

# Office of Inspector General



June 26, 2000  
Audit Report No. 00-023

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Pacific Place Renovation Project



**DATE:** June 26, 2000

**TO:** Arleas Upton Kea, Director  
Division of Administration



**FROM:** Sharon M. Smith  
Assistant Inspector General

**SUBJECT:** *Pacific Place Renovation Project* (Audit Report No. 00-023)

This report presents the results of the Office of Inspector General's (OIG) audit of the Pacific Place renovation project. The project consisted of the renovation of 283,849 square feet of the Federal Deposit Insurance Corporation's (FDIC) office space in the 1910 Pacific Place building in Dallas, Texas. The general contractor was RCI Construction, Inc. (RCI); the architectural and engineering services contractor was The Amend Group; and the carpet installation contractor was DuPont Flooring Systems (DuPont). We found that the FDIC limited bidding competition by requiring, late in the bid process, the use of a specific subcontractor for electrical work. Limiting bidder competition on the contract lessened the possibility that the FDIC received the best possible price. In addition, we identified \$182,231 in questionable costs attributable to RCI; DuPont; and the Pacific Place landlord, 1910 PP Limited Partnership. Further, The Amend Group could not provide evidence that it performed some of the duties required by its contract with the FDIC.

## **BACKGROUND**

On March 17, 1997, the FDIC's Board of Directors authorized the Division of Administration (DOA) to enter into leases for two office buildings in Dallas' central business district to house the FDIC's offices. One building, One Dallas Center (ODC), provides space the Corporation needs on a short-term basis until staff reductions are complete. The second building, Pacific Place, will serve as the FDIC's long-term location and was leased for a 10-year term that commenced December 1, 1997. After obtaining the Board's approval, DOA developed a comprehensive program of space requirements, completed design and construction drawings for both buildings, and developed a detailed project schedule to complete building renovations. On August 1, 1997, the FDIC awarded a general construction contract to RCI for the renovation of ODC. Also on August 1, 1997, the FDIC signed a fixed-price contract with DuPont to install carpet at both ODC and Pacific Place.

On July 28, 1997, DOA sent Requests for Proposal (RFP) for the renovation of Pacific Place to 16 contractors and asked them to submit fixed-price proposals. The proposals were due

August 15, 1997. This date was extended to August 19, 1997 because prospective bidders were not told until August 14, 1997 that an exclusive subcontractor, Walker Engineering, Inc. (Walker), must be used for the electrical work. The FDIC received four proposals on August 19, 1997. The technical evaluation panel met on August 25, 1997 and evaluated three of the four proposals. One proposal was disqualified because it did not contain any pricing for electrical work.

On September 22, 1997, the FDIC awarded a fixed price construction contract to RCI to act as the general contractor for the Pacific Place renovation. The general contractor was to complete construction in accordance with drawings and specifications provided by The Amend Group. The initial contract price approved by the Board of Directors was \$5,473,573, plus \$1,368,393 as a 25-percent contingency amount, for a total of \$6,841,966. Construction was scheduled to begin on September 22, 1997 and the work was to be completed by January 14, 1998. All construction work has been completed.

## **OBJECTIVES, SCOPE, AND METHODOLOGY**

Our audit objectives were to examine selected aspects of the FDIC's contracting for and administration of the renovation of the Pacific Place office building in Dallas, Texas. Our work included a limited review of the bid process, a review of the tasks outlined in the original contracts and subsequent change orders, and an analysis of billings paid by the FDIC to the general contractor and the carpet installation contractor.

To understand the scope of the renovation project, we interviewed personnel assigned to the Dallas DOA Acquisition Services Branch. We also interviewed personnel assigned to the Washington DOA Corporate Services Branch who deal with facilities and leasing. In addition, we researched and reviewed pertinent documents such as the construction contract and related change orders (basically changes in fees to be paid the contractor and changes in the quantity and nature of deliverables), the architectural and engineering services contract, the carpet installation contract, the lease agreement between the FDIC and the landlord, and other significant documents related to the project. Further, we compared the scope of work performed by different contractors to determine if tasks were duplicated and we reviewed change orders to determine whether the FDIC paid for tasks that should have been paid for by others.

To obtain more information about the exclusive subcontractor requirement, we interviewed personnel from two of the losing bidders, reviewed one losing bidder's bid file, and reviewed the electrical bid from the other losing bidder.

For the billing portion of the audit, we reviewed RCI's billings associated with contract number 9729821NST for the period October 1997 through July 1998. During that period, the FDIC paid RCI \$6,724,438. Our testing covered \$1,176,564, which is the amount incurred and paid under change orders, because the remainder of the costs was included in the fixed-price contract. To determine whether the billings for the change orders were reasonable, adequately supported, and complied with contract terms and conditions, we:

- Compared the total amount authorized by the FDIC with RCI invoices and FDIC payments.
- Reviewed tasks accomplished through the five change orders to determine if the tasks were allowable under the terms and conditions of the contract.
- Reviewed all change orders to identify tasks that appeared questionable based on supporting documentation.
- Reviewed change order tasks associated with Americans with Disabilities Act modifications that could be physically verified and determined if the changes were made.
- Compared tasks accomplished through change orders with tasks included in the initial contract's scope of work to determine whether the subsequent changes made were included in the original contract.
- Selected a judgmental sample of 33 tasks (costing \$88,059) from a total of 183 tasks (costing \$1,176,564) included in the five change orders to determine whether the tasks were priced in accordance with the contract pricing schedule and if tasks were duplicated.

We also reviewed DuPont's billings to determine whether the billings contained charges for tasks covered by RCI's contract. Further, we interviewed RCI's President and personnel from The Amend Group to request documentation for certain unsupported costs related to the build-out.

We did not review internal control systems for either the FDIC or the contractors because we concluded that the audit objectives could be met more efficiently by conducting substantive tests rather than placing reliance on their respective internal control systems. Accordingly, we do not express an opinion on internal controls. We performed our work primarily within DOA's Acquisition and Corporate Services Branches in Dallas, Texas, and Washington, D.C. We conducted the audit from January 7, 1999 through December 30, 1999 in accordance with generally accepted government auditing standards.

## **RESULTS OF AUDIT**

We found that the FDIC limited bidding competition by requiring, late in the bid process, the use of a specific subcontractor for electrical work. In addition, although RCI generally complied with the terms and conditions of the contract, we identified \$182,231 in questionable costs attributable to RCI, DuPont, and the 1910 PP Limited Partnership. Table 1 shows a breakdown of the costs we question.

**Table 1: Schedule of Questioned Costs**

Description of Audit Finding	Amount Questioned
RCI: The FDIC Paid Amounts That Were Unsupported or Otherwise Questionable	\$38,925
RCI: The FDIC Paid for Tasks Twice or Tasks Were Never Performed	31,351
RCI: The FDIC Was Charged Too Much for Some Tasks	<u>11,661</u>
<b>Sub-Total: RCI</b>	81,937
1910 PP Limited Partnership: The FDIC Paid For Costs That Should Have Been Paid by the Landlord	84,700
DuPont: The FDIC Paid DuPont for Work Not Performed	15,594
<b>Total</b>	<b>\$182,231</b>

Source: OIG analysis of FDIC contract records

In addition, The Amend Group could not provide evidence that it performed contractually required services related to verifying the accuracy of costs charged by RCI. Consequently, we question the amount the FDIC paid for those services. Because that amount was not specified in the contract, we recommend in this report that the FDIC determine the value of the services not provided and disallow that amount.

### **THE FDIC LIMITED BIDDING COMPETITION BY REQUIRING BIDDERS TO USE A SPECIFIC SUBCONTRACTOR**

The FDIC limited bidding competition by requiring bidders for the Pacific Place renovation contract to use a specific electrical subcontractor, Walker. Because Walker was not responsive in providing electrical pricing bids to two of the general contractors bidding for the renovation contract, those bidders could not submit a complete bid acceptable to the FDIC. Consequently, those potential bidders were eliminated from contract competition.

On April 2, 1997, the FDIC's site planning committee held a meeting with the architectural and engineering services contractor, The Amend Group, and Pacific Place building management. Several items were discussed relating to the Pacific Place building renovation. Three items discussed were that (1) Pacific Place building management would not be involved in the construction, (2) Walker must be used for the electrical wiring, and (3) the Contracting Officer would provide contractor requirements and "exclusive subs" in the Statement of Work. The FDIC sent the Request for Proposal, which included the Statement of Work, to 16 general contractors on July 28, 1997. However, the requirement that Walker be the exclusive electrical contractor was not included in the Statement of Work. Bids were due back to the FDIC by August 15, 1997.

We reviewed the documentation sent to prospective bidders and found that prior to August 13, 1997 (2 days before the bid due date), bidders were not notified that an exclusive subcontractor was required. On August 12, 1997, one of the prospective bidders (first contractor) sent a faxed message to the Contracting Officer asking whether there were any specified subcontractors. On

August 13, 1997, the Contracting Officer answered the contractor's question in a letter stating that Walker was the exclusive electrical subcontractor. According to the Contracting Officer, the August 13, 1997 letter was sent to the remaining (three) prospective bidders and the bid due date was extended to August 19, 1997. The other 12 prospective bidders had dropped out of consideration by this time for reasons unrelated to this issue.

Although the first contractor had been notified of the requirement to use Walker, its bid included another firm as the electrical subcontractor. On August 25, 1997, the Contracting Officer asked this contractor to revise its bid to include Walker as the electrical subcontractor. The estimator/project manager for the first contractor responded to the Contracting Officer on August 27, 1997 in a letter stating that their company

. . . and the other General Contractors, [were] well into the bid process prior to receiving information that Walker was the preferred electrician. We received notification by mail in a Question And Answer memorandum on August 15, 1997. I immediately called . . . Walker Engineering and [was told] that Walker was declining this bid due to their lack of manpower and the project schedule. Since this project was abiding by the Davis Bacon Act, I continued into the bid process with a fully qualified minority owned contractor. I called Walker again on bid day to confirm that they in fact were not bidding the project, and [was] again informed that they were declining the bid . . . [We have] now incurred bidding expenses in excess of \$4,000. This situation seems very questionable . . . If Walker is indeed the only approved electrical contractor for this project, it should be a requirement that they submit bids to all of the approved FDIC General Contractors. Without this restraint, Walker Engineering has the power to sway the bid in whichever direction they desire and limits FDIC's ability to fairly evaluate the bids.

Because Walker did not furnish a bid for the electrical work, the first contractor was excluded from the bidding competition.

We discussed the requirement to use Walker with a second contractor. The contractor said it did not know until late in the bidding process that Walker had to be used. This contractor stated that it did receive an estimate from Walker, but not until August 18, 1997, which was only 1 day before the extended bid closing date. Although the contractor told us that it is not unusual for a subcontractor to submit a bid immediately prior to the bid closing date, they too believed the process used in this procurement was unfair because the requirement to use a specific contractor was disclosed late in the bidding process.

A third contractor also submitted a bid to the FDIC and was eliminated from contract competition. The technical evaluation panel did not evaluate the bid because the panel considered the bid non-responsive to the Request for Proposal. After receiving the bid, the FDIC immediately informed the contractor that its bid was no longer being considered because it did not contain any electrical pricing at all. The contractor responded to the FDIC that the proposal did not include the cost of electrical work because Walker did not submit a proposal to them for the electrical work.

We do not believe that the FDIC's decision to require bidders to use a specific subcontractor was appropriate. Although DOA personnel told us that the FDIC was required to use Walker for electrical work during the Pacific Place renovation construction, that was not the case. DOA personnel stated that Pacific Place building management required the FDIC to use Walker. Our examination of FDIC's building lease, however, disclosed no such requirement. In fact, at paragraph 8.5.1. the lease states: "Tenant shall have the right to select an independent construction contractor or contractors to construct Tenant Improvements, Major Alterations and Alterations."

FDIC's Contracting Officer opined that elsewhere in the lease Pacific Place building management was given the "right of first refusal" for any contractor selected by the FDIC. This also was not the case. The closest wordings to such an opinion are at paragraphs 8.1. and 8.5.1.(B). Paragraph 8.1. states: "The plans and specifications and construction drawings . . . for Tenant Improvements, shall be subject to Landlord's approval, which approval shall not be unreasonably withheld . . ." Then, paragraph 8.5.1.(B) states: "Tenant's construction contractors shall furnish Landlord evidence that such contractors carry workers compensation insurance as required by the laws of the State and with insurance certificates showing Landlord as an additional insured party, to insure Landlord against liability for bodily injury, death or property damage for work done by such independent contractors, as follows: (1) construction general contractors: \$5,000,000.00 comprehensive general liability; and (2) construction subcontractors: \$1,000,000.00 comprehensive general liability." The wording in these two passages gives the landlord the right to review contractors' plans and to insist the contractors be bonded, but the wording gives no mention of any right of first refusal or required use of subcontractors.

The *FDIC Acquisition Policy Manual*, at paragraph 6.H.3.d., requires that, "FDIC's policy of adequate competition and fair and consistent treatment of offerors applies also to contractors in their selection and dealings with all subcontractors." (Emphasis added.) The FDIC precluded adequate competition and fair treatment of potential subcontractors when it directed the general contractors to use a sole source subcontractor. In the case of one potential general contractor, the FDIC's directed use of a specific subcontractor eliminated from the bidding a 100-percent minority-owned subcontractor. Further, the directed use of a subcontractor can affect the amount of the potential bids. Had potential bidders been allowed to use a subcontractor of their own choice, there may have been more bids, and the bids may have been lower. Although the *FDIC Acquisition Policy Manual*, at paragraph 6.H.5., establishes that the FDIC has the right to approve a subcontractor before a contractor awards a subcontract, the manual has no provision permitting the directed use of specific subcontractors.

We did find that Pacific Place's building manager used Walker exclusively for electrical work. However, we found no requirement for the FDIC to do the same. In addition, Walker's failure to provide all potential bidders with the information necessary to construct an "acceptable" bid increased the potential for the perception of favoritism. Consequently, we believe that the FDIC should not have required a specific subcontractor and should refrain from any activity that would foster such perceptions.

## **Recommendation**

We recommend that the Associate Director, Acquisition and Corporate Services Branch, DOA,

- (1) Emphasize to contracting officers the FDIC's policy that adequate competition and fair and consistent treatment applies to contractors in their selection of subcontractors and that the contracting officers must ensure that potential bidders are not restricted in their selection of subcontractors.

## **THE FDIC INCURRED A NUMBER OF QUESTIONABLE COSTS THROUGHOUT THE CONSTRUCTION PROJECT**

The FDIC incurred \$182,231 of various types of questionable costs during the construction project. Specifically, we identified \$38,925 in unsupported or otherwise questionable costs, \$31,351 in costs for tasks not performed and for tasks paid for twice, \$11,661 in cost overcharges, \$84,700 in costs paid by the FDIC that should have been paid by the landlord, and \$15,594 in costs paid for work not performed.

### **The FDIC Paid Amounts That Were Unsupported or Otherwise Questionable**

The Contracting Officer approved \$38,925 in unsupported or otherwise questionable contract change order costs that were not substantiated by The Amend Group. The Amend Group was responsible for reviewing and verifying the accuracy of all costs associated with change orders and ensuring that unit costs per item were appropriate, non-unit costs were reasonable, and all necessary supporting documentation was received. Based on The Amend Group's assurance of cost accuracy and reasonableness, the FDIC's Contracting Officer approved the change orders and associated costs.

In a change order dated December 31, 1997, RCI charged the FDIC \$15,613 for constructing a Dutch door, providing a space heater, working on the exercise room lockers, and moving a transformer. FDIC personnel could provide no documentation supporting the amount of this charge. Similarly, documentation could not be provided to support two other charges that included (1) working on office 409 and repairing a closer for the herailite doors on the 13<sup>th</sup> floor (\$3,464) and (2) an unidentified task (\$680). These items total \$4,144.

We also found three instances where RCI billed for the same tasks as DuPont, the carpet installation contractor. We question costs of \$6,334, the total amount billed, because FDIC personnel could not provide documentation showing which contractor actually did the work.

Other questionable amounts include:

- \$10,993 for the same task regarding water heaters, that were billed on two different change orders. Available documentation did not show the work performed for these charges.



Consequently, we question the total amount (\$9,089 and \$1,904) billed for the task on both change orders.

- \$890 for additional light fixtures even though a memo from the consulting engineer stated there should be no additional cost for the light fixtures.
- \$951 for providing three dedicated outlets. According to correspondence between the Oversight Manager and the Contracting Officer, two of the three outlets existed prior to construction; therefore, there should be no charge for those two. We question two-thirds of the total change amount (\$1,427).

We discussed these items with oversight personnel in May 1999. On September 7, 1999, they provided us with a written narrative regarding these items. The narrative, however, was not adequate to support the costs, because it provided no details such as bills for material and labor hours associated with the tasks. Without adequate documentation supporting the costs, we continue to question them.

On October 22, 1999, we asked The Amend Group for documentation to support amounts charged by RCI. The Amend Group could not provide us with any documentation showing its review of RCI's charges. Instead, they referred us to RCI for documentation to support the prices charged. Consequently, also on October 22, 1999, we asked RCI personnel to provide us with details showing how these costs were derived. Because RCI did not provide adequate documentation, we placed two follow-up calls to RCI in November 1999, and one in December. Finally, on December 14, 1999, RCI personnel met with us. However, they could not provide us with documentation showing how RCI arrived at the amounts charged. RCI personnel provided only General Contractor Quotations showing the amounts they billed. On December 21, 1999, we once again asked The Amend Group for documentation showing that it met its contractual responsibility to review and verify the accuracy of all costs associated with change orders related to construction, to ensure that RCI used the appropriate unit costs per item, and that non-unit costs were reasonable. Once again, The Amend Group could provide no documentation showing how or if any such detailed verification of accuracy was done. Because neither the FDIC, nor The Amend Group, nor RCI could support the amounts charged and because the detail for the charges was not included in the change order files, the FDIC has little assurance that change order charges were proper.

Because The Amend Group could not support that it performed its required contractual duty for verifying the accuracy of amounts charged by RCI, we question the amount the FDIC paid The Amend Group for providing that service. Although the contract did not specify the dollar amount for providing that service, the FDIC should estimate the value of the service it did not receive and disallow that amount.

## Recommendations

We recommend that the Associate Director, Acquisition and Corporate Services Branch, DOA,

- (2) Disallow the \$38,925 in unsupported or questionable change orders (questioned costs, of which \$26,091 is unsupported).
- (3) Determine the value of the required contractual service The Amend Group did not provide and disallow that amount.

### **The FDIC Paid RCI \$31,351 for Contracted Tasks That Were Either Paid for Twice or Never Performed.**

The FDIC paid twice for tasks totaling \$28,927. The initial restroom modification plan prepared by the consulting engineer included a list of requirements that would ensure that Pacific Place restrooms complied with the Americans with Disabilities Act (ADA). The requirements were based on an ADA Compliance Survey and Report prepared by another independent consulting firm. The requirements covered 18 of the 20 floors (36 restrooms) in the building. The two floors not covered were the first and seventh floors.<sup>1</sup> The initial total cost for ADA renovations was \$208,667 for an average of \$5,796 per restroom. As part of the initial requirements, RCI was to do the following, among other things:

- Install new faucets and insulate piping at the handicap lavatory.
- Install new grab bars in the handicap stall and relocate grab bars to the correct height and location on five floors that already had grab bars.
- Relocate accessories in the women's restrooms to the correct height.

After the initial requirements, RCI identified seven line items priced at a total cost of \$10,000 for additional work related to ADA renovations. Five of the seven line items included in this change were included in the initial modification plan. We discussed these issues with oversight personnel who believed that the additional \$10,000 may have been needed for other requirements, but they could provide no supporting documentation to support such a belief.

In addition, on another change order, RCI was paid \$16,680 for ADA renovations for the second floor restrooms. Our comparison of tasks in the original modification plan with tasks identified in the change order showed that some of the tasks were duplicated. For example, although slightly different verbiage was used, both required that two stalls be converted into one handicap stall and that lavatories be moved to the proper height. Several other tasks were also duplicated.

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<sup>1</sup> The first and seventh floors were not included in the renovation because they were leased by other tenants.

When we discussed the additional \$16,680 for the second floor restrooms, oversight personnel stated that the costs of the second floor restrooms were not included in RCI's or the consulting engineer's scope. We were told that the \$16,680 for the second floor restroom ADA work was added when the FDIC entered into lease negotiations for additional space, which made the FDIC the primary tenant on the second floor.

We informed oversight personnel that the second floor restroom renovations were, in fact, included in the initial modification plan. A February 25, 1998 e-mail message from the Oversight Manager to the Contracting Officer referenced the modification plan, which included the second floor restrooms. In addition, Exhibit K-2 of the lease agreement, the preliminary list of restroom/core ADA items, includes line items for the second floor restrooms as well as the other floors in the building. We believe the e-mail and the lease agreement confirm that ADA restroom renovations for the second floor were included in the initial restroom modification plan.

We also question \$2,247 for work associated with an alarm and related signage for one of the doors in the building. Documentation shows that these tasks and costs were included in two separate change orders, both of which were billed to and paid for by the FDIC.

Tasks that were not performed cost the FDIC \$2,424. As part of the restroom modification plan requirements, RCI was to provide handicap signs for the restrooms. On February 9, 1999, we inspected the restrooms and found no handicap signs although the FDIC paid \$1,800 for the signs. We discussed this requirement with oversight personnel who told us that, apparently, this was an inadvertent omission. Nine months later, on October 28, 1999, we checked the restrooms again and found that there were still no handicap signs. In addition, we found that \$1,248 was paid for the demolition of two marble floor areas. However, only one of the marble floor areas had been demolished. Therefore, we question half the cost, \$624.

## **Recommendation**

We recommend that the Associate Director, Acquisition and Corporate Services Branch, DOA,

- (4) Disallow the \$31,351 for tasks paid for twice and tasks paid for but not performed (questioned costs).

## **The FDIC was Overcharged for Some Tasks**

RCI priced items in construction change orders \$11,661 higher than prices for the same or similar items listed in the contract pricing schedule, quoted by other bidders in their pricing schedules, or previously charged by RCI under this contract. The FDIC required bidders to include a price schedule for additional work in their bid packages. As part of the schedule, RCI quoted unit prices for added work. The prices were to be used to compute the cost to the FDIC should the amount of work required by the contract be changed by order of the FDIC. The contract stated that for work added, the unit prices shall include all material, labor, overhead, and profit for the contractor and any subcontractors.

When we compared what RCI charged for 33 selected line items with the contract prices, we determined that in 11 instances the prices charged by RCI exceeded those shown in the contract by a total of \$7,448. Because RCI failed to list prices for some items, although such a listing was required during the bidding process, we compared the prices RCI charged with those listed by another bidder. We found that in three instances the prices charged by RCI exceeded those listed by the other bidder by a total of \$2,164. For some items not required to be price-listed, we compared RCI's charges to similar items previously billed by RCI. We found that in two instances the prices charged by RCI exceeded amounts RCI had previously charged for similar items by a total of \$2,049.

In addition to these pricing differences a number of other changes were made due to change orders that may include cost overcharges. For example, a change order for RCI to provide hardware for six doors did not specify the type of hardware. Absent this information, we could not compare the price with the contract price. For another change, RCI performed multiple tasks such as providing lockset hardware for four offices; installing six duplex receptacles and two outlets; and relocating two thermostats, switches, and a transformer. We could compare prices paid for the lockset hardware, duplex receptacles, and the two outlets. However, because the contract either did not contain pricing or RCI failed to provide pricing for relocating the thermostats, switches, and transformer, we could not determine the amount these tasks should have cost. During our audit, we identified a number of changes that occurred where we could not test pricing because the change contained tasks that either were not priced or the description did not match what was in the contract. Consequently, additional changes may have been made but not priced in accordance with the contract.

On June 15, 1999, we asked the Oversight Manager to explain the differences in pricing. However, the Oversight Manager could not provide documentation explaining the differences. Consequently, we continue to question \$11,661.

## **Recommendations**

We recommend that the Associate Director, Acquisition and Corporate Services Branch, DOA,

- (5) Disallow the \$11,661 in overcharges (questioned cost).
- (6) Evaluate all remaining additional work costs to identify and disallow additional overcharges.

## **The FDIC Paid for Costs That Should Have Been Paid by the Landlord**

The FDIC did not collect the landlord's share (\$84,700) of ADA restroom renovation costs. The lease agreement's section 31.1, specifies that the landlord and tenant agree to make the restroom modifications set forth in Exhibit K-2 of the lease. This section also states that the landlord will reimburse the tenant 50 percent of the cost (specified as \$169,400 in Exhibit K-2) 30 days after the tenant notifies the landlord that it has made such modifications. Although the actual cost of

the modification was \$208,667, the lease limited the landlord's obligation to 50 percent of \$169,400, or \$84,700. We notified the Assistant Director, Division of Administration, on March 22, 1999 that the landlord had not been billed for its share of the costs. On September 2, 1999, the Assistant Director sent a letter to the landlord requesting payment.

## **Recommendation**

We recommend that the Associate Director, Acquisition and Corporate Services Branch, DOA,

- (7) Require 1910 PP Limited Partnership to reimburse its \$84,700 share of ADA restroom renovation costs (questioned cost). (On September 2, 1999 the FDIC took action on this recommendation by billing the landlord for the \$84,700.)

## **The FDIC Paid DuPont for Work Not Performed**

The Corporation paid RCI \$15,594 for the installation of resilient base in carpeted areas even though a separate carpet installation contract with DuPont covered the installation of the base in those areas. The DuPont contract Statement of Work, part 1.2.F., states that the installer shall comply with Section 09681 of The Amend Group project manual. Section 09681 of the project manual provides the specifications for carpet installation, accessories, and installation of resilient base in the areas of carpet installation. In accordance with the contract, the FDIC paid DuPont to install the resilient base. However, the FDIC also instructed RCI to install the resilient base (through a change order to the RCI contract) and paid RCI for accomplishing the task. Thus, FDIC paid twice for the resilient base installation.

The dual payment resulted because of the Oversight Manager's and Contracting Officer's confusion regarding contractual requirements. Documents the FDIC provided us illustrate the confusion. On August 1, 1997, the FDIC Contracting Officer sent a letter to RCI stating, "FDIC has reviewed the specifications and [has] indicated to DuPont it is in their scope to provide the base installation." The letter goes on to ask RCI if RCI's contract "included installation of the base for the carpeted areas." On October 27, 1997, the Contracting Officer sent a letter to DuPont citing the Carpet Installation Specifications, Section 09681, "for the requirement and instructions for the installation of the base."

On October 29, 1997, DuPont sent a letter to the FDIC Contracting Officer stating, "The specifications that you refer to in your letter of October 27 refer to DuPont's work on both the first building (One Dallas Center) and the second building (Pacific Place). However, on the first building [DuPont] did not install the base. It was furnished by others and installed by others. [DuPont] has proceeded on the understanding that the base which was furnished by others on this job, will also be installed by others. Therefore, the base installation for Pacific Place should be handled by whoever installed it on One Dallas Center." DuPont's statements do not deny that the contract requires installation of the base. Instead, DuPont simply notes that because DuPont did not install the base at One Dallas Center, it should not have to install the base at Pacific Place.

On October 30, 1997, the Oversight Manager sent the Contracting Officer an e-mail that indicated further confusion as to the contractual requirements. The e-mail stated, “As discussed yesterday, as long as neither RCI nor DuPont have the base for carpeted areas in their contract, I would rather accomplish the change order with RCI than with DuPont.” This e-mail indicates that the Oversight Manager did not know that DuPont’s contract, in fact, did require base installation. It also indicates that the Oversight Manager and the Contracting Officer had discussed that DuPont’s contract did not have the requirement (even though the Contracting Officer’s October 27, 1997 correspondence with DuPont and RCI indicates otherwise, citing the specific verbiage location in the contract). Finally on October 30, 1997, the Contracting Officer sent DuPont a letter stating, “The FDIC appreciates your concern and cooperation regarding the installation of the base in the carpeted areas. The FDIC has resolved this situation through the General Contractor.”

We believe the FDIC should require DuPont to reimburse the dollar amount relative to installing the resilient base (that is, DuPont should reimburse the FDIC for the value of the contracted work DuPont did not do). We estimate that amount to be \$15,594—the amount the FDIC paid RCI to do the work.

**Recommendation:**

We recommend that the Associate Director, Acquisition and Corporate Services Branch, DOA,

- (8) Disallow \$15,594, which represents the value of the contracted work that DuPont did not perform (questioned cost).

**CORPORATION COMMENTS AND OIG EVALUATION**

On May 31, 2000, the Director of the Division of Administration provided a written response to the recommendations included in a draft of this report. The response is presented in appendix I of this report. The Director agreed with all the draft report’s recommendations and stated that corrective actions had been or would be taken. Further, the responses and subsequent discussions with the Associate Director, Acquisition and Corporate Services Branch, provided the elements necessary for management decisions on the recommendations. The Associate Director clarified that DOA agrees to disallow the dollar amounts cited in recommendations 2, 4, 5, and 8. Therefore, no further response to this report is necessary.

Appendix II presents management’s proposed actions on our recommendations and shows that there is a management decision for each recommendation in this report.

Based on our work, we will report questioned costs of \$182,231 (of which \$26,091 is unsupported) in our *Semiannual Report to the Congress*.



**FDIC**

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

**CORPORATION COMMENTS**

**APPENDIX I**

Division of Administration

May 31, 2000

**MEMORANDUM TO:** Sharon M. Smith  
Assistant Inspector General

**FROM:** Arleas Upton Kea   
Director, Division of Administration

**SUBJECT:** Management Response to Draft Report: *Pacific Place Renovation Project*

The Acquisition and Corporate Services Branch (ACSB) has completed its review of the subject Office of Inspector General (OIG) draft report. The OIG identified six findings and eight recommendations, including \$182,231 in questioned costs. Based on our preliminary review, one corrective action has been completed and the remaining corrective actions will be completed in accordance with the timetable established in Exhibit A. Exhibit A summarizes the six audit findings and eight recommendations and provides expected completion dates and the documentation that will confirm completion.

**Management Decision:**

**Finding #1: FDIC Limited Bidding Competition by Requiring Bidders to Use a Specific Subcontractor**

**Recommendation #1:** Emphasize to Contracting Officers the FDIC's policy that adequate competition and fair and consistent treatment applies to contractors in their selection of subcontractors and that the Contracting Officers must ensure that potential bidders are not restricted in their selection of subcontractors.

**Management Response #1:** We agree with the recommendation. The Assistant Director, Acquisition Section (AS), will send a memorandum to all contracting officers reminding them to be cognizant of conditions that have the potential for limiting competition and to take steps to ensure that adequate competition and fair and consistent treatment is applied to all offerors.

**Finding #2: FDIC Paid Amounts that were Unsupported or Otherwise Questionable**

- \* **Recommendation #3:** Disallow the \$38,925 (\$38,925 in questioned costs, of which \$26,091 is unsupported). [Note: The draft report did not include a Recommendation #2]

\* Recommendation numbers changed for final report

**Management Response #3:** We agree with the recommendation. DOA AS and oversight management personnel will work together to determine whether FDIC received value for the money paid. DOA, in conjunction with the Legal Division, will disallow and pursue recovery of the amounts that cannot be adequately supported by the contractor, as appropriate.

**Recommendation #4:** Determine the value of the required contractual service The Amend Group did not provide and disallow that amount.

**Management Response #4:** We agree with the recommendation. DOA has already disallowed some of the Amend Group charges. DOA AS will contact the IG auditors to obtain the information already compiled regarding this finding so that we can better estimate the value. We will work with Legal to determine our contractual standing in this matter and will disallow costs as appropriate.

**Finding #3: FDIC Paid RCI \$31,351 for Contracted Tasks that Were Either Paid for Twice or Never Performed.**

**Recommendation #5:** Disallow the \$31,351 for tasks paid for twice and tasks paid for but not performed.

**Management Response #5:** We agree with the recommendation. DOA AS and oversight management personnel will work together to determine whether FDIC received value for the money paid. DOA, in conjunction with the Legal Division, will disallow and pursue recovery of any amounts that cannot be adequately supported by the contractor, as appropriate.

**Finding #4 FDIC was Overcharged for Some Tasks.**

**Recommendation #6:** Disallow the \$11,661 in overcharges. *[Note: The Report lists this as Recommendation #5]*

**Management Response #6:** We agree with the recommendation. DOA AS and oversight management personnel will work together to determine whether FDIC received value for the money paid. DOA, in conjunction with the Legal Division, will disallow and pursue recovery of the amounts that cannot be adequately supported by the contractor, as appropriate.

**Recommendation #7:** Evaluate all remaining additional work costs to identify and disallow additional overcharges.

**Management Response #7:** We agree with the recommendation. DOA AS will contact the IG auditors to obtain information on work costs were reviewed versus the costs that remain to be reviewed and will determine the materiality of the amount in question and the resources required to perform the review. Based on the results of the review, DOA will disallow and pursue recovery of any amounts that cannot be adequately supported by the contractor.



**Finding #5 The FDIC Paid for Costs that Should Have Been Paid by the Landlord.**

**Recommendation #8:** Require 1910 PP Limited Partnership to reimburse its \$84,700 share of ADA restroom renovation costs.

**Management Response #8:** We agree with the recommendation. We have already recovered this money from the Landlord. Therefore, this recommendation is closed.

**Finding #6: The FDIC Paid DuPont for Work Not Performed**

**Recommendation #9:** Disallow \$15,594, which represents the value of the contracted work.

**Management Response #9:** We agree with the recommendation. In conjunction with the Legal Division, DOA AS will determine our contractual standing on this issue and will disallow and pursue recovery of all amounts as appropriate.

If you have any questions regarding the response, you may Andrew O. Nickle, Audit Liaison for the Division of Administration at (202) 942-3190.

Attachment

cc: Howard Furner  
Andrew Nickle  
Mary Rann  
Joy Eason

**EXHIBIT A**

<b>SUMMARY OF ACQUISITION AND CORPORATE SERVICES BRANCH MANAGEMENT DECISIONS</b>
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NO.	FINDING DESCRIPTION	QUESTIONED COST/OTHER FINANCIAL ADJUSTMENT	MANAGEMENT RESPONSE	DESCRIPTION OF CORRECTIVE ACTION	EXPECTED COMPLETION DATE	DOCUMENT VERIFYING COMPLETION
1	FDIC Limited Bidding Competition by Requiring Bidders to Use a Specific Subcontractor	\$0	Agree	<b>CORRECTIVE ACTION FOR REC #1:</b> The Assistant Director, Acquisition Services, will send a letter to all contracting officers reminding them to be cognizant of conditions that have the potential for limiting competition and to take steps to ensure adequate competition and fair and consistent treatment is applied to all Offerors.	Sept 30, 2000	Letter from Assistant Director to Contracting Officers
2	FDIC paid amounts that were Unsupported or Otherwise Questionable	\$38,925	Agree	<p><b>CORRECTIVE ACTION FOR REC #2:</b> DOA contracts and oversight personnel will work together to determine whether FDIC received value for the money paid. Then, in conjunction with the Legal Division, we will disallow and pursue recovery of all amounts that cannot be adequately supported by the contractor, as appropriate.</p> <p><b>CORRECTIVE ACTION FOR REC #3:</b> DOA has already disallowed some of the Amend Group charges. DOA will contact the IG auditors to obtain the information already compiled regarding this finding so that we can better estimate the value. We will work with Legal to determine our contractual standing in this matter and will disallow costs as appropriate.</p>	Sept 30, 2000  Sept 30, 2000	Decision Memorandum or Demand Letter  Decision Memorandum or Demand Letter
3	FDIC Paid RCI \$31,351 for Contracted Tasks that Were Either Paid for Twice or Never Performed.	\$31,351	Agree	<b>CORRECTIVE ACTION FOR REC #4:</b> DOA contracts and oversight personnel will work together to determine whether FDIC received value for the money paid. Then, in conjunction with the Legal Division, we will disallow and pursue recovery of all amounts that cannot be adequately supported by the contractor, as appropriate.	Sept 30, 2000	Decision Memorandum or Demand Letter

4	FDIC was Overcharged for Some Tasks.	\$11,661	Agree	<p><b>CORRECTIVE ACTION FOR REC #5:</b> DOA contracts and oversight personnel will work together to determine whether FDIC received value for the money paid. Then, in conjunction with the Legal Division, we will disallow and pursue recovery of all amounts that cannot be adequately supported by the contractor, as appropriate.</p> <p><b>CORRECTIVE ACTION FOR REC #6:</b> DOA will contact the IG auditors to obtain information on what was reviewed versus the costs that should be reviewed and will determine the materiality of the amount in question and the resources required to perform the review. DOA will disallow and pursue recovery of all amounts that cannot be adequately supported by the contractor, as appropriate.</p>	<p>Sept 30, 2000</p> <p>Sept 30, 2000</p>	<p>Decision Memorandum or Demand Letter</p> <p>Decision Memorandum or Demand Letter</p>
5	The FDIC Paid for Costs that Should Have Been Paid by the Landlord.	\$84,700	Agree	<p><b>CORRECTIVE ACTION FOR REC #7:</b> We have already recovered this money from the Landlord. Therefore, this recommendation is closed.</p>	closed	
6	The FDIC Paid DuPont for Work Not Performed	\$15,594	Agree	<p><b>CORRECTIVE ACTION FOR REC #8:</b> In conjunction with the Legal Division, DOA will determine our contractual standing on this issue and will disallow and pursue recovery of all amounts as appropriate.</p>	Sept 30, 2000	Decision Memorandum or Demand Letter

**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 and subsequent discussions with management representatives.

<b>Rec. Number</b>	<b>Corrective Action: Taken or Planned/Status</b>	<b>Expected Completion Date</b>	<b>Documentation That Will Confirm Final Action</b>	<b>Monetary Benefits</b>	<b>Management Decision: Yes or No</b>
1	Contracting officers will be notified by memorandum to be cognizant of conditions that have the potential for limiting competition and to take steps to ensure that adequate competition and fair and consistent treatment is applied to all offerors.	September 30, 2000	Memorandum from Assistant Director, Acquisition Section to all contracting officers	Not Quantifiable	Yes
2	DOA will determine whether FDIC received value for the money paid. DOA will work with Legal to pursue recovery for all amounts the contractor cannot support.	September 30, 2000	Decision Memorandum or Demand Letter	\$38,925 in disallowed costs	Yes
3	DOA will contact OIG for additional information so DOA can better estimate the value of the service not received. Further, DOA will work with Legal to determine contractual standing in this matter.	September 30, 2000	Decision Memorandum or Demand Letter	Not Quantifiable	Yes
4	DOA will determine whether FDIC received value for the money paid. DOA will work with Legal to pursue recovery for all amounts the contractor cannot support.	September 30, 2000	Decision Memorandum or Demand Letter	\$31,351 in disallowed costs	Yes
5	DOA will determine whether FDIC received value for the money paid. DOA will work with Legal to pursue recovery for all amounts the contractor cannot support.	September 30, 2000	Decision Memorandum or Demand Letter	\$11,661 in disallowed costs	Yes
6	DOA will evaluate the materiality of the remaining additional work costs versus the resources required to determine additional overcharges. DOA will pursue recovery of all amounts the contractor cannot support.	September 30, 2000	Decision Memorandum or Demand Letter	Not Quantifiable	Yes
7	DOA has recovered these funds.	Completed	Demand Letter	\$84,700 in disallowed costs	Yes
8	DOA will work with Legal to determine contractual standing on this issue and will pursue recovery of all amounts as appropriate.	September 30, 2000	Decision Memorandum or Demand Letter	\$15,594 in disallowed costs	Yes