

**FEDERAL HOUSING FINANCE AGENCY  
OFFICE OF INSPECTOR GENERAL**

**FHFA's Oversight of Contract No. FHF-10-F-0007  
with Advanced Technology Systems, Inc.**



## **EXPLANATION OF REDACTIONS IN REPORT**

This report includes redactions requested by the Federal Housing Finance Agency and the audited contractor. According to them, the redactions are intended to protect from disclosure material that they consider to be confidential financial, proprietary business, or trade secret information. They claim further that the redacted information would not ordinarily be publicly disclosed, and, if disclosed, could place the contractor at a competitive disadvantage.



**OFFICE OF INSPECTOR GENERAL**  
Federal Housing Finance Agency

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400 7th Street, S.W., Washington DC 20024

November 28, 2012

**TO:** Mark Kinsey, Chief Financial Officer

**FROM:** Russell A. Rau, Deputy Inspector General for Audits

**SUBJECT:** FHFA's Oversight of Contract No. FHF-10-F-0007 with Advanced Technology Systems, Inc. (Audit Report AUD-2013-002)

**Summary**

The mission of the Federal Housing Finance Agency (FHFA or Agency) includes supervising and regulating the Federal National Mortgage Association (Fannie Mae), the Federal Home Loan Mortgage Corporation (Freddie Mac), and the 12 Federal Home Loan Banks (FHLBanks) — collectively, the Government-Sponsored Enterprises (GSEs). To cover the cost of the Agency's operations and supervision of the GSEs, the Housing and Economic Recovery Act of 2008 authorizes FHFA to collect annual assessments from them. Included in the costs of Agency operations are expenditures for services and equipment provided by contractors.

FHFA's Office of Inspector General (FHFA-OIG) performed an audit of one of the Agency's contracts with Advanced Technology Systems, Inc. (ATSC), an information technology (IT) support services contractor, to determine whether payments made to ATSC were properly supported and the goods and services received conformed to contractual requirements. The audit identified significant weaknesses in FHFA's overall administration, monitoring, and surveillance of the ATSC contract. Specifically, FHFA-OIG found that:

- (1) FHFA did not follow accepted contracting practices when modifying the contract/task order (Finding 1);
- (2) FHFA failed to properly negotiate modifications to the contract/task order (Finding 2);

- (3) FHFA's contract administration activities related to evaluating contractor labor qualifications on time-and-material (TM) and labor-hour (LH) contracts require strengthening (Finding 3); and
- (4) ATSC was reimbursed for subcontractor costs not allocable or allowable under the contract/task order (Finding 4).

As a consequence of these findings, FHFA-OIG questions \$361,343 of costs submitted by the contractor and paid by FHFA, or approximately 13% of the contract's total value of \$2,739,538.

FHFA-OIG also found that FHFA did not follow accepted contracting practices such as properly negotiating the basis and reasonableness of contract modifications and ceiling amounts, and preparing government cost estimates and obtaining price proposals from ATSC for over \$1.2 million in costs that were added to the contract/task order (Finding 2). In addition, FHFA relied solely on ATSC to verify that employees added to the contract met the minimum technical qualifications required for their assigned labor category (Finding 3).

In connection with these findings, FHFA-OIG makes recommendations herein that, if implemented, will strengthen controls on this contract/task order with ATSC specifically and on Agency procurement policies and procedures generally. Implementation by the contracting officer of recommendations specific to the ATSC contract could also potentially result in the recovery of a portion of the questioned costs totaling \$361,343. FHFA provided comments generally agreeing with FHFA-OIG's recommendations and is planning to take responsive corrective actions (see Appendix C).

## **Background**

FHFA's Office of Budget and Financial Management, Contracting Operations Section, has overall responsibility for the Agency's contract and procurement activities and processes, and FHFA's various divisions and offices are responsible for preparing initial procurement requests, drafting the associated statements of work, and monitoring contract performance. Although not subject to the Federal Acquisition Regulation (FAR), FHFA has, as a matter of administrative convenience, voluntarily elected to follow FAR with particular exceptions specifically identified in the Agency's Acquisition Procedures Manual (APM).<sup>1</sup> As of May 8, 2012, FHFA had a total of 81 active contracts (including leases) with individual values over \$500,000 and a total value of approximately \$655 million.

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<sup>1</sup> These exceptions relate to required sources, availability of funds, the non-applicability of the Contract Disputes Act, invoicing, and several other matters. See APM, §3.1, *Contract Clause Instructions* (July 22, 2011).

### *Time and Materials Contracts*

The Agency occasionally utilizes TM contracts for acquiring IT and other related services when it determines it is not possible to estimate accurately the extent or cost of the work to be performed.

TM contracts provide for a pricing arrangement under which a contractor is paid on the basis of:

- (1) actual costs of direct labor, usually at fixed hourly rates;
- (2) agreed-upon fixed add-on costs to cover the contractor's overhead and profit; and
- (3) actual costs of materials and equipment usage.

The contractor is paid for the number of hours applied to the task, regardless of whether the contractor actually completes the task within the performance period. Typically, TM contracts provide no positive profit incentive for either cost control or labor efficiency. They are often considered the least desirable contract types for the government because the government essentially assumes more risk than the contractor. For this reason, TM contracts require close monitoring to ensure that the contractor is efficient and is effectively keeping costs under control.

As a cost control measure, TM contracts may contain a ceiling price that a contractor exceeds at its own risk. As such, the government is not obligated to pay the contractor any amount in excess of the ceiling price and the contractor is not obligated to continue performance after reaching the ceiling price.

### *Contract Monitoring*

Due to the TM pricing structure of the ATSC contract/task order and the broad range of IT services required to be performed, FHFA's monitoring and oversight of contractor performance was vital to avoid cost overruns and ensure the contractor delivered the agreed-upon services.

FHFA's contract monitoring activities require coordination between the contracting officer (CO), the person with the authority to enter into, administer, and terminate contracts and make related determinations and findings, and the contracting officer's representative (COR),<sup>2</sup> the individual

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<sup>2</sup> See FAR 48 C.F.R. §2.101(b). According to FAR and the Office of Federal Procurement Policy, a COR and a contracting officer's technical representative are synonymous, and, thus, the terms are used interchangeably in this report (<http://www.whitehouse.gov/sites/default/files/omb/procurement/visions-to-the-federal-acquisition-certification-for-contracting-officers-representatives.pdf>).

designated and authorized in writing by the CO to perform specific technical or administrative functions.<sup>3</sup>

The CO has exclusive authority to effect modifications (i.e., administrative and monetary adjustments) to the contract/task order through written change orders. Thus, CORs—who tend to have more comprehensive knowledge of the day-to-day performance of contracts—must notify the CO of any anticipated changes to facilitate the CO initiating pre-negotiation activities, including contract modification planning.

FHFA's APM identifies the COR as the key contact person with authority to administer the Agency's technical direction under a contract. The COR is responsible to monitor and evaluate the contractor's performance on a continual basis to ensure that it delivers the agreed-upon product or service.<sup>4</sup> Additionally, the Agency's contract/task order with ATSC has supplemental provisions outlining the monitoring responsibilities of FHFA's appointed COR. Specifically, the contract/task order notes that the COR is responsible for receiving all deliverables and inspecting and accepting the supplies or services provided in accordance with the terms and conditions of the contract.<sup>5</sup>

#### *ATSC Contract Award*

During 2009, FHFA identified a need for computer system engineering services, such as installing IT servers, workstations, printers, routers, switches, and networks, in support of the migration of its predecessor agencies' general support system (GSS) to a consolidated and unified GSS.<sup>6</sup> Specifically, FHFA required services to: (1) support its GSS; and (2) provide ongoing maintenance and service for all facets of FHFA's daily IT operations, including its IT infrastructure, IT security, integration and testing, and operational reports and documents.

The statement of work (SOW) for the contract/task order calls for the contractor to provide engineering services to support FHFA's servers, workstations, printers, routers, switches, load balances, data centers, and networks (i.e., local area network (LAN), metropolitan area network

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<sup>3</sup> The title COR means an individual, including a contracting officer's technical representative, designated and authorized in writing by the contracting officer to perform specific technical or administrative functions. See Federal Acquisition Certification-COR competencies at [www.fai.gov](http://www.fai.gov).

<sup>4</sup> See FHFA, APM, §5.203, *Post-Award COTR Responsibilities* (pg. 13).

<sup>5</sup> See FHFA Task Order FHF-10-F-0007, §C.21 (pg. 15).

<sup>6</sup> OMB Circular A-130, Appendix III, defines general support system as an interconnected set of information resources or computing environments that are under the same direct management control and share common functionality. A general support system includes hardware, software, information, data, applications, communications, facilities, and people, and provides support for a variety of users and common applications. See [http://www.whitehouse.gov/omb/circulars\\_a130\\_a130appendix\\_iii](http://www.whitehouse.gov/omb/circulars_a130_a130appendix_iii), at §A *Requirements*, 2.c.

(MAN), and wide area network (WAN)). Figure 1 provides specific details on the SOW's service category requirements.<sup>7</sup>

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<sup>7</sup> See FHFA Task Order FHF-10-F-0007, Attachment 1 – Statement of Work.

**Figure 1: Statement of Work<sup>8</sup>**

Contracted Service Category	Service Description
<b>Infrastructure Operations</b>	<ul style="list-style-type: none"> <li>• Operate, manage, service, and maintain all FHFA servers, desktops, and peripherals.</li> <li>• Collaborate with other service providers acquired to support help desk, telecommunication, and security services.</li> </ul>
<b>Hardware</b>	<ul style="list-style-type: none"> <li>• Manage, configure, and maintain all FHFA laptops, docking stations, and desktops.</li> <li>• Integrate and test all new or modified hardware.</li> </ul>
<b>Infrastructure Software Support</b>	<ul style="list-style-type: none"> <li>• Manage, maintain, integrate, and test all FHFA existing, new, and modified infrastructure software for operating systems.</li> </ul>
<b>Database Management</b>	<ul style="list-style-type: none"> <li>• Manage, monitor, control, backup, service, and maintain all FHFA existing legacy databases on all servers.</li> <li>• Support the migration of all existing legacy databases to a standard FHFA Structured Query Language server environment.</li> </ul>
<b>System Acceptance</b>	<ul style="list-style-type: none"> <li>• Support FHFA testing and system acceptance procedures.</li> </ul>
<b>Network Operations</b>	<ul style="list-style-type: none"> <li>• Support and manage all FHFA network equipment to include, cabling, routers, hubs, concentrators, bridges, switches, and firewalls.</li> <li>• Troubleshoot FHFA network infrastructure components (i.e., cable plant, network integrity, bandwidth use, protocol analyzers, and packet capture and analysis).</li> <li>• Support, manage, maintain, and troubleshoot all FHFA LAN operations.</li> </ul>
<b>Configuration Changes Integration and Testing</b>	<ul style="list-style-type: none"> <li>• Manage all FHFA configuration changes on all processing platforms.</li> <li>• Provide integration and testing support of all new or modified infrastructure software and hardware.</li> </ul>
<b>Information Security</b>	<ul style="list-style-type: none"> <li>• Assist in Certification and Accreditation (C&amp;A) efforts.</li> <li>• Assist in maintaining infrastructure operations security plans, threat analysis, critical infrastructure plans, and information security usage policies and procedures.</li> <li>• Maintain information security, access, and protection of data and communications.</li> </ul>
<b>Operational Reports and Documentation</b>	<ul style="list-style-type: none"> <li>• Submit to FHFA periodic operational reports on project activities as cited in the task order/SOW.</li> <li>• Develop and submit to FHFA documentation needed to maintain project services.</li> <li>• Assist in developing and/or maintaining project, system, and procedural documentation.</li> </ul>

FHFA decided to obtain the services outlined in the SOW by soliciting vendors from an existing government contract with the General Services Administration (GSA).<sup>9</sup> After evaluating

<sup>8</sup> On December 9, 2009, the CO sent an email to the contractor requesting that the contractor explain its method for performing technical writing services under its SOW. The CO incorporated the email, by reference, as an attachment to the task order. See FHFA Task Order FHF-10-F-0007, block 17(b), *Supplies or Services*.



proposals, on December 24, 2009, FHFA awarded a TM contract/task order with a base value of \$903,560 to ATSC.<sup>10</sup>

ATSC, founded in 1978, is a publicly traded IT services company with over 500 employees headquartered in McLean, Virginia. Among other services, ATSC offers assistance with IT infrastructure and outsourcing, help desk operation, and system integration support to both federal and state government agencies and commercial customers. Prior to obtaining this current contract/task order, ATSC held similar contracts with FHFA and one of its predecessor agencies, the Federal Housing Finance Board (FHFB).

#### *Contract Line Item Numbers*

The contract awarded to ATSC included contract line item numbers (CLINs) that established contract ceiling prices for the associated contract deliverables. FAR requires that CLINs provide unit prices or lump sum prices for separately identifiable contract deliverables, associated delivery schedules, or performance periods.<sup>11</sup> The awarded contract CLINs provided for the following:

- CLIN 1 – Base period to provide IT services<sup>12</sup> – ceiling price \$898,560
- CLIN 2 – Travel in association with CLIN 1 services – ceiling price \$5,000
- CLIN 3 – Option period 1 (IT services)<sup>13</sup> – ceiling price \$482,880
- CLIN 4 – Option period 1 travel for CLIN 3 services – ceiling price \$5,000

As part of the base period IT services required under CLIN 1, the SOW explicitly required ATSC to provide technical writing services to meet the SOW's documentation requirements. With respect to CLINs 3 and 4, FHFA did not exercise these options at the time of contract award.

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<sup>9</sup> Source: Authorized Federal Supply Schedule, special item 132-51, listed under GSA Schedule 70, General Purpose Commercial Information Technology Equipment, Software, and Services. See <https://www.GSAAdvantage.gov>.

<sup>10</sup> FHFA issued task order FHF-10-F-0007 under GSA contract GS-35F-4704G.

<sup>11</sup> See FAR 48 C.F.R. Subpart 4.1001, *Policy*.

<sup>12</sup> The base period, which included technical writing services, ran until December 31, 2010.

<sup>13</sup> CLIN 3 extended the performance period through June 30, 2011.

### *Contract Modifications*

FHFA subsequently modified the contract/task order on 12 occasions to extend the period of performance and add deliverable services (e.g., Windows 7 installation) that were not included in the original contract/task order.

As a result, these modifications extended the performance period from December 31, 2010, to February 29, 2012, and increased the contract/task order's value from \$903,560 to approximately \$2.7 million.<sup>14</sup> On two occasions (modifications 6 and 11), FHFA exercised its option to extend the contract/task order's performance period and value. These two options, when combined, extended the contract's period of performance for a total of 12 months and increased the total dollar value by \$984,649 (i.e., 54% of the total increase in contract value). Figure 2 provides in chronological order details on the major modifications that affect the contract/task order's timing and price ceiling.<sup>15</sup>

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<sup>14</sup> See Task Order FHF-10-F-0007, modification 12 (September 29, 2011, pg. 2).

<sup>15</sup> Figure 2 does not include modifications 1, 5, and 9, which have no monetary effect.

**Figure 2: Chronology of Contract/Task Order and Major Modifications<sup>16</sup>**

Date	Description of Major Task Order Modifications	FHFA Funding
12/24/2009	The FHFA CO signed the original contract/task order for ATSC to support all facets of FHFA IT infrastructure (see Figure 1, Statement of Work). The contract/task order establishes an option for FHFA to extend these services beyond December 31, 2010 (i.e., effective expiration date for base contract/task order).	\$903,560
07/13/2010	The FHFA CO signed <b>modification 2</b> to add funding for a new contract deliverable to provide technical writing services. The modification assigned a new <b>CLIN 5</b> to track the cost of the deliverable service and established a price ceiling of \$105,000.	\$105,000
09/01/2010	The FHFA CO signed <b>modification 3</b> to add funding for a new contract deliverable to provide service to support Windows 7 Resource Surge (i.e., extra resources to support designing the operating system). The modification assigned a new <b>CLIN 6</b> to track the cost of the deliverable service and established a price ceiling of \$325,000.	\$325,000
09/22/2010	The FHFA CO signed <b>modification 4</b> to add funding to an existing <b>CLIN 5</b> for additional technical writing services. The modification increased funding by \$200,000 and the CLIN 5 price ceiling increased to \$305,000.	\$200,000
03/01/2011	The FHFA CO signed <b>modification 6</b> to add funding to exercise FHFA's option to extend CLIN 1 services (i.e., original statement of work). [Extends contract from March 1, 2011, until August 31, 2011.] The modification effectively closes CLIN 1 and adds funding to <b>CLIN 3/CLIN 4</b> . CLIN 3 and CLIN 4 have a price ceiling of \$482,618 and \$5,000, respectively.	\$487,618
03/09/2011	The FHFA CO signed <b>modification 7</b> to change the characterization of CLIN 5 (i.e., \$305,000) service requirements for work already performed (i.e., \$187,271) from technical writing services (as was called for in <b>modifications 2 and 4</b> ) to "work performed on attached statement of work."	
03/24/2011	The FHFA CO signed <b>modification 8</b> to add funding to an existing <b>CLIN 6</b> for additional support services for Window 7 Resource Surge. The modification increased funding by \$110,000 and the CLIN 6 price ceiling increased to \$435,000.	\$110,000
06/24/2011	The FHFA CO signed <b>modification 10</b> to add funding to an existing <b>CLIN 3</b> for additional general IT support (i.e., original statement of work). The modification increased funding by \$90,000 and the CLIN 3 price ceiling increased to \$572,618.	\$90,000
08/24/2011	The FHFA CO signed <b>modification 11</b> to add funding to exercise a second option to extend CLIN 3 services (i.e., original statement of work). [Extends contract from September 1, 2011, to February 29, 2012.] The modification effectively closes CLIN 3 and CLIN 4 and adds funding to <b>CLIN 7/CLIN 8</b> . Respectively, CLIN 7 and CLIN 8 price ceilings equal \$492,031 and \$5,000.	\$497,031
09/29/2011	The FHFA CO signed <b>modification 12</b> to add funding to cover AT&T circuit expenses. The modification assigned a new <b>CLIN 9</b> to track the cost of the deliverable service and established a price ceiling of \$21,329.	\$21,329
		<u>\$2,739,538</u>

The FHFA-OIG audit found numerous problems with several of the modifications made to the contract/task order. For example, modifications 2 and 4, which established and funded CLIN 5, were entered into in a manner that increased the overall value of the contract while

<sup>16</sup> Does not include modifications 1, 5, and 9, which had no monetary effect.

misrepresenting the actual services that the contractor would perform until after the services were actually rendered.

These misrepresented labor costs totaling \$187,271 appear to have been incurred, in part, based on FHFA's desire to obtain additional ATSC personnel to augment Agency IT staffing. FHFA was unable to hire additional government employees in a timely manner to fill internal competitive Agency IT positions. The COR's justification for additional funding provided by modification 4 stated that:

FHFA needs to continue these resources for GSS Phase 2 workload and for day to day operations. This additional funding is needed because there have been delays in filling permanent government positions that would handle this workload.

Thus, FHFA increased funding on the contract/task order through modifications 2 and 4 purportedly for additional technical writing services when, in fact, the funding was actually for acquiring temporary ATSC personnel because of the Agency's inability to hire government employees timely.

Subsequently, at ATSC's request, FHFA tried unsuccessfully to rectify the problem by issuing a modification to change the description of the services obtained under CLIN 5.<sup>17</sup> After FHFA had already paid ATSC for the purported technical writing services, FHFA submitted a modification to change the description of the services rendered.

Additional issues were found by FHFA-OIG's audit with regard to the modifications. The additional issues include the absence of proper negotiation of price, failing to request a quote properly, and agreeing to pay a price higher than the contractor's quote.

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<sup>17</sup> During March 2011, the contractor expressed concern that the supplies and service description for CLIN 5 implied that ATSC was contracted to provide technical writing instead of the actual services being performed. ATSC representatives further stated that in light of an upcoming audit, ATSC was uncomfortable with the task description and requested FHFA's assistance.

## Results of Audit

FHFA-OIG found that:

### **Finding 1: FHFA Did Not Follow Accepted Contracting Practices When Modifying the Contract/Task Order.**

FHFA improperly modified the contract/task order on three occasions. First, when it entered into modification 2 (on July 13, 2010), which transferred technical writing services from CLIN 1 to CLIN 5, FHFA did not reduce the base contract/task order by the same amount (\$105,000). This left the value of CLIN 1 in the original contract at \$898,560—a value that included costs for technical writing services that were covered by CLIN 5. Because technical writing services were already a service covered by the base contract/task order, merely transferring these services to a new CLIN should not have increased the contract/task order's aggregate value. Failing to reduce the value of CLIN 1 resulted in the total value of the contract increasing by the amount of the modification, despite the fact that no additional services were contemplated.

FAR provides that the contracting officer shall document the contract file for the amount of any subsequent change in the ceiling price.<sup>18</sup> Otherwise, contract files should fully disclose the basis of FHFA's negotiation position to waive its opportunity to negotiate a new cost ceiling.

The proper handling of this transfer would have reduced the CLIN 1 ceiling price to \$793,560. By not reducing the ceiling price for CLIN 1, ATSC was subsequently able to charge for and collect from FHFA \$105,000 for services performed that were not technical writing, without the Agency engaging in pre-negotiation planning to ensure that the amount (\$105,000) remaining in CLIN 1 was justified and warranted.<sup>19</sup>

Second, FHFA entered into modification 4 on September 22, 2010. Modification 4 added \$200,000 to the cost of the contract for technical writing services, when the COR's actual purpose for the requisition/modification was mainly to acquire temporary ATSC staff not contemplated in the original contract in order to replace unoccupied government positions. In spite of the official justification for the modification, ATSC billed FHFA \$12,533 (i.e., 6% of \$200,000) for additional technical writing costs and \$187,271 (i.e., 94% of \$200,000) for other temporary services. Subsequent to the CO issuing modification 4 to the contractor, the COR and ATSC agreed that the contractor would provide services other than the technical writing services

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<sup>18</sup> See FAR 48 C.F.R. §16.601(d)(2).

<sup>19</sup> FAR 15.404-1, *Proposal Analysis Techniques*, provides that the objective of proposal analysis is to ensure that the final agreed-to price is fair and reasonable. These procedures may include issuing a requisition approving funds, properly analyzing the proposal, and modifying the base contract/task order ceiling price. See FAR 48 C.F.R. §15.404-1(a).

requisitioned by the modification. Despite this agreement, the COR was not capable of authorizing the change without the CO's approval. The CO later became aware of this unauthorized change but for six months took no action to modify the contract terms to reflect the actual character of the services that were provided.<sup>20</sup>

This situation also raises questions regarding the pricing of the services rendered. FAR states that, in part, a cost is allowable only when the cost complies with all of the following requirements: reasonableness, cost allocation, generally accepted accounting principles, and terms of the contract.<sup>21</sup>

ATSC submitted a total of \$187,271 in labor costs for the period of December 2010 through March 2011 that were for labor categories other than technical writing (Senior Systems Analyst III). ATSC charged a variety of employees and labor categories against modification 4, but FHFA's pre-modification consideration of the reasonableness of these employees and categories is not documented. The total extent of the labor categories, hours, and costs charged are further detailed in Figure 3.

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<sup>20</sup> On September 24, 2010, the COR sent the CO an email that stated, in part, "The intent for the additional funding was for the BASE contract, CLIN 1 and not for the CLIN 5 Tech writing."

<sup>21</sup> See FAR 48 C.F.R. §31.201-2(a), *Determining Allowability*.

**Figure 3: Employees Charged for Other Than Technical Writer  
(Senior Systems Analyst III)<sup>22</sup>**

Month	Year	Labor Rate Category	Invoice Hours	Questioned Costs
December	2010	Programmer/Analyst II	█	1,854
December	2010	Principle Tech Consult I	█	21,280
January	2011	Principal Tech Consult I	█	13,068
January	2011	Principal Tech Consult II	█	2,774
January	2011	Programmer/Analyst II	█	7,369
January	2011	Tech Consult IV	█	13,514
January	2011	Principal Tech Consult I	█	19,776
February	2011	Principal Tech Consult I	█	18,041
February	2011	Programmer/Analyst	█	6,608
February	2011	Tech Consult IV	█	13,514
February	2011	Tech Consult III	█	11,510
February	2011	Principal Tech Consult I	█	20,817
February	2011	Journey Programmer/Analyst	█	8,621
February	2011	Program/Analyst II	█	6,691
February	2011	Program/Analyst II	█	7,085
February	2011	Program/Analyst II	█	6,421
March	2011	Principal Tech Consult I	█	2,197
March	2011	Programmer/Analyst	█	1,093
March	2011	Tech Consult IV	█	1,511
March	2011	Principal Tech Consult I	█	3,527
Total				<u>\$187,271</u>

Third, FHFA did not follow proper procedures when it entered into modification 7 on March 9, 2011, to change the characterization of \$187,271 in services already provided under modification 4 from technical writing services to services already performed and reflected in the base contract SOW. Specifically, FHFA failed to follow FAR procedures for a ratification of past payments for past services.

Because modification 4 called for the provision of technical writing services, the performance by ATSC of services other than technical writing was, in effect, not authorized. FHFA's APM states that a contract or modification to an existing contract is not binding when the FHFA representative who made it lacks the authority to enter into that contract on behalf of FHFA. This is otherwise known as an unauthorized commitment. The APM further prescribes procedures to ratify an unauthorized commitment in order to assure that contracting procedures and safeguards are not circumvented by FHFA staff.<sup>23</sup> Among other things, these procedures

<sup>22</sup> Source: ATSC invoices submitted to FHFA between December 2010 and March 2011.

<sup>23</sup> FHFA, APM, §4.102, *Conditions for Ratification* (pg. 7).

work to discourage the practice of an unauthorized commitment from recurring. Proper ratification procedures were not followed here, including:

- The Assistant Director – or equivalent title – of the employee who directed the work did not submit a written and signed statement to the CO with pertinent facts pertaining to the unauthorized work;
- The CO did not prepare a Recommendation Report documenting the findings of facts provided by the contractor and program office, issue a Recommendation for either approving or denying the ratification action for the unauthorized work, or affirm that the services are acceptable and the price is fair and reasonable;
- The CO did not obtain concurrence from the Office of General Counsel; and
- A senior procurement executive did not approve a Recommendation Report or ratify the unauthorized commitment.

**Finding 2: FHFA Failed to Negotiate Properly Modifications to the Original Contract/Task Order.**

In modifications 2, 3, 4, and 6, FHFA failed to negotiate properly terms. In the case of modifications 4 and 6, FHFA did not solicit price proposals from ATSC prior to indicating to the contractor the value of the contract. In modification 2, FHFA did not solicit or receive a price proposal at all. In modification 3, FHFA agreed to an amount that was \$9,000 in excess of ATSC's price proposal.

*FHFA Disclosed to ATSC Its Cost Estimate Before Negotiating Contract Modifications*

For modification 4, FHFA provided ATSC with the Agency's estimated cost (\$200,000) prior to soliciting a price proposal from the contractor. Email correspondence between the COR and the contractor stated that the CO "wants an estimate for a response for the additional \$200k." Soon after this email was sent, ATSC submitted a price proposal for modification 4 in the amount of \$199,908.

ATSC was also provided with the government's cost estimate prior to the contractor submitting a price proposal for modification 6 to the contract/task order. Specifically, in an email dated February 17, 2011, the CO sent the contractor modification 6 to sign. The modification extended the contract/task order's period of performance from March 1, 2011, to August 31, 2011. The February 17, 2011, email from the CO to ATSC transmitting modification 6 included FHFA's cost estimate of \$487,618. Subsequently, on March 2, 2011, the contractor submitted to FHFA the signed modification 6 as well as its price proposal. The CO signed modification 6 on the same day but backdated the signature to March 1, 2011. This timeline of communication



between ATSC and FHFA clearly demonstrates that the FHFA CO effectively modified the task order before receiving and evaluating the contractor's price proposal.

The practice of providing the contractor information regarding the government's cost estimate in advance of receiving a price proposal not only is contrary to accepted contracting practices, but also places FHFA at a disadvantage when negotiating task order modifications and ensuring the government receives the best value for the services provided.

*FHFA Increased the Value of the Contract Without Soliciting a Price Proposal*

The FHFA-OIG audit identified that the CO could not produce a price proposal from ATSC for modification 2, which increased the contract/task order's cost by \$105,000. Consequently, the Agency was unable to demonstrate that the CO complied with FAR's procedure to ensure that the price is reasonable.<sup>24</sup>

*FHFA Agreed to Pay More Than the Contractor's Quote*

Additionally, FHFA failed to achieve the best value for the government when the CO issued modification 3 to the contract/task order. Modification 3, dated September 1, 2010, established CLIN 6 for the Windows 7 Resource Surge Project. The purpose of this project was to provide technical support and assistance in the design of an FHFA standard Windows 7 operating system. ATSC submitted a price proposal with an estimated cost of \$315,670. The FHFA government estimate for modification 3 was \$325,000. Despite having a lower price proposal from ATSC, the CO issued modification 3 in the amount of \$325,000, or the exact amount of the government's higher estimate. FHFA was unable to provide any explanation for the CO's decision to pay the higher price.

In summary, on four occasions, the CO issued contract modifications for the exact amount of FHFA's cost estimate. In one case, FHFA issued a modification in the amount of its estimate even though ATSC proposed a lower price. In other instances, the CO obtained the contractor's price proposal after issuing a modification form with the government's estimated cost disclosed. FHFA should enhance its procurement practices to include effective negotiation strategies and ensure the Agency acquires services at the best value.

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<sup>24</sup> See FAR 48 C.F.R. §8.405-2(d), *Evaluation*, which states that the ordering activity is responsible for considering the level of effort and the mix of labor proposed to perform a specific task being ordered and for determining that the total price is reasonable.

**Finding 3: FHFA’s Contract Administration Activities Related to Evaluating Contractor Labor Qualifications on Time-and-Material and Labor-Hour Contracts Require Strengthening.**

Without testing or validation, the CO and COR relied on ATSC to ensure that 13 employees added to the contract/task order following contract inception met the minimum technical qualifications required for their assigned labor category.

FHFA’s contract/task order with ATSC states that:

The hourly rates shall be paid for all labor performed on the contract that meets the labor qualifications specified in the contract. Labor hours incurred to perform tasks for which labor qualifications were specified in the contract will not be paid to the extent the work is performed by employees that do not meet the qualifications specified in the contract, unless specifically authorized by the CO. The contractor shall substantiate vouchers (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment and by:

- (a) Individual daily job timekeeping records;
- (b) Records that verify the employees meet the qualifications for the labor categories specified in the contract; or
- (c) Other substantiation approved by the CO.<sup>25</sup>

FHFA was unable to provide documentation confirming that 13 of the 14 ATSC employees who were added to the contract/task order between March 2010 and June 2011 met the minimum education and experience requirements set forth in the GSA master contract for their respective labor categories.

However, FHFA’s APM does not require the CO and the COR to obtain a résumé or similar document to validate whether a proposed contractor employee’s experience and education meet the minimum requirements specified in the GSA master contract, when a new employee is added to the contract. This failure to require FHFA to compile documentation resulted in the Agency not having adequate assurance that the costs paid for the level of services received were reasonable and met the qualifications of the labor category specified in the contract. To obtain such assurance, the CO/COR should have determined whether the new labor category is necessary and then evaluated the ATSC employee’s background (verified through a résumé or similar document) against the new labor category requirements under the GSA master contract.

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<sup>25</sup> See FHFA Task Order Number FHF-10-F-0007, §C.22, clause 52.232-7(a)(3).

FHFA should revisit this contract/task order and perform the necessary analysis to ensure that ATSC employees had the education, background, and experience required under the GSA master contract.<sup>26</sup> FHFA should recapture all expenses, when applicable, paid to the contractor for employees working in positions without proper qualifications.

Further, at the contractor's request, FHFA modified the contract/task order with modification 6 to permit ATSC to move one of the 13 new contractor employees from one labor category to another substantially higher-cost labor category. This was done without adequate justification that either the higher-cost labor category was needed or that the employee being moved met the technical qualifications for the position. As a result, an employee working on the project and billed as a Programmer Analyst II during the base year of the contract/task order was reclassified and billed as a Technical Consultant II during Option Year 1.

Although ATSC asserts that the requested labor change for this employee was based on the employee's excellent performance and a potential salary increase, GSA's master contract does not permit ATSC and FHFA to adjust its fixed rates based upon the contractor's performance management decisions. Furthermore, the hourly rates set forth in the GSA master contract are pre-negotiated, fixed, and already incorporate escalation factors to account for changes to direct labor and employee compensation. At a minimum, the Agency should have performed a technical evaluation on the contractor's proposal to determine whether a new labor category was warranted for ATSC to complete the contracted obligations.

The hourly rate billed to FHFA for this employee during March through September 2011 increased from [REDACTED] to [REDACTED] an hour, a 66% increase. Additionally, for the period of September through November 2011, the rate increased from [REDACTED] an hour for a Programmer Analyst II to [REDACTED] an hour for a Technical Consultant II. As a result of these changes, FHFA incurred increased costs of \$47,743 that FHFA-OIG considers unreasonable and unallowable as shown in Figure 4.

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<sup>26</sup> FAR 48 C.F.R. §42.101(a)(3) states that government agencies can acquire contract audit services provided by another government agency such as the Defense Contract Audit Agency to perform other analyses and reviews that require access to the contractor's financial and accounting records supporting proposed and incurred costs.

**Figure 4: Summary of Claimed and Questioned Costs – Labor Rate Increase<sup>27</sup>**

Invoice Month	Invoice Hours	Claimed Costs	Questioned Costs
March			
April			
May			
June			
July			
August			
September			
October			
November			
<b>Total</b>		<u><b>\$120,444</b></u>	<u><b>\$47,743</b></u>

**Finding 4: ATSC Was Reimbursed for Subcontractor Costs Not Allocable or Allowable Under the Contract/Task Order.**

ATSC improperly submitted claims to FHFA for payment of subcontract costs for telecommunications services that ATSC had incurred under a previously closed contract with FHFA.

In modification 12, FHFA contracting personnel modified the contract/task order with ATSC to allow for invoicing and paying of the subcontractor’s expenses incurred on a previously closed contract as opposed to requiring ATSC to pay the subcontractor’s costs and then submit a formal claim under the previously closed FHFA contract. FHFA personnel indicated that the contracting office implemented these actions based on the CO’s claim authority.

Although a procurement official’s claim authority may authorize them to determine whether the Agency will ultimately pay a contractor for a particular claim, such authority does not grant a procurement official the ability to move costs from one contract to a separate, unrelated contract. As a result, FHFA personnel knowingly funded and processed for payment a total of \$21,329 for subcontractor services that were neither allocable nor allowable against the existing contract/task order.

<sup>27</sup> Source: ATSC invoices submitted to FHFA between March 2010 and November 2011.

FHFA's current contract/task order with ATSC states:

Payment for materials is subject to the Allowable Cost and Payment clause of this contract. The CO will determine allowable costs for materials in accordance with Subpart 31.2 of FAR in effect on the date of this contract.<sup>28</sup>

Under FAR subpart 31.2, a cost is allowable to the extent that the amount is reasonable, allocable, and within the terms of the contract.<sup>29</sup> FAR further states that a cost is allocable if it is assignable to the cost objective on the basis of relative benefits or other equitable relationship. The costs of \$21,329 are neither allocable nor allowable under ATSC's current contract/task order with FHFA because the services rendered were not within the terms or scope of the contract/task order.

Moreover, FAR 42.505 states that government representatives must recognize the lack of privity of contract between the government and subcontractors (i.e., the subcontract applies solely to and is the responsibility of ATSC). Accordingly, FHFA was not obligated to reimburse ATSC under this contract for telecommunication expenses the contractor incurred under a separate contract with its subcontractor.

### **FHFA-OIG Conclusion**

The findings in this report identify weaknesses in FHFA's procedures and processes for administering, monitoring, and negotiating IT-related contracts. On several occasions, FHFA personnel did not adequately perform accepted contracting practices such as evaluating price proposals, performing appropriate contract negotiations, and obtaining sufficient justification prior to increasing funds on the contract/task order. Overall, FHFA-OIG found that ATSC engaged in certain activities that conflict with provisions and terms of the contract/task order. As a result, FHFA-OIG questions \$361,343 of costs submitted by ATSC and paid by FHFA, or approximately 13% of the total contract value of \$2,739,538 (see Appendix B).

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<sup>28</sup> See FHFA Task Order FHF-10-F-0007, §C.22 clause 52.232-7 (b) (4), *Payments Under Time-And-Materials and Labor-Hour Contracts* (February 2007, pg. 18).

<sup>29</sup> See FAR 48 C.F.R. §31.201-2(a), *Determining Allowability*.

## Recommendations

FHFA-OIG recommends that:

1. The CO review the total unallowable payments of \$256,343 made to ATSC under the contract/task order and recapture the amounts identified as not allocable (\$21,329), unreasonable (\$47,743), and unsupportable (\$187,271). (See Appendix B.)
2. The CO determine whether additional corrective actions are warranted to recapture additional unreasonable costs billed by ATSC to FHFA after November 2011. (FHFA-OIG did not review charges submitted after November 30, 2011.)
3. The COR revisit this contract/task order and perform the necessary analysis to ensure that ATSC employees had the education background and experience as required under the GSA master contract. The FHFA CO should recapture all expenses, when applicable, paid to the contractor for employees working in positions without proper qualifications.
4. The Director, Office of Budget and Financial Management, issue guidance to all acquisition staff and approving officials, including COs and CORs, on:
  - a. Cost allocation and proper procedures for assigning costs to contracts in accordance with benefits received and based on the appropriate cost objective;
  - b. Proper procedures for ensuring that contract employees meet labor category qualifications specified in TM/LH contracts;
  - c. Proper procedures for obtaining sufficient justification prior to increasing funds, adjusting fixed labor rates, and approving payments on TM contracts;
  - d. Appropriate procedures for evaluating contractor price proposals and documenting the Agency's pre-negotiation position prior to awarding contract modifications; and
  - e. Appropriate use of contractor employees to substitute for internal Agency positions and approving invoices based on contractual terms and provisions.
5. The CO should remove the \$105,000 of excess funds from CLIN 1 to account for technical writing services ATSC was no longer required to perform under the CLIN. Thereafter, the CO should compare the new contract ceiling to the actual amount ATSC billed against CLIN 1 and recapture any unallowable costs that exceed the new ceiling price.

## **Audit Objective**

The overall objective of this performance audit was to determine whether payments on the contractor invoices were properly supported and goods and services conformed to contractual requirements. Specifically, FHFA-OIG:

- Assessed whether FHFA had adequate processes and procedures to ensure contractor employees possess the minimum qualifications necessary to meet contractual requirements for assigned labor categories;
- Determined whether FHFA properly reviewed contractor invoices, corresponding timesheets, and other supporting documentation to ensure costs incurred are allowable, reasonable, and allocable to the contract/task order; and
- Assessed FHFA's monitoring process to ensure the Agency adequately evaluated ATSC's contract performance and services provided for compliance with contractual requirements.

## **Audit Scope and Methodology**

Field work for this audit was performed from December 2011 through July 2012 at FHFA's office located in Washington, D.C. For the period covering January 1, 2010, through November 30, 2011, FHFA-OIG reviewed available documents under ATSC contract/task order FHF-10-F-0007.

To achieve the audit objectives, FHFA-OIG relied on computer-processed and hardcopy data from FHFA. Among other data, FHFA-OIG reviewed information contained in FHFA's procurement system (PRISM) and its internal Microsoft (MS) Outlook email messages. FHFA's contract personnel used MS Outlook to negotiate and communicate task order modifications and changes. However, FHFA-OIG did not solely rely on FHFA's PRISM system and email communications. All information sources were evaluated separately but considered collectively for validity and reliance. FHFA-OIG assessed the validity of the computerized data and found it to be generally suitable for the audit objectives.

To further achieve its audit objectives, FHFA-OIG also obtained:

- FHFA's contract files for contract/task order FHF-10-F-0007, awarded to ATSC;
- The original GSA contract to identify fixed rate labor categories as well as required position qualifications; and
- FHFA's COR files, including ATSC invoices, invoice approval forms, timesheets, and monthly progress reports.

FHFA-OIG evaluated each monthly invoice that ATSC submitted to FHFA for the period of January 1, 2010, through November 30, 2011. FHFA-OIG reviewed GSA regulations, the FAR, and FHFA's APM. FHFA-OIG also conducted interviews with FHFA and ATSC personnel associated with the ATSC contract/task order.

FHFA-OIG assessed the internal controls related to FHFA's monitoring and oversight of ATSC's performance under the contract/task order. Internal controls are designed to provide reasonable assurance about the achievement of an organization's mission, goals, and objectives with regard to:

- effectiveness and efficiency of program operations;
- validity and reliability of data; and
- compliance with laws and regulations.

Internal controls comprise the plans, policies, methods, and procedures used to meet an organization's mission, goals, and objectives. Internal controls include the processes and procedures for planning, organizing, directing, and controlling program operations as well as the systems for measuring, reporting, and monitoring program performance. FHFA-OIG considers its findings concerning internal controls to be significant within the context of the audit objectives.

FHFA-OIG conducted this performance audit in accordance with Generally Accepted Government Auditing Standards. Those standards require that audits be planned and performed to obtain sufficient, appropriate evidence to provide a reasonable basis for FHFA-OIG's findings and conclusions based on the audit objectives. FHFA-OIG believes that the evidence obtained provides a reasonable basis for the findings and conclusions herein, within the context of the audit objective.

FHFA-OIG appreciates the courtesies and cooperation extended to it by FHFA staff during this audit.

cc: Edward J. DeMarco, Acting Director  
Richard Hornsby, Chief Operating Officer  
Alfred Pollard, General Counsel  
Bruce Crandlemire, Senior Advisor for IG Operations  
John Major, Internal Controls and Audit Follow-Up Manager



## Appendix A – Additional Internal Controls That Could Be Enhanced

During the audit, FHFA-OIG identified several instances in which the Agency did not properly monitor or implement internal controls throughout its procurement process with ATSC. Although FHFA-OIG recognizes that the Agency has existing acquisition policies and procedures, FHFA could enhance its controls to include monitoring measures to obtain assurance that employees comply with existing policies and procedures. Additionally, FHFA could incorporate new controls to strengthen its independence from contractors that perform services for the Agency. The improved policies and procedures could specifically address the following areas:

**Appointment of Contracting Officer’s Representative.** FHFA-OIG found that the Agency did not follow its existing policies and procedures for assigning a COR to the subject contract/task order.<sup>30</sup> Particularly, the FHFA CO did not submit an appointment letter to the designated COR at the time of the contract/task order’s award in December 2009. The CO issued the official appointment letter to the COR after FHFA-OIG commenced its audit in December 2011. It would be beneficial for FHFA to incorporate monitoring control measures to ensure employees properly implement existing policies.

**Key Contractor Employee Changes.** ATSC failed to notify officially the CO or COR that one of its key personnel left the company. According to the contract/task order’s provisions, the key personnel specified in the contract/task order are considered to be essential to work being performed under the task order. Prior to diverting any of the specified individuals to other programs, the contractor is required to notify the CO, reasonably in advance, and submit a justification (including proposed substitutions) in sufficient detail to permit evaluation of the impact on the program.<sup>31</sup>

FHFA personnel acknowledged that ATSC neglected to inform properly the Agency that its project manager left the company over a year earlier and was replaced with another employee. FHFA should implement controls to ensure procurement and program office personnel adequately monitor all aspects of the contractor’s performance, particularly any replacement of key personnel.

**Employee Independence.** FHFA should strengthen its method for monitoring contractors’ labor charges. From January 2010 through October 2010, ATSC submitted invoices to FHFA for the work performed by its Senior Systems Analyst III. In October

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<sup>30</sup> See FHFA, APM, §5.3, (pg. 14).

<sup>31</sup> See FHFA Task Order Number FHF-10-F-0007, §C.26, *Key Personnel*, (pg. 21).

2010, FHFA hired the ATSC Senior Systems Analyst III as a government employee to work in the same area as that supported by the contract/task order in which the Agency previously paid ATSC for the employee's effort. Among other duties, the former ATSC employee worked as a Daily Time Keeping Monitor. Occasionally, the COR depends on the Time Keeping Monitor to provide unbiased information about contractor employees and their actual time and attendance at the government site. The Agency's decision to hire the former ATSC employee to work on this particular project increases FHFA's internal control risk and minimizes its ability to evaluate - objectively - the contractor's claimed labor charges. FHFA-OIG suggests that the Agency issue policies and procedures to strengthen its independence among FHFA and contractor personnel.

## Appendix B – Summary of Monetary Results

Finding	Recommendation	Description	Amount	Questioned Costs Category
1	5	FHFA did not decrease the price ceiling for CLIN 1 after removing ATSC's requirement to provide technical writing services.	\$105,000	Funds Could Be Put to Better Use
1	1 and 4.c	ATSC charged FHFA for employees who did not perform technical writing services.	\$187,271	Unsupported
3	1, 2, and 4.b	ATSC was unable to support the reasonableness of significantly increasing a fixed labor rate.	\$47,743	Unreasonable
4	1 and 4.a	ATSC did not perform the service under the current task order.	\$21,329	Not Allocable or Allowable
<b>TOTAL</b>			<b>\$361,343</b>	

# Appendix C – FHFA’s Comments on Findings and Recommendations



## Federal Housing Finance Agency

### MEMORANDUM

TO: Russell Rau  
Deputy Inspector General for Audit, FHFA-OIG

FROM: Mark Kinsey *Mark Kinsey*  
Chief Financial Officer *Mark Kinsey*

SUBJECT: FHFA Response – OIG Audit 2013-003, FHFA’s Oversight of  
Contract No. FHF-10-F-007 with Advanced Technology Systems, Inc. (ATSC)

DATE: October 18, 2012

This memorandum transmits the Federal Housing Finance Agency's (FHFA) management response to the recommendations resulting from the audit performed by your staff from December 2011 to July 2012 for the period covering January 1, 2010 through November 30, 2011. As stated in FHFA-OIG's report, the objective of the audit was to determine whether payments made to ATSC were properly supported and the goods and services received conformed to contractual requirements.

Specific recommendations and FHFA management's response are detailed below.

#### **FHFA-OIG recommends that:**

1. The Contracting Officer (CO) review the total unallowable payments of \$256,343 made to ATSC under the contract/task order and recapture the amounts identified as not allocable (\$21,329), unreasonable (\$47,743), and unsupported (\$187,271).

#### **Management Response**

FHFA agrees to review the total unallowable payment of \$256,343 made to ATSC under contract/task order and will make a determination of the amount to be recaptured, if any, by the end of fiscal year 2013.

2. The CO determines whether additional corrective actions are warranted to recapture additional unreasonable costs billed by ATSC to FHFA after November 2011. (FHFA-OIG did not review charges submitted after November 30, 2011).

#### **Management Response**

Based on the results of the review identified under recommendation 1, FHFA agrees to review additional cost billed by ATSC after November 30, 2011. This review will be completed by the end of fiscal year 2013.

3. The Contracting Officer's Representative (COR) revisit this contract/task order and perform the necessary analysis to ensure that ATSC employees had the education, background and experience as required under the GSA master contract. The FHFA CO should recapture all expenses, where applicable, paid to the contractor for employees working in positions without proper qualifications.

**Management Response**

FHFA partially agrees with the recommendation. The COR did not express any concerns with the work performed by ATSC employees related to their labor categories that would have triggered the need to validate the education, background and experience. However, FHFA will conduct a review and analysis when a COR or CO has reason to believe there are problems related to performance and/or qualifications of contractor personnel.

4. The Director, OBFM, issue guidance to all acquisition staff and approving officials, including COs and CORs, on:
  - a. Cost allocation and proper procedures for assigning costs to contracts in accordance with benefits received and based on the appropriate cost objective;
  - b. Proper procedures for ensuring that contract employees meet labor category qualifications specified in TM/LH contracts;
  - c. Proper procedures for obtaining sufficient justification prior to increasing funds, adjusting fixed labor rates, and approving payments on time-and-material contracts;
  - d. Appropriate procedures for evaluating contractor price proposals and documenting the Agency's pre-negotiation position prior to awarding contract modifications; and
  - e. Appropriate used of contractor employees to substitute internal Agency positions and approving invoices based on contractual terms and provisions.

**Management Response**

FHFA agrees with the recommendation and will provide guidance to all acquisition staff and approving officials, including FHFA COs and CORs, by the third quarter of fiscal year 2013.

5. The CO should remove the \$105,000 of excess funds for CLIN 1 to account for the technical writing services ATSC was no longer required to perform under the CLIN. Thereafter, the CO should compare the new contract ceiling to the actual amount ATSC billed against CLIN 1 and recapture any unallowable costs that exceed the new ceiling price.

**Management Response**

FHFA agrees to review the \$105,000 of excess funds for CLIN 1 and will make a determination of the amount to be recaptured, if any, by the end of fiscal year 2013.

## **Appendix D - FHFA-OIG's Response to FHFA's Comments**

On October 18, 2012, FHFA provided comments to a draft of this report. FHFA agreed with Recommendations 1, 2, 4, and 5, and partially agreed with Recommendation 3. FHFA-OIG has attached FHFA's full response as Appendix C and considered it where appropriate in finalizing this report. Appendix E provides a summary of the Agency's response to FHFA-OIG's recommendations and the status of agreed-to corrective actions.

FHFA-OIG considers FHFA's responses to Recommendations 1, 2, 4, and 5 to be sufficient to resolve these recommendations, which will remain open until FHFA-OIG determines that agreed-to corrective actions are completed and responsive to the recommendations.

With regard to Recommendation 3, although FHFA partially agreed with this recommendation, the Agency will not conduct a review and analysis of contractor labor qualifications until a COR or CO has reason to believe there are problems related to performance and/or qualifications of contractor personnel. Ideally, FHFA-OIG believes that FHFA should adopt a proactive approach for ensuring its contractors comply with a major component of its task order provision for payments under TM and LH contracts. FHFA's TM contract provides that labor hours incurred to perform tasks for which labor qualifications were specified in the contract should not be paid to the extent the work is performed by employees who do not meet the qualification specified in the contract. Preventive measures to monitor contractors' compliance with this provision—such as performing annual reviews to sample labor hours—could provide FHFA with reasonable assurance that inappropriate expenditures are not being made. However, FHFA's internal procedures do not require such validation, and, thus, Recommendation 3 is considered resolved, but will remain open until FHFA-OIG reviews how the Agency intends to implement the proposed corrective action.

## Appendix E - Summary of Management's Comments on the Recommendations

This table presents FHFA's management response to FHFA-OIG's report and the recommendations' status when the report was issued.

Rec. No.	Corrective Action: Taken or Planned	Expected Completion Date	Monetary Benefits	Resolved: Yes or No <sup>a</sup>	Open or Closed <sup>b</sup>
1.	FHFA agrees to review the total unallowable payment of \$256,343 made to ATSC and make a determination of the amount to be recaptured by the end of fiscal year 2013.	September 30, 2013	\$256,343	Yes	Open
2.	FHFA agrees to review additional cost billed by ATSC after November 30, 2011. This review will be completed by the end of fiscal year 2013.	September 30, 2013	\$0	Yes	Open
3.	FHFA partially agrees with the recommendation. FHFA will conduct a review and analysis when a COR or CO has reason to believe there are problems related to performance and/or qualifications of contractor personnel.	September 30, 2013	\$0	Yes	Open
4.	FHFA agrees with the recommendation and will provide guidance to all acquisition staff and approving officials, including FHFA COs and CORs, by the third quarter of fiscal year 2013.	September 30, 2013	\$0	Yes	Open
5.	FHFA agrees to review the \$105,000 of excess funds for CLIN 1 and will make a determination of the amount to be recaptured by the end of fiscal year 2013.	September 30, 2013	\$105,000	Yes	Open
<b>Total</b>			<b><u>\$361,343</u></b>		

<sup>a</sup> Resolved means: (1) Management concurs with the recommendation, and the planned, ongoing, or completed corrective action is consistent with the recommendation; (2) Management does not concur with the recommendation, but alternative action meets the intent of the recommendation; or (3) Management agrees to the FHFA-OIG monetary benefits, a different amount, or no amount (\$0). Monetary benefits are considered resolved as long as management provides an amount.

<sup>b</sup> Once FHFA-OIG determines that the agreed-upon corrective actions have been completed and are responsive, the recommendations can be closed.



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- Email us: [oighotline@fhfaig.gov](mailto:oighotline@fhfaig.gov)
- Write us: FHFA Office of Inspector General  
Attn: Office of Investigation—Hotline  
400 7th Street, SW  
Washington, DC 20024

## Addendum I – Summary of Contracting Officer Decisions on Questioned Costs

Due to the then pre-decisional nature of the issues in the report, FHFA-OIG did not release the audit report publicly until FHFA’s Contracting Officer had made a final determination with respect to the costs questioned in the audit. FHFA-OIG requested that such determination be made within 90 days of this report’s issuance on November 28, 2012.

The CO subsequently determined that of questioned costs totaling \$361,343, recovery of \$21,329 would be sought from the contractor. The CO decided not to seek recovery of the remaining \$340,014 of questioned costs. The following table details by recommendation, the CO’s determination.

Finding	Recommendation	Description	Questioned Amount	Contracting Officer Decision <sup>32</sup>
1	5	FHFA did not decrease the price ceiling for CLIN 1 after removing ATSC’s requirement to provide technical writing services.	\$105,000	Unsustained
1	1 and 4.c	ATSC charged FHFA for employees who did not perform technical writing services.	\$187,271	Unsustained
3	1, 2, and 4.b	ATSC was unable to support the reasonableness of significantly increasing a fixed labor rate.	\$47,743	Unsustained
4	1 and 4.a	ATSC did not perform the service under the current task order.	\$21,329	Sustained \$21,329
<b>TOTAL QUESTIONED AND SUSTAINED COSTS</b>			<b>\$361,343</b>	<b>\$21,329</b>

<sup>32</sup> Sustained costs as identified in this table are those costs for which the Contracting Officer has agreed to seek recovery from the contractor. Unsustained costs are those costs for which the Contracting Officer does not agree with the FHFA-OIG recommendation to seek recovery from the contractor. FAR 1.602, Contracting Officers, states that contracting officers have authority to enter into, administer, or terminate contracts and make related determinations and findings. Contracting officers may bind the government only to the extent of the authority delegated to them. FAR 1.602 further states that contracting officers are responsible for ensuring performance of all necessary actions for effective contracting, ensuring compliance with the terms of the contract, and safeguarding the interests of the United States in its contractual relationships. In order to perform these responsibilities, contracting officers should be allowed wide latitude to exercise business judgment.