

Office of Inspector General




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Audit Report No. 01-001

**Audit of The Ratcliff Architects'
Professional Fee Billings
Under Contract 97-00384-S-JW**



DATE: January 10, 2001

TO: Arleas Upton Kea, Director
Division of Administration


FROM: Sharon M. Smith
Assistant Inspector General

SUBJECT: *Audit of The Ratcliff Architects' Professional Fee Billings
Under Contract 97-00384-S-JW (Audit Report No. 01-001)*

This report presents the results of the Office of Inspector General's (OIG) audit of professional fee billings that The Ratcliff Architects submitted to the Federal Deposit Insurance Corporation (FDIC) for services performed under contract 97-00384-S-JW. Ratcliff billed the FDIC \$607,730 on this contract, which covered the period May 16, 1997 through December 31, 1998. This is the first of two contracts the FDIC awarded Ratcliff for architectural and engineering services associated with the renovation of the San Francisco Regional Office located at 25 Ecker Square.

BACKGROUND

The FDIC awarded contract 97-00384-S-JW, effective May 16, 1997, to The Ratcliff Architects as a time and materials contract with total compensation not to exceed \$500,000. Ratcliff was to perform architectural, engineering, design, and contract construction administration and oversight services for the renovation of the San Francisco Regional Office. For satisfactory work performed under approved task assignments, Ratcliff was to be paid for actual productive labor hours worked at "fully loaded" hourly rates by occupational classifications as specified in the contract. The fully loaded hourly rates included any and all wages, overhead, general and administrative expenses, and profit or fee. Ratcliff was also to be paid for materials upon the FDIC's approval. The contract included seven phases of work and initially was to be completed by December 31, 1997, but on December 30, 1997 the FDIC issued Amendment 1 to extend the contract term to December 31, 1998. On November 2, 1998, Amendment 2 added additional services to complete the detail design development phase of the project and deleted from the scope of work Phase VI for the graphics/signage program and Phase VII for construction design and contract construction administration and oversight. Amendment 2 also increased the compensation by \$125,000 raising the total contract ceiling to \$625,000.

The FDIC's Division of Administration (DOA), Irvine, California office awarded the contract to Ratcliff and assigned its Acquisition Services Branch responsibility for contract administration and its Corporate Services Branch responsibility for contract oversight. With the Irvine office closure in September 1998, the DOA office relocated to the San Francisco Regional Office with

DOA staff continuing to be responsible for contract administration and oversight. DOA used three different contracting officers on this contract with the present contracting officer being assigned on January 18, 1999, after the contract performance period ended on December 31, 1998. The DOA San Francisco's Chief, Corporate Services Branch, served as the oversight manager for the contract.

In addition to its own staff, Ratcliff used six subcontractors: Adamson Associates, Dasse Design, Englund Design, Glumac and Associates, Johns/Rife Group, and Charles M. Salter Associates to complete the work. To proceed with the work, Ratcliff submitted 27 work authorizations totaling \$625,000 (including revisions) to the FDIC for approval. Each authorization set forth the general scope of work to be performed and specified the maximum fee amount to be charged.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine whether Ratcliff's billings totaling \$607,730 were adequately supported and allowable under the contract terms and conditions. The audit covered Ratcliff's billings for the contract period that began May 16, 1997 through the December 31, 1998 completion date. Further, because our initial audit work identified possible problems in contract administration, we expanded our review to determine whether the FDIC's DOA, San Francisco Region, administered the contract in accordance with established policies and procedures.

To accomplish the audit objective, we reviewed Ratcliff's proposal, the contract and all amendments and modifications, DOA's contract and oversight files, and applicable FDIC acquisition policies and procedures. We also reviewed Ratcliff's invoices, work authorizations, accounting records, and billing support; subcontractors' and vendors' invoices; and obtained and reviewed contractor and subcontractor employee original timesheets and employee resumes and other documentation.

Additionally, we performed tests to evaluate the allowability and support of Ratcliff's billings. Specifically, our tests were designed to determine whether (1) hours billed by work authorization were accurate and supported by original employee timesheets; (2) labor categories and labor rates billed were consistent with the contract, individuals met the minimum contract qualification requirements for the labor category billed, and employees were billed at the correct labor category; and (3) the FDIC approved the subcontractors' labor hours and labor rates in advance. When Ratcliff or its subcontractors increased an employee's hourly billing rate, we determined whether DOA approved the rate increase. We also determined whether the material expenses Ratcliff invoiced the FDIC were billed in accordance with contract terms and conditions.

Because Ratcliff did not submit subcontractor labor hours and labor rates for the FDIC's approval, we determined whether the subcontract labor rates billed were limited to the contract labor rates for the applicable labor category. In those two instances where resumes were not available for our examination because the employees were no longer employed and the employer did not maintain the data needed to contact the former employees, we used the lowest applicable labor category of the contract in determining the allowable labor rate. With the following

exceptions, we examined 100 percent of the transactions in making the aforementioned determinations. For labor hours and labor rates billed for Ratcliff employees, we selected for examination the labor charges for five employees whose professional fees represented 83 percent of Ratcliff's total labor charges. In determining whether subcontractor employees met the minimum qualification requirements, we selected for examination the resumes of all employees who charged 40 or more hours to the contract. We did not examine billings for the subcontractor Englund Design because of the minimal amount charged.

We also examined architectural plans, files, and records Ratcliff furnished us to identify the work products Ratcliff completed on the contract. We then compared those products for similarity to the general scope of work statements contained in Ratcliff's work authorizations that the FDIC approved. We could not compare the products to the contract deliverables because DOA's contracting officer did not define the deliverables.

Our review of the DOA San Francisco Region's administration of the contract was limited to determining whether the contracting officers and oversight manager carried out their respective responsibilities and adhered to established policies and procedures regarding (1) issuance of the contract-required task assignments to define, measure, and control the work; (2) approval to proceed with the work with appropriate delegation of authority; (3) enforcement of the contract provisions requiring the FDIC's advance approval of the contractor's material prices and subcontractor labor hours and rates; and (4) review and approval of Ratcliff's billings for payment.

We did not perform audit steps aimed at determining the quality of technical services provided to the FDIC by Ratcliff or its subcontractors. Also, the OIG did not perform a review of internal controls related to Ratcliff's billings. Instead, the OIG determined the cause of control breakdowns only when exceptions were identified and relied on substantive testing to achieve its objectives. Accordingly, the OIG expresses no opinion on the adequacy of Ratcliff's internal controls related to its billings.

The audit was conducted at the contractor's Emeryville, California, office; five of the six subcontractors' offices located in the San Francisco area; and the FDIC's San Francisco Regional Office. The OIG conducted the audit from September 1999 to June 2000 in accordance with generally accepted government auditing standards.

RESULTS OF AUDIT

DOA's San Francisco Regional Office did not always follow contract provisions and the FDIC acquisition policies and procedures to effectively administer and oversee Ratcliff's contract performance and billings. Specifically, DOA did not issue task assignments as the contract required to define, measure, and control the work. Additionally, DOA approved Ratcliff to proceed under different compensation terms and without obtaining the information needed to measure and control performance and costs, and before DOA's Director approved the funds for the \$125,000 contract amendment. Further, DOA did not adequately follow the FDIC's acquisition policies and

procedures that would have precluded the Corporation's payment of the unallowable fees questioned in this report.

Of the \$607,730 Ratcliff billed the FDIC, we concluded that \$531,721 was adequately supported and allowable under the contract. We questioned the remaining \$76,009, or 13 percent, because the fees Ratcliff billed did not conform with the contract and, therefore, are unallowable. The unallowable charges include fees incurred outside the contract period, fees for indirect personnel and expenses, fees for unsupported time charges, fees for labor categories charged at higher rates than allowed or the employees were not qualified for the rates charged, and other questionable charges.

CONTRACT ADMINISTRATION AND OVERSIGHT NEEDS IMPROVEMENT

DOA's San Francisco Regional Office did not always follow contract provisions and the FDIC acquisition policies and procedures to effectively administer and oversee Ratcliff's contract performance and billings. Specifically, DOA did not issue task assignments as the contract required to define, measure, and control the work. Additionally, DOA approved Ratcliff to proceed under different compensation terms and without obtaining the information needed to measure and control performance and costs, and before DOA's Director approved the funds for the \$125,000 contract amendment. Further, DOA did not adequately follow the FDIC's acquisition policies and procedures that would have precluded the Corporation's payment of the unallowable fees questioned in this report.

Task Assignments Were Not Issued to Define and Control the Work

DOA's contracting officers did not issue task assignments to define the tasks, requirements, costs, delivery dates, and deliverables expected of the contractor even though the contract provided that Ratcliff would be paid based on satisfactory completion of task assignments. Additionally, the work authorizations Ratcliff submitted to DOA to proceed with work did not provide the level of detail needed to address the task elements. However, the oversight manager, without delegated authority, either in writing or verbally approved 22 of the 27 work authorizations or work authorization revisions that allowed Ratcliff to proceed. Because the task elements were not defined, the Corporation had limited ability to measure and control the contractor's performance to ensure that the desired scope of work was satisfactorily accomplished on time and within budget.

The contract's statement of work (SOW) provided the basis for compensation to the contractor. Section IV of the SOW stated that Ratcliff was to be compensated for tasks performed satisfactorily provided that the contractor was engaged to proceed with work or assignments under a valid task assignment. To be a valid task assignment, section IV stated that the task assignment must be in writing and signed by the contracting officer. Although the SOW divided the work into seven general phases, listed steps the contractor was to perform within each phase, and included the staff qualifications necessary to complete the work, section IV specifically stated that the contracting officer was to issue task assignments to Ratcliff after award. The task

assignments were to describe the work to be performed, identify the deliverables to be provided, and specify the performance schedule and completion date. Within 3 days of receipt of a task assignment, Ratcliff was to prepare and submit to the FDIC a "task plan" for completion of the task assignment. The task plan was to contain:

- a schedule, including milestones, goals, and the dates to start and complete the task;
- a staffing plan, including the names of the project team and team leader, an estimate of the labor hours by labor category needed to complete the task, and a full explanation of how the figures were derived;
- a detailed cost estimate, including a full explanation of how the figures were derived; and
- a statement of the assumptions used or understanding reached about the nature of the task that formed the basis for the schedule, staffing plan, and cost estimate.

The task assignment process was designed to provide a measure of control over the contractor's spending and serve as a means for the FDIC to assess the contractor's performance. However, DOA's contracting officers did not issue task assignments to Ratcliff or require Ratcliff to provide the task plan information. Instead, Ratcliff prepared and submitted to DOA a total of 27 "work authorizations." The work authorizations were signed by Ratcliff's representative and included a brief title and general scope of work statement, specified a maximum fee amount to be charged, and provided space on the authorization for the FDIC's signature of acceptance. Because the contracting officer did not issue valid task assignments, for the purposes of this report we audited against the work authorizations.

According to information contained on the 27 work authorizations, DOA's contracting officer verbally approved Ratcliff to proceed with work on three work authorizations but did not approve any of the work authorizations in writing. The oversight manager, without authority, signed to approve 8 work authorizations (one initially was verbally approved by the contracting officer) and verbally authorized Ratcliff to proceed with the work on 14 other work authorizations. DOA representatives did not approve the contractor to proceed with three original work authorizations, but the oversight manager later approved two of the three work authorization revisions in writing.

In our opinion, the oversight manager acted outside of his authority by approving individual work authorizations for Ratcliff to proceed with the work. Provisions of the contract, the oversight manager's confirmation letter, and the FDIC's Acquisition Policy Manual (APM) show that the oversight manager was not delegated the authority to approve Ratcliff's work authorizations or to perform contract administration duties. Contract article 3.2 (a) identifies the oversight manager as the person the contracting officer designates in writing to represent the FDIC for the purpose of monitoring technical contract performance. The article further states that the oversight manager is not authorized to issue any instructions or directions which would result in an increase or decrease in the contract price or which change the delivery date(s) or period of performance. The contracting officer is the only person with FDIC delegated authority to enter into, modify, administer, and terminate contracts and orders per contract article 3.2 (b).

Further, the contracting officer's April 9, 1997 letter to the oversight manager confirming his appointment, which the oversight manager signed to acknowledge receipt, explains the oversight manager's authority. The letter explicitly states: ". . . this confirmation does not authorize the OM (oversight manager) to: (1) modify or alter the contract or any of its terms and conditions; . . . or (3) approve any actions which would result in additional charges to FDIC. All such actions must be made in writing by the cognizant Contracting Officer." Also, the FDIC's APM, section 7.B.2.a., provides: "The Contracting Officer is responsible for administration of the contract. A warranted Contracting Officer is the only person who may enter into a contract or change a contractual commitment on behalf of FDIC"

Seven of the work authorizations the oversight manager approved altered the contract terms and could have increased the contract price. To illustrate:

- Two work authorizations (18 and 25) incorrectly stated the method of compensation as lump-sum rather than the contract-required actual productive labor hours worked at fully loaded hourly rates. Ratcliff later billed subcontractor fees for these two work authorizations based on lump-sum amounts, and the amounts billed exceeded the amounts allowed by actual productive labor hours worked. Because the oversight manager approved the work authorizations containing the lump-sum method of compensation, the Corporation could be at risk of paying Ratcliff the increased fees billed. We questioned the amounts billed in excess of actual productive hours worked totaling \$21,541 as further discussed under the finding captioned "One Subcontractor Was Paid More Than FDIC's Contract Allowed."
- Five work authorizations (1, 2, 3, 8, and 9) the oversight manager approved contained statements that reimbursable (material) expenses would be charged at actual costs plus a 10 percent service fee. The contract did not contain any provision to compensate the contractor for service fees. On four of the five work authorizations, the statements were later revised to delete the wording "plus a 10 percent service fee" from the compensation provisions. Although our audit revealed that Ratcliff did not bill the service fees, the Corporation was at risk of being billed for such charges because the oversight manager initially approved the work authorizations with the service fees included.

In addition, the work authorizations did not fully address the task plan requirements. Specifically, the work authorizations did not identify the personnel and labor hours by labor category to be used to complete the work, state the deliverables to be provided, include the planned date for completion of the work authorization, or adequately define the scope of work. For example, Ratcliff issued Work Authorization 20, Design Development, for hourly fees not-to-exceed \$87,500 on October 19, 1998, and stated that the scope of work was to "Complete as much design as possible with the remaining fee."

Further, the maximum fee stated in nine work authorizations did not serve as a work performance or cost control. Of the 27 work authorizations, Ratcliff submitted one or more changes to revise 12 work authorizations: 9 to add work and/or increase the fee and 3 to reduce the work and/or fee. However, on the nine work authorizations that Ratcliff increased, the increase in the fee amount ranged from 17 percent to 838 percent. According to information contained on Work Authorization 10, Schematic Design, Ratcliff initially increased the fee by

\$47,000 (from \$8,000 to \$55,000) without a revision in the scope of work to justify the fee increase. Without evidence of a scope change or other justification provided, Ratcliff also revised Work Authorization 20 on November 12, 1998 to increase the maximum fee by \$21,800 to \$102,180. Ratcliff, however, did not adhere to the fee limitation and invoiced the FDIC a total of \$104,349 for Work Authorization 20.

Without defining and identifying the information required by the task assignment and task plan, DOA was not able to effectively measure Ratcliff's performance and costs to ensure that the contracted scope of work was satisfactorily completed on time and within the contract ceiling amount. In light of the numerous deficiencies in work authorizations cited above, DOA's contracting officers and oversight manager did not properly discharge their respective corporate responsibilities.

DOA's Oversight Manager Approved Ratcliff to Proceed with Additional Work at Increased Cost Without Authority

DOA's oversight manager, without delegated authority, verbally approved Ratcliff to proceed with additional services. Moreover, the oversight manager granted the approval before DOA's Director approved the funds for the \$125,000 contract amendment. By authorizing Ratcliff to proceed with the work and granting the approval before the DOA Director approved the funding increase, the oversight manager put the Corporation at risk of receiving a contractor's claim in the event the Director did not approve the funds for the amendment.

On October 19, 1998, DOA's Director approved the San Francisco Region's October 8, 1998 request to modify the Ratcliff contract and increase the expenditure authority from \$500,000 to \$625,000. In turn, DOA's contracting officer executed Amendment 2 with Ratcliff effective November 2, 1998. This amendment added additional services to complete the detail design development work and deleted the graphics/signage program, construction design, contract administration, and construction oversight activities from the contract.

However, according to statements made in six work authorizations Ratcliff submitted to DOA as contained in the oversight manager's files, Ratcliff had already proceeded with the work based on the oversight manager's verbal authorization. Ratcliff stated in the six work authorizations (20R, 22, 23, 24, 25, and 26) that added the detail design development work and additional fees to the revised contract ceiling amount: "We have proceeded with the work based on the verbal authorization from (the oversight manager) received on September 25, 1998." Contract Amendment 2 did not include any language to ratify the oversight manager's action verbally granting Ratcliff the authority to proceed with the work on September 25, 1998. The oversight manager's action is in direct conflict with contract terms, the oversight manager's confirmation letter, and the FDIC's acquisition policies and procedures.

DOA Did Not Adequately Review Ratcliff's Invoices Before Payment

DOA's contracting officers and oversight manager did not follow the Corporation's invoice processing procedures to adequately review Ratcliff's invoices before approving them for payment. As a result, the DOA officials approved about \$76,000 in unallowable charges for FDIC payment. (This matter is discussed later in this report under the caption "RATCLIFF BILLED UNALLOWABLE CHARGES.")

Section 7.I.6.b., Review and Approval, of the FDIC's APM describes the minimum requirements for the contracting officer's and oversight manager's review and approval of invoices submitted by contractors. Per the FDIC's APM, section 7.I.6.b.(4), the contracting officer is primarily responsible for reviewing the invoice to ensure that it is correct and complies with the contract terms and conditions. The contracting officer is also responsible for ensuring that the total contractor payments and payments in process do not exceed the specified contract award amount and approved expenditure authority. The APM also includes Invoice Review Guidelines to provide the contracting officer with steps for reviewing contractor invoices. Further, APM section 7.I.6.b.(5) provides that the oversight manager will review the invoice to ensure that it properly reflects the goods and services received, all goods and services billed have been inspected and accepted, the total payments and payments in process do not exceed the contract ceiling price and the approved expenditure authority, and the invoice does not contain any errors or discrepancies.

DOA's contract files show that the contracting officers and oversight manager were involved in the invoice review and approval process and certified Ratcliff's invoices for payment. Although the contracting officers and oversight manager did identify and reject some unallowable and unsupported costs included in Ratcliff's billings, the reviews were ineffective to preclude payment of unallowable costs. Furthermore, DOA's contract files do not evidence that DOA representatives completed the Invoice Review Guidelines checklist in approving Ratcliff's invoices for payment. Had DOA representatives followed and enforced the contract terms and conditions and had they followed the Invoice Review Guidelines checklist, we believe that most, if not all, unallowable costs billed and disclosed in this report could have been detected and/or prevented. To illustrate:

- **Employee Hours and Rates Billed.** Invoice Review Guidelines, Services Step 1, asks whether the services have been itemized and billed at the units and rates contained in the contract. Also, Services Step 4 asks whether the number of hours and labor categories recorded on the supporting timesheets and/or subcontractor invoices agree with the number of hours and labor categories claimed on the invoice. DOA representatives, however, did not obtain and review original employee timesheets to ensure that the hours billed represented the actual productive hours that employees worked. The representatives also did not ensure that the rates billed for the applicable employees were the same as the contract rates and did not obtain and review contractor and subcontractor employees' resumes to determine whether the employees met the contract minimum qualification requirements for the labor category billed. Further, the representatives did not ensure that only qualified contractor or subcontractor employees worked on the contract. It is important to note that the contract did not require the contractor to submit original employee timesheets with its invoice.

Had the review steps been followed, they would have disclosed that Ratcliff billed the FDIC for (1) subcontractor labor hours and rates without first obtaining the FDIC's advance written approval, (2) one subcontractor's services at lump-sum amounts rather than at actual productive labor hours worked, (3) subcontractor labor hours not worked for the period claimed or that the employees' timesheets showed that the hours were worked on a different work authorization than the work authorization billed, and (4) higher labor rates than the contract allowed or that were supported by the employee's qualifications.

- **Fees and Expenses Billed for Work Performed Outside the Contract Period.** The \$6,897 that Ratcliff billed for work performed outside the contract period (see finding subcaption "Fees and Expenses Billed for Work Performed Outside Contract Period") could have been detected by applying Invoice Review Guidelines, Services Step 2. This review step asks whether the services were rendered during the contract period of performance. By reviewing vendor invoices and supporting documentation (included in Ratcliff's invoice package) and obtaining contractor and subcontractor original employee timesheets (Services Step 4), DOA representatives would have found that the work was performed outside the contract period.

A basic tenet of internal control includes management's methods for following up and checking on performance to ensure that control procedures are complied with. As discussed above, the contracting officers' and oversight manager's lack of adherence to contract terms and conditions and established acquisition policies and procedures demonstrates that the San Francisco Region needs to strengthen its monitoring and control process.

We discussed our audit findings with DOA, San Francisco Region officials and the DOA Director's audit liaison on September 12, 2000. The Regional Manager stated that the Regional office did not do anything on this contract without Washington, D.C.'s approval. The Regional Manager acknowledged, however, that the Regional office did not have any documentary evidence that DOA's Director gave verbal approval to proceed with the additional contract services before he approved the additional funding for the \$125,000 contract amendment in writing.

Recommendation

The OIG recommends that the Director, Division of Administration, take the following action:

- (1) Require the San Francisco Region to establish adequate internal controls to ensure that DOA representatives follow contract provisions and the Corporation's acquisition policies and procedures.

RATCLIFF BILLED UNALLOWABLE CHARGES

Ratcliff billed the FDIC unallowable charges. The unallowable charges include fees for work outside the contract period, fees for management/overhead personnel, and fees for unapproved

subcontract labor hours and rates. Ratcliff also claimed time charges that were not supported by employee timesheets and charged higher labor rates than allowed by the contract. Other unallowable charges include fees for one subcontractor's services that exceeded the amount allowed and fees for indirect expenses, printing and reproduction errors, and other charges that were not permitted by the contract. Of the total \$607,730 Ratcliff billed the FDIC, we questioned \$76,009, as shown in Table 1. A discussion of the unallowable charges follows the table.

Table 1: Summary of Questioned Costs

Questioned Activity	Questioned Cost
Fees and Expenses Billed for Work Performed Outside Contract Period	6,897
Management/Overhead Personnel Billed as Direct Labor	9,570
Subcontractor Labor Hours Not Approved In Advance and Labor Hours Not Supported by Employee Timesheets	9,294
Labor Rates Not Billed or Approved According to Contract Terms	20,223
One Subcontractor Was Paid More Than FDIC's Contract Allowed	21,541
Unallowable and Unapproved Material Expenses Billed	8,484
Total	\$76,009

Source: OIG analysis of the invoices submitted to the FDIC.

Fees and Expenses Billed for Work Performed Outside Contract Period

Ratcliff billed the FDIC for professional fees and material expenses totaling \$6,897 that were incurred outside the contract period. Article 2.1 of the contract provides that the contract shall have a period of performance starting on the effective date of May 16, 1997 and expiring on December 31, 1998, as extended by the FDIC. Ratcliff, however, billed \$5,241 for prime contractor labor and material expenses and billed \$1,656 for subcontractor labor (Charles M. Salter Associates) incurred before May 16, 1997 and after December 31, 1998. For example, Ratcliff billed \$2,548 (13.5 hours at \$110 per hour and 12.5 hours at \$85 per hour) for labor performed by four of its staff from April 16, 1997 through May 15, 1997, which is before the contract began on May 16, 1997.

Ratcliff officials agreed that the fees and expenses were incurred outside the contract period, but they stated that the fees and expenses were related to Ratcliff's performance on the FDIC contract and, therefore, Ratcliff should be paid the amounts billed. Although the fees and expenses may be contract-related, the contract does not include any provision to pay Ratcliff for fees and expenses incurred outside the contract period. Further, the FDIC did not formally ratify the work billed by Ratcliff for work performed outside the contract period nor did the FDIC amend the contract to include such work. Finally, the work performed by Ratcliff was not

clearly covered within the scope of the contract. The tasks billed appeared to be more overhead in nature and not directly related to completing the tasks required under the contract.

Management/Overhead Personnel Billed as Direct Labor

Ratcliff billed the FDIC for three principals of its firm that were not identified as "key personnel" who are essential to contract performance and whose duties primarily consisted of managing firm operations. Ratcliff billed the three principals as supervisors at \$110 per hour, the highest contract labor rate, for a total of \$9,570. The total hours charged to the contract per principal ranged from 12 to 42 hours. We consider the charges for the three principals to be unallowable for the following two reasons:

1. The three principals were not identified in the contract as key personnel essential to contract performance. Article 3.1 of the contract specifically identified by name and position all key Ratcliff personnel that the FDIC considered essential to the contractor's proper performance of duties on the contract. The article also stated that the named personnel would perform the roles of these positions. The contract also provided that before diverting or reassigning any key personnel to any other projects, the contractor was to notify the contracting officer in writing in advance and submit the name of the proposed substitute individual with a description of the individual's educational and professional background. Although Ratcliff's project supervisor claimed that Ratcliff submitted to the FDIC the name of one of the principals as a substitute for the departed principal-in-charge, Ratcliff did not provide us with the requested documentary support to evidence such action. We also did not find evidence in the FDIC's files that the FDIC had received or approved the names of any of the three principals as a substitute for the departed principal-in-charge or any other key personnel position.
2. We considered the three principals' activities performed on the contract as a management or administrative overhead function. To illustrate, one principal charged a total of 12 hours to the FDIC contract in small increments of 1 hour to 2 hours at a time for unstated work performed during the 19-month contract period. In response to the OIG's request for an explanation of the services provided, this principal said,

I am rigorously conscientious about not charging operations time, such as staffing, to any project in the office. The time that I do charge is limited to project management activities: project planning, such as assisting with work plan and task plan; assisting with writing owner or other correspondence; or assisting with contract management, e.g., setting up consultant contracts or preparing additional service requests.

In our opinion, such activities are a managerial or general and administrative function necessary on any project and, therefore, are considered an indirect expense. A review of these three individuals' timesheets showed that the charges to the project were infrequent and in small hourly increments with most of their nonproject time charged to general administration, which is an indirect expense.

Ratcliff officials believe that Ratcliff is entitled to compensation for the three principals' work on the contract. Ratcliff's project supervisor said that Ratcliff did not identify the principals as key personnel because they did not charge much time to the contract but insisted that they were instrumental in completing the design work. The project supervisor stated that the principal for design was instrumental in devising a design to more efficiently use the corner office space of the structure and reviewed the architectural design work on the project. The OIG continues to believe that Ratcliff was compensated for these personnel through the fully loaded hourly rates specified in the contract. According to the contract, the fully loaded hourly labor rates include any and all wages, overhead, general and administrative expenses, and profit or fee. To allow these management/overhead type personnel to charge time directly to the project results in duplicate compensation.

Subcontractor Labor Hours Not Approved in Advance and Labor Hours Billed Not Supported by Employee Timesheets

Ratcliff billed the FDIC for subcontractor work without obtaining the FDIC's advance approval of specific subcontractor labor hours. Further, Ratcliff billed the labor costs that subcontractors invoiced Ratcliff without obtaining subcontractor employee timesheets to substantiate that the employees actually worked the hours claimed. According to article 4.1.4. of the contract: "The FDIC may pay amounts Contractor has been invoiced for labor hours actually worked by its approved subcontractors in performing under this Contract, provided that its approved subcontractors' hourly rates and labor hours have been approved in advance by FDIC . . ." After obtaining and examining subcontractor timesheets, we questioned \$9,294 in fees for labor hours billed by subcontractors but not supported by timesheets, as discussed below:

- Employee timesheets showed that one subcontractor, Glumac and Associates, invoiced Ratcliff \$6,808 for labor hours not worked for the period claimed or the timesheets showed that the hours were worked on a different work authorization than the work authorization Glumac invoiced. For example, we questioned 68.5 hours that Glumac invoiced to Work Authorization 14 because the timesheets showed that Glumac's employees actually worked on Work Authorization 6, which had a maximum fee amount of \$9,000. Glumac had incurred other time charges for Work Authorization 6 that cumulatively exceeded the Work Authorization 6 maximum fee limit. By invoicing the 68.5 hours to Work Authorization 14, Glumac received more compensation than the maximum Glumac proposed charging for its work. In letters dated June 27, 1997 and October 27, 1997, Glumac proposed charging Ratcliff total fees not-to-exceed \$9,000 for the work Glumac was to perform on Work Authorization 6. Glumac later had other Work Authorization 14 time charges that overran the Work Authorization 14 maximum.
- Another subcontractor, Johns/Rife Group, was unable to produce employee timesheets to support the labor hours and fees it invoiced Ratcliff totaling \$2,210 (26 hours at \$85 per hour). Further, subcontractor Charles M. Salter Associates agreed with the OIG that it had mistakenly overbilled Ratcliff \$276 for employee labor (3 hours at \$92 per hour).

Ratcliff's project supervisor stated that she did not believe that Ratcliff needed to obtain the FDIC's approval of the subcontractors' labor hours and labor rates if the subcontractors were approved as part of the contract. The project supervisor also commented that she had told subcontractor Glumac that its services would be paid on an hourly contract. Ratcliff's principal for accounting stated that Ratcliff was opposed to obtaining employee timesheets from its subcontractors because of its long-standing working relationships with the subcontractors.

The OIG believes that contract article 4.1.4 is specific in the requirement that the subcontractors' labor hours and labor rates must be approved in advance by the FDIC. In regards to subcontractor Glumac, Glumac proposed to charge on a not-to-exceed basis per Work Authorization 6 and Glumac limited its billing on Work Authorization 6 to the not-to-exceed amount. However, Glumac invoiced the fees it incurred in excess of the Work Authorization 6 limit to Work Authorization 14, thereby receiving more compensation than the not-to-exceed amount it agreed to charge.

Labor Rates Not Billed or Approved According to Contract Terms

Ratcliff did not always bill labor rates or obtain rate approval according to contract terms. Specifically, Ratcliff billed the FDIC for (1) Ratcliff and subcontractor employees at higher hourly labor rates than the employees were qualified for, (2) hourly labor rates for subcontractor employees without obtaining resumes to substantiate that the employees met the contract minimum qualification requirements for the labor classifications billed, and (3) the same subcontractor employees at increased hourly rates without obtaining justification for the rate increases. As a result, Ratcliff overbilled the FDIC a total of \$20,223, as detailed below:

- One Ratcliff employee and five subcontractor employees did not meet the contract minimum qualification requirements for the labor classifications billed. A comparison of the rates billed to rates appropriate for the employees' actual level of education and experience showed that Ratcliff overbilled the FDIC a total of \$17,560 for the six employees. To illustrate, Ratcliff classified one of its employees as a Senior Interior Designer at the \$85 hourly rate; however, based on the resume, the employee only had 6 years of related experience rather than the 10 to 15 years of experience the FDIC required. The employee more appropriately qualified as a Junior Space Planner at the \$50 hourly rate. As a result of this misclassification, Ratcliff overbilled the FDIC \$7,823 (223.5 total hours at \$35 per hour).

Also, subcontractors Glumac and Associates and Dasse Design classified and invoiced five employees (three and two employees, respectively) as Engineers at the \$92 hourly rate; however, these employees had less than the 10 to 15 years of experience required for the position. The years of experience for Glumac's three employees more appropriately qualified them as CADD Operators (AutoCAD/Database software for computer automated design work) at the \$65 hourly rate. Because the background of the two Dasse Design employees was not similar to any other labor classification in the contract, we computed allowable labor at the contract's lowest professional labor hourly rate of \$50. The difference between the rates Glumac and Dasse Design billed and the employee qualified rates resulted in a total overbilling of \$9,737.

- Resumes were not available to support the professional labor classifications billed for two employees who are no longer employed by subcontractor Glumac and Associates. A Glumac representative said the firm did not maintain the employees' resumes and did not have information available to contact the two former employees to obtain their resumes. Because the subcontractor could not support the labor classifications billed for these two employees, we questioned the difference between the rates billed and the lowest professional hourly labor rate of \$50 allowed by the contract, resulting in total questioned costs of \$2,351.
- Subcontractor Glumac and Associates increased the hourly labor rate it billed for two of its employees without providing justification for the rate increase. We questioned the rate increase from the hourly rate first billed resulting in an overbilling of \$312.

Also, Ratcliff billed the FDIC the hourly labor rates that subcontractors invoiced Ratcliff without obtaining the FDIC's approval of the rates. Contract article 4.1.4. states: "The FDIC may pay amounts Contractor has been invoiced for labor hours actually worked by its approved subcontractors . . . provided that its approved subcontractors' hourly rates and labor hours have been approved in advance by FDIC . . ." Because the FDIC did not approve the hourly rates subcontractors charged, we compared the labor classifications and rates charged to the contract labor classifications and rates the FDIC allowed Ratcliff. We determined that the rates that four of the five subcontractors we reviewed charged per labor classification did not exceed the contract rates allowed Ratcliff. The other subcontractor, Adamson Associates, charged labor rates in excess of the contract rates. We questioned the amount Adamson billed in excess of the contract rate as further discussed below under "One Subcontractor Was Paid More Than FDIC's Contract Allowed." Because the FDIC did not approve subcontractor labor rates, the Corporation should determine the allowability of the labor rates that the subcontractors charged. Excluding subcontractor labor costs questioned elsewhere in this report, Ratcliff billed the FDIC \$150,391 based on labor rates the six subcontractors billed Ratcliff.

Ratcliff officials agreed with the labor rate adjustment for the Ratcliff employee, but Ratcliff's principal for accounting stated that Ratcliff was opposed to obtaining employee resumes from its subcontractors because of its long-standing business relationship. The OIG believes that Ratcliff has an inherent responsibility to obtain subcontractor employee resumes to substantiate that the employees meet the contract minimum qualification requirements and that the labor rates billed and certified to are commensurate with the employee's qualifications.

One Subcontractor Was Paid More Than FDIC's Contract Allowed

Ratcliff paid subcontractor Adamson Associates on different terms and at higher amounts than the FDIC contract with Ratcliff allowed. Article 4.1.4. of the contract states: "The FDIC may pay amounts Contractor has been invoiced for labor hours actually worked . . . provided that its approved subcontractors' hourly rates and labor hours have been approved in advance by FDIC . . ." Adamson, however, invoiced Ratcliff at lump-sum amounts and at higher labor hourly rates than the FDIC contract with Ratcliff allowed. Ratcliff paid Adamson the amounts billed and passed the increased costs through in its billings to the FDIC. Ratcliff overbilled the

FDIC \$21,541 for fees that exceeded the subcontractor's actual productive hours worked at contract hourly labor rates.

Adamson billed Ratcliff a total of \$43,435 for services performed on the FDIC contract. However, on three of four invoices, Adamson billed Ratcliff at lump-sum amounts totaling \$35,500 instead of at the contract hourly rates based on actual productive labor hours the employees worked. On the fourth invoice, Adamson billed Ratcliff \$7,935 at actual productive hours worked but at higher hourly labor rates than the contract allowed. Ratcliff billed the FDIC the \$43,435 it paid Adamson without obtaining the FDIC's approval to charge fees at lump-sum amounts and did not submit Adamson's \$115 hourly labor rate for the FDIC's approval.

To determine the amount allowable according to the FDIC contract, we obtained source documentation from Adamson. According to original employee timesheets, Adamson employees actually worked 261 hours on the FDIC contract. Further, of the seven employees Adamson used to perform the work, one employee did not possess the minimum years of experience to qualify as an Engineer at the \$92 per hour labor rate. Because the employee's background was not similar to any other labor classification in the contract, we computed allowable labor at the contract's lowest professional labor hourly rate of \$50. Based on source documents and contract rates with Ratcliff, Ratcliff would be allowed \$21,894 under the contract for work Adamson performed, resulting in an overbilling of \$21,541.

Ratcliff's project supervisor stated that Ratcliff always does business with subcontractor Adamson on a lump sum basis. Regardless of any agreement between Ratcliff and Adamson, the compensation provisions of the FDIC contract with Ratcliff specifically provided that labor would be compensated based on actual productive hours worked at contract labor rates.

Unallowable and Unapproved Material Expenses Billed

Ratcliff's billings for material (reimbursables) costs included \$8,484 for the following items that the contract did not allow and that the FDIC did not approve in advance as required by contract terms.

- Ratcliff billed material expenses totaling \$3,412 that were not a direct expense to the contract and were not purchased from an entity not affiliated with Ratcliff. Of the \$3,412, Ratcliff billed \$3,220 for use of its own plotter (equipment used to print engineering plans) based on units of actual use at an unapproved rate. Ratcliff acquired the plotter over 6 years before the contract began and did not request the FDIC's approval of the plotter rate. To be allowable, contract article 4.1.2 required that the material be purchased specifically for performing the contract and from an entity not affiliated with the contractor. Article 4.1.2 also required that the FDIC approve the material prices in advance. Ratcliff also directly billed \$192 for general office supplies that Ratcliff treated as an indirect expense in its accounts. Ratcliff received compensation for use of its plotter and general supplies through the fully loaded labor rates Ratcliff charged the project. Therefore, we questioned unallowable material charges totaling \$3,412 (\$3,220 plus \$192).

- Ratcliff billed a total of \$1,612 for the costs related to reproduction rush charges (\$1,124), printing and reproduction errors (\$405), and employee parking expenses (\$83) that were not allowable per the contract. The contract did not include any provision to pay for the contractor's reproduction rush charges, and Ratcliff did not substantiate to us that the FDIC requested or approved the rush charges. Payment of costs related to printing and reproduction errors is not allowed by paragraph 6(c) of the contract's Additional General Provisions - Construction. According to these provisions, the contractor shall, without charge, replace any material or correct any workmanship found not to conform to the contract requirements. Payment of employee parking is prohibited by section III, paragraph 20, of the contract's Statement of Work. This paragraph states that the FDIC will not pay for contractor employee parking, nor will the FDIC reimburse the contractor for paid parking spaces provided to its employees.

- Ratcliff billed the FDIC \$3,460 for subcontractor-invoiced material expenses that were not allowed by the contract. Article IV, Compensation and Billing, of the contract did not include any provision for compensating subcontractors for material expenses. Also, article 3.6, Contracts With Subcontractors, states: "Contractor shall not be reimbursed for subcontracting costs except as specifically provided for in this Contract. . . ." Compensation for subcontract work was limited to labor costs as set out in contract article 4.1.4. This article states: "The FDIC may pay amounts Contractor has been invoiced for labor hours actually worked by its approved subcontractors in performing under this Contract, provided that its approved subcontractors' hourly rates and labor hours have been approved in advance by FDIC . . ." Although two subcontractors invoiced the material expenses to Ratcliff and Ratcliff paid them, Ratcliff billed the expenses to the FDIC as a Ratcliff-incurred expense.

Ratcliff officials agreed that Ratcliff should not have billed the FDIC for the subcontractor-invoiced material expenses (\$3,460), the general office supplies (\$192), and the employee parking expenses (\$83). Ratcliff officials believed, however, that Ratcliff was entitled to compensation for the plotter charges and the reproduction errors and rush charges. The Ratcliff officials did not identify what additional plotter costs they had incurred for use of the plotter on the FDIC contract that they hadn't already been compensated for through the fully loaded hourly rate. Ratcliff officials also could not provide supporting documentation that an FDIC official had approved payment for the reproduction errors and rush charges.

DOA's Regional Director generally agreed with this audit finding, but deferred formulating an official position until her staff could review the supporting working papers.

Recommendations

The OIG recommends that the Director, Division of Administration, take the following actions:

- (2) Disallow net payments of \$76,009 for unallowable charges (questioned costs, of which \$8,737 is unsupported).

- (3) Analyze the unapproved subcontractor labor hours and rates Ratcliff billed the FDIC totaling \$150,391 and determine whether any amounts should be disallowed.

CORPORATION COMMENTS AND OIG EVALUATION

On December 26, 2000, the Director, DOA, provided a written response to a draft of this report. The Director's response agreed with the recommendations and provided the requisites for a management decision on each of the three recommendations. We did not summarize the Director's response because the actions taken or planned are responsive to those recommended. Appendix I to this report presents the Director's full response.

Appendix II presents management's proposed and completed actions on our recommendations and shows that there is a management decision for each recommendation in this report. Based on the audit work, the OIG will report questioned costs of \$76,009 (of which \$8,737 is unsupported) in its *Semiannual Report to the Congress*.



FDIC

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

CORPORATION COMMENTS

APPENDIX I

Division of Administration

December 21, 2000

MEMORANDUM TO: Sharon M. Smith
Assistant Inspector General

FROM: Arleas Upton Kea
Director, Division of Administration

SUBJECT: Management Response to Draft Report Entitled *Audit of The Ratcliff Architects' Professional Fee Billing Under Contract 97-00384-SJW*

The Acquisition and Corporate Services Branch (ACSB) has completed its review of the subject Office of Inspector General (OIG) draft report. The OIG made three recommendations to the Director, Division of Administration (DOA) related to the audit findings, which included \$76,009 in questioned costs. Exhibit A summarizes the recommendations, descriptions of the corrective actions, and provides our expected completion dates and the documentation that will confirm that completion.

Management Decision:

Recommendation #1: Require the San Francisco Region to establish adequate internal controls to ensure that DOA representatives follow contract provisions and the Corporation's acquisition policies and procedures.

Management Response #1: We agree with the recommendation, and have taken the necessary corrective actions. It should be noted that the Ratcliff Architect contract was awarded in May 1997, at the time DOA operations was being transitioned to the San Francisco Regional Office from Irvine, California. During the fourth quarter of 1998, a Contracting Department was established in the San Francisco Regional Office and DOA hired a Contracting Officer to administer the program. The DOA Contracting Officer and DOA Oversight Manager staffs have taken the required contract and oversight management training in order to effectively administer such contracts. In addition, with the issuance of the Acquisition Policy Manual (APM) - Revision I, the roles and responsibilities for the contracting officer and oversight manager are clearly delineated. The contracting officer and oversight manager work as a team to administer the contract, but they cannot delegate their responsibilities unless as set forth in the APM. The contracting officer is the focal point between the FDIC and has the overall responsibility for the contract. The oversight manager is responsible for managing and monitoring contractor performance. The Letter of Oversight Manager Confirmation that describes the Oversight Manager's authority and responsibilities in performing designated functions on behalf of the FDIC is always provided to contractors. As a result, contractors are fully aware of the authority and responsibilities of the FDIC oversight manager.

Furthermore, to determine compliance with the DOA Acquisition Policy Manual and Oversight Manager guidelines, a DOA Administrative Compliance Review of the San Francisco Contracting Department and DOA Oversight Management operations was performed in June 1999. The review did not identify any major findings or non-compliance issues. As a result, we believe DOA's compliance with the APM ensures that DOA representatives are following contract provisions and the inherent controls incorporated within the APM.

Recommendation #2: Disallow net payments of \$76,009 for unallowable charges (questioned costs, of which \$8,737 is unsupported).

Management Response #2: We agree with the recommendation. DOA will disallow and pursue recovery of this amount if it cannot be adequately supported by the contractor. A decision memorandum and a demand letter, if necessary, will confirm our completion of corrective action.

Recommendation #3: Analyze the unapproved subcontractor labor hours and rates Ratcliff billed the FDIC totaling \$150,391 and determine whether any amounts should be disallowed.

Management Response #3: We agree with the recommendation. DOA will conduct an analysis of the unapproved subcontractor labor hours and rates. Documentation of our analysis will confirm completion of corrective action.

The schedule for completion of these corrective actions is included in Exhibit A. If you have any questions regarding the response, you may contact Andrew O. Nickle, Audit Liaison for the Division of Administration at (202) 942-3190.

Attachment

cc: Joyce Yamasaki
Laura Burbidge
Thomas Zilka
Stan Lee
Andrew Nickle
Kenneth T. Jones

EXHIBIT A

<p><i>DIVISION OF ADMINISTRATION SUMMARY OF MANAGEMENT DECISION</i></p>

<i>NO.</i>	<i>RECOMMENDATION DESCRIPTION</i>	<i>QUESTIONED COST</i>	<i>MANAGEMENT RESPONSE</i>	<i>DESCRIPTION OF CORRECTIVE ACTION</i>	<i>EXPECTED COMPLETION DATE</i>	<i>DOCUMENT VERIFYING COMPLETION</i>
1	Establish Adequate Internal Controls to ensure that DOA representatives follow contract provisions and the Corporation's acquisition policies and procedures.		Agree	Establishment of Contracting Department in SF and appropriate contracting training for contracting and oversight management staff.	Completed	Training records and Administrative Compliance Review Report from 6/99.
2	Disallow Unallowable Charges.	\$76,009 (\$8,737 is unsupported)	Agree	We will disallow and pursue recovery of any unsupported and unreasonable charges we cannot verify.	120 days from the final OIG Report date.	Decision Memo or Demand Letter
3	Analyze unapproved subcontractor labor hours and rates totaling \$150,391.		Agree	We will analyze the unapproved subcontractor labor hours and rates.	180 days from the final OIG Report date.	Analysis Documentation including memoranda, invoice review, etc.

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 Director, DOA, agreed with the recommendation and cited various steps taken to satisfy the recommendation's intent. Among these, DOA hired a contracting officer, provided the required contract and oversight management training to applicable staff, clearly delineated the contracting officer's and oversight manager's roles and responsibilities in the revised Acquisition Policy Manual, and conducted a June 1999 administrative compliance review of the Region to ensure compliance.	Completed	Training records and administrative compliance review report	Unknown	Yes
2	The Director, DOA, agreed with the recommendation and stated that DOA will disallow and pursue recovery of amounts that the contractor cannot adequately support.	120 days from final report	Decision memorandum or demand letter	\$76,009 in disallowed costs	Yes
3	The Director, DOA, agreed with the recommendation and stated that DOA will conduct an analysis of the unapproved subcontractor labor hours and rates.	180 days from final report	Analysis documentation and decision memorandum	Unknown	Yes