? (*Check one.*)
1. [62 (72%)] Yes
 2. [24 (28%)] No -----> **GO TO QUESTION 11.**
9. How would you categorize the problem(s)? (*Check all that apply.*)
1. [23 (37%)] Insufficient number of guards
 2. [25 (40%)] Insufficient guard training
 3. [21 (34%)] Absenteeism
 4. [14 (23%)] Guard – Supervisor relations
 5. (b) (5)
 6. [21 (34%)] Equipment, uniforms, etc.
 7. [4 (6%)] Questionable expenses
 8. [28 (45%)] Other (*Please specify.*) _____
10. What action(s), if any, have you taken to correct the problem(s)? (*Check all that apply.*)
1. [1 (2%)] None
 2. [54 (87%)] E-mail or telephone communications
 3. [55 (89%)] Face-to-face meetings
 4. [40 (65%)] Contract deductions for performance deficiencies
 5. [12 (19%)] Cure notices
 6. [9 (15%)] Demand letters
 7. [15 (24%)] Other (*Please specify.*) _____
11. To what extent, if at all, do you believe that your post would benefit from having the option of awarding local guard contracts on the basis of a best-value tradeoff (performed per the requirements of FAR 15.101) rather than the current statutorily required method of selecting the lowest-priced bid among those bids considered technically acceptable? (*Check one.*)
1. [6 (8%)] Little or no extent
 2. [8 (10%)] Some extent
 3. [17 (22%)] Moderate extent
 4. [26 (33%)] Great extent
 5. [22 (28%)] Very great extent
 6. [*] Don't know/no basis to judge
12. Please use the space below to elaborate on any answer and/or to provide suggestions for improving the local guard program. (If your comments address a specific question above, please cite the question number in your comments.)

43 respondents (50%) provided substantive feedback.



United States Department of State

Bureau of African Affairs

Washington, D.C. 20520-6258

January 24, 2012

MEMORANDUM
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TO: OIG – Patrick Sampson
 OIG – Mark Taylor
 OIG – Richard Astor

FROM: AF/EX – Michael A. Raynor *MR*

SUBJECT: Draft Report - Review of Best-Value Contracting for the Department
 of State Local Guard Program and the Utility of Expanding the
 Policy Beyond High-Threat Posts in Iraq, Afghanistan, and Pakistan

I'm encouraged by this report, which does a balanced and credible job of capturing the challenges AF posts (at least) can face when LGP contracts are awarded to the lowest bidder. As the report notes, the low bidder concept not only discourages competition from more qualified bidders but often results in poorly paid and motivated guards, and we'd be very pleased if Congress expands the best value award system. We in AF are particularly concerned with the problem of lowest-bid contractors paying guards less than living wages, not only because of the human and security costs but because this often undercuts our Missions' broader engagement in championing human rights.

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