



CRS Report for Congress

The Federal Protective Service and Contract Security Guards: A Statutory History and Current Status

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Summary

The Federal Protective Service (FPS) — within U.S. Immigration Customs Enforcement (ICE) in the Department of Homeland Security (DHS) — is responsible for protecting federal government property, personnel, visitors, and customers, including property leased by the General Services Administration (GSA). FPS currently employs over 15,000 contract security guards to protect federal property. DHS intends, according to its FY2008 budget justification, to increase the use of contract security guards to focus FPS activities on maintaining security policy and standards, conducting building security assessments, and monitoring federal agency compliance with security standards. H.R. 2638 (FY2008 DHS appropriations) has provisions addressing FPS's use of contract security guards. This report will be updated as developments warrant.

Federal Protective Service Statutory History. The responsibility to protect federal buildings was established in the Federal Works Agency in June 1948.¹ Specifically, Congress authorized the Federal Works Administrator to appoint uniformed guards as special policemen with the responsibility of “the policing of public buildings and other areas under the jurisdiction of the Federal Works Agency.”² The special policemen were given the same responsibility as sheriffs and constables on federal property to enforce the laws enacted for the protection of persons and property, and to prevent “breaches of peace, suppress affrays or unlawful assemblies.”³

On June 30, 1949, the Federal Works Agency was abolished, and all of its functions, including the protection of federal buildings, were transferred to the General Services

¹ 62 Stat. 281.

² Ibid.

³ Ibid.

Administration (GSA).⁴ In September 1961, Congress authorized the GSA Administrator to appoint non-uniformed special policemen to: conduct investigations in order to protect property under the control of GSA; enforce federal law to protect persons and property; and make an arrest without a warrant for any offense committed upon federal property if a policeman had reason to believe the offense was a felony and the person to be arrested was guilty of the felony.⁵

The GSA Administrator formally established the Federal Protective Service (FPS) in January 1971 through GSA Administrative Order 5440.46. FPS, as an official GSA agency, continued to protect federal property and buildings with both uniformed and non-uniformed policemen.

FPS was transferred to the Department of Homeland Security (DHS), and placed within the U.S. Immigration and Customs Enforcement (ICE), with enactment of the Homeland Security Act of 2002 (P.L. 107-296). The act required the DHS Secretary to “protect the buildings, grounds, and property that are owned, occupied, or secured by the Federal Government (including any agency, instrumentality, or wholly owned or mixed ownership corporation thereof) and persons on the property.”⁶

Under current statutory provisions FPS officers are authorized to:

- enforce federal laws and regulations to protect persons and federal property;
- carry firearms;
- make arrests without a warrant for any offense against the United States committed in the presence of an officer or for any federal felony;
- serve warrants and subpoenas issued under the authority of the United States;
- conduct investigations, on and off federal property, of offenses that may have been committed against the federal property or persons on the property; and
- carry out other activities for the promotion of homeland security as the DHS Secretary may prescribe.⁷

⁴ 63 Stat. 380.

⁵ P.L. 87-275, Sec. 5, 40 U.S.C. §318.

⁶ 40 U.S.C. §1315(a). The DHS Secretary was authorized to designate DHS employees, including those transferred from FPS, as officers with responsibility for protecting federal property. Some federal buildings, however, are protected by guards who are not part of FPS, such as the buildings of the U.S. State Department, which has its own uniformed law enforcement officers.

⁷ 40 U.S.C. §1315(b)(2).

Federal Protective Service Contract Security Guards. According to the DHS Inspector General (DHS IG), contract guard services “represent the single largest item in the FPS operating budget, with an estimated FY2006 budget of \$487 million.”⁸ FPS currently uses approximately 15,000 contract security guards who, along with approximately 950 FPS law enforcement officers, provide security and law enforcement coverage to all GSA owned and operated federal property.⁹

FPS contract security guard responsibilities include federal building access control, employee and visitor identification checks, security equipment monitoring, and roving patrols of the interior and exterior of federal property.¹⁰ Within the National Capital Region (NCR), contracts with 54 private security guard companies provide approximately 5,700 guards to protect 125 federal facilities. FPS issues task orders to contract security guard services that detail terms and conditions under which the contract security guard services are to be provided. Some of these task orders include the identification of buildings requiring protection, specific guard post locations, the hours and days of the week each post is to be staffed, whether security guards are to be armed, and the number of guards at each post.

FPS requires that security guard contractors ensure that their guards are qualified by undergoing background checks. They must possess required licenses, certifications, and permits. Additionally, companies that employ contract security guards must comply with performance requirements that include items such as guard appearance, work hours, supervision, equipment, and record keeping.¹¹ Contract security guards are also required to undergo training and pass an FPS administered written examination. The required training, licenses, certification, and permits include but are not limited to the following tasks and skills:

- background investigation;
- contractor provided basic training;
- contractor provided refresher training;
- Cardiopulmonary Resuscitation (CPR) training and certification;
- domestic violence prevention certification;
- FPS provided orientation training;
- contractor provided firearms training;
- firearms qualification;
- annual firearms re-qualification;
- medical screening;
- first aid certification;
- drug screening;

⁸ U.S. Department of Homeland Security, Office of Inspector General, *Federal Protective Service Needs to Improve its Oversight of the Contract Guard Program*, OIG-07-05, October 2006, p. 2.

⁹ U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Federal Protective Service, “Fiscal Year 2008 Congressional Justification,” February 2007, p. 1.

¹⁰ U.S. Department of Homeland Security, Office of Inspector General, *Federal Protective Service Needs to Improve its Oversight of the Contract Guard Program*, OIG-07-05, October 2006, p. 2.

¹¹ Ibid.

- written exam;
- state weapons permit;
- expandable baton certification; and
- use of magnetometers and X-ray machine.¹²

Following an audit of the NCR's FPS security guard contracts, the DHS IG concluded that FPS has become increasingly reliant on its contract guard force, is not adequately monitoring its security guard contracts, and that contract violations in the NCR exist. Some of the contract violations included unarmed guards working at armed posts, a guard with felony convictions being employed by one contractor, and guards without the required security clearances. Additionally, the DHS IG reported that "these lapses in contractor oversight can result in the government paying for services it did not receive, loss of monies resulting from contract deductions due to nonperformance, and placing FPS-protected facilities, employees, and facility visitors at risk."¹³

The ICE Assistant Secretary, Julie L. Myers, received the DHS IG audit prior to its release in October 2006, and formally responded to the audit's findings and recommendations. She asserted, for example, that ICE and FPS will improve their monitoring of the contract security guard program by increasing the number of ICE and FPS employees trained to oversee the program, will provide them with better training, and will use the tracking mechanisms to ensure contract security guard quality assurance.¹⁴

Department of Homeland Security Intended Changes. In FY2008 FPS intends to reassign the 950 FPS law enforcement officers into other ICE law enforcement entities, with the physical security of federal property being maintained solely by contract security guards. DHS intends, starting in FY2008, for FPS to maintain security policy and standards, conduct building security assessments, and monitor federal agency compliance with security standards.¹⁵ Also, starting in FY2008, DHS plans for FPS to provide law enforcement and security services at National Security Special Events (NSSE)¹⁶ that may increase threats at or in the vicinity of federal facilities. Such events include the Democratic and Republican National Conventions, the presidential inauguration, demonstrations, and protests.¹⁷

¹² Ibid., p. 33.

¹³ Ibid., p. 14.

¹⁴ Ibid., p. 30.

¹⁵ U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Federal Protective Service, "Fiscal Year 2008 Congressional Justification," p. 4.

¹⁶ For information on NSSEs, see [<http://www.ustreas.gov/usss/nsse.shtml>].

¹⁷ U.S. Department of Homeland Security, U.S. Immigration and Customs Enforcement, Federal Protective Service, "Fiscal Year 2008 Congressional Justification," p. 5.

DHS, in its FY2008 FPS budget justification, details past, present, and future activities. In FY2006, FPS:

- provided law enforcement and security services for approximately 9,000 facilities;
- monitored alarm accounts for intrusion detection, fire, and personnel protection; and received and responded to alarm activations, incidents on federal property, weapons and explosives incidents, demonstrations, accidents, and fire-related incidents.¹⁸

According to the Administration, in FY2007, FPS is:

- transitioning to a new mission by realigning its workforce;
- improving the strategic methods used to identify and reduce real and perceived threats;
- continuing its intelligence and information sharing, hazardous materials response, and protective services; and
- strengthening security standards to reduce threat and vulnerability levels at federal facilities.¹⁹

In FY2008, FPS expects to:

- develop risk-based security standards tied to intelligence;
- conduct building security assessments based on risk;
- monitor federal agency compliance with security standards by conducting annual inspections;
- improve contract management by hiring up to 70 contracting officers; and
- work with client agencies to strengthen business processes and services.²⁰

On January 3, 2007, the National Association of Security Companies (NASCO) established and hosted the first meeting of its Federal Protective Service Working Group. NASCO reportedly established this working group in response to the increased use of contract security guards by DHS for the physical security of federal property. This working group is to begin the task-analysis process for security guards and law enforcement officers for federal and commercial markets to provide basic “best practices” guidelines for security. NASCO states that the three primary goals of the working group are to establish the security guard definition, to identify security functions and tasks, and to validate these functions for contract and training requirements.²¹

The House, in H.R. 2638 (FY2008 DHS appropriations), states that no funds from the appropriations may be obligated for any activity that reduces the number of in-service FPS police officers unless the FPS director provides information to state and local law

¹⁸ Ibid.

¹⁹ Ibid., p. 6.

²⁰ Ibid.

²¹ National Association of Security Companies, “NASCO Creates Federal Protective Service Working Group,” press release, January 3, 2007.

enforcement agencies that may be affected by the downsizing. Before reducing the number of FPS uniformed personnel, the director must prepare a report on the number and types of cases handled by FPS in the previous two fiscal years, and give copies of the report to officials in jurisdictions with federal buildings protected by FPS. In addition, the House provision requires that the FPS director negotiate with each state and local law enforcement agency a memorandum of agreement that details how security needs identified in the report will be addressed in the future. Finally, the FPS Director is to submit a copy of the report and each memorandum of agreement to the House and Senate Committees of Appropriation 15 days prior to the reduction in the number of FPS police officers.²² The House report accompanying the legislation states that the House Appropriations Committee is concerned that the reduction in FPS police officers will impose a “significant” burden on state and local law enforcement agencies.²³

Senate-passed H.R. 2638 states the DHS Secretary is to ensure that there are not fewer than 1,200 FPS law enforcement officers protecting federal buildings. Additionally, the Senate-passed bill states that the DHS Secretary and the Director of OMB will adjust security fees, paid by federal agencies for FPS security, to ensure full funding for not fewer than 1,200 FPS officers.²⁴

²² House-passed H.R. 2638, Title II.

²³ U.S. Congress, House Committee on Appropriations, *Department of Homeland Security Appropriations Bill, 2008*, report to accompany H.R. 2638, 110th Congress, 1st sess., H.Rept. 110-181 (Washington: GPO, 2007), p. 47.

²⁴ Senate-passed H.R. 2638, Title II.