

Fiscal Year 2009 Audit Reports

New Jersey Transit - Maintenance of Equipment Services
Audit Report Number 204-2008, 11/5/2008 Semiannual Report #39
Identified Costs, Savings, or Funds Put to Better Use: \$777,394

The OIG conducted an audit to determine whether Amtrak billed New Jersey Transit (NJT) in accordance with the Maintenance of Equipment Services Agreement. The OIG also compared actual overhead costs that Amtrak incurs to support the maintenance services versus the fixed overhead rate contained in the Agreement.

The OIG established that, as it related to the maintenance of equipment services, Amtrak under billed NJT \$777,394 during FYs 2006 through June 2008. The OIG attributed the discrepancy to clerical errors, as well as to a misunderstanding of the agreement terms.

Recommendation: The OIG recommended appropriate personnel should receive copies of the current maintenance of equipment services agreement and additional oversight when preparing billing statements. The OIG also recommended that Amtrak recover \$777,394 from the NJT.

Management Response: Management agreed that New Jersey Transit was under billed and billed NJT for the questioned amount.

Excessive Car Hire/Demurrage Expenses
Audit Report Number 216-2007, 11/14/2008 Semiannual Report #39
Identified Costs, Savings, or Funds Put to Better Use: NA

On August 8, 2007, while observing the annual inventory, the OIG noticed switch material on 11 CSX Transportation flat cars at the Maintenance of Way Yard at Odenton, MD. Further research revealed that the flatcars had been at Odenton since February 13, 2007 and Amtrak had incurred between \$36,200 and \$86,880 in car hire/demurrage expense for that one delivery. The OIG determined that the issue was material enough for further review.

The OIG found that foreign freight railcars had excessive retention times that resulted in unnecessary car hire/demurrage costs to Amtrak of \$753,830 over a four year period between FY 2004 and FY 2007. The audit found a lack of segregation of duties, which resulted in car hire/demurrage expenses not being accounted for according to generally accepted accounting principles and interest charges of \$19,215 were incurred for late payment of material related delivery charges.

Recommendation: Amtrak should revise the material delivery process and operation to reduce the retention period to seven days.

Management Response: Management agreed that retention times were excessive and indicated actions would be taken to improve controls.

Food and Beverage Incentive Payment Review
Audit Report Number 208-2007, 01/15/2009 Semiannual Report #39
Identified Costs, Savings, or Funds Put to Better Use: \$161,780

The OIG conducted this audit to determine whether the quarterly incentive payments to Amtrak’s Food Service Provider were correct and to ascertain if Amtrak was receiving its share of credits. The OIG reviewed the period January 1, 2007 through June 30, 2008. OIG auditors visited five commissaries in Boston, New York, Washington, Chicago, and Los Angeles to observe their physical inventory process.

The audit found that each commissary had high gross variances and that Food and Beverage (F&B) suppliers were not processing stock rebate credit requests in a timely manner. The OIG discussed the untimely rebate credits with Amtrak F&B Management and they prepared and submitted credit requests resulting in additional payments of \$161,780. The OIG calculated Amtrak’s condemnation costs at \$6,941,970 for the 24 month period January 1, 2006 through December 31, 2007.

Management estimated the potential loss of revenue mark-up of 46 percent amounting to \$3,193,307 if the items had been sold on Amtrak trains. The lack of controls and oversight was the primary cause of condemnation costs and lost revenues.

Recommendation: The OIG recommended that commissary personnel take a more active role in reviewing the daily condemnation reports; and that commissary personnel be required to actively participate in the entire inventory process.

The OIG also recommended that Amtrak review stock rebate credits and recover the unbilled payments.

Management Response: Amtrak agreed and Food and Beverage management increased oversight of condemnation through joint process improvement efforts with the NEC Service Operations and Service Delivery organizations. These efforts were expanded to a national effort.

Management also submitted the stock rebate credit requests resulting in the collection of \$161,780 as of November 30, 2008.

Fuel Supply to Los Angeles by General Petroleum
Audit Report Number 503-2008, 02/06/2009 Semiannual Report #39
Identified Costs, Savings, or Funds Put to Better Use: \$52,184

The OIG completed a review of fuel supply to Amtrak’s Los Angeles Station by General Petroleum (GP) and the associated controls for the period September 1, 2007 through March 31, 2008. The OIG’s primary objectives were to determine whether GP’s fuel deliveries were in accordance with the purchase order (PO) agreement; whether Amtrak’s payments to the vendor were accurate and in compliance with the PO

provisions; and, whether Management controls over fuel receipts, invoicing, payments and dispersal of fuel were adequate and effective.

Overall, the OIG identified various areas of non compliance with fuel-related procedures. Such areas included the handling of a fuel sample result that did not meet all fuel specifications; the resolution of delivery variances; and the reconciliation of fuel receipts, issues, and inventory.

The audit disclosed that Amtrak paid \$36,271 for two deliveries of diesel fuel that did not meet all Purchase Order specifications. Based on sample test results, the audit identified a potential duplicate payment in the amount of \$15,913.

Recommendation: The OIG recommended that management review and update the respective diesel fuel procedures to ensure adequate controls are in place and recover the \$36,271 in fuel deliveries that did not meet contract terms. Management should undertake follow-up actions to address the potential duplicate payment.

Management Response: Management generally agreed with the finding, but would not collect the \$52,184. Management stated that the "off-spec" components of the fuel were not critical and did not affect the performance of the locomotives.

Management indicated that a reversing entry was posted on September 25, 2006 for \$15,913 to correct an error.

Southern Pacific Transportation Company (SP) Diesel Fuel and Fuel Handling Accounts
Audit Report Number 505-2009, 03/18/2009 Semiannual Report #39
Identified Costs, Savings, or Funds Put to Better Use: \$455,314

The OIG completed an audit of costs billed by SP for diesel fuel and fuel handling for the period January 1, 1997 through December 31, 1999. The purpose of the audit was to determine whether monthly billings submitted by SP for the subject accounts were accurate, valid, reasonable, and in compliance with the operating agreement and contract amendments between Amtrak and SP.

Our analysis revealed that for San Antonio, there were unexplained increases in the gallons billed for the current audit period when compared to a comparable prior audit period. Based on the exceptions noted, the OIG identified and presented a total of \$455,314 in questioned costs to SP.

Recommendation: The OIG recommended that management draft a formal settlement letter to be to SP and proceed with the recovery of the questioned costs.

Management Response: Management agreed and after discussions, SP offered \$305,000 as settlement for the questioned costs identified.

CMI-Promex, Inc.
Audit Report Number 201-2009, 03/31/2009 Semiannual Report #39
Identified Costs, Savings, or Funds Put to Better Use: \$100,000

At the request of management, the OIG performed a post award audit of the costs associated with the installation of the Ridex miter rail system by CMI-Promex, Inc. The purpose of the OIG review was to verify the accuracy and acceptability of the costs associated with the installation of the Ridex miter rail system on the Connecticut and Niantic River Bridges. The total purposed cost was \$656,000.

Recommendation: The OIG recommended management recover the questioned costs of \$16,504 and apply the audited rates against future projects with Promex.

Management Response: Management agreed with the OIG questioned costs, along with the audited rates established for overhead and G&A. Management agreed to apply the audited rates against future projects with Promex. Accordingly, Amtrak should save approximately \$100,000 over the course of this project and future projects utilizing the audited rates.

Chicago Lease Audit
Audit Report Number 105-2009, 04/14/2009 Semiannual Report #40
Identified Costs, Savings, or Funds Put to Better Use: \$247,955

The OIG performed an audit of the Amtrak lease for the property located at 525 W. Van Buren St., Chicago, Illinois and contracted with Lease Audit and Advisory Services, Inc., (LAAS) to perform specific services in connection with the audit. The objective of this audit was to determine whether Operating Expense Statements submitted to Amtrak were in compliance with the provisions of the Lease Agreement with the Landlord.

The audit required LAAS to perform the following services:

- an analysis to determine whether rental escalation statements are calculated correctly in accordance with provisions of lease agreement(s) between Amtrak and the landlord;
- identifying any rental overcharges billed by the landlord; assisting OIG in recovering any overcharges;
- negotiating any future rental payments; examining annual escalation billings to ensure that all expenses were being billed in accordance with the initial settlement; and, performing follow-up audits as necessary.

In its audit, LAAS found that the Landlord for the Chicago Property was charging a management fee that was in excess of prevailing market conditions. The Landlord agreed to reduce the management fee for the period 2005 through 2007 resulting in a credit due Amtrak of \$179,531. Amtrak’s share of the savings was \$122,081. The future savings for FY 2008 to FY 2011 were estimated to be \$247,955.

Recommendation: The OIG recommended that Amtrak Real Estate Development 1) recover the overpayments from the Landlord, and 2) review procedures for monitoring Amtrak property leases and ensure they address compliance with the lease requirements and consistency with industry standards.

Management Response: Management agreed with the OIG recommendations.

Reimbursable Retroactive Wages
Audit Report Number 207-2008, 05/13/2009 Semiannual Report #40
Identified Costs, Savings, or Funds Put to Better Use: \$102,602,866

In January 2008 Amtrak signed labor agreements with its work forces agreeing to retroactive pay increases from July 2002 through 2008.

The objectives of the audit were to identify the customers Amtrak could potentially invoice for retroactive wage increase expenses and calculate the amount Amtrak was entitled to invoice its customers. A significant portion of the retroactive labor wages were incurred in performing reimbursable contracts. A number of these contracts contain specific provisions that allow Amtrak to invoice its customers for retroactive pay adjustments. Other contracts are based in whole or in part on reimbursable costs.

The audit found \$102,602,866 in billable retroactive labor costs that were incurred for performing reimbursable services for commuter services, state supported trains and various other individual and corporation force account projects. Of the total reimbursable labor costs, \$49,362,032 was incurred for force account projects, \$36,407,325 was incurred for commuter services, and \$16,833,509 was incurred for state supported trains.

Recommendation: The OIG recommended that Management invoice its customers \$102.6 million for retroactive wage costs.

Management Response: Management did not agree with the recommendation and instead indicated that invoices will be generated to eligible customers based on the following guidelines:

- No State-Supported train retroactive wage invoices will be generated;
- Retroactive wages for eligible contracts for the period from Fiscal Year 2005 to Mid-Fiscal Year 2008 will be invoiced;
- Customers with individual retroactive wage obligations of less than \$10,000 will not be invoiced;
- A reduction of approximately 25 percent of the retroactive wage obligation will be made in consideration of the special appropriation of \$75 million provided to Amtrak associated with the final retroactive wage payment scheduled.
- Incremental” overheads, that is overheads associated only with the retroactive wage pool plus contractual overheads for FY 2008 retroactive wages will be included in invoices to Amtrak’s customers.

Thames River Bridge Project Contract Modification Pier Modifications
Audit Report Number 302-2009, 06/03/2009 Semiannual Report #40
Identified Costs, Savings, or Funds Put to Better Use: \$7,638

The OIG completed an audit of a contract modification between Amtrak and Cianbro Construction Corporation (Cianbro). Cianbro’s contract was entered into to rehabilitate the Thames River Bridge in New London, Connecticut. Amtrak executed the modification to install additional reinforcing steel and strengthen concrete on two bridge piers. The modification was executed for a not-to-exceed amount of \$2,080,198.33.

The audit objective was to determine if the cost or pricing data submitted by Cianbro in support of the modification cost was accurate, complete, and current. The results of the review indicated that Cianbro’s submitted cost or pricing data was not accurate, complete, or current. The OIG identified adjustments that increased and decreased Cianbro’s submitted costs resulting in a net adjustment to Amtrak of \$7,638.

Recommendation: The OIG recommended management pursue a price reduction of \$7,638.

Management Response: Management agreed with the findings and Cianbro credited the project \$7,638.

Thames River Bridge Project Grouting Program Contract Modification
Audit Report Number 308-2007, 06/04/2009 Semiannual Report #40
Identified Costs, Savings, or Funds Put to Better Use: \$86,034

The OIG audited the contract modification costs submitted by Cianbro Construction Incorporated for pier grouting activities on the Thames River Bridge, Span Replacement Project in New London, Connecticut. Cianbro’s certified grouting program costs, for the cost plus modifications totaled \$10,996,068.

The objective of the audit was to determine whether the cost or pricing data submitted by Cianbro in support of the grouting program was accurate, complete, and current. The OIG started the audit in the spring of 2008 by reviewing Cianbro’s first submission of grouting program costs totaling \$10,938,565. The OIG then questioned \$376,209 of the original submission due to overstated subcontractor material costs, incorrect subcontractor equipment rates, and incorrectly allocated direct and indirect labor charges. Cianbro agreed to an initial reduction of \$290,175 which was removed from Cianbro’s final certification of grouting program costs.

The OIG completed the audit in February 2009 after Cianbro submitted its final certified costs for the grouting program in the amount of \$10,996,068. The results of the audit of Cianbro’s final certified costs indicated that the \$10,996,068 included \$86,034, which the OIG had previously questioned. The \$86,034 represents the amount of subcontractor over billing caused by incorrect equipment rates. As a result, the OIG recommended that Amtrak seek an additional price reduction for the grouting program in the amount of \$86,034.

Recommendation: The OIG recommended management recover the questioned cost of \$86,034.

Management Response: Management disagreed with the recommended \$86,034 reduction stating that contract clauses in the prime contract between Cianbro and Amtrak would not flow down to Cianbro's subcontractor since the subcontractor was not involved when the contract was signed by Amtrak and Cianbro.

Cianbro Construction (Thames River Bridge Project Audit of Counterweight Extra Work Claim)
Audit Report Number 303-2009, 06/22/2009 Semiannual Report #40
Identified Costs, Savings, or Funds Put to Better Use: \$99,634

The OIG completed an audit of Cianbro Construction Incorporated's \$1,810,950 claim for extra work performed in removing the counterweight on the Thames River Bridge in New London, Connecticut. Cianbro submitted a claim for \$1,810,950 for extra costs incurred to remove the old counterweight from the bridge. Cianbro stated that the extra costs incurred were the result of a "change condition," from that which was disclosed in the contract.

The OIG audit objective was to determine if the cost or pricing data submitted by Cianbro in support of the counterweight claim was accurate, complete, and current as of the date of certification. The results of the audit indicated that Cianbro's submitted cost or pricing data was not accurate, complete, or current. The OIG identified \$99,634 in questioned costs resulting from the contractors overstating material and labor costs.

Recommendation: The OIG recommended management seek adjustments from Cianbro in the amount of \$99,634.

Management Response: Management responded that it was currently negotiating a settlement of the contractor's claim.

Union Pacific Railroad-Diesel Fuel and Fuel Handling
Audit Report Number 506-2009, 8/24/2009 Semiannual Report #40
Identified Costs, Savings, or Funds Put to Better Use: \$65,878

The audit object was to determine whether the monthly billings submitted by Union Pacific (UP) were accurate, valid, reasonable, and in compliance with the operating agreements and contract amendments between Amtrak and UP. The OIG identified \$65,878 in inappropriate labor costs.

Recommendation: The OIG recommended management proceed with recovery of \$65,878 after settlement language is agreed upon with the UP.

Management Response: UP agreed with the OIG findings and offered \$65,878 as settlement.