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INCURRED-COST CONTRACT AUDIT:

Bridge Construction Modification Settlement Agreement
Cost is Adequately Supported

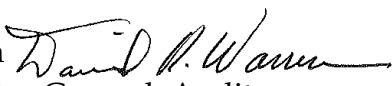
Report No. OIG-A-2012-002 | November 7, 2011





Memorandum

To: Jeff Martin
Chief Logistics Officer

From: David R. Warren 
Assistant Inspector General, Audits

Date: November 7, 2011

Subject: *Incurred-Cost Contract Audit: Bridge Construction Modification Settlement Agreement Cost is Adequately Supported* (Report No. OIG-A-2012-002)

This is our report entitled *Incurred-Cost Contract Audit: Bridge Construction Modification Settlement Agreement Cost is Adequately Supported* (Report No. OIG-A-2012-002). The objective of this audit was to determine if the contractor had adequate documentation to support the \$3.6-million settlement agreement cost for contract modification 19 to contract C-082-83501.¹ Contract modification 19 was to cover the costs associated with construction of a temporary utility bridge necessary to complete the overall project. Amtrak management requested and we agreed to conduct this audit to ensure that Granite Construction Northeast, Inc. (the contractor) had adequate documentation to support the claimed costs agreed to in the contract modification. We also took into account, while conducting the audit, that the results of our audit and of Amtrak's paying the settlement amount were preconditions for Amtrak to pursue its cost-sharing agreement with the Long Island Rail Road related to the temporary utility bridge construction. For a detailed discussion of our audit scope and methodology, see Appendix I.

¹ Contract C-082-83501 includes by reference General Provisions for Construction Contracts that states in Section 56, Audit and Inspection of Records, "Amtrak reserves the right to inspect, copy and audit the records of Contractor and subcontractor(s) ("Contractor's Records") in connection with all matters related to the Contract." Modification 19 includes, by attachment, a Settlement Agreement and Mutual Release, which stated that if any costs were disallowed by Amtrak, based on audit findings, the \$3.6-million increase in contract price would be subject to potential downward adjustment (Section A, Consideration 4).

Amtrak Office of Inspector General
Incurred-Cost Contract Audit: Bridge Construction
Modification Settlement Agreement Cost is Adequately Supported
Report No. OIG-A-2012-002, November 7, 2011

BACKGROUND

In December 2002, Amtrak entered into contract C-082-83501 with the contractor for a firm-fixed amount totaling \$66,340,000. The contract's purpose was to reconstruct and upgrade the ventilation shaft facilities servicing the four East River tunnels in Long Island City, New York. The reconstruction required the contractor to temporarily reroute electric power to ensure continued operation of Long Island Rail Road train service. To temporarily reroute electric power, the contractor erected a temporary utility bridge. Amtrak and the Long Island Rail Road, in a 1988 lease agreement, established provisions to share the cost for infrastructure improvements that benefit both entities.² Both companies agreed that they should share in the costs of the construction of the temporary utility bridge.

Since construction of the temporary utility bridge was not part of the original contract, the contractor submitted a contract modification claim on April 14, 2004. The amount of that claim was \$5.3 million. Over time, the contractor submitted several requests for a contract modification, but Amtrak refused these requests, citing insufficient documentation.

On March 24, 2008, Amtrak and the contractor reached a claim settlement agreement of \$3.6 million. This settlement agreement is modification 19 to the contract. However, payment of the settlement was dependent upon an audit of the claimed costs. Because the contract allowed only a downward adjustment of costs, our work was limited to reaching a conclusion on the adequacy of support for the \$3.6-million settlement amount. We reviewed the supporting documentation for the original \$5.3-million claim to ensure the accuracy of our conclusions.

\$3.6-MILLION SETTLEMENT AGREEMENT AMOUNT WAS ADEQUATELY SUPPORTED

Our analysis of the documentation supporting the original \$5.3-million claim showed that the \$3.6-million settlement agreement amount was adequately supported. We

² The Pennsylvania Station New York Joint Facility Agreement between Amtrak and the Long Island Rail Road is a lease agreement that dates to 1988. The Joint Facility Agreement provides guidance for cost sharing, right of use, and division of the leased property.

Amtrak Office of Inspector General
Incurred-Cost Contract Audit: Bridge Construction
Modification Settlement Agreement Cost is Adequately Supported
Report No. OIG-A-2012-002, November 7, 2011

questioned \$1,082,043 of the \$5,268,581 claim, but the resulting supported amount exceeded the \$3.6-million settlement amount. Our work showed that, of the \$5,268,581 total,

- **\$4,186,538** in costs were fully supported as we reviewed time sheets, payroll information, invoices, and payment documents for material and equipment purchases, and subcontractor invoices.
- **\$857,493** in costs were questioned because they were for work performed under the contract as a whole and not specific to the contract modification. The contractor identified costs associated with the work performed under the contract modification using specific accounting codes; however, the accounting codes associated with these costs pertained to the original contract.
- **\$208,220** in costs were questioned because the contractor claimed \$203,888 for direct labor, fringe benefits, and labor burden amounts that were coded for items specifically excluded from the contract modification costs. The remaining \$4,332 was questioned because a subcontractor claimed overhead in excess of what the contract permitted.
- **\$16,330** in costs were questioned because the invoices did not support the claimed cost. The contractor claimed \$316,330 for subcontractor work; however, the invoices totaled \$300,000.

CONCLUSION

The contractor adequately supported the \$3.6-million settlement amount. Amtrak can now work with the Long Island Rail Road to reach agreement on the costs to be shared.

MANAGEMENT COMMENT

In commenting on a draft of this report, Amtrak management agreed with the report conclusion. Amtrak's letter in response to the draft report is reprinted as Appendix II.

Amtrak Office of Inspector General
Incurred-Cost Contract Audit: Bridge Construction
Modification Settlement Agreement Cost is Adequately Supported
Report No. OIG-A-2012-002, November 7, 2011

Thank you for your cooperation during the course of this audit. If you have any questions, please contact me (david.warren@amtrakoig.gov, 202.906.4742) or Matthew Simber, Senior Director, Eastern Region (matt.simber@amtrakoig.gov, 215.349.1077).

cc: D.J. Stadler, Chief Financial Officer
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Amtrak Office of Inspector General
Incurred-Cost Contract Audit: Bridge Construction
Modification Settlement Agreement Cost is Adequately Supported
Report No. OIG-A-2012-002, November 7, 2011

Appendix I

SCOPE AND METHODOLOGY

This report provides the results of an Amtrak Office of Inspector General (OIG) review of costs claimed under contract C-082-83501, modification 19. This report addresses whether Granite Construction Northeast, Inc., had adequate documentation to support the \$3.6-million settlement agreement cost for the contract modification. We performed audit work starting in April 2008 and completed it in August 2011. Our work was delayed for a period of time due to several unsuccessful attempts by our office to obtain supporting documentation for claimed costs from the contractor.

To determine if the contractor had adequate documentation to support the cost of contract C-082-83501, modification 19, we reviewed accounting data and financial information pertaining to the construction of the temporary utility bridge. We reviewed supporting documentation for the original \$5.3-million claim to provide assurance that the final conclusion reached from our work was thorough and accurate. However, because the contract allowed only a downward adjustment of modification 19 costs, our work was limited to reaching a conclusion on the adequacy of support for the settlement agreement amount totaling \$3.6 million.

We reviewed time sheets, payroll information, invoices, and payment documents for material and equipment purchases, and subcontractor invoices to support the contractor's claimed costs. We traced individual transactions from the contractor's accounting records to source documentation such as vendor invoices for materials, time sheets and payroll records for labor, and subcontractor invoices for services provided. We interviewed the contractor's staff at their corporate offices in Tarrytown, New York, and a field location in Long Island City, New York. We also reviewed Amtrak's General Provisions for Construction Contracts and Supplementary General Provisions for Construction Contracts, Procurement and Materials Management's files and applicable policies and procedures, as well as the Federal Acquisition Regulation. Finally, we interviewed Amtrak personnel to obtain an understanding of the contract and project requirements.

Our work was performed 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

Amtrak Office of Inspector General
Incurred-Cost Contract Audit: Bridge Construction
Modification Settlement Agreement Cost is Adequately Supported
Report No. OIG-A-2012-002, November 7, 2011

conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusion based on our audit objectives.

Internal Controls

In conducting the audit, we assessed certain internal controls pertinent to the audit objectives with respect to Granite Construction Northeast, Inc., policies and procedures. Specifically, we identified and assessed internal or management controls including the following:

- preventing multiple claims for the same costs,
- developing requests for equitable adjustment,
- determining fringe benefit and labor burden costs, and
- processing invoices for payment.

Computer-Processed Data

We relied upon computer-processed information from the contractor's accounting system. The contractor provided its final claim on a spreadsheet that included cost categories for various work elements. For each cost category, the contractor provided transaction analysis reports from its accounting system. The transaction analysis reports contained detailed information for each cost transaction such as, for labor costs, employee name and number, date worked, hourly rate, and other payroll information. We recalculated costs claimed on the contractor's spreadsheet from these transaction reports. We then selected a sample of transactions for each cost category and traced and verified the information to source documents. We did not review the overall system's data reliability. However, we tested 1,102 transactions and identified no exceptions. We concluded that the test results for the transactions in question provided sufficient assurance that we could rely on the computer-processed information to accomplish our audit objective.

Amtrak Office of Inspector General
Incurred-Cost Contract Audit: Bridge Construction
Modification Settlement Agreement Cost is Adequately Supported
Report No. OIG-A-2012-002, November 7, 2011

Sampling Plan

In conducting the audit, we selected samples from transaction analysis reports obtained from Granite Construction Northeast, Inc.'s, accounting system. We selected a sample of transactions from each transaction analysis report using sampling intervals based on the number of transactions in the report. For example, we selected each transaction for testing when the report contained 15 or fewer transactions. For transaction analysis reports containing greater than 15, but 30 or fewer transactions, we selected every other transaction for testing. The sampling interval increased as the total number of transactions increased. For example, when reviewing transaction analysis reports with greater than 200 transactions, we selected every 20th transaction.

Prior Audit Reports

We reviewed the following prior audit reports for potential relevance to our work:

Mass. Electric Construction Company Work Trains, OIG Audit Report No. 112-2003,
March 10, 2004

New York Tunnel Inspection Trains, OIG Audit Report No. 211-2003, February 20, 2004

Amtrak Office of Inspector General
Incurred-Cost Contract Audit: Bridge Construction
Modification Settlement Agreement Cost is Adequately Supported
 Report No. OIG-A-2012-002, November 7, 2011

Appendix II

COMMENTS FROM AMTRAK'S CHIEF LOGISTICS OFFICER

NATIONAL RAILROAD PASSENGER CORPORATION

30th Street Station, 5th Floor Southeast, Philadelphia, PA 19104

Memo



Date October 20, 2011

To David Warren
 Assistant Inspector General, Audits


 From J. Martin

Chief Logistics Officer

Department Procurement and Materials Management

Subject Logistics Response to Amtrak
 Office of Inspector General's (OIG)
 Draft Report No. 213-2008,
 dated October 14, 2011

cc DJ Stadtler
 W. Herrmann
 G. Hutchinson
 B. Reynolds
 D. Herndon
 M. Wurpel
 G. Eckenrode
 E. Nacinovich
 J. Scritchfield
 C. Crump

The Procurement and Materials Management Department has reviewed the OIG's Draft Report No. 213-2008, "Incurred-Cost Contract Audit: Bridge Construction Modification Settlement Agreement Cost is Adequately Supported" dated October 14, 2011. Procurement and Materials Management fully concurs with the OIG conclusion stated therein.

I would like to thank the Office of Inspector General for its time and effort in working with representatives of the Amtrak Procurement department on this report.

Amtrak Office of Inspector General
Incurred-Cost Contract Audit: Bridge Construction
Modification Settlement Agreement Cost is Adequately Supported
Report No. OIG-A-2012-002, November 7, 2011

Appendix III

ABBREVIATIONS

OIG Office of Inspector General

Amtrak Office of Inspector General
Incurred-Cost Contract Audit: Bridge Construction
Modification Settlement Agreement Cost is Adequately Supported
Report No. OIG-A-2012-002, November 7, 2011

Appendix IV

TEAM MEMBERS

David R. Warren, Assistant Inspector General, Audits

Matthew Simber, Senior Director, Eastern Region

Cheryl Chambers, Audit Manager

Mark Scheffler, Senior Auditor

Thelca Constantin, Auditor

Dorian Herring, Senior Auditor

Michael P. Fruitman, Principal Communications Officer

Amtrak Office of Inspector General
Incurred-Cost Contract Audit: Bridge Construction
Modification Settlement Agreement Cost is Adequately Supported
 Report No. OIG-A-2012-002, November 7, 2011

OIG MISSION AND CONTACT INFORMATION

Amtrak OIG's Mission	<p>The Amtrak OIG's mission is to</p> <ul style="list-style-type: none"> ▪ conduct and supervise independent and objective audits, inspections, evaluations, and investigations relating to agency 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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Congressional and Public Affairs	<p>E. Bret Coulson, Senior Director Congressional and Public Affairs</p> <p>Mail: Amtrak OIG 10 G Street, N.E., 3W-300 Washington, D.C. 20002</p> <p>Phone: 202-906-4134 Email: bret.coulson@amtrakoig.gov</p>
