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Office of Inspector General
Office of Audits

Review of Select Time-and-Materials and Labor-Hour Contracts



December 22, 2010
Report No. 487

Review Conducted by Regis and Associates, PC



OFFICE OF
INSPECTOR GENERAL

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

MEMORANDUM

December 22, 2010

To: Sharon Sheehan, Associate Executive Director, Office of
Administrative Services (OAS)

From: H. David Kotz, Inspector General, Office of Inspector General *HK*

Subject: *Review of Select Time-and-Materials and Labor-Hour Contracts,*
Report No. 487

This memorandum transmits the U.S. Securities and Exchange Commission Office of Inspector General's (OIG) final report detailing the results of our review of select time-and-materials and labor-hour contracts. This review was conducted as part of our continuous effort to assess the management of the Commission's programs and operations and as a part of our annual audit plan.

The final report contains six recommendations, which if implemented, should strengthen OAS' operations. OAS concurred with all six recommendations. Your written response to the draft report is included in its entirety in Appendix V.

Within the next 45 days, please provide the OIG with a written corrective action plan that is designed to address the agreed upon recommendations. The corrective action plan should include information such as the responsible official/point of contact, timeframes for completing the required actions, and milestones identifying how you will address the recommendations cited in this report.

Should you have any questions regarding this report, please do not hesitate to contact me. We appreciate the courtesy and cooperation that you and your staff extended to our staff and contractors during this review.

Attachment

cc: Kayla J. Gillan, Deputy Chief of Staff, Office of the Chairman
Luis A. Aguilar, Commissioner
Troy A. Paredes, Commissioner
Elisse Walter, Commissioner
Diego T. Ruiz, Executive Director, Office of the Executive Director
Kenneth A. Johnson, Chief Financial Officer, Office of Financial Management
Juliana Basile, Assistant Director, Office of Administrative Services, Office of
Acquisitions

Review of Select Time-and-Materials and Labor-Hour Contracts

Executive Summary

Background. The U.S. Securities and Exchange Commission (SEC or Commission), Office of Inspector General (OIG) contracted with Regis & Associates, PC, (Regis), Independent Public Accountants, to conduct a review of select time-and-materials (TM) and labor-hour (LH) contracts to determine whether payments on the contracts were properly supported. The Federal Acquisition Regulation (FAR) allows TM/LH contracts to be utilized only when it is not possible to estimate accurately the extent of the work, or to anticipate costs with any reasonable degree of confidence, and requires appropriate government oversight of contractor performance to provide reasonable assurance that the contractor uses efficient and effective methods and cost controls.¹

The two TM/LH contracts Regis reviewed were:

- SEC Contract No. SECHQ1-06-C-0436, awarded to XBRL US, Inc.; and
- SEC Contract No. SECHQ1-07-C-0313, awarded to Dozier Technologies, Inc.

The SEC awarded Contract Number SECHQ1-06-C-0436 to XBRL US, Inc., to develop a U.S. Generally Accepted Accounting Principles Financial Statement Taxonomy, as well as other deliverables described in the contract. The principal objective of this taxonomy is to provide a basis for public companies to report their financial information in an interactive data format. The SEC awarded this TM contract on March 5, 2007 and issued six modifications that extended the performance period of the contract through June 28, 2008, and increased the contract amount from \$5,905,420 to \$11,889,462.²

Contract Number SECHQ1-07-C-0313 was awarded to Dozier Technologies, Inc., on September 7, 2007, with a base value of approximately \$1,525,157, with options to increase the value to \$3,500,000. This LH contract was to provide contracting support services and to assist in the administration of a new procurement system. The SEC exercised the options in the form of 15 modifications to the full value of \$3,500,000.

¹ Federal Acquisition Regulation 48 C.F.R. 16.601(c)(1).

² The March 2007 contract definitized an earlier letter contract executed on September 22, 2006.

Objectives. The overall objective of this review was to determine whether payments on the contractor invoices were properly supported and goods and services conformed to contractual requirements. The specific objectives of the review included determining whether:

- 1) The qualifications of employees billed to the contracts, by labor category, met the contractual qualification requirements for the positions;
- 2) Assigned Contracting Officer Technical Representatives (COTR) properly reviewed contractors' invoices, corresponding timesheets, and other necessary supporting documentation, to ensure that costs were allowable, reasonable, and allocable to the contracts; and that the rates and amounts billed did not exceed contract rates and ceiling amounts; and
- 3) The SEC adequately monitored all aspects of current and past contractors' performance to ensure that goods and services provided conformed to contractual requirements.

Prior OIG Audit Report. OIG Report No. 471, *Audit of the Office of Acquisitions' Procurement and Contract Management Functions*, issued September 25, 2009, contained 10 recommendations to strengthen management controls over OA's contracting and procurement functions.

Results. The review identified a number of deficiencies concerning the TM/LH contracts related to documentation, qualifications of SEC staff responsible for the day-to-day oversight of the XBRL US, Inc. contract, and inclusion of labor category qualifications in the XBRL US, Inc. contract. These controls help to ensure that the government's surveillance of contractor performance provides reasonable assurance that efficient methods and effective cost controls are used in TM/LH contracts.

Specifically, the review found that the acceptance of deliverables was not adequately documented. Although the assigned technical point of contact (TPOC) for the subject contract stated that a panel made up of individuals from the Division of Corporation Finance, the Office of the Chief Accountant, and the Office of Information Technology reviewed and accepted or rejected deliverables for the contract, the TPOC could not provide documentation to substantiate this review process for accepting deliverables for the subject contract which was valued in excess of \$11 million.

Also, the review found that the XBRL US, Inc. contract was managed daily by an SEC employee that did not have the requisite contract training. We found that the Contracting Officer appointed an SEC employee as the TPOC for the

XBRL US, Inc. contract, who essentially served as an IAO, but did not appoint a COTR, though the contract was (1) highly technical in nature, (2) a time-and-materials type contract, requiring monitoring of hours and approval of Other Direct Costs including travel, and (3) valued at almost \$6 million at the time of award. Additionally, we found that the TPOC performed COTR related duties such as overseeing the contract on a daily basis by providing guidance and direction to the contractor and approving monthly invoices. Without proper training, an individual assisting the Contracting Officer in the management of a complex contract may not be aware of all of the requirements that he or she is obligated to follow. As a result, there is a significant risk that the Commission's policies and procedures may not be followed and that value may not have been received for services provided.

Further, for the Dozier Technologies, Inc. contract, the review found inconsistent documentation support for various invoices, including eight invoices totaling approximately \$156,532 that appeared unsupported by timekeeping records or similar documentation. Two of these invoices submitted by the contractor, totaling approximately \$12,398, did not contain any supporting documentation other than summary information on the invoice including the labor category, labor rate and total hours billed. Six of these invoices could only be substantiated with sign-in sheets provided by OAS for some of the billed labor amounts. The supporting documentation for these eight invoices did not contain the same level of support as the other invoices submitted by the contractor. The sum of \$156,532 represents questioned costs identified by the OIG in this review.

Additionally, the XBRL US, Inc. contract did not include the qualifications for labor categories that were charged to the contract, as required by the FAR. We found that the SEC did not include in the terms of the contract qualifications for the labor categories upon which hourly charges would be based (e.g., Taxonomist I, Architect I, Subject Matter Expert, Project Support Specialist). In February 2007, FAR §16.6, *Time-and-Materials and Labor-Hour Contracts*, expanded the definition of "hourly rate" to the "rate(s) prescribed in the contract for payment of labor that meets the labor category qualifications...." Additionally, FAR §52.232-7, *Payments under Time-and-Materials and Labor-Hour Contracts*, which was incorporated by reference in the subject contract, states in part that "the Contractor shall substantiate vouchers (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment and by... Records that verify the employees meet the qualifications for the labor categories specified in the contract...." Within the first seven months of the contract, the SEC executed three modifications which increased the number of labor categories from 11 to 23 and increased the funding from \$5,905,420 to \$11,889,461. These modifications did not include the specifications for additional labor categories.

Summary of Recommendations. We recommend:

1. The Office of Acquisitions should develop a standardized inspection and acceptance form or similar medium to document the acceptance of goods and services for all deliverables and such documentation should include information regarding who accepted the deliverables and whether deliverables met applicable criteria and quality standards in the contract.
2. The Office of Acquisitions should revise or update the appropriate Securities and Exchange Commission Regulations to explicitly require use of a standardized inspection and acceptance form or similar medium for all deliverables.
3. The Office of Acquisitions should review active contracts to ensure that agency contracts are appropriately assigned a Contracting Officer Technical Representative or Inspection and Acceptance Official.
4. Within one month of the issuance of the final report, the Office of Acquisitions should issue guidance to the acquisition staff and approving officials such as Contracting Officer's Technical Representatives and Inspection and Acceptance Officers, regarding the proper procedures for review, approval, and documenting contractor payments for time-and-material and labor-hour contracts.
5. The Office of Acquisitions, in consultation with the Office of Financial Management should review the \$156,532 in unsupported payments made to Dozier Technologies, Inc., to determine what, if any corrective actions are warranted (e.g., requiring the contractor to provide adequate support, refund monies for unsupported costs, etc.).
6. The Office of Acquisitions should ensure that all future time-and-materials and labor-hour contracts contain applicable labor category qualifications in accordance with the Federal Acquisition Regulation.

TABLE OF CONTENTS

Executive Summary	iii
Table of Contents	vii
Background and Objectives	
Background	1
Objectives	3
Findings and Recommendations	
Finding 1: Documented Evidence For the Acceptance of Deliverables is Needed	4
Recommendation 1.....	5
Recommendation 2.....	5
Finding 2: OA Did Not Ensure the Assignment of a Qualified Administrator For the XBRL Contract.....	6
Recommendation 3.....	8
Finding 3: Some Payments for the Dozier Technologies, Inc. Contract Were Not Adequately Supported.....	8
Recommendation 4.....	10
Recommendation 5.....	11
Finding 4: XBRL Contract Did Not Specify Requirements for Various Labor Categories.....	11
Recommendation 6.....	13
Appendices	
Appendix I: Acronyms.	14
Appendix II: Scope and Methodology.....	15
Appendix III: Criteria.....	17
Appendix IV: List of Recommendations	18
Appendix V: Management Comments.....	19
Appendix VI: OIG Response to Management's Comments.....	21
Appendix VII: Schedule of Questioned Costs.....	22
Tables	
Table1: Unsupported Invoices for Dozier Technologies, Inc.	9
Table 2: Dozier Technologies Questioned Costs	22

Background and Objectives

Background

The Office of Administrative Services (OAS), Office of Acquisitions (OA) is responsible for the U.S. Securities and Exchange Commission (SEC or Commission) procurement and contract activities and processes, which are governed by the Federal Acquisition Regulation (FAR). While OA oversees the procurement responsibilities, the SEC divisions and offices are responsible for preparing initial procurement requisitions and statements of work. OA consists of four primary contracting branches, each of which is headed by a Branch Chief. Each branch is staffed with Contracting Officers, Contract Specialists, and support personnel.

The SEC's Office of Inspector General (OIG) contracted with Regis & Associates, PC, (Regis), Independent Public Accountants, to provide auditing services related to the SEC's procurement and contract activities. The contract consisted of two phases. During Phase I, conducted in August 2008, Regis performed a review of OA's procurement activities and work processes and the OIG issued Audit Report No. 471, *Audit of the Office of Acquisitions' Procurement and Contract Management Functions*, dated September 25, 2009. For Phase II, covered by this report, Regis conducted a review of select Time-and-Materials (TM) and Labor-Hour (LH) contracts to determine whether payments on the contracts were properly supported. The two TM/LH contracts reviewed were:

- SEC Contract No. SECHQ1-06-C-0436, awarded to XBRL US, Inc.; and
- SEC Contract No. SECHQ1-07-C-0313, awarded to Dozier Technologies, Inc.

The SEC awarded Contract Number SECHQ1-06-C-0436, to XBRL US, Inc., on March 5, 2007, for \$5,905,420. This TM contract was to develop U.S. General Accepted Accounting Principles (GAAP) Financial Statement Taxonomy, as well as other deliverables described in the contract. The principal objective of this taxonomy is to provide a basis for public companies to report their financial information in an interactive data format and ultimately provide disclosures in a more usable format for investors, analysts, and the SEC. By using the U.S. GAAP Taxonomy to "tag" different kinds of data in financial reports, the information companies file with the SEC can be made much easier to find and therefore, easier to analyze. For example, specific items in a financial statement, such as net income or gross sales, are given computer-readable labels based on the U.S. GAAP Financial Statement Taxonomy (dictionary) of commonly used accounting terms.

The initial performance period of the subject contract was March 5, 2007, through December 31, 2007.³ The SEC issued six modifications that extended the performance period of the contract through June 28, 2008, and increased the contract amount from \$5,905,420 to \$11,889,462.

Contract Number SECHQ1-07-C-0313 was awarded to Dozier Technologies, Inc., on September 7, 2007, with a base value of approximately \$1,525,157, with options to increase the value to \$3,500,000. This LH contract was to provide contracting support services and to assist in the administration of a new procurement system. The SEC exercised the options in the form of 15 modifications to the full value of \$3,500,000.

TM/LH contracts provide for the acquisition of supplies and services at a certain number of direct labor hours priced at specified hourly rates and the cost of any materials used.⁴ With TM/LH contracts, the government pays for a certain number of labor hours (and amount of materials), rather than for a completed product or service.⁵ The contractor is paid for the hours applied to the task, regardless of the outcome, and the contractor does not have to complete the work successfully to collect full payment.⁶ Also, while the contractor agrees to use its best efforts to complete the work, the contractor does not have to continue performance if doing so would cause it to exceed the ceiling price established in the contract, unless the contracting officer agrees in writing to increase the ceiling.⁷

According to the FAR, TM/LH contracts provide no positive profit incentive to the contractor for cost control or labor efficiency,⁸ as opposed to fixed-price contracts, which pay a specific price for supplies or services regardless of the number of hours or amount of materials used.⁹ Consequently, the FAR allows TM/LH contracts only when it is not possible to estimate accurately the extent of the work, or to anticipate costs with any reasonable degree of confidence, and require appropriate government oversight of contractor performance to provide reasonable assurance that the contractor uses efficient and effective methods and cost controls.¹⁰

³ The March 2007 contract definitized an earlier letter contract executed on September 22, 2006.

⁴ Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the U.S. Congress, January 2007, p. 58.

⁵ Id. at 59.

⁶ Id.

⁷ Id.

⁸ Federal Acquisition Regulation 48 C.F.R.16.601(c)(1).

⁹ Report of the Acquisition Advisory Panel to the Office of Federal Procurement Policy and the U.S. Congress, January 2007, p. 58.

¹⁰ Federal Acquisition Regulation 48 C.F.R. 16.601(c)(1).

Objectives

The overall objective of this review was to determine whether payments on the contractor invoices were properly supported and goods and services conformed to contractual requirements. The specific objectives of the review included determining whether:

- 1) The qualifications of employees billed to the contracts, by labor category, met the contractual qualification requirements for the positions;
- 2) Assigned Contracting Officer Technical Representatives (COTR) properly reviewed contractors' invoices, corresponding timesheets, and other necessary supporting documentation, to ensure that costs were allowable, reasonable, and allocable to the contracts, and that the rates and amounts billed did not exceed contract rates and ceiling amounts; and
- 3) The SEC adequately monitored all aspects of current and past contractors' performance to ensure that goods and services provided conformed to contractual requirements.

Findings and Recommendations

Finding 1: Documented Evidence For the Acceptance of Deliverables is Needed

The SEC does not use documents, such as deliverable acceptance forms, or monitoring checklists, to evidence the acceptance of deliverables.

We determined that the SEC did not have a requirement explicitly stating that the receipt of contract deliverables should be documented, nor does it provide a standard form to be utilized for such acceptance.

The FAR Subpart 46.5, *Acceptance*, § 46.501, *General*, states that “Acceptance constitutes acknowledgment that the services conform with applicable contract quality and quantity requirements, except as provided in this subpart and subject to other terms and conditions of the contract. . . . Acceptance shall ordinarily be evidenced by execution of an acceptance certificate or an inspection or receiving report form or commercial shipping document/packing list.”

During our review of the XBRL US, Inc. contract, Section C.2, *Description of Requirements*, we found that there were 16 contract deliverables, including the following items:

- 1) Taxonomy Architecture and Design Document;
- 2) Project Plan & Schedule;
- 3) Taxonomy Development;
- 4) Maintenance and Support Plan;
- 5) End User Guidance; and
- 6) Integration Plan.

Additionally, Section E.3, *Inspection and Acceptance Criteria*, of the subject contract set forth in a table format specific requirements that these deliverables had to satisfy in order to be accepted. For example, the Taxonomy Integration Plan was required to be an MS Word document and in accordance with Section C.2.1.6 of the contract, the plan had to “clearly set forth a strategy to ensure that the U.S. GAAP Taxonomies would be able to integrate with existing and future taxonomies beyond the U.S. GAAP financial reporting that may be developed.” Further, the Taxonomy Maintenance and Support Plan was required to “clearly set forth the maintenance and support strategy of all U.S. GAAP Taxonomies and define routine update processes in accordance with section C.2.1.4.” Other deliverables had similar requirements as to form and content.

Although the assigned technical point of contact (TPOC) for the subject contract stated that a panel made up of individuals from the Division of Corporation Finance, the Office of the Chief Accountant, and the Office of Information Technology reviewed and accepted or rejected deliverables for the contract, the TPOC could not provide documentation to substantiate this review process for accepting deliverables for the subject contract which was valued in excess of \$11 million.

Without a mechanism and an explicit requirement to document acceptance of contract deliverables, there is no record of whether deliverables were received, accepted, met acceptance criteria or quality standards, or who reviewed the deliverables. Further, due to the fact that contractors performing TM/LH contracts are paid for the hours applied to the task regardless of the outcome, without acceptance documentation, the SEC does not have the ability to ensure they are receiving appropriate value for dollars expended.

Therefore, OA should require that the acceptance of deliverables for goods and services are documented as described below.

Recommendation 1:

The Office of Acquisitions should develop a standardized inspection and acceptance form or similar medium to document the acceptance of goods and services for all deliverables and such documentation should include information regarding who accepted the deliverables and whether deliverables met applicable criteria and quality standards in the contract.

Management Comments. OAS concurred with the recommendation. See Appendix V for management's full comments.

OIG Analysis. We are pleased that OAS concurred with this recommendation.

Recommendation 2:

The Office of Acquisitions should revise or update the appropriate Securities and Exchange Commission Regulations to explicitly require use of a standardized inspection and acceptance form or similar medium for all deliverables.

Management Comments. OAS concurred with the recommendation. See Appendix V for management's full comments.

OIG Analysis. We are pleased that OAS concurred with this recommendation.

Finding 2: OA Did Not Ensure the Assignment of a Qualified Administrator For the XBRL Contract

The XBRL US, Inc. contract was managed daily by an SEC employee that did not have the requisite contract training.

We found that the SEC did not follow Commission policies and procedures for assigning a Contracting Officer Technical Representative (COTR) or Inspection and Acceptance Official (IAO) to the subject contract.

The SEC Regulation 10-15, *COTR and IAO*, dated November 4, 2004, states that "Contracting Officers (CO) shall appoint individuals as COTRs considering: the complexity and dollar value of the acquisition; the COTR candidate's experience, training, and education; and recommendation by the candidate's supervisor."

Additionally, SEC Regulation 10-15 states that an IAO is appointed for contracts and purchase orders which do not have an appointed COTR. An IAO's responsibilities are limited to the acceptance or rejection of the products or services being delivered or performed by the contractor. IAOs are also required to take eight hours of contract-related training.¹¹ SEC Regulation 10-15 also states that the training "should cover FAR Part 46 (Quality Assurance) contracting principles, and the roles and responsibilities of individuals in the contracting process."¹²

Duties beyond the scope of an IAO may only be performed by a COTR, who must meet specific training requirements as follows:

A minimum of 40 hours of contract management training shall be completed in addition to COTR training. This training shall cover the "basics" of contracting with emphasis on the following topics, to provide to the COTR candidate an understanding of the contracting process and the individual roles and responsibilities:

- (a) Introduction to Contracting, with an emphasis on contract types, principles of contracting, and contract financing;
- (b) Acquisition Planning;

¹¹ SECR 10-15: Contracting Officer's Technical Representative (COTR) and Inspection and Acceptance Official (IAO), dated November 4, 2004, Section C-Inspection and Acceptance Officials, Paragraph 4: Training.

¹² *Id.*

- (c) Contract Law; and
- (d) Basic Contract Administration.¹³

Additionally, COTRs are required to take a minimum of 24 hours of refresher or advanced contract training courses that contribute to effective contract management every two years.¹⁴

We found that the Contracting Officer appointed an SEC employee as the TPOC for the XBRL US, Inc. contract, who essentially served as an IAO, but did not appoint a COTR, though the contract was (1) highly technical in nature, (2) a time-and-materials type contract, requiring monitoring of hours and approval of Other Direct Costs including travel, and (3) valued at almost \$6 million at the time of award. Additionally, we found that the TPOC performed COTR related duties such as overseeing the contract on a daily basis by providing guidance and direction to the contractor and approving monthly invoices. We also noted that the TPOC did not have any COTR or comparable contract-related training. Moreover, the TPOC was assigned to oversee a contract involving a start-up small business that was performing its first government contract. The roles and responsibilities assigned to the TPOC required expertise beyond that of an IAO and should have been assigned to an individual(s) with the required training for designation as a COTR. The assigned TPOC did not possess these qualifications. A COTR assigned to the contract with sufficient training and time to effectively monitor contract performance may have reduced the substantial costs on the project.

In order to adhere to the training requirements set forth by the SEC, individuals must receive structured training in competencies that are specific to the management and execution of contracts. Without proper training, an individual assisting the Contracting Officer in the management of a complex contract may not be aware of all of the requirements that he or she is obligated to follow. As a result, there is a significant risk that the Commission's policies and procedures may not be followed and that value may not have been received for services provided.

We noted that since the award of the XBRL US, Inc. contract in 2007, OA has substantially enhanced its policies and procedures addressing the appointment, termination, and responsibilities of contract administration positions including COTRs, IAOs, and points of contact (POC) through the issuance of a revised SECR 10-5.¹⁵ OA's current policy requires COTRs to be appointed to all future contracts that have a value of \$100,000 or greater or are labor-hours or time-and-materials pricing type contracts as they require monitoring of hours and

¹³ SECR 10-15: Contracting Officer's Technical Representative (COTR) and Inspection and Acceptance Official (IAO), dated November 4, 2004, Section B-Contracting Officer Technical Representative (COTRs), Paragraph 4: COTR Requirements.

¹⁴ Id.

¹⁵ SECR 10-15, Contract Administration Positions: Contracting Officer's Technical Representative (COTR) Inspection and Acceptance Official (IAO), and Point of Contact (POC), Revised August 12, 2009.

approval of overtime and Other Direct Costs including travel. We believe that all active contracts, especially multi-year contracts that may have been awarded several years ago should have COTRs, IAOs and POCs appointed in accordance with this current policy.

Recommendation 3:

The Office of Acquisitions should review active contracts to ensure that agency contracts are appropriately assigned a Contracting Officer Technical Representative or Inspection and Acceptance Official.

Management Comments. OAS concurred with the recommendation. See Appendix V for management's full comments.

OIG Analysis. We are pleased that OAS concurred with this recommendation.

Finding 3: Some Payments for the Dozier Technologies, Inc. Contract Were Not Adequately Supported

There were inconsistencies in the types of records or documentation provided as support for various invoices submitted by the contractor and approved by the SEC, including eight invoices totaling approximately \$156,532, that were unsupported by timekeeping records or similar documentation.

We reviewed the contractor invoices from the Dozier Technologies, Inc. and XBRL US, Inc. contracts to determine whether the payments made were supported by documentation to substantiate the billable amounts on each invoice.

FAR § 52.212-4, *Contract Terms and Conditions-Commercial Items*, states, in part, that "(D) When requested by the Contracting Officer or the authorized representative, the Contractor shall substantiate invoices (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment, individual daily job timecards, records that verify the employees meet the qualifications for the labor categories specified in the contract, or other substantiation specified in the contract."

Further, FAR § 4.803, *Contents of Contract Files*, states, "The following are examples of the records normally contained, if applicable, in contract files: ... (c) *Paying office contract file*. (1) Copy of the contract and any modifications. (2)

Bills, invoices, vouchers, and supporting documents. (3) Record of payments or receipts. (4) Other pertinent documents.” (emphasis added)

With regard to the Dozier Technologies, Inc. contract, we reviewed 55 invoices that were submitted by the contractor, approved for payment by an OAS representative, and paid by the Office of Financial Management (OFM) and found varying degrees of supporting documentation to substantiate vendor invoices. In fact, we found that eight invoices, totaling \$156,532, did not contain the same level of supporting documentation that was provided for the other 47 invoices reviewed (i.e., certified timesheets). See details in Table 1 below.

Table 1: Unsupported Invoices for Dozier Technologies, Inc.

Invoice Number	Invoice Date	Total Questioned Costs	Questioned Costs Explanation
1. IV-000001OCT07	10/05/2007	\$9,584.37	Invoice has no supporting documentation.
2. IV-000002	10/23/2007	\$2,813.76	Invoice has no supporting documentation.
3. IV-000009NOV07	11/01/2007	\$9,820.58	Two labor categories were billed on the invoice; however, sign-in sheets were provided for only one employee, and timesheets were not provided for any of the contractor's employees.
4. IV-000010-NOV	11/01/2007	\$12,464.64	Two labor categories were billed on the invoice; however, sign-in sheets were provided for only one employee, and timesheets were not provided for any of the contractor's employees.
5. IV-000012	12/01/2007	\$27,505.41	Only sign-in sheets, not timesheets were provided to support the costs incurred on the invoice.
6. IV-000013	12/16/2007	\$26,491.53	Only sign-in sheets, not timesheets were provided to support the costs incurred on the invoice.
7. IV-000014	01/01/2008	\$29,819.00	Only sign-in sheets, not timesheets were provided to support the costs incurred on the invoice.
8. IV-000015A	02/06/2008	\$38,032.47	Only sign-in sheets, not timesheets were provided to support the costs incurred on the invoice.
Total Questioned Costs		<u>\$156,531.76</u>	

Source: Generated by Regis & Associates, PC

As illustrated in the table above, eight invoices submitted by the contractor were missing supporting documentation. Two of these invoices submitted by the contractor totaling approximately \$12,398 did not contain any supporting documentation other than summary information on the invoice including the labor category, labor rate and total hours billed (Items 1 and 2 in Table 1). Six of these invoices could only be substantiated with sign-in sheets provided by OAS for some of the billed labor amounts (Items 3-8 in Table 1). These sign-in sheets

required the contract employee to note their sign-in and sign-out times and contained the contractor's initials. The supporting documentation for these eight invoices, however, did not contain the same level of support that the remaining 47 invoices submitted by the contractor contained (i.e., timesheets signed by the contractor and approved by OA and a Dozier Technologies, Inc. representative).

Additionally, we note that in OIG Report No. 471, *Audit of the Office of Acquisitions' Procurement and Contract Management Functions*, dated September 25, 2009, we found similar documentation problems related to TM/LH contracts, and made a recommendation to OA to re-educate the acquisition workforce on the FAR requirements related to TM/LH contracts by specifically addressing proper documentation to support invoice problems. While OAS concurred with this recommendation more than a year ago, it has not been implemented, and the problems remain.

The inconsistencies in the supporting documentation provided by the contractor, and lack of procedures to ensure uniform review and payment of invoices by contract administration personnel increases the risk that invoices may not have been properly supported in accordance with FAR requirements before they were approved and paid by the SEC. As a result, there are no assurances that the Commission has properly paid the approximately \$156,532 in invoices.

Accordingly, it is necessary for OA, in conjunction with OFM, to establish procedures for review, approval, and documentation of contractor payments for TM/LH type contracts. In addition, OA should make an affirmative determination as to whether the approximately \$156,532 in questioned costs identified in Table 1 were properly paid and take necessary corrective actions, as described below.

We noted that in reference to XBRL US, Inc. contract, we reviewed the Defense Contract Audit Agency Report (DCAA) report dated December 15, 2009 with regard to the report it issued as a result of its review of XBRL US, Inc.'s cost incurred and billed from September 2006 through June 2008. In this analysis, DCAA questioned \$1,057 of travel costs incurred under the contract.

Recommendation 4:

Within one month of the issuance of the final report, the Office of Acquisitions should issue guidance to the acquisition staff and approving officials such as Contracting Officer's Technical Representatives and Inspection and Acceptance Officers, regarding the proper procedures for review, approval, and documenting contractor payments for time-and-material and labor-hour contracts.

Management Comments. OAS concurred with this recommendation. See Appendix V for management's full comments.

OIG Analysis. We are pleased that OAS concurred with this recommendation.

Recommendation 5:

The Office of Acquisitions, in consultation with the Office of Financial Management should review the \$156,532 in unsupported payments made to Dozier Technologies, Inc., to determine what, if any, corrective actions are warranted (e.g., requiring the contractor to provide adequate support, refund monies for unsupported costs, etc.).

Management Comments. OAS concurred with the recommendation. See Appendix V for management's full comments.

OIG Analysis. We are pleased that OAS concurred with this recommendation.

Finding 4: XBRL Contract Did Not Specify Requirements for Various Labor Categories

The XBRL US, Inc. contract generally did not specify the required qualifications for various labor categories charged to the contract as required by the FAR.

In February 2007, FAR §16.6, *Time-and-Materials and Labor-Hour Contracts*, expanded the definition of "hourly rate" to the "rate(s) prescribed in the contract for payment of labor that meets the labor category qualifications of a labor category specified in the contract that are:

- (1) Performed by the contractor;
- (2) Performed by the subcontractors; or
- (3) Transferred between divisions, subsidiaries, or affiliates of the contractor under a common control."

Additionally, FAR §52.232-7, *Payments under Time-and-Materials and Labor-Hour Contracts*, which was incorporated by reference in the subject contract, states in part that "the Contractor shall substantiate vouchers (including any subcontractor hours reimbursed at the hourly rate in the schedule) by evidence of actual payment and by:

- Individual daily job timekeeping records;
- *Records that verify the employees meet the qualifications for the labor categories specified in the contract* (emphasis added); or
- Other substantiation approved by the contracting officer." (emphasis added)

We found that although the SEC entered into a contract with XBRL US, Inc. in March 2007, definitizing an earlier letter contract, the SEC did not include in the terms of the contract any qualifications for the included 11 labor categories (e.g., Taxonomist I, Architect I, Subject Matter Expert, Project Support Specialist). For example, the contract did not specify minimum educational requirements, years of experience, or required skills (e.g., C++ programming experience) for personnel assigned to the project. Likewise, there were no requirements provided for the various labor categories in the Project Management Plan developed by the contractor or in the contractor's proposals.

In addition, Paragraph H.1 of the subject contract states that "XBRL US, Inc. shall provide the skilled personnel, including all management and supervisory staff required for the effective and efficient performance of this contract." This paragraph further states that throughout the life of this contract, XBRL US, Inc. shall identify to the Contracting Officer the project lead and technical lead for the work and shall give the Contracting Officer the opportunity to present views about those personnel. Therefore, the contract required only that the contractor provide credential information about the project lead and the technical lead and provide the SEC with an opportunity to review the information and present their views about these personnel and any replacements.

Due to the lack of specificity in the contract with respect to labor categories and qualifications, the SEC encountered problems with reconciliation of contractor invoices. In an undated letter sent to the Contracting Officer, the President and CEO of XBRL US, Inc. addressed questions raised by the SEC regarding the appropriateness of reimbursing invoices that did not match the rates for the labor categories that were in effect under the contract at the time the work was performed.¹⁶ In its lengthy response, XBRL US, Inc. stated in part that as they built their team to perform the contract, it became apparent almost immediately that the labor categories and rates set forth in the contract were not adequate. XBRL US, Inc. further stated that the broad labor categories were not sufficiently granular to enable the hiring of personnel and consultants at rates that would be optimal from the perspective of lowering costs and/or to be able to engage individuals with the necessary skill sets. It also stated that by subdividing the labor categories and creating new labor categories, XBRL US, Inc. could better match skill sets and professional competencies with an appropriate rate and better manage costs. The letter further stated that SEC officials repeatedly told XBRL US, Inc. to focus on getting the work done and that paperwork and administrative process could catch up later. Consequently, XBRL US, Inc. asked that the SEC reimburse the questioned costs by giving retroactive effect to the contract modifications.

¹⁶ Undated letter from the President and CEO, XBRL US, Inc., Washington, D.C., addressed to OA's Contracting Officer, U.S. Securities and Exchange Commission, Alexandria, VA, Re: Reimbursement of Certain Costs Incurred in Developing the U.S. GAAP Financial Statement Taxonomy.

Also, we noted that within the first seven months of the contract (March 5, 2007-September 21, 2007), the SEC executed three modifications which increased the number of labor categories from 11 to 23 and increased funding from \$5,905,420 to \$11,889,461. None of the three modifications, however, included specifications for the additional labor categories.

We believe this situation demonstrates a lack of proper procurement planning and execution by the SEC by not adequately performing requirement analyses, defining the scope of work, and clarifying the labor qualifications for the various labor categories contained in the contract and related modifications, resulting in a substantial escalation of contract costs. Because DCAA performed a detailed review of XBRL US, Inc.'s cost incurred and billed from September 2006 through June 2008, our review did not include re-examining labor costs, however, we believe that OAS should ensure that all contracts contain appropriate labor category qualifications in accordance with the FAR.

Recommendation 6:

The Office of Acquisitions should ensure that all future time-and-materials and labor-hour contracts contain applicable labor category qualifications in accordance with the Federal Acquisition Regulation.

Management Comments. OAS concurred with the recommendation. See Appendix V for management's full comments.

OIG Analysis. We are pleased that OAS concurred with this recommendation.

Acronyms

COTR	Contracting Officer's Technical Representative
DCAA	Defense Contract Audit Agency
FAR	Federal Acquisition Regulation
GAAP	Generally Accepted Accounting Principles
IAO	Inspection and Acceptance Official
LH	Labor Hours
OA	Office of Acquisitions
OAS	Office of Administrative Services
OFM	Office of Financial Management
OIG	Office of Inspector General
POC	Point of Contact
Regis	Regis & Associates, PC
SEC or Commission	U.S. Securities and Exchange Commission
TM	Time-and-Materials
TPOC	Technical Point of Contact

Scope and Methodology

Scope: SEC OIG contracted with Regis to conduct a review of two Time-and-Materials and Labor-Hour contracts. The two contracts reviewed were:

- SEC Contract No. SECHQ1-06-C-0436, awarded to XBRL US, Inc.; and
- SEC Contract No. SECHQ1-07-C-0313, awarded to Dozier Technologies, Inc.

SEC awarded Contract Number SECHQ1-06-C-0436, to XBRL US, Inc., on March 5, 2007, in the amount of \$5,905,420. This contract was to develop, on a Time-and-Materials basis, U.S. GAAP Financial Statement Taxonomy, as well as other deliverables described within the contract. The initial performance period of the contract was September 22, 2006, through December 31, 2007. SEC issued six modifications, thereby extending the performance period for the contract through June 28, 2008, and increasing the contract amount from \$5,905,420 to \$11,889,462.

Contract Number SECHQ1-07-C-0313, was awarded to Dozier Technologies, Inc., on September 7, 2007, in the amount of \$1,525,156.71. This contract was to perform contracting support services and to assist in the administration of a new procurement system. The SEC issued fifteen modifications, increasing the contract value by approximately, \$2,000,000, from \$1,525,156.71 to \$3,500,000. Regis conducted the review from May 24, 2010 through August 17, 2010, using procedures approved by the OIG.

Methodology: To meet the objective of ensuring the qualifications of employees billed to the contracts, by labor category, met the contractual qualification requirements for the positions, Regis obtained the contract files for Contract Number SECHQ1-06-C-0436, awarded to XBRL US, Inc. and Contract Number SECHQ1-07-C-0313, awarded to Dozier Technologies, Inc. Further, to meet the objective pertaining to the COTRs proper review of the contractors' invoices, timesheets, etc., and the SEC's adequately monitoring of current and past contractor's performance, Regis obtained documentation from the contract files as well as documentation related to contractors' invoices and payments. We reviewed this documentation to determine the categories of personnel and total payments authorized and paid under each contract. Regis conducted interviews with personnel from OAS, OA, and OFM who were associated with both the XBRL US, Inc. and Dozier Technologies, Inc. contracts. Also, Regis obtained and reviewed relevant SEC regulations and policies to determine whether there was compliance with these policies.

We obtained and reviewed resumes and qualifications of key contractor personnel that were assigned to the contracts. We obtained and reviewed Obligation History Reports for the contracts, which detail the amounts invoiced by the contractors, and paid by SEC, during the period covered by our review. We also obtained and reviewed contractors' invoices, and supporting documentation, for the period covered by our review.

Management Controls: Our review of the contract files for the XBRL US, Inc. and Dozier awards included gaining an understanding of internal controls over the contracting process, as required by FAR and by SEC regulations. We noted whether there was adherence to these controls.

Criteria

Federal Acquisition Regulation. Establishes uniform policies and procedures for acquisition by all executive agencies. The latest revision became effective on July 23, 2010.

SEC Regulation 10-15. (Revised November 4, 2004) Discusses roles and responsibilities of Contracting Officers' Technical Representatives and Inspection and Acceptance Officials.

Office of Management and Budget A-122, Cost Principles for Nonprofit Organizations, May 10, 2004. Establishes principles for determining costs of grants, contracts and other agreements with non-profit organizations.

List of Recommendations

Recommendation 1:

The Office of Acquisitions should develop a standardized inspection and acceptance form or similar medium to document the acceptance of goods and services for all deliverables and such documentation should include information regarding who accepted the deliverables and whether deliverables met applicable criteria and quality standards in the contract.

Recommendation 2:

The Office of Acquisitions should revise or update the appropriate Securities and Exchange Commission Regulations to explicitly require use of a standardized inspection and acceptance form or similar medium for all deliverables.

Recommendation 3:

The Office of Acquisitions should review active contracts to ensure that agency contracts are appropriately assigned a Contracting Officer Technical Representative or Inspection and Acceptance Official.

Recommendation 4:

Within one month of the issuance of the final report, the Office of Acquisitions should issue guidance to the acquisition staff and approving officials such as Contracting Officer's Technical Representatives and Inspection and Acceptance Officers, regarding the proper procedures for review, approval, and documenting contractor payments for time-and-material and labor-hour contracts.

Recommendation 5:

The Office of Acquisitions, in consultation with the Office of Financial Management should review the \$156,532 in unsupported payments made to Dozier Technologies, Inc., to determine what, if any corrective actions are warranted (e.g., requiring the contractor to provide adequate support, refund monies for unsupported costs, etc.).

Recommendation 6:

The Office of Acquisitions should ensure that all future time-and-materials and labor-hour contracts contain applicable labor category qualifications in accordance with the Federal Acquisition Regulation.

Management Comments

MEMORANDUM

December 21, 2010

TO: H. David Kotz
Inspector General

FROM: Sharon Sheehan 
Associate Executive Director
Office of Administrative Services

SUBJECT: OAS Management Response to Draft Report No. 487, *Review of Time-and-Materials and Labor-Hour Contracts*

This memorandum is in response to the Office of Inspector General's Draft Report No. 487, *Review of Time-and-Materials and Labor-Hour Contracts*. Thank you for the opportunity to review and respond to this report. We concur with the six recommendations presented in the report and have begun taking appropriate steps to implement them.

Recommendation 1:

OAS concurs. The Office of Acquisitions (OA) will develop a form to be used by acquisition personnel, including Contracting Officer Technical Representatives (COTRs), to indicate inspection and acceptance of contractor deliverables.

Recommendation 2:

OAS concurs. OAS will revise operating procedures (OP) 10-17 Time-and-Material and Labor-Hour Contracts to require the new form for inspection and acceptance.

Recommendation 3:

OAS concurs. OA maintains a list of contracts and associated COTRs or IAOs. As part of OAS oversight, contracts are being reviewed to ensure appropriate assignment of COTRs and IAOs.

Recommendation 4:

OAS concurs. SECR 10-17, Contract Award and Oversight of Time-and-Materials and Labor-hour Contracts, is in the review cycle. The regulation addresses contract surveillance and payment requirements for Time-and-Materials and Labor-Hour contracts. If the regulation is not approved within the one month timeframe specified in the recommendation, OA will issue interim guidance in the form of a *Newsflash*.

Recommendation 5:

OAS concurs. OA, in consultation with the Office of Financial Management (OFM), will review payments made under the initial eight invoices of the Dozier contract to ensure that overpayments were not made.

Recommendation 6:

OAS concurs. While the FAR does not require that labor qualifications be part of the contract, it does mandate that the contractor provide records that verify the employees meet the qualifications for the contracted labor categories. OA will require such records.

OIG Response to Management's Comments

OAS concurred with all six recommendations addressed to their office and indicated that they would take action to implement all of the recommendations.

We believe that OAS' proposed actions are responsive to our findings and we are pleased that they have already initiated actions to implement some of the report's recommendations. Once all of the recommendations are fully implemented, we believe that the improvements will help strengthen oversight of time-and-materials and labor-hour contracts.

Schedule of Questioned Costs

Table 2: Dozier Technologies Questioned Costs

Questioned Costs	
Unsupported Invoices for Dozier Technologies, Inc.	\$156,532
Total	\$156,532

Source: Developed by OIG

Audit Requests and Ideas

The Office of Inspector General welcomes your input. If you would like to request an audit in the future or have an audit idea, please contact us at:

U.S. Securities and Exchange Commission
Office of Inspector General
Attn: Assistant Inspector General, Audits (Audit Request/Idea)
100 F Street, N.E.
Washington D.C. 20549-2736

Tel. #: 202-551-6061

Fax #: 202-772-9265

Email: oig@sec.gov

Hotline

To report fraud, waste, abuse, and mismanagement at SEC,
contact the Office of Inspector General at:

Phone: 877.442.0854

Web-Based Hotline Complaint Form:
www.reportlineweb.com/sec_oig