



PRISONER OPERATIONS

9.3 Guards

CONTRACT GUARDS

- A. **Contract Detention Facility Guard Services:** Whenever possible, USMS will acquire guard services, as a part of the IGA(s) with local detention facilities. Payments for such services will be made directly to the detention facility and charged to Financial Object Class 1150.
- B. **Reimbursement from BOP:** Federal Bureau of Prisons (BOP) prisoners serving sentences in local detention facilities are provided transportation and hospital guard services by district offices on a reimbursable basis. An SF-1080, *Voucher for Transfer Between Appropriations and/or Funds* will be completed by USMs and submitted to the CCM for certification. The CCM will submit the SF-1080 to their regional office for processing. Upon receipt of a check, the district will deposit the reimbursement to the Federal Prisoner Detention Account, Financial Object Class 1150.
- C. **Guards for BOP Prisoners:** When a BOP facility requires contract guard services, the USMS guard company contract may be expanded to include BOP. The BOP facility requiring guard services is responsible for contacting the guards, establishing a guard schedule, monitoring the detail, and making direct payment to the guard company for services performed.

HOSPITAL GUARDS

- A. **Authority:** The Federal Prisoner Detention appropriation authorizes funds for the housing, care, and safekeeping of Federal prisoners. 28 USC 565 and 28 CFR 0.111(k), authorize the disbursement of appropriated funds to satisfy Government obligations. This includes the custody of Federal prisoners while confined in non-Federal medical facilities. The services of individuals used as hospital guards must be covered by the issuance of an OF-347 (small purchase). It is strongly recommended that each U.S. Marshal obtain such hospital guard services through a formal guard contract with the USMS or as part of an IGA with a state and local government. If additional guidance is required, please contact the Procurement Office.
- B. **General:** Stationary or hospital guards provide custody control over Federal prisoners. Guard services may be provided by a state or local jail through an IGA, individual off-duty police or correctional officers, or established guard or security companies. U.S. Marshals are responsible for determining the placement of prisoners under the supervision of a guard, the number of guards required for a detail, that the qualification of guards used meet established standards, and that guards are properly instructed as to their duties and responsibilities.
 1. **Control of Guard Use:** The U.S. Marshal is responsible for the safekeeping and custody of prisoners remanded to his or her custody. The U.S. Marshal will determine on a case-by-case basis the status and level of security required for prisoners requiring hospitalization or outpatient medical care and elect to utilize guards and/or deputies to perform hospital guard services. Guards will be paid from the Federal Prisoner Detention appropriation. Deputies who perform hospital guard services will be paid from the Salaries and Expenses appropriation.
- C. **Standards for Hospital Guards:** Every individual who is to be used to perform hospital guard services is required to complete Form USM-234, Personal Qualifications Statement. Police officers or correctional officers employed on a full-time basis, and whose good standing with a state or local government agency has been verified by the U.S. Marshal, do not need to complete the form USM-234. Guards who are employed by guard service companies are normally not required to complete Form USM-234 as the work performance standards are clearly stated in the formal contract. U.S. Marshals are required to review each guard application to ensure that individuals meet or exceed the requirements specified.
- D. **Requirements.**

1. General Requirements: All applicants must fulfill the following requirements:

- a. Be a United States citizen;
- b. Be at least 21 years of age;
- c. Speak, read, and write the English language;
- e. Possess a valid driver's license;
- f. Demonstrate a proficiency in firearms that meets USMS standards if the assignment requires the use of an armed contract guard;
- g. Be physically able to perform the full range of contract guard duties as described in the *Statement of Work* (SOW) without limitation (see *Fit-for-Duty Medical Certification* for minimum standards);
- h. Have no medical problems (e.g., amputations, deformities, disabilities, etc.) that would restrict strenuous exertion or prevent satisfactory performance;
- l. Have no history of medical problems (e.g., high blood pressure, heart or respiratory disease, etc.) that would restrict strenuous exertion;
- j. Have no other health-related problems such as alcohol dependency, controlled substance abuse, illegal drug use, mental illness, or psychological disorders;
- k. Have the strength, agility, and stamina to apprehend and physically subdue a prisoner without dependence upon a weapon -- medical problems which would restrict strenuous exertion are disqualifying; and
- l. Have the ability to hear conversational voices without the use of hearing aids at a long distance of 20 feet.

2. Firearms/Less Lethal Devices: The districts will identify the guards that they require to provide services while armed. Before providing services while armed, contract guards must meet the training and qualification requirements stated in the current USMS *Firearms* Directive, unless otherwise specified in this directive. Special Deputation is not required for contract guards to provide services while armed.

E. Training and Orientation of Hospital Guards: U.S. Marshals are to provide orientation for individual hospital guards or employees of guard service companies following current USMS directives on prisoner processing, district policy and procedures, and specific requirements, duties, and functions listed on procurement documents.

F. Individual Hospital Guard Records: Districts are to maintain a folder for each individual guard for a period of three years after the last date of service. The guard folder is to contain the district's copy of the OF-347; a USM-234 if required; a record of services performed including dates, locations, and prisoners assigned; and each payment voucher. Tax and payroll records may be maintained separately. It is also advisable to maintain a picture and a copy of fingerprints on individuals who are not active law enforcement or correctional officers.

1. Hospital Guard Rates: Individual hospital guard rate ceilings are to be negotiated and set in writing by the U.S. Marshal. Formal guard company contract rates and guard services provided for by jail contract are established based upon cost and pricing data and Department of Labor wage rates.

2. Accounting Procedures: The U.S. Marshal or an authorized Certifying Officer will review and approve individual guard logs, Form USM-237, and vouchers submitted for payment. Guard service payments are charged against the Federal Prisoner Detention appropriation, financial Object Classes 1150 and 1223.

G. Guards for Bureau of Prisons (BOP) Prisoners: BOP institutions are responsible for providing and paying directly for health care and guard services for committed BOP prisoners. The USMS does not accept transfer of custody of BOP inmates for the purpose of providing medical services. When a Federal institution has a need for contract guard company services, and the contract guard company expresses an interest in performing services for the institution, the formal guard company contract may be expanded to include BOP.

However, the institution requiring such guard services is responsible for contacting the guards, establishing a guard schedule, monitoring the detail, and making direct payment to the guard company for services performed.

1. Reimbursements from Bureau of Prisons: Prisoners serving sentences in local contract jails are provided transportation and hospital guard services by district offices on a reimbursable basis from the Bureau of Prisons. An SF-1080 (Voucher for Transfer Between Appropriations and/or Funds) should be completed by the U.S. Marshals and submitted to the Community Corrections Manager (CCM) for certification. The CCM should then submit the SF-1080 to his or her regional office for processing. Upon receipt of a check, the district will deposit the reimbursement to the Federal Prisoner Detention appropriation under financial Object Class 1150.

- H. Guard Transportation of Prisoners:** Hospital guards may also be used to transport prisoners to and from detention centers for local outpatient medical care or hospitalization at the discretion of the U.S. Marshal. Guards utilized for such transportation must be trained and certified in USMS prisoner security and prisoner handling procedures by the U.S. Marshal.
- I. Hospitals with Security Wards:** Most large cities have established security wards in one or more public hospitals to serve local prisoner needs. The USMS will use these facilities whenever possible for Federal prisoners requiring hospitalization to reduce the drain on agency resources.
- J. Hospital Visitation:** The USMS may authorize, under certain circumstances such as terminal or major illnesses, visits by a prisoner's family and friends. Attorney visits may be permitted with appropriate security. Hospital guards will be given a list of visitors, in advance, approved by the USM. Hospital guards will maintain a visitor register showing name (established with proper identification), address, date, and time of visit. Visits will be limited in length by district office and hospital policy.
- K. Contraband:** The USMS will instruct hospital personnel that all packages, mail and flowers, must be carefully searched for contraband by hospital guards prior to delivery to prisoners. Hospital guards will notify the USM or duty officer regarding any item in question before delivery to a prisoner. Hospital guards will maintain a log of all items given to a prisoner and the name and addresses of senders or providers. Any contraband found will be seized by hospital guards and a written report submitted to the USM.

CONTRACT DISTRICT SECURITY OFFICERS - USE OF PERSONAL SERVICES

- A. Proponent:** Prisoner Operations Division (POD).
- B. Purpose:** This directive establishes policy and procedures for acquiring District Security Officers under a personal services contract.
- C. Authority:** The Director's authority to issue written directives is set forth in 28 CFR 0.111 and 28 USC 561 (g). The United States Marshals Service (USMS) derives its authority to acquire District Security Officers under personal services contracts from 28 USC 565.
- D. Policy:** It is the policy of the USMS to allow United States Marshals and the Justice Prisoner and Alien Transportation System (JPATS) to acquire District Security Officer services pursuant to personal services contracts.
- E. Procedures**
 - 1. General**
 - a. Working Title:** Personal services contract guards in the districts will be referred to as District Security Officers (DSO). JPATS personal services contract guards will be referred to as Aviation Security Officers (ASO). For the purposes of this policy, the terms "District Security Officer" and "DSO" will refer to both District Security Officers and Aviation Security Officers. When a reference is made to the United States Marshal (USM), this term shall refer to both the USM and the Assistant Director for JPATS.
 - b.** The authority and jurisdiction extended to, or provided by, the personal services contract is strictly limited to the time services are directly provided by the DSO to the USMS. No authority to enforce federal laws or to carry a concealed weapon is extended to the DSO unless performing official duties for the USMS.

2. **Legal Considerations**

- a. Although they may appear to be government employees, individuals engaged under personal services contracts are not employees of the United States Government, the Department of Justice (DOJ), or the USMS, nor are they engaged to replace full-time, permanent USMS employees. The DSO is providing services as an independent contractor and no master/servant, employer/employee, or agency relationship is created by the contract. Individuals engaged as contract DSOs are not appointed to the federal civil service and are not eligible to be enrolled in the Federal Employees Health Benefits Program. Additionally, DSOs are not entitled to pension benefits, annual or sick leave, health insurance benefits, or other federal employee pay benefits or services.
- b. Individuals engaged under personal service contracts may be considered employees for the purposes of government liability in civil matters and for the purposes of workers' compensation under the Federal Employees Compensation Act, 5 USC § 8101, et seq. In the event of an injury to a DSO, the USM shall notify the Chief of Prisoner Operations, Prisoner Operations Division (POD).
- c. State or local police agencies or employees may ask the USMS on a case-by-case basis to indemnify them for any liability as a result of using an off-duty police officer as a personal services DSO. The USMS cannot execute open-ended indemnification agreements because of the potential for violating the Anti-Deficiency Act.

3. **Scope of Services**

a. **DSO duties**

- (1) Securing and processing federal prisoners in the cellblock, courtroom, and during transportation
- (2) Securing and transporting federal prisoners to and from medical appointments and/or hospitalization
- (3) Securing federal, seized, or forfeited property (including entry control, roving patrol, fixed posts, and emergency response)

b. **Restrictions:** DSOs may not be used for:

- (1) Any investigations
- (2) Out-of-district special assignments
- (3) International extraditions (JPATS Aviation Security Officers may be an exception during prisoner movements)
- (4) Personal security details
- (5) Witness security details (JPATS Aviation Security Officers may be an exception during prisoner movements)
- (6) Administrative support functions
- (7) Any supervisory function

c. **Work Schedule:** Contracted hours will be scheduled on an "on call/as needed" basis.

d. District and JPATS management will determine if a DSO is able to safely perform duties for the USMS on those occasions when the DSO has also worked a shift or hours with a local agency (e.g., working a double shift).

- (1) A USM-7, Bi-Weekly Time Report is to be used to record all DSO hours.
- (2) DSOs cannot be scheduled for more than 16 USMS duty hours per day.
- (3) Overtime compensation may be paid after 40 hours have been worked under the USMS contract per work week (Sunday 0001 hours through Saturday 2400 hours). Any overtime compensation paid to a DSO must be at the overtime rate specified in the contract (if any) and approved, in advance, by the USMS.
- (4) USMS operational personnel have the right to first refuse an opportunity to work overtime hours prior to a DSO being offered overtime, provided Law Enforcement Availability Pay (LEAP) hours have been worked, and the event has been scheduled a week in advance (if applicable).
- (5) **Termination of Services:** Personal services contracts for DSOs may be terminated by the Contracting Officer pursuant to the termination clause of the contract (FAR 52.249-12). The clause requires 15 day advance notice of termination. All USMS property and identification must be accounted for and collected by the termination date.

4. **Requirements**

a. **General Requirements:** All DSO applicants must fulfill the following requirements:

- (1) Be a United States citizen;
- (2) Be at least 21 years of age;
- (3) Have a high school diploma or equivalent;
- (4) Speak, read and write the English language;
- (5) Possess a valid driver's license;
- (6) Demonstrate a proficiency in firearms that meets USMS standards if the assignment requires the use of an armed DSO;
- (7) Be physically able to perform the full range of DSO duties without limitation as described in the *Statement of Work (SOW)* (for minimum standards see Form USM-600, *Physical Requirements of USMS District Security Officers*);
- (8) Have no immediate medical problems (e.g., amputations, deformities, disabilities, etc.) that would restrict strenuous exertion or prevent satisfactory performance;
- (9) Have no history of medical problems (e.g., uncontrolled high blood pressure, heart or respiratory disease, etc.) that would restrict strenuous exertion;
- (10) Have no other health-related problems such as alcohol dependency, controlled substance abuse, illegal drug use, mental illness, or psychological disorders which impedes their ability to perform the essential functions of the position.
- (11) Must not have been convicted of a crime of domestic violence. The applicant must be able to comply with all requirements of the Lautenberg Amendment.

b. **Categories:** Categories are used to separate DSO applicants into groups for the purpose of contracting procedures and processing. These categories do not represent any hierarchy of qualifications.

- (1) Category 1 consists of those who are actively employed or reserve sworn state or local law enforcement officers with a minimum of 1 year full-time law enforcement employment/experience.
- (2) Category 2 consists of the following:
 - (a) Former/retired sworn federal, state, or local law enforcement officers with a

minimum of 1 year full-time law enforcement experience who are separated no longer than 5 years from law enforcement employment.

- (b) Former/retired military police with full-time experience who have performed comparable duties supervising detainees on a regular basis and who are separated no longer than 5 years from law enforcement employment.
- (c) Private security/correctional officers. Employment as a private security officer does not qualify applicants unless they have at least 3 years of full-time security duties monitoring detainees on a regular basis. Applicants must also have received an accredited law enforcement certification of training. Academic or technical training may **not** be substituted for experience.

c. **5-Year Requirement Exceptions:** On a limited basis, certain category 2 DSO applicants may be granted an exclusion from the 5-year separation requirement. In these cases, the requesting district/division must send a request to the Chief of Prisoner Operations outlining the rationale for this exception. A determination will then be made by the Chief of Prisoner Operations and the requestor will be notified of the decision. The DSO in question may not be utilized until a positive determination has been made to waive this requirement.

d. **Special Deputation:** Formal Special Deputation is not required for a DSO to provide services while armed or unarmed. The *Statement of Work* authorizes the DSO to perform services while armed, carry a concealed firearm, cross jurisdictional boundaries, and enforce federal laws. Pursuant to 28 U.S.C. § 566(d), DSO's are designated as officials of the USMS authorized to carry firearms and make arrests in accordance with Federal law while performing official duties.

5. **Requisite Training:** The districts and JPATS are responsible for ensuring the DSO receives required training within 30 calendar days of first providing service. Recertification of DSOs who have previously completed the initial training must be accomplished on an annual basis.

- a. Both initial and recertification training will be performed using the USMS DSO Training CD-ROM which contains all the mandatory videos and USMS policies. The completion of each training requirement will be noted on the Form USM-601, *District Security Officers Personnel Certification* and maintained in the district DSO certification file.
- b. Additionally, DSOs assigned to JPATS must receive rear cabin crew member training annually.
- c. Each DSO will receive training from district or JPATS personnel on the proper application and removal of all USMS restraints. District Security Officers must demonstrate their proficiency to the satisfaction of USMS district and JPATS management.
- d. Each DSO will receive training from district or JPATS personnel on the proper procedures and policies for conducting all USMS searches of a person, vehicle, and other articles. District Security Officers must demonstrate proficiency to the satisfaction of USMS district and JPATS management.

6. **Firearms/Less-Than-Lethal devices:** The districts and JPATS will identify those DSOs who are required to provide services while armed. Before providing services while armed, DSOs must meet the training and qualification requirements stated in the current USMS *Firearms* directive, unless otherwise specified in this directive. Special Deputation is not required for DSOs to provide services while armed.

- a. Active and reserve sworn state and local law enforcement officers (Category 1) may carry the handgun and ammunition authorized for carry by the agency with whom they are employed after the USMS district firearms instructor has inspected the firearm for compliance with the USMS directive.
- b. DSOs (Category 2) may carry approved handguns and ammunition after inspection and approval by the USMS Firearms Instructor for compliance with USMS policy. Questions regarding specific weapons that comply with the USMS *Firearms* policy may be directed to the Training Academy Armorer. Category 2 DSOs may also be issued excess USMS firearms for carriage while on duty in accordance with the USMS *Firearms* directive. In these cases, consult with the Office of Property Management regarding the availability and acquisition of USMS-owned firearms for issuance to DSOs.
- c. DSOs under special circumstances may be issued USMS shotguns and ammunition as approved by the U.S. Marshal, Assistant Director, or designee. Rifles are not authorized for DSO use.

- d. **Firearms Qualification**
 - (1) Category 1 DSOs are exempt from USMS firearms qualifications if they certify in the Affirmation of Work Qualifications for DSOs that they are currently qualified and authorized to carry their duty firearm. Otherwise, the USMS is required to qualify Category 1 DSOs in accordance with USMS *Firearms* directive.
 - (2) Category 1 DSOs must have been qualified by their agency within the past 12 months and must meet their agency requirements. Otherwise, the USMS is required to qualify the DSOs in accordance with USMS *Firearms* directive.
 - (3) Category 2 DSOs are required to qualify in accordance with USMS *Firearms* directive.
 - e. **Less-Than-Lethal Devices:** The use and issuance of less-than-lethal devices to DSOs are at the discretion of the district or JPATS management. Category 1 DSOs may carry less-than-lethal devices issued by their department or agency if their training meets or exceeds USMS standards as determined by the certified USMS Less-Than-Lethal Instructor and the USM/Assistant Director (or their designee). The districts and JPATS may issue Categories 1 and 2 DSOs USMS less-than-lethal devices for use only after the DSOs have completed the required training according to USMS less-than-lethal devices directive and the issuance has been approved by the USM, Assistant Director, or designee. In cases where a Category 1 DSO's departmental less-than-lethal weapon training does not to meet USMS standards, those DSOs must complete USMS training before issuance.
7. **Accountable Property:** All USMS accountable property such as USMS-issued weapons, USMS-issued identification, and related property or equipment will be secured in USMS custody at the end of each tour of duty.
- a. USMS management may waive this requirement when exigent circumstances make it impractical to secure issued items (i.e., an overnight assignment). Exceptions may be granted only on a non-recurring basis.
 - b. Lost or stolen government property, including weapons, identification, uniforms with the USMS insignia, or other issued equipment, must be immediately reported to the USM or designee. Lost or stolen accountable property must be reported according to USMS *Management of Personal Property* directive.
 - c. Accountable property **must** be retrieved from DSOs before their services are discontinued.
8. **USMS DSO Identification Card:** USMS DSOs may be issued a standardized identification card when it is determined that an operational need exists. The procedures outlined below must be followed to ensure uniformity with USMS issued identification cards. No alterations, additions, or deletions are permitted to this identification card. This district/division issued identification is separate from the standard U.S. Government Identification (Smart Card) as required for unescorted DSOs by Homeland Security Presidential Directive 12 (see Section #9 below):
- a. The Human Resources Division (HRD), Personnel Security Branch (PSB), will have oversight of DSO identification.
 - (1) DSO identification cards will only be issued utilizing Form USM-230(a), supplied by the HRD, Personnel Security Branch, which issues the protocol for DSO identification cards.
 - (2) The DSO identification cards are governed by the USMS *Badge and Credential* directive.
 - b. Districts and JPATS will be responsible for printing, issuing, and accounting for the DSO identification.
 - (1) Districts may issue DSO identification in a pin and clip form or credential case form.
 - (2) Two photographs will be taken of each DSO. One will be placed on the identification card. The second photograph will be maintained by the district and JPATS in the DSO certification file.
 - (3) Identification cards will be printed and laminated as directed by HRD.

- (4) Identification cards will be hand receipted annually on a USM-288A, *Hand Receipt* to be maintained in the DSO certification file.
 - (5) Districts and JPATS must retrieve DSO identification cards when the contract expires or when it is determined that the individual will no longer perform services for the USMS.
 - (6) Districts and JPATS will develop a log book of issued identification cards and such book will be maintained by the USM or designee. The log book will contain at a minimum the following information: ID number, DSO's full name, date of issue, expiration date, and the initials of person issuing the identification card.
 - (7) DSO identification cards will expire no later than three years from the date of issuance.
9. **Homeland Security Presidential Directive 12 (HSPD 12) - Smart Card:** This Presidential Directive (August 2004) ordered that all federal employees and contractors be issued a standard identification to access federally controlled facilities and/or information systems. This mandatory identification for unescorted DSOs is separate from the discretionary DSO identification card directly issued by the district/division. Based on this directive, the below outlined HSPD 12 security procedures will apply to each new or existing DSO whose background investigation process begins after October 27, 2005. The effective date for the issuance of Smart Cards will be October 2006 for all employees and contractors, to include DSOs. ***The following procedures will be completed in conjunction with DSO Background Investigation (BI) Requirements, see Section #12 below.***
- a. The DSO will report to the designated District/Division Management official to complete the USM-394, *Personal Identity Verification and Request for Government Identification Card*.
 - b. District management will verify two forms of identification in accordance with the Form I-9, *Employment Eligibility Verification*. These forms of identification must be copied and scanned. Districts unable to scan the documents will maintain hardcopies.
 - c. District management will complete part 2 of the USM-394, *District Verification* and take a digital photograph of the DSO applicant and (2) FD-258 fingerprint cards. The USM-394 will be digitally signed by the district verifying official.
 - d. The district will send the USM-394, digital photo, copy of the Form I-9 and copies of identification documents via email to PSB-Contractor@usdoj.gov. The email should include the DSO's name as it appears on birth records (including full middle name), social security number, date of birth, place of birth (including city, county, and state), and email address. Fingerprint cards are to be sent to USMS Personnel Security Branch (PSB) via government mail. If the district was unable to scan the identification documents, they can be mailed with the fingerprint cards.
 - e. PSB will begin to process the applicant DSO upon receipt of the email containing the USM-394 and the applicant identifying information. PSB will email the DSO instructions for completing security forms. The DSO will complete the forms on-line. In the event the DSO does not have an email address, PSB should be contacted for an alternative means of completing the security forms. Please note that mailing the information will increase the time period to complete the process.
 - f. After the DSO completes the security forms, PSB will initiate a background investigation with the Office of Personnel Management (OPM).
 - g. Upon receipt of the OPM background investigation, PSB will adjudicate and notify the district of the results.
 - h. All Smart Cards will be printed by the Central Courthouse Management Group and forwarded to the USM/Assistant Director for issuance to the DSO.
10. **Oversight:** Management Support Division (MSD), Procurement Office, will have oversight of the policies pertaining to procurement. Human Resources Division (HRD), Benefits and Payroll, will have oversight of the policies pertaining to the NFC payment of personal services contractors. Financial Services Division (FSD), Office of Finance, will have oversight of the policies pertaining to DSO appropriations.

11. **Contracting, General**

- a. Contracts (purchase orders) for personal services DSOs are processed under normal procurement procedures as prescribed by FAR and JAR 13 and as delineated in Paragraph 6 of the USMS Web-Based Directives. Contracting Officers should take care to incorporate appropriate clauses specific to personal services contracts, such as the termination and payments clauses required by FAR. There are no exemptions to any FAR or JAR provisions (including the competition requirement) except for CCR registration. The USMS has an approved deviation from CCR for personal services guard contracts.
- b. *Statement of Work (SOW)*: A DSO provides services under a personal services contract. DSOs shall perform the services stated in the SOW with the full knowledge that the authority vested in them can only be exercised in furtherance of the objective of the contract. (The SOW has been approved for use by the Office of General Counsel. No changes to the SOW are allowed without written permission from the Assistant Director for the Prisoner Operations Division or the Office of General Counsel.)
- c. **Reporting Relationships**
 - (1) Reporting relationships are as follows:
 - (a) Contracting Officer: The USM or their designee shall assign a contracting officer (CO) to administer the DSO program. The contracting officer (CO) is a person who has been delegated contracting authority by the Procurement Chief. The CO has overall responsibility for award procedures, contract administration, monitoring contractor performance, and contract close-out. Only the contracting officer may change the terms and conditions of a contract.
 - (b) Procedures and Documents for the Contracting Officer: The CO will complete an Optional Form 347, *Order for Supplies and Services*, noting the DSO hourly, overtime, and not-to-exceed purchase order value upon receipt of the USM-157.
 - (c) Contracting Officer's Technical Representative (COTR): Contracting Officers may appoint an individual selected by the district or program office to act as an authorized representative in the monitoring and administration of personal services District Security Officers. To be determined eligible, individuals must comply with the USMS directive, *Acquisition Career Management Program* for COTRs and possess a valid, current COTR Certificate of Appointment issued by the Procurement Chief. Contractor performance issues must be documented and forwarded to the respective contracting officer. COTR duties and responsibilities are delegated, in writing, by the Contracting Officer (See *COTR Designation Letter*). JAR Clause 2852.201-70, Contracting Officer's Technical Representative (COTR) (Jan 1985) must be incorporated into the contracts. JAR Clause 2801.7001-702(d) places limitations on the authority that can be given to the COTR. Under no circumstances shall the COTR be given, or perform duties, that are inconsistent with this JAR provision.
 - (d) Market Research: Prior to submission of the requisition package to the Contracting Officer, COTR/Program Office should conduct market research, in accordance with FAR Part 10 to support the amount of the Independent Government Price Estimate (DSO Hourly Rate). Some suggested sources for market research for DSO services are:
 - 1) The hourly rate (without benefits) paid to employees with comparable duties by local sheriff departments, police agencies, or state corrections institutions.
 - 2) Survey the hourly rate paid by various private businesses to area law enforcement officers for off-duty employment.
 - 3) Contact local private guard companies to determine the wages they

pay their employees (not the rate the company charges) for a comparable level of responsibilities.

- (e) **DSO Past Contract Performance Evaluation:** An evaluation of contract performance will be prepared for each contract after the work is completed. The Contracting Officer's Technical Representative (COTR) must complete the contractor performance evaluation within 14 days after the end of the contract period of performance (end of fiscal year). The evaluation will be recorded in the Contractor Performance Evaluation section of Form USM-601, *District Security Officers Personnel Certification*. Since the evaluation results are used to support future contract award decisions, they are marked "Source Selection Information," and may only be released to government personnel and the contractor. The completed evaluation will be placed in the DSO's procurement file for documentation purposes. If the rating is determined to be unacceptable, the affected DSO shall be given a minimum of 30 days to submit comments, rebutting statements, or additional information to the Contracting Officer. Any disagreements between the parties will then be reviewed by an official at a level above the Contracting Officer (generally the USM/Division Head or their designee). After reviewing all documentation, if the unacceptable determination is supported by the USM/Division Head (or their designee), the affected DSO will not be utilized for future contracts.
- (2) **Oversight:** DSOs will receive general direction or oversight from the USM or their designee when performing DSO functions. Such direction and oversight must be consistent with the terms and conditions of the contract. Questions or concerns regarding contractual or performance issues must be referred to the contracting officer.
- (3) **Changes in Qualifications, Employment, or General Requirements:** It is the responsibility of the DSO to immediately notify the Marshal or their designee of any significant changes in these areas.
- d. **Affirmation of Work Qualifications for DSOs:** The Affirmation form is used to streamline procedures and affirm training requirements for DSO applicants. Category 1 applicants' current law enforcement agency may certify to the USM that the applicant/officer is not the subject of any internal or external investigations, under suspension, or on medical or administrative leave. Recertification is required on an annual basis or upon change of law enforcement agency or department. It is the responsibility of the DSO to immediately notify the contracting officer of any significant employment change to include those listed above. (See Form USM-602, *Affirmation of Work Qualifications for DSOs*.)
- e. **Records Maintenance:** Two separate files must be maintained by the District/JPATS for each DSO.
 - (1) **Procurement file:** The FAR requires the creation of a procurement/contract file. This file must contain, at a minimum, the following:
 - (a) The original contract document, including the OF-347 and SOW
 - (b) Requisition Package, including the USM-157
 - (c) Central Contractor Registration (CCR)-copy of the approved deviation from CCR requirements for guards under personal services contracts
 - (d) COTR Certificate and designation letter
 - (e) File documentation sufficient to support the contract award and explain CO decisions made during the procurement process and contract administration.
 - (f) Contract administration documents
 - (2) **DSO certification file:** This file contains the following forms:

- (a) Form I-9, *Employment Eligibility Verification*
 - (b) USM-600, *Physical Requirements of USMS District Security Officers*. Category 1 fitness-for-duty criteria is satisfied if the *Affirmation of Work Qualifications* for District Security Officers is signed and returned.
 - (c) NCIC/NLETS records
 - (d) Affirmation of Work Qualifications for DSOs
 - (e) USM-234, *Personal Qualifications Statement*
 - (f) USM-288, *Hand Receipt (if applicable)*
 - (g) USM-601, *District Security Officers Personnel Certification*
- f. The Procurement file will be retained by the Contracting Officer. The DSO Certification file will be retained by the district/division following the USMS *Records Management* directive.

12. **Background Investigation (BI) Requirements**

- a. **General:** All DSOs, both escorted and unescorted, must first have a NCIC/NLETS criminal records check completed by the requesting district before the DSO is allowed to perform any work for the USMS. This documentation will be placed in the DSO Certification file and will be completed before background materials are sent to the Human Resources Division, Personnel Security Branch.
- b. **DSO duties prior to BI completion:** Pending the receipt of the approved background investigation, the DSO is limited to performing DSO training requirements.
- c. **Required DSO Background Investigations:** Depending on the category assigned to each DSO (escorted or unescorted), one of two types of background investigations must be completed and approved by HRD, Personnel Security Branch before the DSO may work. Escorted and unescorted is as follows:
 - (1) **Escorted DSO:** is used on a limited part time basis and is required to be in the presence of USMS personnel at all times while performing services at or on federal or USMS property. **For those DSOs categorized as escorted, no background investigation is necessary. The DSO still must comply with the above *Records Maintenance, DSO certification file*, which requires at a minimum, a NCIC/NLETS check.**
 - (a) Limited part-time: is defined as 240 hours or less per fiscal quarter. If an individual (escorted use only DSO) exceeds the 240 hours in a fiscal quarter the guard shall immediately be reclassified as an unescorted DSO, regardless of the guards actual escorted status and must not be used until all background checks have been completed.
 - (b) Contracting Officer: shall receive copies of all the escorted DSOs USM-7's and is required to review and maintain the USM-7s to insure compliance with the *Limited part-time*, Section E.12.c.(1).a. above.
 - (c) District SDUSMs: will ensure that escorted DSOs are fully escorted the entire time they are in USMS space for this policy to comply with HSPD-12.
 - (2) **Unescorted DSO:** is a multiple use contractor and may be granted access to federal or USMS property without being in the presence of USMS personnel. An unescorted DSO may be granted this access only after having passed either a National Agency Check and Inquiries (NACI) for a Category 1 DSO or Minimum Background Investigation (MBI) for a Category 2 DSO. Unescorted DSO's that either have a break in service of 365 days or more or who are approaching their five year incremental anniversaries must be reported by the Contract Officer to HRD background suitability.

d. **Category 1 Unescorted DSOs:** A NACI background investigation must be completed and approved for each DSO applicant in this category before services may be rendered. Based on the full time law enforcement status possessed by this level of DSO, the less intensive NACI background investigation is approved for use in these circumstances. The following completed documentation will be forwarded to HRD, Personnel Security Branch when an NACI is required:

- (1) Two signed copies of a FD-258, *Fingerprint Cards*;
- (2) Standard Form 85P, *Questionnaire for Public Trust Positions* (one original with signature and date) through the *e-QIP Applicant Site*;
- (3) Form DOJ-555, *Disclosure and Authorization Pertaining to Consumer Reports Pursuant to the Fair Credit Reporting Act* (one original with signature and date);
- (4) Form I-9, *Employment Eligibility Verification*

e. **Category 2 Unescorted DSOs:** A Minimum Background Investigation (MBI) must be completed and approved for each DSO applicant in this category before services may be rendered. The following completed documentation will be forwarded to HRD, Personnel Security Branch when an MBI is required:

- (1) Two signed copies of a FD-258, *Fingerprint Cards*;
- (2) Standard Form 85P, *Questionnaire for Public Trust Positions* (one original with signature and date) through the *e-QIP Applicant Site*;
- (3) Form DOJ-555, *Disclosure and Authorization Pertaining to Consumer Reports Pursuant to the Fair Credit Reporting Act* (one original with signature and date);
- (4) Form I-9, *Employment Eligibility Verification*

(Although the documentation sent to HRD is similar for both the NACI and MBI, the required investigation level for the MBI is more comprehensive.)

13. **Payment of District Security Officers**

- a. **FICA Withholding:** The USMS is required by the Internal Revenue Code to withhold and report Federal Income Tax and Social Security (FICA).
- b. **Overtime Pay:** Overtime shall not be paid unless authorized by the contract. If overtime is required, a separate line item with an estimated number of overtime hours and the overtime hourly rate shall be included on the contract.
- c. **National Finance Center Payment:** DSOs will be paid through the National Finance Center (NFC) payroll system. It is not required or recommended to remove DSOs from the NFC when their services are discontinued.

- (1) District offices will be responsible for the overall implementation and maintenance of payroll records for DSOs using the NFC payroll system.
- (2) A separate USM-7 will be used to record the DSO's hours within a two-week pay period.
- (3) The following forms are required to enroll a DSO in the NFC and will be sent to MBD:
 - (a) Direct Deposit Sign-up Form
 - (b) *Department of Justice Locator*, DOJ-233
 - (c) *Withholding Allowance Certificate W-4*
- (4) Appropriation and Sub-object Classification

Personal Service Contracts			
TYPE OF DSO ACTIVITY	APPROPRIATION	SUB-OBJECT CLASSIFICATION	REIMBURSABLE
Transportation to and from Courthouse/ cellblock	0324	1101 (NFC pay) 1142 (overtime pay) 1223 (FICA)	No
Prisoner handling, courtroom security, cellblock operations, prisoner processing	0324	1101 (NFC pay) 1142 (overtime pay) 1223 (FICA)	No (regular duty) Yes (in support of a Special Assignment)
JPATS: to and from prisoner movement and processing	0324 4575X (JPATS only)	1101 (NFC pay) 1142 (overtime pay) 1223 (FICA)	Yes (PT reserve)
Transport/securing prisoners to and from medical appointments and hospital details	1020	1101 (NFC pay) 1142 (overtime pay) 1223 (FICA)	No

F. Responsibilities

1. United States Marshals/Chief Deputy United States Marshals/JPATS

- a. Identify the need for DSOs, complete the requisition package, assist the CO by evaluating the suitability of applicants.
- b. Provide training for DSOs on proper USMS policies and procedures.
- c. Print, issue, and maintain accountability for DSO identification and equipment.
- d. Ensure Form USM-601, *District Security Officers Personnel Certification*, is completed annually certifying that all District Security Officers' required certifications and evaluations have been completed.

2. Prisoner Operations Division

- a. Assist the districts and JPATS with the overall administration of District Security Officer policy and procedures.
- b. Review/Approve the *Statement of Work* for Personal Services DSOs and any amendments to a SOW.

3. Human Resources Division

- a. Process and review Minimum Background Investigations.
- b. Provide assistance and oversight of the DSO identification program.
- c. Provide assistance and oversight of the National Finance Center payroll system for the USMS.

4. Procurement Office

- a. Under the authority of JAR 2802.101, the Procurement Chief is responsible for supervising, managing and directing all contracting activities in the USMS. As such, the Procurement Chief, assisted by other members of the Procurement Office, has oversight responsibility for all aspects of the procurement process, including contracting procedures, contract administration, procurement policy and development of the SOW.
- b. Process procurement actions for contracts in excess of the District or Division's contracting authority.

5. Office of General Counsel

- a. Assist the districts, JPATS, and the Contracting Officer in interpreting laws, regulations, and legal instruments, and defend the USMS in any actions brought before a federal court or administrative tribunal.
 - b. Review/Approve the *Statement of Work* for Personal Services DSOs and any amendments to a SOW.
6. **Contracting Officer:** The CO has the authority to enter into, administer, or terminate contracts, and make related determinations and findings. As required by FAR 1.602-2, contracting officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships.

G. Definitions

- 1. **Aviation Security Officer (ASO):** The working title for security officers who are contracted by and perform duties for JPATS.
- 2. **District Security Officer (DSO):** The working title for security officers who are contracted by the USMS individual judicial districts and perform duties for that USMS district office.
- 3. **Escorted DSO:** DSOs who are required to be in the presence of USMS personnel while performing services at or on federal or USMS property.
- 4. **Unescorted DSO:** A DSO who is granted access to federal or USMS property without being in the presence of USMS personnel after having passed a minimum background investigation or National Agency Check and Inquiries (NACI).
- 5. **One Year Full-Time Law Enforcement Experience:** Actual law enforcement experience totaling 2,087 hours.
- 6. **Less-Than-Lethal Devices:** Oleoresin Capsicum aerosols (OC spray), expandable baton, stun-gun, or as defined in USMS *Less-Than-Lethal Devices* directive. The current USMS less-than-lethal device policy governs authorized non-lethal devices and training.

G. DSO Check List

DSO Check List	Source of Contract Service DSOs (X Indicates Required Item)	
	Category One	Category Two
Applicant General Criteria		
U.S. Citizen	X	X
21 Years or older	X	X
High School diploma or equivalent	X	X
Speak, read, and write English	X	X
Possess valid driver's license	X	X
Free of misdemeanor or greater arrest or conviction for crimes of domestic violence (Lautenberg Amendment)	X	X
Currently not under any court restraining orders	X	X
Meets all financial responsibilities and debt	X	X
Free from alcohol and drug dependency	X	X
Free of history of controlled substance abuse	X	X
Free of illegal drug use	X	X
Physically able to perform the full range of duties without limitations as described in the SOW	X	X

Applicant Specific Criteria		
Actively employed or reserve sworn state or local law enforcement officer with one year experience	X	
Minimum of one year experience in law enforcement and/or security matters related to prisoner handling and detention		As required
Minimum of three years experience of full-time DSO duties supervising detainees		As required
Meets local law enforcement agency's physical/mental fitness standards	X	
Free of local law enforcement agency's internal investigations	X	
Approved by local law enforcement agency for outside work	X	
Trained and qualified by local law enforcement agency in the use of an approved handgun and authorized to carry it off duty	X	
Trained and qualified by local law enforcement agency to carry Oleoresin Capsicum Aerosols (OC) spray	Optional	Optional
Trained and qualified by local law enforcement agency to carry expandable baton	Optional	Optional
Trained and qualified by local law enforcement agency in proper handcuffing and prisoner searching procedures and techniques	X	As required
Trained by local law enforcement agency in Bloodborne/Airborne Pathogens	Optional	Optional
Procurement Forms		
Affirmation of Work Qualifications for DSOs	X	As required
Statement of Work/Contract	X	X
USM-157, Requisition for Supplies and Services	X	X
Optional Form 347, Order for Supplies and Services	X	X
NFC Forms		
W-4, Withholding Allowance Certificate (1)	X	X
DOJ-233, Department of Justice Locator	X	X
Direct Deposit Sign-Up	X	X
Minimum Background Investigation Forms		
Form I-9, Employment Eligibility Verification	X	X
FD-258 Finger Print Cards (2)	X	X
DOJ-555, Disclosure and Authorization Pertaining to Consumer Reports	X	X
SF 85P, Questionnaire for Public Trust Positions (sent electronically by DSO)	X	X
Training		
Required Video Training (USMS DSO Training CD-ROM)	X	X
Firearms Qualification (Handgun)	Optional	X
Firearms Qualification (Shotgun)	Optional	X
Review of USMS policies and procedures (USMS DSO Training CD-ROM)	X	X
Demonstration of Proper Prisoner Searching and Restraint Application Skills	X	X

Attachments

- USM-600, Physical Requirements of USMS District Security Officers
- USM-601, District Security Officers Personnel Certification
- USM-602, Affirmation of Work Qualifications for District Security Officers
- Statement of Work - Personal Services DSO (09/2005 version)

Guards

- *Hospital Detail Post Orders and Activity Log (sample)*