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AMERICAN RECOVERY AND REINVESTMENT ACT:

Some Questioned Invoice Charges and Minimal Benefit from
Duplicative Invoice-Review Process

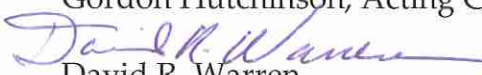
Report No. OIG-A-2012-021 | September 21, 2012





Memorandum

To: Gordon Hutchinson, Acting Chief Financial Officer

From: 
David R. Warren
Assistant Inspector General, Audits

Date: September 21, 2012

Subject: *American Recovery and Reinvestment Act: Some Questioned Invoice Charges and Minimal Benefit from Duplicate Invoice- Review Process* (Report No. OIG-A-2012-021)

On August 17, 2009, Amtrak entered into a contract with Jacobs Project Management Company to provide program management services for 34 projects, with a budget of \$463.6 million. These projects were funded under the American Recovery and Reinvestment Act (ARRA).¹ The contract requires Jacobs to review and approve invoices submitted by the design/build contractors. Amtrak also hired another contractor, a joint venture between URS Corporation, CH2M Hill, Inc. to provide program management oversight, including a second review of design/build contractor invoices. Thorough and accurate review of invoices is a critical management control to help avoid overpayment for services and avoid unnecessary costs of recovering overpayments. Given the large value of design/build contracts and the risk of significant overpayments from inadequate review processes, we reviewed the adequacy of the processes for three ARRA contracts valued at more than \$158.8 million.

¹ The American Recovery and Reinvestment Act of 2009 (ARRA) authorized the Federal Railroad Administration to provide \$1.3 billion to Amtrak through a grant agreement. This agreement allocated about \$850 million for capital projects for the repair, rehabilitation, or upgrade of railroad assets or infrastructure, and about \$450 million for capital security projects, including life safety improvements.

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Our objectives were to determine whether the (1) costs billed by the design/build contractors were adequately supported and allowable under the contracts' terms and conditions and (2) process to review design/build contractors' invoices was effective and economical. For a detailed discussion of our scope and methodology, see Appendix I.

SUMMARY OF RESULTS

Most of the invoiced costs were adequately supported and allowable for about \$35.7 million of the \$158.8 million of invoiced costs that we reviewed. However, we question about \$1.2 million of the costs (3 percent) because they were not adequately supported or allowable. We also found that Amtrak put in place a duplicative and costly process to review contractor invoices that added little value. This duplicative review process cost an additional \$2.2 million.

Overall, the invoice-review process did not fully ensure that contractors adhered to all contract terms and conditions, thus resulting in some overpayments. Further, the duplicative review process that Amtrak established resulted in minimal benefit. Since the contract has been completed, Amtrak cannot recover its costs from this duplicative review process. However, it can take steps to ensure that such a process is not established in any future contracts.

We are recommending that Amtrak (1) recover over \$1.2 million in questioned costs identified in this report; (2) direct the program manager to review other ARRA projects with significant rental charges to determine if all contract terms and conditions were met; and (3) establish a policy that would prohibit the contracting for invoice-review services that would duplicate other contract-review services.

Amtrak's Acting Chief Financial Officer and Controller provided comments on a draft of this report (see Appendix II). He concurred with our recommendations to recover questioned costs and review other ARRA contracts with significant rental charges, and partially concurred with our recommendation regarding duplicate invoice-review. We continue to believe that invoice review can be adequately addressed under one contract.

CONTRACT INVOICES REVIEWED TOTALED ABOUT \$35.7 MILLION

We reviewed the following three ARRA contracts:

- A nearly \$125.3 million contract (#1038) to Kiewit Western Company for improvement to the Chicago Station and Yard; we reviewed two invoices totaling approximately \$26.3 million.
- A contract to Consigli/JF White Joint Venture (#1004) for approximately \$22.6 million for various improvement projects to the Boston Yard; we reviewed two invoices totaling approximately \$7.1 million.
- A more than \$11million contract (#1056) to Commercial Contracting Corporation (CCC) for inventory security projects at nine mid-Atlantic locations; we reviewed two invoices totaling approximately \$2.3 million.

QUESTIONED COSTS

For more than \$35.7 million in invoices for the three contracts, we question \$1,175,470 in equipment rental and overhead costs. Our basis for questioning these invoice costs included the following:

- We identified \$1,027,443 in equipment rental costs for contracts 1004 and 1038 that the contractors did not adequately support. The invoices were for claimed costs to own and operate vehicles. According to the Federal Acquisition Regulation (FAR),² the costs to own and operate vehicles should be considered in developing overhead rates. We requested that the contractors provide data to support how they calculated their overhead rates, but this data was not provided. Therefore, the possibility exists that the vehicle related costs could be duplicated in the overhead calculation. Without adequate support to determine whether the overhead rates contained costs related to owning and operating vehicles, we question the claimed costs for owning and operating vehicles.

² See FAR 31.205-11, *Depreciation*, .

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- We question \$80,262 in overhead costs under contract 1056 because the contractor inappropriately billed for overhead costs that were not allowed by the contract. Under the terms and conditions of this contract, overhead costs are not allowable unless specifically identified in the contract. Our review of invoices indicated that the contractor billed for overhead expenses that were not allowed in the contract. Therefore, we question the \$80,262 billed for overhead.
- We question \$67,765 of equipment costs on contract 1038 because the contractor inappropriately billed for equipment. Under the terms and conditions of the contract, the contractor was allowed to charge up to 75 percent of the fair market value for equipment rental based on actual usage. We identified 17 cases, totaling \$67,765, in which the contractor billed, and was paid, more than 75 percent of the fair market value for equipment. When we raised this with the contractor they agreed with the entire amount we questioned. However, the contractor subsequently increased the amount billed for other pieces of equipment by \$31,172. This increase was not based on actual usage of equipment but rather was intended to offset the overbilling that we had identified. The Statement of Financial Accounting Standards No. 13³ defines how the fair market value for assets is determined and does not allow one asset to be offset against another. Taking these two billings together, we question \$67,675 in equipment rental costs.

WASTEFUL, DUPLICATIVE REVIEW PROCESS

Amtrak put into place a duplicative and costly process to review contractor invoices that added minimal benefit potentially wasting an estimated \$2.2 million. Amtrak hired two separate contractors to review invoices submitted by design/build contractors. According to a senior Amtrak official, two levels of review were established to provide assurance that contractor invoices were properly supported. However, the need for a second review appears to be duplicative and not cost-effective for the following reasons:

- First, Amtrak paid Jacobs an estimated \$2.7 million to perform a 100 percent review of invoices. According to Jacobs's officials they perform a 100 percent review.

³ Statement of Financial Accounting Standards No. 13.

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- Second, Amtrak paid URS an estimated \$2.2 million for a second review of invoices,⁴ which resulted in about \$56,893 credit for the three contracts we reviewed.
- Third, neither Jacobs nor URS identified the almost \$1.2 million we question based on our audit.

Since the contract has been completed, Amtrak does not intend to recover its costs from this duplicative review process.

RECOMMENDATIONS

We recommend that the Acting Chief Financial Officer direct the Chief of Procurement to take the following actions:

1. Recover over \$1.2 million in questioned costs identified in this report.
2. Direct Jacobs to review other ARRA contracts with significant equipment rental charges to determine if all contract terms and conditions were met.
3. Establish policies that prohibit contracting for invoice-review services that duplicate other contract-review services.

MANAGEMENT COMMENTS AND OIG ANALYSIS

Amtrak's Acting Chief Financial Officer and Controller provided comments on a draft of this report on September 10, 2012 (see Appendix II). He concurred with our recommendations to recover questioned costs and review other ARRA contracts with significant rental charges. He partially concurred with our recommendation regarding duplicate invoice review. He noted that management will in the future only institute duplicative invoice reviews in extraordinary circumstances and upon the approval of the Chief Financial Officer. We recognize that the Chief Financial Officer's approval of duplicative review adds a control to help avoid wasteful practices. However, we continue to believe that any extraordinary circumstances regarding invoice review could be adequately addressed under one contract.

⁴ According to URS officials, URS was only required to review a sample of invoices to ensure that costs were allowable and reasonable.

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Amtrak also noted that the second invoice review of all the design build projects managed by Jacobs Program Management Company questioned costs of \$8.4 million, which resulted in a \$3.3 million credit to Amtrak, thus showing that the second review was a cost-effective investment. However, \$2.8 million (85 percent) of the credits cited were not identified by second invoice review; these amounts were identified by a certified public accounting firm hired by Jacobs, the first-level-invoice-review contractor.

Appendix I

SCOPE AND METHODOLOGY

This report provides the results of an Amtrak Office of Inspector General review to determine (1) if the costs billed by the design/build contractors are allowable under the terms and conditions of the contracts and (2) whether the process to review design/build contractors' invoices was effective and economical. We conducted this audit work from June 2011 through August 2012, in Boston, Chicago, Detroit, and Philadelphia.

To determine if the costs billed are allowable under the terms and conditions of the contracts, we selected three contracts funded with American Recovery and Reinvestment Act funds. The three contracts are:

- A nearly \$125.3 million contract (#1038) to Kiewit for various improvement projects to the Chicago Station and Yard; we reviewed two invoices totaling approximately \$26.3 million.
- An approximate \$22.6 million contract (#1004) to Consigli for various improvement projects to the Boston Yard; we reviewed two invoices totaling approximately \$7.1 million.
- A more than \$11 million contract (#1056) to Commercial Contracting Corporation (CCC), for inventory security projects at nine mid-Atlantic locations; we reviewed two invoices totaling approximately \$2.3 million.

We selected the Kiewit and Consigli contracts because they were the largest in terms of dollars of the design/build contracts. We added the Commercial Contracting Corporation contract based on Amtrak managements' request to include a small contractor.

We compared the costs billed for two selected invoices for each contract to the contract terms and conditions. Further, for each selected invoice, we compared the amount billed for labor, material, equipment, other direct costs, subcontractors, overhead, general and administrative costs, and fixed-fee costs to supporting documentation. The invoices reviewed for each contract were as follows: Consigli (1004) pay application 5 for September 2010 and pay application 7 for November 2010, Kiewit (1038) pay

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application 7 for November 2010 and pay application 13 for May 2011, CCC (1056) pay application 2 for October 2010 and pay application 5 for January 2011.

- For labor costs, we traced hourly personnel labor costs to certified payroll reports; the hours per employee on the certified payroll reports were traced to timecards; and the hourly rates were traced to those identified in the respective design/build agreements. Finally, for salaried personnel, we traced the hours to timecards. We verified all labor costs except on Kiewit contract 1038, where a judgmental sample was taken due to the size of the invoice.
- For material costs, we traced 100 percent of the invoiced amounts to supporting documentation such as purchase orders or receiving reports. We completed a random sample on the Kiewit contract.
- For equipment rental costs, we traced 100 percent of the invoiced amounts to supporting documentation and compared rates included in contracts. As a result of our testing, we expanded our review of Consigli's vehicle rental charges.
- For other direct costs such as travel, per diem, and supplies, we traced 100 percent of the invoiced amounts to supporting documentation such as airplane, meal, or hotel receipts; and verified that employees receiving per diem were covered by an out-of-state per diem agreement and were at the out-of-state job site.
- For subcontractor costs, we traced 100 percent of the invoiced amount to supporting documentation.
- For overhead, general and administrative and fixed-fee costs, where applicable, we verified the percentage used to calculate these costs to the percentage allowed under each contract. For CCC we expanded the review to include all invoices, as a result of concerns expressed by Amtrak management.

If there was a difference between the supporting documentation and the amount paid for any cost category, we discussed the difference with Jacobs and URS personnel. If Jacobs or URS could not provide documentation to support the difference, we questioned the cost.

To determine if the invoice review process was effective and economical, we reviewed the program management agreements between Amtrak and Jacobs and URS to identify

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the requirements and responsibilities for reviewing invoices submitted by the design/build contractors. We then reviewed the procedures established by Jacobs and URS to implement the program agreement requirements. We also interviewed Jacobs and URS personnel responsible for reviewing the applications for payment to understand how they validated or questioned costs. We compared the costs questioned by Jacobs and URS to determine if they were questioning the same or different costs. Finally, we analyzed how the questioned costs were resolved. We obtained cost data on the invoice review process from Jacobs and URS officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Internal Controls

In conducting this audit, we assessed certain internal controls pertinent to the audit objectives. We reviewed the internal controls that Jacobs and URS established for reviewing invoices submitted by the design/build contractors. Specifically, we reviewed the following internal controls:

- controls put in place by Jacobs to review the invoices submitted by the Design/Builder contractors to assure they are accurate, in compliance with contract terms, and in accordance with the Federal Acquisition Regulations, and
- procedures used to validate labor, material, equipment rental, other direct costs, overhead, general and administrative rates, subcontractor costs, and fixed-fee costs submitted by the contractors.

We did not review other aspects of Amtrak's financial control systems or the reporting requirements for projects funded by the American Recovery and Reinvestment Act.

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Computer-processed Data

We relied on data obtained from Amtrak's SharePoint database. We did not review the overall accuracy and reliability of the database. We also relied on data from contractor invoices and supporting documentation for the three contracts. We verified the accuracy of the data to source documents on two invoices for each contract. Some of the supporting documentation, such as certified payroll reports, were generated from the design/build firms' computer systems. As stated, we did not validate the design builders' payroll systems. We traced the certified payroll data to timecards for each application for payment we reviewed and did not identify any discrepancies. Given the focus of our work and the steps we took to verify computer-generated data, we have concluded that the data is sufficiently reliable for the purposes of our objectives.

Prior Audit Reports

We identified the following Office of Inspector General reports as being relevant to this audit's objectives:

American Recovery and Reinvestment Act: Infrastructure Improvements Achieved but Less than Planned (Report No. 908-2010, June 22, 2011)

American Recovery and Reinvestment Act: Fewer Security Improvements than Anticipated Will be Made and Majority of Projects Are Not Complete (Report No. 914-2010, June 16, 2011)

American Recovery and Reinvestment Act: Assessment of Project Risks Associated with Key Engineering Projects (Report No. 912-2010, May 14, 2010)

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Appendix II

**COMMENTS FROM AMTRAK'S ACTING
CHIEF FINANCIAL OFFICER AND CONTROLLER**

NATIONAL RAILROAD PASSENGER CORPORATION
60 Massachusetts Avenue, NE, Washington DC 20002

Memo



Date September 10, 2012 From Gordon Hutchinson, Acting CFO and Controller

To David R. Warren, Assistant Inspector General, Audits Department Finance

Subject American Recovery and Reinvestment Act: Some Questioned Invoice Charges and Minimal Benefit from Duplicative Invoice-Review Process (Draft Audit Report Project 008-2011)

cc Jeff Martin, Chief Logistics Officer
William Hermann, Managing Deputy General Counsel
Art Misiaszek, Senior Program Director ARRA
William Coleman, Senior Program Director, Procurement
Jessica Scritchfield, Senior Director Internal Controls/Audits

This memo serves as management's response to the Draft Office of Inspector General Report "American Recovery and Reinvestment Act: Some Questioned Invoice Charges and Minimal Benefit from Duplicative Invoice-Review Process" which was issued on August 16, 2012. The following are the audit recommendations and management's response:

Recommendation 1:

Recover over \$1.2 million in questioned Costs identified in this report.

Management Response:

Management concurs with the recommendation. Procurement personnel will review the audit findings with Jacobs and seek support or reimbursement from their subcontractors of the \$1.2 million in questioned costs identified in the audit.

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Recommendation 2:

Direct Jacobs to review other ARRA contracts with significant equipment rental charges to determine if all contract terms and conditions were met.

Management Response:

Management concurs with the recommendation. Procurement will direct Jacobs to review the OH formulation of all subcontracts with significant equipment rental charges to assure contract compliance and seek reimbursement of any identified overcharges. Jacobs will be directed to complete this review within sixty (60) days and to report any adverse findings immediately upon their discovery. Subcontractors will be required to reimburse any monies due within thirty (30) days of notification of any adverse findings.

Recommendation 3:

Establish policies that prohibit contracting for invoice-review services that duplicate other contract-review services

Management Response:

Management partially concurs with the recommendation. While Management agrees that duplicate review of invoices should be avoided whenever possible and certainly during normal operating conditions, management believes that in extraordinary circumstances duplicate invoice reviews may be prudent. The significant influx of \$1.3 B in stimulus funds and associated capacity constraints led to the issuance of innovative contracts with Jacobs and URS that expanded Amtrak's ability to execute stimulus funds within a very limited timeframe. Due to the sensitivity, increased oversight and the political nature of these funds a conscious decision was made to institute duplicate invoice reviews in an extreme effort to conduct due diligence. To this end, management will in the future only institute duplicate invoice reviews in extraordinary circumstances and upon the approval by the Chief Financial Officer.

As additional information, invoice validation costs of \$2.2 million were incurred between the inception of the RPM Agreement and May of 2012. Within that time frame, the Invoice Validation Group reviewed \$290 million in D/B invoices as due diligence review (i.e., secondary review). This review resulted in questioned costs of \$8.4 million and \$3.3 million in credit to Amtrak.

Additionally, the Invoice Validation Group conducted the primary review of \$173 million in direct billings for Jacob's services, host railroad charges, geotechnical and survey charges and PMO charges resulting in \$5.3 million in questioned costs and \$275,000 in credits to Amtrak (secondary review of PMO charges was conducted by the Amtrak Finance Department with no exceptions noted).

Based on the monetary results alone (i.e. savings of \$3.6 million against expenditures of \$2.2 million), the invoice validation effort proved to be a successful and well warranted expenditure of corporate resources and assured the due diligence oversight mandated over the expenditure of ARRA federal funding.

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Appendix III

OIG TEAM MEMBERS

David R. Warren, Assistant Inspector General, Audits

Michael Kennedy, Senior Director

David Burrell, Auditor-in-Charge

Roslyn Kessler, Senior Auditor

Maryellen Moran, Senior Auditor

John Weinle, Senior Auditor

Michael P. Fruitman, Principal Communications Officer

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OIG MISSION AND CONTACT INFORMATION

Amtrak OIG's Mission	Amtrak OIG's mission is to <ul style="list-style-type: none">• conduct and supervise independent and objective audits, inspections, evaluations, and investigations relating to Amtrak programs and operations;• promote economy, effectiveness, and efficiency within Amtrak;• prevent and detect fraud, waste, and abuse in Amtrak's programs and operations;• review security and safety policies and programs; and• review and make recommendations regarding existing and proposed legislation and regulations relating to Amtrak's programs and operations.
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