

Office of Inspector General



August 29, 2000
Audit Report No. 00-036

Audit of Payments to COMSO, Inc.



DATE: August 29, 2000

MEMORANDUM TO: Arleas Upton Kea, Director
Division of Administration

Donald C. Demitros, Director
Division of Information Resources Management and
Chief Information Officer



FROM: David H. Loewenstein
Assistant Inspector General

SUBJECT: *Audit of Payments to COMSO, Inc.* (Audit Report Number 00-036)

The Office of Inspector General (OIG) has completed an audit of payments made to COMSO, Inc. (COMSO). As of August 15, 2000, the FDIC had expended \$16.5 million of \$20.1 million in funds authorized under six open delivery orders with COMSO. This review has identified billing allowability issues and similar matters as reported in the *Audit of Payments to CIBER, Inc.* (audit report number 00-021, dated June 2, 2000). We will not include detailed results or recommendations on the other matters in this report since FDIC management is already taking corrective action to address the issues. During the course of our audit we communicated our concerns and suggestions to management to enable more timely consideration of this information. This is one of four ongoing OIG audits of the Division of Information Resources Management (DIRM) delivery order-type contracts.

BACKGROUND

The General Services Administration (GSA) Federal Supply Service (FSS) leverages the government's buying power to help federal agencies save time by acquiring goods and services through pre-established contracts. The FDIC used GSA's pre-established contracts for IT services and competitively awarded six delivery orders¹ to COMSO between June 4, 1997 and November 6, 1998. COMSO's contract with GSA (GS-35F-4422G) is effective for the period covering January 17, 1997 through January 16, 2002 and dictates experience requirements and hourly billing rates by labor category for COMSO personnel.

COMSO is providing System Development Life Cycle support services through the delivery orders for the FDIC's Asset Marketing System, Credit Notation System, Owned Real Estate System, Receivership Liability System, and the Local Area Network. The delivery orders also

¹ Delivery orders are orders for supplies or services placed against an established contract or with government sources for supplies.

engaged COMSO to support new and existing systems used by the Division of Administration (DOA) and the Division of Resolutions and Receiverships.

COMSO's delivery orders are time and materials-type contracts in that they provide for services based on direct labor hours at fixed hourly rates plus the cost of any necessary materials. According to the *FDIC Acquisition Policy Manual (APM)*, time and materials contracts are used when the Contracting Officer determines that fixed-price contracting (the preferred method) is not practical. Time and materials contracts make sense when it is difficult to provide a detailed statement of work or to estimate the price or duration of the time required for contract performance. The APM states that time and materials contracts should be used with caution since they provide no positive profit incentive to the contractor for price control or labor efficiency. The APM further states that the FDIC shall provide the appropriate oversight of contractor performance to ensure that efficient methods are being used.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of the audit was to determine whether the billings submitted by COMSO were adequately supported and allowable under the terms and conditions of the GSA contract and FDIC delivery orders. Our audit included 86 invoices that the FDIC paid between January 1, 1998 and August 31, 1999. These invoices were paid under six delivery orders and totaled \$10,507,577.

The audit methodology included the following:

- Identifying open delivery order contracts as of August 1999.
- Interviewing the DOA Contracting Officer, six DIRM Oversight Managers, COMSO's Controller, and COMSO's Director of Finance and Administration.
- Reviewing delivery orders 9700489OEU, 9701106NS2, 9801771NS2, 9800876CTL, 9800943CJT, and 9800748CVB and the corresponding GSA contract.
- Gathering and examining support for 40 of 86 invoices (47 percent).
- Reviewing the invoices for compliance with contract requirements.
- Analyzing the population for duplicate payments.
- Reviewing FDIC contract monitoring files.
- Reviewing subcontractor files.
- Reviewing COMSO personnel files for 42 employees.
- Determining whether COMSO employees who were working on-site billed off-site rates.
- Testing authorization of key personnel.
- Determining whether background investigations were performed for key personnel.
- Testing the accuracy and completeness of inventory records for computer equipment.
- Testing billing rates for each labor category.
- Analyzing variances between budgeted and actual labor charges for all labor categories.
- Providing DIRM, DOA Acquisition and Corporate Services Branch (ACSB), and COMSO staff with preliminary findings to verify factual accuracy, solicit input into the causes of findings, and develop workable recommendations.

- Obtaining a management representation letter from COMSO's Director of Finance and Administration providing assurance of the truth, accuracy, and completeness of information provided by COMSO officials during the course of the audit.

We did not perform audit steps aimed at drawing conclusions on qualitative issues. That is, we did not examine the quality of the technical services provided to the FDIC by COMSO. We conducted the audit from October 1999 through June 2000 in accordance with generally accepted government auditing standards.

RESULTS OF AUDIT

Although COMSO billings generally were supported, they were not always allowable. The unallowable charges relate to employee qualification issues, excessive subcontractor markups, and unallowable expenses. As a result, we are questioning \$260,259 of the \$10.5 million audited. As mentioned earlier, we also observed certain contract administration issues. These are summarized in the section below entitled **OTHER MATTERS**.

COMSO BILLED UNALLOWABLE CHARGES

We identified instances in which COMSO billed unallowable charges related to employee qualification issues, excessive subcontractor markups, and unallowable expenses. Of the \$10.5 million in payments sampled, we question a total of \$260,259 as shown in table 1. A discussion of each type of unallowable charge follows the table.

Table 1: Unallowable Charges

Type	Amount Questioned*
Employee Qualifications Not Commensurate With Billing Rates	\$248,357
Excessive Subcontractor Markups	13,261
Unallowable Expenses	<u>3,513</u>
Subtotal	\$265,131
Less: Overlapping Amounts	<u>(4,872)</u>
Total	\$260,259

* Includes overlapping questioned costs totaling \$4,872. Overlapping affects each line item of questioned costs. Source: *Analysis of files maintained by DIRM, ACSB, and COMSO*

Employee Qualifications Not Commensurate With Billing Rates

The FDIC used the GSA FSS to place six delivery orders with COMSO under GSA contract GS-35F-4422G. This GSA contract dictates experience requirements and hourly billing rates by labor category for COMSO personnel. Deviations from these requirements are permitted only with a modification to the GSA contract.

COMSO billed the FDIC for services performed by 25 employees who did not meet the minimum level of experience required by both the GSA contract and FDIC delivery orders. A comparison of the rates billed to rates appropriate for their actual level of experience shows that COMSO overbilled

a total of \$248,357 for these 25 employees. In one example, COMSO billed an individual in one delivery order as a Task Manager (which requires 8 years experience) at an hourly rate of \$71.52 and in another delivery order as a Senior Software Engineer (which requires 6 years experience) at an hourly rate of \$63.31. However, this individual had 4 years of experience and, in both delivery orders, qualified as an Intermediate Software Engineer (which requires 3 years experience) with an hourly billing rate of \$52.34. We calculated overbillings by multiplying the differences in hourly rates of \$19.18 and \$10.97 by the number of hours billed for the respective labor categories. We performed similar analyses for the other 24 employees whose experience did not meet the labor categories for hourly rates billed to calculate total overbillings of \$248,357.

Excessive Subcontractor Markups

We found that COMSO charged subcontractor markups that exceeded agreed-upon percentages. The standard FDIC Request for Quotation that the FDIC uses to solicit firms requires bidders to include the markup they intend to use for subcontractors in the bidders' proposals. During the negotiation and award process for the selected contractor, the FDIC DOA Contracting Officer is then required to review this markup as part of the subcontractor approval process. Any changes to this information must be approved as a contract modification.

For three of the delivery orders under review, COMSO submitted proposals and modifications that expressly stated the name of the subcontractor firm and the percentage of the markup that would be applied to subcontractor labor. However, we identified several instances in which COMSO billed the FDIC using a greater percentage markup than stated in the proposals, as modified. Using the rates on the subcontractor invoices and the rates COMSO billed the FDIC, we calculated the percentage of markup on subcontractor rates and compared this to the contract markup rate. We identified questioned costs totaling \$13,261.

Unallowable Expenses

The delivery orders allow COMSO to be reimbursed for local travel if the mileage is greater than 50 miles from the employee's normal work location. COMSO submitted requests for local travel that did not meet the criteria. As a result, we questioned travel expenses totaling \$1,679. Additionally, the contractor is required to furnish office space, computers, printers, copy machines, telephones, facsimiles, and office supplies. Overhead costs are included in the hourly rates. As a result, we questioned charges submitted for various administrative expenses such as telephone charges, pager services, and copy jobs totaling \$1,834 as unallowable. Therefore, we are questioning costs totaling \$3,513 for unallowable expenses.

Recommendation

The Director, DOA, should disallow net payments of \$260,259 for unallowable charges.

OTHER MATTERS

As discussed earlier in this report, we identified similar contract administration issues in the *Audit of Payments to CIBER, Inc.* (audit report number 00-021, dated June 2, 2000) on which FDIC management is taking corrective action. Therefore, we are not including detailed results or additional recommendations in this report. For your information, the following contract administration issues were identified in this audit:

- The FDIC effectively lowered employee experience requirements for six labor categories without obtaining a GSA contract modification or reduction in hourly billing rates. This resulted in the FDIC overpaying COMSO \$139,911. We are not questioning these costs because they were incurred in compliance with the FDIC's delivery orders with COMSO.
- COMSO exceeded the subcontractor percentage level of effort by 19.67 percent and 38 percent on two of the four delivery orders stating level of effort percentages.
- Our review of 40 invoices (involving 316 timesheets) identified 56 timesheets with no COMSO supervisory approval and 37 other timesheets with no COMSO overtime approval. The instances applied to five of the six delivery orders.
- Six of 18 key personnel were not approved as per the contract requirements.
- Eleven of 18 key personnel had undergone no background checks.
- In the budgeted vs. actual labor hours analysis, we noted that:
 - ◆ In one delivery order, the average budgeted hourly rate for the base period was \$60.44 and the average actual hourly rate was \$65.15. There were seven labor categories with no hours budgeted, yet labor hours were billed in six of these labor categories. In one of the six labor categories with no hours budgeted (Database Analyst), a total of 3,472 hours were billed at a high per hour rate, \$90.29 per hour.
 - ◆ In another delivery order involving a 10-month period, the average budgeted hourly rate was \$67.46 and the actual hourly rate was \$72.62. During this period, the budgeted hours were exceeded by 2,723 hours for a System Architect at \$91.03 per hour and 5,805.5 hours for a Senior Systems Analyst at \$75.18 per hour.
 - ◆ Sufficient time had not yet elapsed in the remaining four delivery orders to provide a meaningful evaluation of the budgeted vs. actual labor hours.

We suggest that DOA and DIRM address the issues listed above.

CORPORATION COMMENTS AND OIG EVALUATION

On August 28, 2000, the Director of DOA provided a written response to the draft report. Management agreed to the recommendation. The response is presented as Appendix I to this report.

The written response provided the requisites for a management decision on the recommendation in the draft report. The response is not summarized because the actions planned are identical to the recommendation. We did not receive a written response from DIRM; however, subsequent correspondence with DOA and DIRM officials confirmed that the two divisions are addressing the contract administration issues in this report through their corrective action efforts for the CIBER audit report.

Based on the audit work, the OIG will report questioned costs of \$260,259 in its *Semiannual Report to the Congress*.



FDIC

Federal Deposit Insurance Corporation
550 17th Street, NW, Washington, DC 20429

APPENDIX I

Division of Administration

MEMORANDUM TO: David H. Loewenstein
Assistant Inspector General

FROM: Arleas Upton Kea 
Director, Division of Administration

SUBJECT: MANAGEMENT DECISION
Draft Report entitled *Audit of Payments to COMSO, Inc.*

The Division of Administration's (DOA) Acquisition and Corporate Services Branch (ACSB) has completed its evaluation of the Office of Inspector General (OIG) Draft Report entitled "*Audit of Payments to COMSO, Inc.*"

The objective of this audit was to determine whether the billings submitted to COMSO were adequately supported and allowable under the terms and conditions of the GSA contract and FDIC delivery orders. The OIG made one recommendation involving \$260,259 in reported questioned costs the OIG considered unallowable.

Management Decision:

Audit Finding: COMSO Billed Unallowable Charges

Recommendation: Disallow \$260,259 in unallowable charges.

Management Response: We agree with the recommendation. DOA will disallow and pursue recovery of amounts that cannot be adequately supported by the contractor. A decision memorandum and a demand letter, if necessary, will confirm our completion of corrective action. We estimate final resolution of this recommendation by November 30, 2000.

If you have any questions concerning the management responses, please contact Deborah Reilly, Assistant Director, Acquisitions Section, at (202) 942-3552.

cc: Mike Rubino
Deborah Reilly
Dave McDermott
Mary Rann
Andrew Nickle
Tom Harris
Richard Johnson
Jesse Barrios

MANAGEMENT RESPONSES TO RECOMMENDATIONS

The Inspector General Act of 1978, as amended, requires the OIG to report the status of management decisions on its recommendations in its semiannual reports to the Congress. To consider FDIC’s responses as management decisions in accordance with the act and related guidance, several conditions are necessary. First, the response must describe for each recommendation

- the specific corrective actions already taken, if applicable;
- corrective actions to be taken together with the expected completion dates for their implementation; and
- documentation that will confirm completion of corrective actions.

If any recommendation identifies specific monetary benefits, FDIC management must state the amount agreed or disagreed with and the reasons for any disagreement. In the case of questioned costs, the amount FDIC plans to disallow must be included in management’s response.

If management does not agree that a recommendation should be implemented, it must describe why the recommendation is not considered valid. Second, the OIG must determine that management’s descriptions of (1) the course of action already taken or proposed and (2) the documentation confirming completion of corrective actions are responsive to its recommendations.

This table presents the management responses that have been made on recommendations in our report and the status of management decisions. The information for management decisions is based on management’s written response to our report.

Rec. Number	Corrective Action: Taken or Planned/Status	Expected Completion Date	Documentation That Will Confirm Final Action	Monetary Benefits	Management Decision: Yes or No
1	The Associate Director, ACSB, DOA, agreed with the recommendation. DOA will disallow and pursue recovery of amounts that cannot be adequately supported by the contractor.	November 30, 2000	Settlement Agreement	\$260,259	Yes