U.S. Department of Labor

Office of Inspector General—Office of Audit

OFFICE OF THE ASSISTANT SECRETARY FOR ADMINISTRATION AND MANAGEMENT

EMPLOYMENT AND TRAINING ADMINISTRATION

APPLIED TECHNOLOGY SYSTEMS, INC. OVERCHARGED JOB CORPS FOR INDIRECT COSTS

Date Issued: September 24, 2010
Report Number: 26-10-006-01-370

US Department of Labor
Office of Inspector General
Office of Audit

BRIEFLY…

Highlights of Report Number 26-10-006-01-370, to the Deputy Assistant Secretary, Office of the Assistant Secretary for Administrative and Management (OASAM), and the Assistant Secretary, Employment and Training Administration (ETA).

WHY READ THE REPORT

This report discusses how Applied Technology Systems Incorporated's (ATSI) failure to comply with Federal Regulations and contract provisions resulted in overcharges to Job Corps of more than $1.8 million in indirect costs. The report also discusses process improvements ATSI, OASAM, and Job Corps need to make to ensure indirect cost proposals are submitted annually and include only allowable costs as required. During the audit, ATSI was under contract with Job Corps to operate three Job Corps centers and was a subcontractor for two other centers. ATSI was also under contract with Job Corps to provide Career Transition Services (CTS) to Job Corps students in three States, and subsequently, was a subcontractor for two of the three states.

WHY THE OIG CONDUCTED THE AUDIT

Our audit objective was to answer the following question:

- Did ATSI comply with Federal Regulations and ATSI contract provisions for reporting indirect costs?

Our audit work was conducted at ATSI's headquarters in Cleveland, Ohio and at the Division of Cost Determination's (DCD) national office in Washington, D.C.

READ THE FULL REPORT

To view the full report, including the scope, methodology, and full agency response, go to:

http://www.oig.dol.gov/public/reports/oa/2010/26-10-006-370.pdf

September 2010

APPLIED TECHNOLOGY SYSTEMS, INC. OVERCHARGED JOB CORPS FOR INDIRECT COSTS

WHAT OIG FOUND

ATSI did not comply with requirements for submitting indirect cost proposals annually or reporting only allowable indirect costs. ATSI used the provisional rates specified in its center/CTS contracts to charge Job Corps $9.3 million for its estimated indirect costs during CYs 2004-2007. As a result of our audit, OASAM notified ATSI that its cost proposals to determine approved rates based on allowable costs were delinquent. ATSI submitted their cost proposals for CYs 2004-2007 to OASAM in April 2009 and reached agreement with OASAM on approved rates in September 2009.

The indirect cost proposals submitted by ATSI included unallowable or unreasonable indirect costs. Based on our audit, we determined that ATSI's allowable indirect costs for CYs 2004-2007 totaled nearly $7.5 million, or $1.8 million less than the $9.3 million charged to Job Corps.

This occurred because ATSI violated Federal Regulations and its contract provisions by failing to make proper indirect cost proposal submissions to OASAM; and neither OASAM nor Job Corps performed follow up when ATSI failed to submit its indirect cost proposals.

WHAT OIG RECOMMENDED

We make five recommendations. In summary, we recommend that OASAM and ETA recover the more than $1.8 million that was overcharged and direct ATSI to establish procedures and training to ensure indirect cost proposals are properly submitted. We also recommend that OASAM and Job Corps clarify procedures for monitoring contractor compliance and ensuring contractors reimburse the government for any overcharges.

The Assistant Secretary for ETA and Deputy Assistant Secretary for OASAM accepted our recommendations and will require ATSI to provide supporting documentation for the questioned costs and any costs ATSI cannot support will be assessed as liquidated damages. ATSI expressed concern about the accuracy of our findings and will conduct research to provide additional supporting documentation to OASAM and Job Corps.

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U.S. Department of Labor

Office of Inspector General
Washington, D.C. 20210

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Assistant Inspector General's Report

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The Office of Inspector General (OIG) conducted a performance audit of indirect costs charged to the Office of Job Corps (Job Corps) by Applied Technology Systems, Incorporated (ATSI). Job Corps is an office within the Employment and Training Administration (ETA). The Office of the Assistant Secretary for Administration and Management (OASAM) and Job Corps share responsibility for the administration and oversight of center/Career Transitional Services (CTS) contracts and financial operations, including indirect costs. During the period reviewed, ATSI was under contract with Job Corps to operate three Job Corps centers and was a subcontractor for two other centers. ATSI was also under contract with Job Corps to provide CTS to Job Corps students in three States and subsequently was a subcontractor for two of the three states. This report includes the results of our audit relating to indirect costs and expanded testing conducted in response to an October 2009 request by OASAM to audit the indirect costs claimed by ATSI for Calendar Years (CYs) 2004-2007.[1]

Indirect costs consist of Overhead and General and Administrative (G&A) expenses. Contracted center/CTS operators include these expenses in monthly reports submitted to Job Corps for cost reimbursement. The submitted amounts for Overhead and G&A are estimates based on provisional indirect cost rates specified in each center/CTS contract. Overhead expenses (e.g., labor, travel, consulting services) are variable with the amounts allocated to each center/CTS operator based on the costs for direct labor

[1]The OIG issued separate reports on ATSI's Cleveland Job Corps Center in September 2007 (Report # 26-07-003-01-370) and ATSI controls over all its Job Corps centers in September 2008 (Report # 26-08-005-01-370). Both these reports focused on ATSI direct costs. This report focuses on ATSI indirect costs for all its Job Corps centers and CTS locations.

(excluding fringe benefits) multiplied by the provisional rate. G&A expenses (e.g., office rent, building depreciation, and accounting) are fixed with the amounts allocated based on total contract costs (excluding G&A and contractor fee) multiplied by the provisional rate.

Within six months after the end of its fiscal year, the operator submits an indirect cost rate proposal to OASAM. OASAM reviews the support for the proposal and establishes final indirect cost rates (approved rates) that reflect the allowable costs incurred during the year. The contracts limit the indirect costs charged to Job Corps to the amounts calculated using the provisional rates. If the indirect costs calculated with the “approved” rates are less than costs calculated with the provisional rates, the operator must reimburse the difference to the federal government. However, if the approved rates are greater than the provisional rates the operator is not entitled to any additional money because contracts limit the indirect costs charged to Job Corps to the amounts calculated using the provisional rates.

Our audit objective was to answer the following question:

- Did ATSI comply with Federal regulations and ATSI contract provisions for reporting indirect costs?

The audit covered nearly $9.3 million ATSI charged Job Corps (either directly or through prime contactors in situations where ATSI was a subcontractor) for its estimated indirect costs during calendar years (CY) 2004-2007. We interviewed ATSI, OASAM, and Job Corps officials; reviewed Federal Acquisition Regulation (FAR) and contract requirements for reporting indirect costs; assessed ATSI, OASAM, and Job Corps controls for ensuring compliance; and analyzed cost data and the applicable provisional and approved indirect cost rates. To determine indirect costs overcharged to Job Corps, we reviewed OASAM’s assessment of ATSI’s indirect cost proposals for CYs 2004-2007 completed in September 2009; and tested 220 indirect cost transactions totaling $809,207. We randomly selected 80 of the 220 transactions to assess the potential for additional unallowable costs; and judgmentally selected 140 transactions that we considered to be high risk. The high risk transactions included payments to former owners, consulting fees, and travel and meal expenses. During the audit, OASAM was in the process of reviewing ATSI’s 2008 indirect cost proposal and ATSI’s 2009 cost proposal was not yet due.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Additional background information is contained in Appendix A and our audit objective, scope, methodology, and criteria are detailed in Appendix B in this report.

RESULTS IN BRIEF

ATSI did not comply with requirements for submitting indirect cost proposals or reporting only allowable indirect costs, resulting in more than $1.8 million in overcharges to Job Corps. ATSI used the provisional rates specified in its center/CTS contracts to charge Job Corps nearly $9.3 million for its estimated indirect costs during CYs 2004-2007. ATSI violated the FAR and the terms of its contracts by failing to submit indirect cost proposals to OASAM, and neither OASAM nor Job Corps performed followup when ATSI did not submit indirect cost proposals within the required 6-month timeframe. This prevented OASAM from negotiating approved indirect cost rates based on allowable costs and identifying overcharges in situations where approved rates were determined to be less than provisional rates.

As a result of our audit, OASAM notified ATSI that its cost proposals were delinquent. ATSI submitted their CYs 2004-2007 cost proposals to OASAM in April 2009 and reached agreement with OASAM on approved rates in September 2009. ATSI again failed to comply with the FAR by including in its proposals transactions that were not supported by any documentation or were supported by documentation that did not provide adequate assurance that the costs were valid. The undocumented costs included $429,579 claimed for consulting services provided by two former owners that was part of a buy-out of their shares in the company, and $163,807 claimed for travel and business insurance that did not have any supporting documentation. Because of the deficiencies in ATSI supporting documentation, we were unable to determine the value, if any, Job Corps received in exchange for the $429,579 and $163,807, and other amounts claimed by ATSI.

Based on allowable costs, ATSI and OASAM negotiated approved indirect cost rates that were sometimes lower than the provisional rates used by ATSI to charge Job Corps for indirect costs. Specifically, 12 of the 21 approved Overhead rates and 4 of the 21 approved G&A rates were lower than the provisional rates used by ATSI. Based on our audit, we determined that ATSI's allowable indirect costs for CYs 2004-2007 totaled nearly $7.5 million, or more than $1.8 million less than the $9.3 million charged to Job Corps. ATSI needs to reimburse the more than $1.8 million to the federal government.

ATSI violated the FAR and its contract provisions by failing to make proper submissions to OASAM relating to indirect costs. ATSI also failed to establish standard operating procedures to ensure indirect cost proposals included only allowable costs and were submitted annually as required by the FAR. The ATSI Chief Executive Officer told us that ATSI displayed some incompetence with its indirect cost proposals and was taking steps to correct the problems. This included replacing key corporate finance staff. Additionally, DOL procedures regarding the Federal agency responsible for monitoring indirect cost proposal submissions were not specific and OASAM and Job Corps personnel we spoke to were unclear of their responsibilities. Both OASAM and Job Corps believed the other was responsible for ensuring compliance and neither monitored annual contractor submissions. OASAM and Job Corps also did not have effective processes to ensure that any overcharges resulting from OASAM reviews would be reimbursed to Job Corps. Because of these deficiencies, ATSI was able to obtain payments far in excess of what they were entitled to under the FAR and the contract.

In summary, we recommend that OASAM and ETA coordinate with Job Corps to collect the more than $1.8 million that was overcharged to Job Corps during CYs 2004-2007; and direct ATSI to establish standard operating procedures to ensure indirect cost proposals are submitted annually and include costs in accordance with the FAR and with contract provisions. We also recommend that OASAM and Job Corps clarify responsibilities and procedures for monitoring overall contractor compliance with FAR requirements for the annual submissions of indirect cost proposals and ensure contractors reimburse the government for any overcharges resulting from OASAM and OIG reviews.

OASAM, ETA AND ATSI RESPONSES

In response to the draft report, the Assistant Secretary for ETA and the Deputy Assistant Secretary for OASAM accepted our recommendations and stated that Job Corps, in coordination with OASAM, will take the necessary corrective actions.

ATSI's response to our draft report did not address our specific recommendations. ATSI stated it was not given enough time to address the recommendations and expressed concern about the accuracy of our findings. ATSI provided us with tables illustrating alternative "ATSI scenarios" for calculating indirect costs. We reviewed the scenarios and found the methodology and data used by ATSI to be questionable (e.g., rates used exceeded the maximum provisional rates allowed by the contracts). Nothing ATSI provided us caused us to change our conclusions.

RESULTS AND FINDING

ATSI billed Job Corps using the provisional rates specified in its center/CTS contracts to charge Job Corps nearly $9.3 million for its estimated indirect costs during CYs 2004-2007. ATSI violated the FAR and contract provisions by failing to submit required annual indirect cost proposals needed to determine approved rates and any amounts to be reimbursed to the federal government; and neither OASAM nor Job Corps requested the proposals when ATSI failed to submit the proposals within the 6-month timeframe required by the FAR.

Objective — Did ATSI Comply with Federal Regulations and ATSI Contract Provisions for Reporting Indirect Costs?

ATSI's failure to comply with the FAR and contract provisions resulted in more than $1.8 million in overcharges to Job Corps.

Finding — ATSI submitted late proposals and unallowable indirect costs resulting in overcharges to Job Corps.

ATSI violated the FAR and contract provisions by failing to submit indirect cost proposals to OASAM for CYs 2004-2007. As a result, OASAM did not approve indirect cost rates based on allowable costs and identify overcharges in situations where approved rates were determined to be less than provisional rates. In April 2009, when ATSI submitted indirect cost proposals for the 4-year period, it again failed to comply with FAR requirements by including in the proposals transactions that were not supported by any documentation or were supported by documentation that did not provide adequate assurance that the costs were valid. We determined that ATSI's actions resulted in overcharges to Job Corps of more than $1.8 million in indirect costs.

ATSI violated the FAR and contract provisions by failing to make proper submissions to OASAM relating to indirect costs. ATSI also did not establish standard operating procedures to ensure indirect cost proposals included only allowable costs and were submitted annually as required by the FAR. In addition, both OASAM and Job Corps did not effectively monitor the timeliness of ATSI's indirect cost proposal submissions, nor did they have an effective process to ensure that ATSI (or prime contractors in situations where ATSI was a subcontractor) would reimburse any overcharges resulting from the determination of ATSI's approved indirect cost rates. Because of these deficiencies, ATSI was able to obtain payments far in excess of what they were entitled to under the FAR and the contract.

Job Corps' center/CTS contracts with ATSI and its Policy and Requirements Handbook (PRH) required the operator to follow the provisions of the Federal Acquisition Regulation for indirect costs as follows:

- FAR Part 52.216-7 requires each contractor to submit indirect cost rate proposals to OASAM annually, within six months after the end of the contractor's fiscal year. The Contractor and OASAM negotiate approved indirect cost rates based on the contractor's allowable costs for the prior year.

- FAR Part 31-2 requires contractors to maintain documentation, such as invoices, activity reports, and timesheets to support the proposals. The supporting documentation must be adequate to demonstrate that costs claimed have been incurred and are otherwise allowable.

ATSI's center/CTS operator contracts state that the contractor owes the government the difference between the costs calculated at the approved and provisional rates, if the approved rates are lower. If the approved rates are greater than the provisional rates, the contractor cannot claim reimbursement of the difference because the costs calculated with the provisional rates are the maximum the contractor can charge Job Corps for each center/CTS.

ATSI Did Not Submit Indirect Cost Proposals

ATSI used the provisional rates specified in its center/CTS contracts to estimate Overhead and G&A expenses and charge Job Corps nearly $9.3 million for indirect costs during CYs 2004-2007.[2] However, ATSI did not submit its annual indirect cost rate proposals to OASAM for each year as required by the FAR.[3] Proposals for CY 2004 (due in June 2005), CY 2005 (due in June 2006), CY 2006 (due in June 2007), and CY 2007 (due in June 2008) were not submitted. As such, OASAM did not approve indirect costs rates based on allowable Overhead and G&A expenses. This prevented the identification of overcharges in situations where the approved rates were less than the provisional rates. Table 1 shows the amounts ATSI charged Job Corps for Overhead and G&A expenses during CYs 2004-2007.

Table 1: ATSI's Indirect Costs Based on Provisional Rates

CY	Overhead	G&A	Totals
2004	$1,183,406	$1,274,288	$2,457,694
2005	1,112,686	1,290,870	2,403,556
2006	824,542	1,105,592	1,930,134
2007	1,049,202	1,419,607	2,468,809
Totals	**$4,169,836**	**$5,090,357**	**$9,260,193**

See Exhibit 1 for detailed calculations using the provisional rates specified in ATSI's contracts with Job Corps.

Indirect Cost Proposals Were Not Supported

As a result of our audit OASAM notified ATSI that its cost proposals were delinquent. ATSI submitted its indirect cost proposals for CYs 2004-2007 to OASAM in April 2009 and reached agreement on approved rates in September 2009. ATSI claimed nearly $11.2 million in indirect costs for the 4-year period.[4] The proposals included more than $872,000 in transactions that were not supported by any documentation and more than $848,000 in transactions for which the support did not provide adequate assurance that the costs were valid. Specific transactions that were not allowable included the following:

[2]See Exhibit 1 for detailed calculations using provisional rates specified in ATSI's contracts.
[3]ATSI's fiscal year coincides with the calendar year.
[4]Although ATSI billed nearly $9.3 million in indirect costs based on its contracts' provisional rates, ATSI's indirect cost proposals submitted in April 2009 included nearly $11.2 million in claimed indirect costs.

- $429,579 claimed as Overhead expense for consulting services provided by two former owners that was part of a buyout of their shares in the company. ATSI and the former owners entered into consulting agreements on the same day that the current owner bought out the former owners. The agreements did not provide specific scopes of work detailing work to be performed, hourly rates, or deliverable work products. An agreement for one former owner referred to ATSI making payments even if no work was performed. Similarly, the other former owner told us that ATSI was required to make payments regardless of whether any consulting services were performed. An invoice from this former shareholder stated that as part of the buyout, ATSI had a fixed-price contract agreement, which ATSI was obligated to pay as stipulated in the consultant agreement. ATSI could not provide evidence that Job Corps received any benefits from the consulting services, and Job Corps officials told us that they were not aware of any services the former shareholders provided.

- $75,981 claimed as Overhead expense for travel/transportation and $87,826 claimed as Overhead expense for business insurance without any supporting documentation.

- $83,729 claimed as G&A expense for bank charges relating to interest payments, financing, and company restructuring costs.

- $65,869 claimed as G&A expense for unallowable vehicle lease costs for the ATSI Chief Executive Officer's personal use of a luxury vehicle.

OASAM tested a sample of claimed indirect costs and disallowed $576,875 in Overhead charges and more than $1.1 million in G&A charges because the costs were unallowable or unreasonable. Based on the allowable costs, ATSI and OASAM negotiated approved indirect cost rates for CYs 2004-2007 that were sometimes significantly lower than the provisional rates used by ATSI to charge Job Corps annually for indirect costs. Specifically, 12 of the 21 approved Overhead rates and 4 of the 21 approved G&A rates were lower than the provisional rates used by ATSI. In these instances the approved rates are used to determine allowable indirect costs rather than the provisional rates. Table 2 shows that ATSI's allowable indirect costs based on the rates approved by OASAM totaled nearly $7.7 million.

Table 2: ATSI's Allowable Indirect Costs Based on Approved Rates

CY	Overhead	G&A	Totals
2004	$1,145,877	$1,150,489	$2,296,366
2005	677,807	1,280,618	1,958,425
2006	462,242	1,105,592	1,567,834
2007	457,503	1,419,607	1,877,110
Totals	**$2,743,429**	**$4,956,306**	**$7,699,735**

See Exhibit 2 for detailed calculations using negotiated approved rates.

In addition to OASAM's review, we tested 220 indirect cost transactions totaling $809,207 to determine if the costs were allowable in accordance with the FAR.[5] We randomly selected 80 of the 220 transactions to assess the potential for additional unallowable costs; and judgmentally selected 140 transactions that we considered to be high risk. The high risk transactions included payments to former owners, consulting fees, and travel and meal expenses. During the audit, OASAM was in the process of reviewing ATSI's 2008 indirect cost proposal and ATSI's 2009 cost proposal was not yet due.

We questioned the costs for 114 transactions, totaling $599,550, because the costs were not supported as required. This amount included the $429,579 in improper consulting fees paid to the former ATSI owners. During the audit, we notified OASAM of improper consulting fees, and OASAM included $354,019 of the $429,579 paid to the former owners in its review and disallowed the $354,019 they reviewed. As such, we identified $245,531 ($599,550 - $354,019) in questioned costs that OASAM did not include in its review. Accordingly, the additional $245,531 in questioned costs we identified reduced ATSI's allowable indirect costs from the $7,699,703 shown in Table 2 to $7,454,172 (or nearly $7.5 million).

Besides the payments to former shareholders, other examples of questionable transactions we identified were as follows:

- Four transactions totaling $56,182 were for travel/transportation allocated to four Job Corps Centers. ATSI classified the allocated travel/transportation account as a prepaid asset rather than an expense account. There were no receipts or supporting documents indicating that ATSI actually incurred the travel/transportation costs.

- One transaction for $8,091 in business meals was charged to the Cleveland Job Corps Center for employees who attended a Leadership Conference in Cleveland. DOL regulations permit per diem for business meals only when the travel location is either 25 miles from the duty station or 40 miles from the employee's residence. The conference location was less than 7 miles from the Cleveland Job Corps Center and no support was provided indicating that the travel location exceeded 40 miles from employee residences.

- Fourteen other transactions were for business meals that exceeded allowable per diem amounts by $11,070. For these transactions, ATSI claimed $18,245 and the allowable per diem totaled $7,175. FAR Part 31.2 limits amounts charged for meals to the per diem amounts.

[5] Our testing excluded ATSI's claimed indirect costs that were reviewed by OASAM.

OASAM's procedures require that it renegotiate indirect cost rates with ATSI based on our audit. We provided the results of our audit of ATSI's indirect costs to OASAM.

ATSI's Actions resulted in Overcharges to Job Corps of More Than $1.8 Million in Indirect Costs

The approved rates negotiated by ATSI and OASAM were generally lower for Overhead expenses and generally higher for G&A expenses. As such, the amounts overcharged to Job Corps generally related to the amounts claimed for Overhead. Based on the approved rates and our additional testing, we determined that ATSI's allowable costs during CYs 2004-2007 totaled about $7.5 million ($7.7 million based on the OASAM approved rates less the $245,531 in questioned costs we identified). As such, Job Corps was overcharged more than $1.8 million during the 4-year period. Table 3 shows our calculation for the overcharged amounts.

Table 3: ATSI Overcharged Job Corps More Than $1.8 Million

	Overhead	G&A	Totals
Costs Charged to Job Corps Based on Provisional Rates[6]	$4,169,836	$5,090,357	$9,260,193
Allowable Costs Based on Approved Rates[7]	($2,743,429)	($4,956,306)	($7,699,735)
Overcharged Based on Approved Rates	**$1,426,407**	**$134,051**	**$1,560,458**
Additional OIG Questioned Costs	$245,531	0	$245,531
Total Amount Overcharged	**$1,671,938**	**$134,051**	**$1,805,989**

ATSI, OASAM, and Job Corps Did Not Ensure Proposals Were Submitted and Overcharges Reimbursed

ATSI's late and improper indirect cost proposal submissions violated the FAR and its contract provisions. ATSI also failed to establish standard operating procedures to ensure indirect cost proposals included only allowable costs and were submitted annually as required by the FAR. The ATSI Chief Executive Officer told us that ATSI displayed some incompetence with its indirect cost proposals and was taking steps to correct the problems. This included replacing key corporate finance staff.

In addition, OASAM and Job Corps personnel were unclear on their oversight responsibilities, which also contributed to the late submission and overcharges to Job Corps. During the audit, we found that neither OASAM nor Job Corps was aware that ATSI was not complying with the requirement to submit annual indirect cost proposals.

[6]From Table 1.
[7]From Table 2.

OASAM officials told us that they believed Job Corps, as the technical representative for the contracting officer was responsible for monitoring annual submissions. Job Corps officials told us OASAM was responsible. The DOL Manual concerning indirect cost policy was unclear regarding who was responsible for ensuring annual proposals were submitted. As a result, neither OASAM nor Job Corps monitored the annual submissions. OASAM and Job Corps officials subsequently agreed that OASAM's contracting officers were responsible.

Because of these deficiencies, ATSI was able to obtain payments far in excess of what they should have been paid. Without proactive monitoring of contractor annual submissions, contractors who's own records indicate that their provisional rates are higher than actual costs incurred can delay submitting indirect cost proposals and thus delay or even avoid having to reimburse the government for any overcharges resulting from the high rates.

DOL Had No Assurance that Overcharges Would Be Reimbursed

OASAM and Job Corps also did not have effective processes to ensure that overcharges resulting from OASAM reviews would be reimbursed to the federal government. OASAM's Division of Cost Determination (DCD) negotiates with contractors to reach agreement on approved indirect cost rates. However, DCD does not distribute approved rates to OASAM's responsible contracting officer or to Job Corps' contracting officer's technical representative. DCD officials told us that they only distribute approved rates to the contractor; and contracting officers and Job Corps officials would have to contact DCD in order to obtain the approved rates.

OASAM needs to establish a process to ensure timely reimbursement of overcharges resulting from the difference between provisional and approved indirect cost rates. Once a contract is closed out, both the OASAM contracting officer and Job Corps lose visibility over the contract and the potential for unreimbursed overcharges increases. For example, we found one situation where a contract was closed out even though approved rates for ATSI had not been negotiated. The contract for the Gary Job Corps Center for which ATSI was a subcontractor was closed out on May 8, 2009, even though the responsible OASAM contracting officer was not aware that ATSI did not have approved rates. Since ATSI's provisional Overhead and G&A rates for Gary were greater than the approved rates, we determined that Job Corps was overcharged more than $220,000 for ATSI's overhead and G&A costs.

Both the contracting officer and Job Corps officials initially told us that since the government had no binding legal relationship with ATSI as a subcontractor, they had no responsibility for ensuring ATSI reimbursed any overcharges. We pointed out that since both the prime and subcontracts were cost reimbursable type contracts, any overcharges from ATSI would be included in the prime contractor's billings to Job Corps and Job Corps should be reimbursed for the overcharges. Job Corps subsequently agreed, after contacting the Department of Labor Solicitor, and said that action would be taken to recover the overcharges from the prime contractor's current contract.

Similarly, action needs to be taken to recover overcharges amounting to more than $723,000 for ATSI's overhead and G&A costs for the two other Job Corps contracts--Earle C. Clements (ECC) Job Corps Center and CTS--for which ATSI was a subcontractor.

The $943,000 ($220,000+$723,000) was part of the more than $1.8 million that we calculated Job Corps was overcharged for ATSI's indirect costs. We believe that procedures need to be established to ensure that prime contractors are billed for overcharges resulting from the comparison of provisional and indirect cost rates that are submitted by the subcontractor.

In response to our draft report, both the Assistant Secretary for ETA and the Deputy Assistant Secretary for OASAM accepted our recommendations and stated that Job Corps, in coordination with OASAM, will require ATSI to provide supporting documentation for the more than $1.8 million in questioned costs. This will include renegotiation with ATSI, as necessary, of applicable indirect rates for CYs 2004-2007. Furthermore, Job Corps will require all center operators, including ATSI, to establish policies and procedures regarding the proper submission of indirect cost proposals. Job Corps and OASAM will also clarify their own policy and procedures for monitoring contractor compliance and ensuring contractors reimburse the government for any overcharges relating to indirect costs; and training will be provided to all DOL contracting officers on their responsibilities for monitoring contractor compliance with the FAR and contractor submission of indirect cost proposals. See Appendix D for OASAM and ETA's combined response in its entirety.

ATSI, in response to our draft report, expressed concern about the accuracy of our findings. ATSI provided us with three tables illustrating alternative "ATSI scenarios" for calculating its indirect costs.[8] We reviewed the scenarios and found the methodology and data used by ATSI to be questionable. For example, in each of the three tables ATSI used 11.23 percent to calculate the Cleveland center's allowable indirect overhead costs submitted to OASAM for CY 2004. The maximum rate allowed by the contract and the CY 2004 rate approved by OASAM were both 9.514 percent. As such, ATSI's use of the improper higher rate overstated the Cleveland center's allowable indirect overhead costs by $64,346; or $421,098 (at 11.23%) minus $356,752 (at 9.514%). ATSI also expressed concern about not having enough time to conduct its own research and requested more time to provide supporting documentation. We provided ATSI with the exceptions included in this report in October 2009, March 2010, and June 2010 and asked them to confirm our exceptions or provide supporting documentation. In response, ATSI provided some supporting documentation and we eliminated those exceptions from our questioned costs. We also met with ATSI in July 2010 to obtain feedback on an informal draft of this report we provided for discussion purposes. We did not receive any additional support from ATSI. ATSI was provided a reasonable amount of time to conduct its own research and provide supporting documentation. Our findings and recommendations remain unchanged. However, as noted in OASAM and ETA's

[8]See Exhibits A, B, and C on pages 36-38 of this report.

response to our draft report, Job Corps and OASAM will provide ATSI another opportunity to provide supporting documentation. See Appendix E for ATSI's response in its entirety.

RECOMMENDATIONS

We recommend the Assistant Secretary for Administration and Management and the Assistant Secretary of Employment and Training coordinate with Job Corps to:

1. Recover either from ATSI or the applicable prime contactor (in situations where ATSI was a subcontractor) the more than $1.8 million we calculated Job Corps was overcharged for ATSI's indirect costs. This includes OASAM renegotiating approved Overhead rates with ATSI as may be needed based on the additional $245,531 in questioned costs we identified.

2. Clarify policy and provide guidance and training to ensure that contracting officers monitor contractor compliance with the FAR regarding the requirement to submit indirect cost proposals to OASAM within 6 months of the conclusion of each of the contractor's fiscal years.

3. Establish a process to ensure timely reimbursement of overcharges resulting from the difference between provisional and approved indirect cost rates.

4. Establish procedures to ensure that the prime contractor is billed for overcharges resulting from the comparison of provisional and indirect cost rates that are submitted by the subcontractor.

We also recommend the Assistant Secretary of Employment and Training direct Job Corps to require ATSI:

5. Establish policies and procedures that ensure compliance with FAR and contract requirements for submission of indirect cost proposals.

We appreciate the cooperation and courtesies that OASAM, Job Corps, and ATSI personnel extended to the Office of Inspector General during the audit. OIG personnel who made major contributions to this report are listed in Appendix G.

Elliot P. Lewis

Elliot P. Lewis
Assistant Inspector General for Audit

Exhibits

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Exhibit 1

ATSI's Indirect Costs Based on Provisional Indirect Cost Rates

CY and Contract		Overhead			G&A			Charged to Job Corps
		Base[1]	x Rate	= Estimated Costs	Base[1]	x Rate	= Estimated Costs	
2004	Cleveland	$3,749,756	9.514%	$356,752	$5,383,634	4.130%	$222,344	
	Gary	4,024,729	6.890%	277,304	5,466,821	6.630%	362,450	
	Detroit	3,680,413	5.430%	199,846	7,419,653	5.000%	370,983	
	ECC	2,485,389	10.240%	254,504	3,580,725	6.000%	214,844	
	CTS	1,085,720	8.750%	95,001	1,898,674	5.460%	103,668	
	CY Sub-Totals			$1,183,406			$1,274,288	$2,457,694
2005	Cleveland	$2,225,519	9.514%	$211,736	$3,808,200	4.130%	$157,279	
	Cleveland[2]	1,611,583	8.140%	131,183	2,723,875	5.630%	153,354	
	Gary	3,283,274	6.890%	226,218	4,659,982	6.630%	308,957	
	Detroit	3,685,202	5.430%	200,106	7,133,341	5.000%	356,667	
	ECC	2,468,487	10.240%	252,773	3,494,478	6.000%	209,669	
	CTS	1,036,229	8.750%	90,670	1,922,059	5.460%	104,944	
	CY Sub-Totals			$1,112,686			$1,290,870	$2,403,556
2006	Cleveland	$4,271,645	8.140%	$347,712	$8,852,818	5.630%	$498,414	
	Detroit	3,691,252	5.430%	200,435	7,296,395	5.000%	364,820	
	ECC	2,230,724	10.240%	228,426	3,115,098	6.000%	186,906	
	CTS	146,472	8.750%	12,816	248,110	5.460%	13,547	
	CTS[3]	439,415	8.000%	35,153	744,329	5.630%	41,906	
	CY Sub-Totals			$824,542			$1,105,592	$1,930,134
2007	Cleveland	$4,341,593	8.140%	$353,406	$8,387,366	5.630%	$472,209	
	Detroit	4,043,484	5.430%	219,561	7,813,790	5.000%	390,689	
	ECC	2,396,908	10.240%	245,444	3,150,947	6.000%	189,057	
	CTS	709,414	8.000%	56,753	1,020,169	5.630%	57,436	
	Jacksonville	3,222,928	5.400%	174,038	6,204,333	5.000%	310,217	
	CY Sub-Totals			$1,049,202			$1,419,607	$2,468,809
	Totals			$4,169,836			$5,090,357	$9,260,193

[1]The base amounts for Overhead consist of ATSI's direct labor costs, excluding fringe benefits. The base amounts were multiplied by the provisional Overhead rates to obtain the estimated costs and amounts charged to Job Corps for Overhead. The base amounts for G&A consist of contract costs excluding contractor's fee and G&A. The base amounts were multiplied by the provisional G&A rates to obtain the estimated costs and amounts charged to Job Corps for G&A. In April 2009, ATSI provided the base amounts for both Overhead and G&A to OASAM along with its claimed costs.

[2]ATSI's first Cleveland contract ended on July 31, 2005. ATSI's second Cleveland contract began on August 1, 2005.

[3]ATSI's CTS contract ended March 31, 2006. ATSI became a CTS subcontractor on April 1, 2006.

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Exhibit 2

ATSI's Indirect Costs Based on Approved Indirect Cost Rates

CY and		Overhead			G&A			
	Contract	Base[1] x	Rate =	Allowable Costs	Base[1] x	Rate[2] =	Allowable Costs	Approved Costs
2004	Cleveland	$3,749,756	9.514%	$356,752	$5,383,634	4.130%	$222,344	
	Gary	4,024,729	6.890%	277,304	5,466,821	5.090%	278,261	
	Detroit	3,680,413	5.430%	199,846	7,419,653	5.000%	370,983	
	ECC	2,485,389	8.730%	216,974	3,580,725	5.090%	182,259	
	CTS	1,085,720	8.750%	95,001	1,898,674	5.090%	96,643	
	CY Sub-Totals			**$1,145,877**			**$1,150,489**	**$2,296,366**
2005	Cleveland	$2,225,519	7.430%	$165,356	$3,808,200	4.130%	$157,279	
	Cleveland[3]	1,611,583	7.430%	119,741	2,723,875	5.630%	153,354	
	Gary	3,283,274	3.060%	100,468	4,659,982	6.410%	298,705	
	Detroit	3,685,202	4.110%	151,462	7,133,341	5.000%	356,667	
	ECC	2,468,487	2.030%	50,110	3,494,478	6.000%	209,669	
	CTS	1,036,229	8.750%	90,670	1,922,059	5.460%	104,944	
	CY Sub-Totals			**$677,807**			**$1,280,618**	**$1,958,425**
2006	Cleveland	$4,271,645	3.690%	$157,624	$8,852,818	5.630%	$498,414	
	Detroit	3,691,252	5.430%	200,435	7,296,395	5.000%	364,820	
	ECC	2,230,724	2.520%	56,214	3,115,098	6.000%	186,906	
	CTS	146,472	8.750%	12,816	248,110	5.460%	13,547	
	CTS[4]	439,415	8.000%	35,153	744,329	5.630%	41,906	
	CY Sub-Totals			**$462,242**			**$1,105,592**	**$1,567,834**
2007	Cleveland	$4,341,593	1.990%	$86,398	$8,387,366	5.630%	$472,209	
	Detroit	4,043,484	3.810%	154,057	7,813,790	5.000%	390,689	
	ECC	2,396,908	0.430%	10,307	3,150,947	6.000%	189,057	
	CTS	709,414	4.610%	32,704	1,020,169	5.630%	57,436	
	Jacksonville	3,222,928	5.400%	174,038	6,204,333	5.000%	310,217	
	CY Sub-Totals			**$457,503**			**$1,419,607**	**$1,877,110**
	Totals			**$2,703,429**			**$4,956,306**	**$7,659,735**

[1]The base amounts for Overhead consist of ATSI's direct labor costs, excluding fringe benefits. The base amounts were multiplied by the negotiated approved Overhead rates to obtain the allowable indirect costs for Overhead. The base amounts for G&A consist of contract costs excluding contractor's fee and G&A. The base amounts were multiplied by the negotiated approved G&A rates to obtain the allowable indirect costs for G&A. In April 2009, ATSI provided the base amounts for both Overhead and G&A to OASAM along with its claimed costs.

[2]In situations where the approved rate was higher than the provisional rate, the provisional rate was used in the calculation since the provisional rate is the maximum a contractor can charge.

[3]ATSI's first Cleveland contract ended on July 31, 2005. ATSI's second Cleveland contract began on August 1, 2005.

[4]ATSI's CTS contract ended March 31, 2006. ATSI became a CTS subcontractor on April 1, 2006.

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Appendices

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Appendix A

Background

OASAM is responsible for the overall implementation of the Department of Labor's procurement programs and ensures that these programs are performed in accordance with the appropriate laws and regulations. OASAM also negotiates and issues indirect cost rates based on guidance contained in the FAR on behalf of the Federal Government. These negotiations are for organizations receiving a preponderance of direct Federal funds from the DOL. The rates are established in a Negotiated Indirect Cost Rate Agreement (NICRA) for cost reimbursable contracts.

ETA is responsible for contributing to the efficient functioning of the U.S. labor market by providing high quality job training and employment.

Job Corps is authorized by Title I-C of the Workforce Investment Act (WIA) of 1998 under the leadership of the National Director, supported by a National Office staff and a field network of Regional Offices of Job Corps.

The purpose of Job Corps is to assist people ages 16 through 24 who need and can benefit from a comprehensive program, operated primarily in the residential setting of a Job Corps Center (JCC), to become more responsible, employable, and productive citizens.

As a national, primarily residential training program, Job Corps' mission is to attract eligible young adults, teach them the skills they need to become employable and independent, and place them in meaningful jobs or further education.

Education, training and support services are provided to students at Job Corps center campuses located throughout the United States and Puerto Rico. Job Corps Centers are operated for the U.S. Department of Labor by private companies through competitive contracting processes, and by other Federal Agencies through inter-agency agreements.

Applied Technology Systems Inc. (ATSI) operates or provides services to Job Corps centers. Founded in 1989 and incorporated in 1992, ATSI has total revenue of about $28 million annually all through government contracts. ATSI employs 800 people at its centers and corporate headquarters in Cleveland, Ohio.

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Appendix B

Objective, Scope, Methodology, and Criteria

Objective

Our audit objective was to answer the following question:

- Did ATSI comply with Federal regulations and ATSI contract provisions for reporting indirect costs?

The audit examined whether (1) indirect costs claimed by ATSI were allowable in accordance with the FAR and ATSI contract provisions, (2) controls were in place to ensure that only allowable costs were charged to Job Corps, and (3) disallowed costs resulted in overcharges to Job Corps.

Scope

This report reflects the audit work conducted at OASAM's Division of Cost Determination located in Washington, D.C. and at ATSI's corporate office located in Cleveland, Ohio. The report reflects audit work pertaining to eight contracts for which ATSI was either the prime or subcontractor. This report includes the results of our initial audit work relating to indirect costs and testing conducted in response to an October 2009 request by OASAM to audit the indirect costs claimed by ATSI for CYs 2004-2007.

We considered the internal control elements of control environment, risk assessment, control activities, information and communication, and monitoring during our planning and substantive audit phases.

We conducted this audit in accordance with generally accepted government auditing standards (GAGAS) issued by the Comptroller General of the United States. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Methodology

To accomplish our audit objective, we reviewed applicable criteria and compared the requirements to ATSI's claimed indirect costs. We also used a combination of analytical procedures, staff and management interviews, and document examinations.

We reviewed contract and FAR requirements for reporting indirect costs; assessed ATSI, Job Corps, and OASAM controls for ensuring compliance; and analyzed cost data and the applicable indirect cost rates to determine whether the amounts charged to Job Corps were allowable.

We interviewed OASAM, Job Corps, ATSI, and selected prime contractor officials to determine whether ATSI complied with the criteria for claiming and reporting indirect cost and ensuring that ATSI would provide timely reimbursement of overcharges.

We identified and evaluated OASAM, Job Corps and ATSI internal controls over the monitoring and reporting of indirect costs. Recommendations 2 through 5 require improvement to the internal control process.

In planning our audit, we considered internal controls related to the monitoring and reporting of indirect costs, determined whether internal controls had been placed in operation, assessed control risk, and performed tests internal controls to determine our audit procedures for the purpose of achieving our objectives.

Our consideration of internal controls related to indirect costs would not necessarily disclose all matters that might be reportable conditions. Because of inherent limitations I internal controls, misstatements, losses, or non compliance may nevertheless occur and not be detected.

We used work performed by OASAM to determine the impact of OASAM's approved rates on ATSI's contracts.[9] We compared the provisional Overhead and G&A rates to the approved rates, and used base amounts ATSI provided to OASAM to calculate the amount of indirect costs that should have been charged to Job Corps (based on the approved rates) and the amount of costs that were charged to Job Corps (based on the provisional rates).

We reviewed work performed by OASAM regarding their review of ATSI's indirect cost proposals. We also traced selected costs through the ATSI's corporate general ledger accounts and examined supporting transactions (journal entries) and supporting documentation to authenticate the recorded transactions. We used a combination of statistical and non-statistical sampling to examine nearly 6,000 transactions which made up the non-personnel portion of the indirect cost proposals for CYs 2005-2007 not reviewed by OASAM.

Specifically, we obtained all general-ledger accounts and supporting transactions for the non-personnel indirect cost categories not reviewed by OASAM that were included in ATSI's indirect cost proposals for CYs 2005-2007. We comprised a list of nearly 2,000 Overhead transactions and nearly 4,000 G&A transactions. We tested for completeness by totaling the value of the transactions to the values reported in the general ledger accounts and then comparing the general ledger account values to the values contained in ATSI's indirect cost proposals. We also determined that the computer-processed data we reviewed was sufficiently reliable for our testing and reporting purposes. We tested random samples of 40 transactions for each (80 total) to determine the potential for additional disallowable costs. Based on the test results for G&A expenses, we concluded that further testing was not needed because the number of exceptions we

[9] We did not audit the indirect costs reviewed by OASAM and relied on OASAM's conclusions relating to disallowed costs and the approved rates.

identified was low, and more than $1 million in additional disallowed G&A costs was needed to negate ATSI's use of the provisional rates to estimate and charge Job Corps for the G&A costs. Our judgmental sample for Overhead included 14 transactions which involved consulting fees paid to two former owners and 126 transactions that were either valued at more than $1,000, or were lodging, transportation and meals transactions valued at between $75 and $1,000 (our initial testing of the 40 Overhead transaction disclosed problems with these three categories). We did not project the results of our sample of Overhead expenses.

We limited our testing of the indirect costs to non-personnel expenses for CYs 2005-2007 for the following reasons:

- The ATSI CEO had not acquired sole-ownership of ATSI until February of 2005, and the main problem with disallowed overhead costs pertained to consultant charges beginning in 2005.

- Based on recently issued Job Corps audit reports and work we had performed during our prior audit of ATSI, we found that audits of personnel costs did not result in any significant findings. Therefore, we did not audit the personnel portion of the indirect costs claimed by ATSI in its indirect cost proposal for CYs 2004-2007.

(Note: we still included the 2004 comparison of approved versus contract provisional Overhead and G&A rates in our audit.)

Criteria

We used the following criteria to perform this audit:

- Code of Federal Regulations
- Federal Acquisition Regulation
- Job Corps Policy and Requirements Handbook
- DOL Manual Series

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Appendix C

Acronyms and Abbreviations

ATSI	Applied Technology Systems, Incorporated
CEO	Chief Executive Officer
CFR	Code of Federal Regulations
CFO	Chief Financial Officer
COTR	Contracting Officer’s Technical Representative
CTS	Career Transitional Services
CY	Calendar Year
DOL	Department of Labor
DCD	Division of Cost Determination
ECC	Earle C. Clements
FAR	Federal Acquisition Regulation
G&A	General and Administrative
GAGAS	Generally Accepted Government Auditing Standards
GSA	General Services Administration
JCC	Job Corps Center
OA	Office of Audit
OASAM	Office of the Assistant Secretary for Administration and Management
OH	Overhead
OIG	Office of Inspector General
PRH	Policy and Requirements Handbook
WIA	Workforce Investment Act

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Appendix D

OASAM and ETA's Combined Response to Draft Report

U.S. Department of Labor

Office of the Assistant Secretary
for Administration and Management
Washington, D.C. 20210

SEP 14 2010

MEMORANDUM FOR ELLIOT P. LEWIS
Assistant Inspector General

FROM: JANE OATES Jane Oates
Assistant Secretary for
Employment and Training

EDWARD C. HUGLER
Deputy Assistant Secretary for Operations,
Senior Procurement Official

SUBJECT: OIG Audit of Applied Technology Systems Inc.
Overcharged Job Corps for Indirect Costs
Draft Report # 26-10-003-01-370

This memorandum responds to the subject draft audit report, dated August 24, 2010, Applied Technology Systems, Inc. (ATSI) Overcharged Job Corps for Indirect Costs. We appreciate the opportunity to provide input to this draft audit report as well as to the recent discussion draft report and last year's "statement of facts." We note for the record that the Department referred this matter to the OIG on October 22, 2009 based on concerns management observed while performing the reviews of ATSI's indirect cost proposals for the periods FY 2004 through FY 2007. These reviews performed by OASAM's Division of Cost Determination (DCD) revealed over $1.7 million of disallowed costs based on a limited sample of transactions during negotiations.

OASAM's DCD performs over 400 indirect cost rate negotiations as the Federal cognizant agency for grantees and contractors leading into significant disallowed costs. While we are proud of the work performed by DCD, we acknowledge that more can be done to strengthen the monitoring of indirect cost proposal submissions.

Our responses to the draft report's recommendations follow:

OIG Recommendation 1. *Recover either from ATSI or the applicable prime contractor (in situations where ATSI was a subcontractor) the more than $1.8 million we calculated Job Corps was overcharged for ATSI's indirect costs. This includes OASAM renegotiating approved overhead rates with ATSI as may be needed based on the additional $245,531 in questioned costs we identified.*

Response: Management accepts this recommendation.

DCD will evaluate the additional questioned costs of $245,531 and re-negotiate the applicable indirect rates for the periods FY 2004 through FY 2007 with ATSI as necessary. We foresee these negotiations being completed during the 1st quarter of FY 2011. After these OJC/ETA rates are finalized and negotiation agreements are issued, we will share these outcomes with Job Corps. Job Corps will be able to recalculate allocable indirect costs and applicable overcharges to their contracts noting that this is a close-out function. DCD will be available to Job Corps/ETA for any needed assistance in this process.

The Job Corps Chicago Regional Office, in coordination with the National Office and Regional OASAM Contracting Officer, will require the center operator to provide supporting documentation for the questioned costs in the amount of $1.8 million. In the event that the contractor cannot support the questioned costs, liquidated damages will be assessed. Appropriate information to close this recommendation will be forwarded to the OIG.

We consider this recommendation resolved.

OIG Recommendation 2. *Clarify policy and provide guidance and training to ensure that contracting officers monitor contractor compliance with the FAR regarding the requirement to submit indirect cost proposals to OASAM within six months of the conclusion of each of the contractor's fiscal years.*

Response: Management accepts this recommendation.

During the first quarter of FY 2011, the Procurement Executive will issue a memorandum to all DOL contracting officers highlighting their responsibilities with regard to monitoring contractor compliance with the FAR and contractors' submission of indirect cost proposals as outlined in the Department of Labor Manual Series. In addition, management will add to the regular training regimen for contracting officers, specific instruction on these responsibilities. We believe this specific guidance and training, together with the commitment that DCD will examine the monthly reports from cost negotiators to find areas of possible improvement in monitoring activities, will effectively address this issue.

We consider this recommendation resolved.

OIG Recommendation 3. *Establish a process to ensure timely reimbursement of overcharges resulting from the difference between provisional and approved indirect cost rates.*

Response: Management accepts this recommendation.

During the first quarter of FY 2011, the Office of Job Corps will review its current Policy and Requirements Handbook, Job Corps Center Request for Proposal, and Procurement Compendium to determine if revisions will be needed regarding reimbursement of overcharges resulting from the difference between provisional and approved indirect cost rates. If revisions are necessary, the National Director of Job Corps will communicate to the Job Corps Regional

Directors that Job Corps center operators' Standard Operating Procedure (SOPs) must be updated to reflect the Office of Job Corps' new policy.

We consider this recommendation resolved.

OIG Recommendation 4. *Establish procedures to ensure that the prime contractor is billed for overcharges resulting from the comparison of provisional and indirect cost rates that are submitted by the subcontractor.*

Response: Management accepts this recommendation.

During the first quarter of FY 2011, Job Corps will modify the program's model Request for Proposal to state that the prime contractor will be accountable for overcharges resulting from the comparison of provisional and indirect cost rates that are submitted by the subcontractor. This language will become part of Section G, Financial and Funding Administration, of the contract award.

We consider this recommendation resolved.

OIG Recommendation 5. We also recommend the Assistant Secretary of Employment and Training direct Job Corps to require ATSI: Establish policies and procedures that ensure compliance with FAR and contract requirements for submission of indirect cost proposals

Response: Management accepts this recommendation.

Currently, Job Corps' Policy and Requirements Handbook, Job Corps Compendium for Regional Procurements, and the Job Corps Model Requests for Proposal (RFP) address indirect cost requirements.

The Job Corps Center RFP includes references to FAR 52.216-7 and FAR 42-7 in Section G, Contract Administration Data, Allowable Costs, which directs contractors, with cost reimbursement contracts for educational institutions, to submit cost proposals to their cognizant agency's office of cost determination at the end of each contract year. Specifically, the RFP informs contractors that indirect cost rates shall be negotiated by DCD or other cognizant audit agency as follows--

> "In accordance with Clause 52.216-7, "Allowable Costs and Payment," the contractor shall be reimbursed for allowable, allocable costs incurred in performance of the work under this contract. In addition to reimbursements for direct costs incurred, the contractor shall be reimbursed for indirect costs in accordance with the FAR 42.7, "Indirect Cost Rates." Indirect Cost Rates shall be negotiated by the Department of Labor's Office of Cost Determination or other cognizant audit agency…"

The Job Corps Compendium for Job Corps Regional Procurement addresses indirect costs in Section 4, Contract Administration – Contract Closeout Procedures. This section informs Job

Corps staff that performing contractors are required to obtain final indirect cost rates for each fiscal year of the contract period from their cognizant audit agency.

> "The Performing Contractor shall: 1) Obtain all final indirect cost rates for each fiscal year of the contract period from their cognizant federal agency…"

Based on the current policies and procedures, during the 1st quarter of FY 2011, the National Director of Job Corps will issue a memorandum through the Regional Offices to the Job Corps operators to establish corporate policies and procedures regarding the submission of indirect cost proposals. These new policies and procedures must be in compliance with FAR and contract requirements. Job Corps, in conjunction with the contracting officer, will direct ATSI to establish and implement polices and procedures to ensure compliance with the FAR and contract requirements for indirect cost proposals. The new ETA Office of Procurement will conduct the follow-up after October 24, 2010, when Job Corps' contracting functions fully transfer to ETA.

We consider this recommendation resolved.

Based on the foregoing responses, we anticipate that the audit report's recommendations will be resolved and can be closed upon completion of the corrective actions.

cc: T. Michael Kerr, ASAM
Edna Primrose, Job Corps
Al Stewart, OASAM
Carol Jenkins, OASAM
Victor Lopez, OASAM

Appendix E

ATSI's Response to Draft Report

ATSI
Where the Technology Is People

Penton Media Building
1300 East 9th Street, Suite 1710
Cleveland, OH 44114
(216) 737-0100
Fax (216) 737-0101

September 14, 2010

Operations Management

Elliot P. Lewis, Assistant Inspector General
200 Constitution Avenue, NW
Room S-5512
Washington, D.C. 20210

Dear Mr. Lewis:

Organization Development

The OIG Audit Report for Applied Technology Systems was issued less than 15 business days (August 24).

This audit began in October, 2006 which represents 4 years.

It states or "headlines" **Applied Technology Systems, Inc. Overcharged Job Corps for Indirect Costs.**

Youth Development

The three statements above that refer to when we received the draft; the headline statement and the timeframe for when the audit started are mentioned to establish a perspective relative to this response.

Training & Technical Assistance

The reality is that this audit has gone on for four years and now that a draft report has been produced; OIG is demanding a response back in less than 10 days; ATSI is attempting to comply with this demand. Even though we have experienced a shortage of resources, personal tragedies and workload challenges; we are still in an effort to meet this deadline. The concern is that in the haste to meet the deadlines, ATSI misses the opportunity to conduct its own research, since ATSI was a different company in 2004 and half of 2005. We also forego the opportunity to reference the FAR in defense of the company for clauses that may support our claims. In addition, if it took 4 years for OIG to complete the audit, why wouldn't ATSI have at least 30 days to give an adequate response? Based on items cited between the offices of OIG and DCD there are records, receipts and files that have been disposed of – one in an effort to create an electronic file and one in an effort to create new books as a starting point for the new ATSI. A different accounting staff under different management was responsible for at least two years associated under the years that were audited.

Applied Technology Systems Incorporated

Files have been very hard to retrieve even to the point of resorting to contacting vendors.

In summary, ATSI does have concerns and some different calculations as it relates to OIG findings. What follows are those concerns but they are not as detailed due to what we see as time constraints.

Concerns:

1) As stated before, in an effort to reduce the liability that OIG has cited in its findings, ATSI should be given the opportunity to negotiate its rates within ceiling with the contracting officer based on previously approved rates; and for the approved rates that are higher than the ceiling rates in the contracts for those years. This approach is also supported by the FAR.

   In your headline you say that ATSI overcharged Job Corps. As far as the work at Earl C. Clements and Gary Job Corps respectively ATSI charged the prime operator under a signed agreement. ATSI rates to the prime are not governed by the contract between the prime and Job Corps. This item should be looked into further so that the findings are accurate and is supported by the FAR. If anything if may show that ATSI DID NOT overcharge Job Corps, but there may be some questionable charges to the prime contractor. In those two relationships ATSI does not bill the government/Job Corps.

   OIG ask "Did ATSI comply with federal regulations and contract provisions for reporting indirect costs"? OIG suggest that ATSI did not. This is not a true statement. OIG states that ATSI used provisional rates and violated the FAR by failing to submit ICP's to OSAM and neither Job Corps or OSAM requested the proposals. The fact is that when 2003 final rates were approved, DCD also approved provisional rates through CY 2005. Subsequently, these rates were not implemented in the billing cycle by the prior finance administration. Instead, the rates utilized were the rates agreed upon in the contracts signed by a contracting officer representing the Office of Job Corps.

   As we bidded on contracts going forward, all contracts awarded were awarded with the DCD approved rates. ATSI has never operated a contract without approved and negotiated rates. Even when our rates expired they were still approved in the contracts.

   If accountability is going to be rendered based on negligence in rate submission then all parties involved should be equally held accountable. It is not equitable to place all blame on the operator; especially since all rates were contractually binding.

   Attached is a table that breaks down the rate differences between ATSI calculations and OIG's.

ATSI is still requesting an opportunity to provide back-up for the $245,000 mentioned without supportive documentation. It has already been stated whey this is a request. ATSI is short of resources; need at least 30 days for this response and this is data from 3 to 7 years ago.

Please review tables A, B and C, they illustrate rate comparisons reflecting OIG's findings in relation to ATSI scenarios which include ceiling rates, without the subcontracts in the calculation, and ATSI submission rates as DCD recently approved rates.

There are obviously other things cited that are petty but serious based on the intent on the operator, all should understand.

- My company's car allowance, ATSI must have not done it the right way.
- The partners' consultant agreements were never intended to be charges to be charged; you can check all ATSI tax submissions and see that this is true.

In closing, I want to reiterate that the time constraint did not provide the opportunity to be thorough. If you have any questions, please contact Mr. Gupta or myself.

Sincerely,

Clark V. Hayes
Chief Executive Officer

Cc: PK Gupta, CFO
Bob Richardson, OIG
Ray Armada, OIG

Attachments: Exhibits A, B & C

EXHIBIT A

OIG Final Rate Compare to ATSI's Ceiling Rates

		Overhead			G&A			Overhead			G&A		
		ATSI Submission (Ceiling Rate)			ATSI Submission (Ceiling Rate)			ATSI Submission			ATSI Submission		
CY	Contract	Base	x Rate	= Allowable Costs	Base	x Rate	= Allowable Costs	Base	x Rate	= Allowable Costs	Base	x Rate	= Allowable Costs
2004	Div 2: Cleveland	3,749,756	11.230%	421,098	5,383,634	5.020%	270,258	3,749,756	11.230%	421,098	5,383,634	5.020%	270,258
	Div 3: Gary	4,024,729	8.040%	323,588	5,466,821	5.090%	278,261	4,024,729	10.270%	413,340	5,466,821	6.390%	349,330
	Div 4: MST-CTS	1,085,720	8.750%	95,001	1,898,674	5.090%	96,643	1,085,720	8.750%	95,001	1,898,674	5.020%	95,313
	Div 5: ECC	2,485,389	8.730%	216,974	3,580,725	5.090%	182,259	2,485,389	10.240%	254,504	3,580,725	6.000%	214,844
	Div 6: Detroit	3,680,413	5.430%	199,846	7,419,653	5.000%	370,983	3,680,413	5.430%	199,846	7,419,653	5.000%	370,983
	CY Sub-Totals			**1,256,507**			**1,198,404**			**1,383,788**			**1,300,728**
2005	Div 2: Cleveland (Old)	2,225,519	7.430%	165,356	3,808,200	5.020%	191,172	2,225,519	11.230%	249,926	3,808,200	5.020%	191,172
	Div 2: Cleveland (New)	1,611,583	7.430%	119,741	2,723,875	5.630%	153,354	1,611,583	8.140%	131,183	2,723,875	5.630%	153,354
	Div 3: Gary	3,283,274	3.060%	100,468	4,659,982	6.410%	298,705	3,283,274	10.270%	337,192	4,659,982	6.390%	297,773
	Div 4: MST-CTS	1,036,229	8.750%	90,670	1,922,059	6.000%	115,324	1,036,229	8.750%	90,670	1,922,059	5.460%	104,944
	Div 5: ECC	2,468,487	2.030%	50,110	3,494,478	6.410%	223,996	2,468,487	10.240%	252,773	3,494,478	6.000%	209,669
	Div 6: Detroit	3,685,202	4.110%	151,462	7,133,341	5.000%	356,667	3,685,202	5.430%	200,106	7,133,341	5.000%	356,667
	CY Sub-Totals			**677,807**			**1,339,217**			**1,261,850**			**1,313,579**
2006	Div 2: Cleveland	4,271,645	3.690%	157,624	8,852,818	5.630%	498,414	4,271,645	8.140%	347,712	8,852,818	5.630%	498,414
	Div 4: MST-CTS	439,415	8.000%	35,153	744,329	5.630%	41,906	439,415	8.750%	38,449	744,329	5.630%	41,906
	Div 4: MT-CTS	146,472	8.000%	11,718	248,110	5.630%	13,969	146,472	8.750%	12,816	248,110	5.460%	13,547
	Div 5: ECC	2,230,724	2.520%	56,214	3,115,098	7.000%	218,057	2,230,724	10.240%	228,426	3,115,098	6.000%	186,906
	Div 6: Detroit	3,691,252	5.430%	200,435	7,296,395	5.000%	364,820	3,691,252	5.430%	200,435	7,296,395	5.000%	364,820
	CY Sub-Totals			**461,144**			**1,137,165**			**827,838**			**1,105,592**
2007	Div 2: Cleveland	4,341,593	1.990%	86,398	8,387,366	5.630%	472,209	4,341,593	8.140%	353,406	8,387,366	5.630%	472,209
	Div 4: MT-CTS	709,414	4.610%	32,704	1,020,169	5.630%	57,436	709,414	8.000%	56,753	1,020,169	5.630%	57,436
	Div 5: ECC	2,396,908	0.430%	10,307	3,150,947	6.000%	189,057	2,396,908	10.240%	245,443	3,150,947	6.000%	189,057
	Div 6: Detroit	4,043,484	3.810%	154,057	7,813,790	5.000%	390,690	4,043,484	5.430%	219,561	7,813,790	5.000%	390,690
	Div 7: Jacksonville	3,222,328	5.400%	174,006	6,204,333	5.000%	310,217	3,222,328	5.400%	174,006	6,204,333	5.000%	310,217
	CY Sub-Totals			**457,471**			**1,419,607**			**1,049,169**			**1,419,607**
Sub-Total	ATSI Ceiling Amount			2,852,929			5,094,393						
	ATSI Submission			4,522,646			5,139,506						
	Total by Category			**(1,669,717)**			**(45,113)**						
Sub-Total	ATSI Ceiling Amount			7,947,322									
	ATSI Submission			9,662,151									
	Grand Total			**(1,714,830)**									
Additional OIG Questioned Costs				-									
Total Amount Overcharged				**(1,714,830)**									

EXHIBIT B

OIG Final Rate Compare to ATSI's Provisional (billing) Rates W/O ECC & Gary's Contracts

		Overhead			G&A			Overhead			G&A		
		OIG Calculation			OIG Calculation			ATSI Submission			ATSI Submission		
CY	Contract	Base x	Rate	= Allowable Costs	Base x	Rate	= Allowable Costs	Base x	Rate	= Allowable Costs	Base x	Rate	= Allowable Costs
2004	Div 2: Cleveland	3,749,756	9.514%	356,752	5,383,634	4.130%	222,344	3,749,756	11.230%	421,098	5,383,634	5.020%	270,258
	Div 3: Gary	4,024,729	6.890%	277,304	5,466,821	5.090%	278,261	4,024,729	6.890%	277,304	5,466,821	5.090%	278,261
	Div 4: MST-CTS	1,085,720	8.750%	95,001	1,898,674	5.090%	96,643	1,085,720	8.750%	95,001	1,898,674	5.020%	95,313
	Div 5: ECC	2,485,389	8.730%	216,974	3,580,725	5.090%	182,259	2,485,389	8.730%	216,974	3,580,725	5.090%	182,259
	Div 6: Detroit	3,680,413	5.430%	199,846	7,419,653	5.000%	370,983	3,680,413	5.430%	199,846	7,419,653	5.000%	370,983
	CY Sub-Totals			**1,145,877**			**1,150,489**			**1,210,223**			**1,197,075**
2005	Div 2: Cleveland (Old)	2,225,519	7.430%	165,356	3,808,200	4.130%	157,279	2,225,519	11.230%	249,926	3,808,200	5.020%	191,172
	Div 2: Cleveland (New)	1,611,583	7.430%	119,741	2,723,875	5.630%	153,354	1,611,583	8.140%	131,183	2,723,875	5.630%	153,354
	Div 3: Gary	3,283,274	3.060%	100,468	4,659,982	6.410%	298,705	3,283,274	3.060%	100,468	4,659,982	6.410%	298,705
	Div 4: MST-CTS	1,036,229	8.750%	90,670	1,922,059	5.460%	104,944	1,036,229	8.750%	90,670	1,922,059	5.020%	96,487
	Div 5: ECC	2,468,487	2.030%	50,110	3,494,478	6.000%	209,669	2,468,487	2.030%	50,110	3,494,478	6.000%	209,669
	Div 6: Detroit	3,685,202	4.110%	151,462	7,133,341	5.000%	356,667	3,685,202	5.430%	200,106	7,133,341	5.000%	356,667
	CY Sub-Totals			**677,807**			**1,280,618**			**822,464**			**1,306,054**
2006	Div 2: Cleveland	4,271,645	3.690%	157,624	8,852,818	5.630%	498,414	4,271,645	8.140%	347,712	8,852,818	5.630%	498,414
	Div 4: MST-CTS	439,415	8.000%	35,153	744,329	5.630%	41,906	439,415	8.750%	38,449	744,329	5.630%	41,906
	Div 4: MT-CTS	146,472	8.750%	12,816	248,110	5.460%	13,547	146,472	8.750%	12,816	248,110	5.630%	13,969
	Div 5: ECC	2,230,724	2.520%	56,214	3,115,098	6.000%	186,906	2,230,724	2.520%	56,214	3,115,098	6.000%	186,906
	Div 6: Detroit	3,691,252	5.430%	200,435	7,296,395	5.000%	364,820	3,691,252	5.430%	200,435	7,296,395	5.000%	364,820
	CY Sub-Totals			**462,242**			**1,105,592**			**655,626**			**1,106,014**
2007	Div 2: Cleveland	4,341,593	1.990%	86,398	8,387,366	5.630%	472,209	4,341,593	8.140%	353,406	8,387,366	5.630%	472,209
	Div 4: MT-CTS	709,414	4.610%	32,704	1,020,169	5.630%	57,436	709,414	8.000%	56,753	1,020,169	5.630%	57,436
	Div 5: ECC	2,396,908	0.430%	10,307	3,150,947	6.000%	189,057	2,396,908	0.430%	10,307	3,150,947	6.000%	189,057
	Div 6: Detroit	4,043,484	3.810%	154,057	7,813,790	5.000%	390,690	4,043,484	5.430%	219,561	7,813,790	5.000%	390,690
	Div 7: Jacksonville	3,222,328	5.400%	174,006	6,204,333	5.000%	310,217	3,222,328	5.400%	174,006	6,204,333	5.000%	310,217
	CY Sub-Totals			**457,471**			**1,419,607**			**640,027**			**1,109,391**
Sub-Total	OIG Calculations			2,743,397			4,956,306						
	ATSI Submission			3,328,339			4,718,532						
	Total by Category			**(584,942)**			**237,774**						
Sub-Total	OIG Calculations			7,699,703	*Reconciled to Table 2, page 7, OIG Report*								
	ATSI Submission			8,046,872									
	Grand Total			**(347,168)**									
Additional OIG Questioned Costs				-									
Total Amount Overcharged				**(347,168)**									

EXHIBIT C

ATSI Submission Rate vs. DCD Approved Rate

		Overhead				G&A				Overhead				G&A			
		ATSI Submission				ATSI Submission				ATSI Approved Rate				ATSI Approved Rate			
CY	Contract	Base	x	Rate	= Allowable Costs	Base	x	Rate	= Allowable Costs	Base	x	Rate	= Allowable Costs	Base	x	Rate	= Allowable Costs
2004	Div 2: Cleveland	3,749,756		11.230%	421,098	5,383,634		5.020%	270,258	3,749,756		11.630%	436,097	5,383,634		5.090%	274,027
	Div 3: Gary	4,024,729		10.270%	413,340	5,466,821		6.390%	349,330	4,024,729		8.040%	323,588	5,466,821		5.090%	278,261
	Div 4: MST-CTS	1,085,720		8.750%	95,001	1,898,674		5.020%	95,313	1,085,720		11.730%	127,355	1,898,674		5.090%	96,643
	Div 5: ECC	2,485,389		10.240%	254,504	3,580,725		6.000%	214,844	2,485,389		8.730%	216,974	3,580,725		5.090%	182,259
	Div 6: Detroit	3,680,413		5.430%	199,846	7,419,653		5.000%	370,983	3,680,413		10.000%	368,041	7,419,653		5.090%	377,660
	CY Sub-Totals				**1,383,788**				**1,300,728**				**1,472,056**				**1,208,850**
2005	Div 2: Cleveland (Old)	2,225,519		11.230%	249,926	3,808,200		5.020%	191,172	2,225,519		7.430%	165,356	3,808,200		6.410%	244,106
	Div 2: Cleveland (New)	1,611,583		8.140%	131,183	2,723,875		5.630%	153,354	1,611,583		7.430%	119,741	2,723,875		6.410%	174,600
	Div 3: Gary	3,283,274		10.270%	337,192	4,659,982		6.390%	297,773	3,283,274		3.060%	100,468	4,659,982		6.410%	298,705
	Div 4: MST-CTS	1,036,229		8.750%	90,670	1,922,059		5.460%	104,944	1,036,229		10.430%	108,079	1,922,059		6.410%	123,204
	Div 5: ECC	2,468,487		10.240%	252,773	3,494,478		6.000%	209,669	2,468,487		2.030%	50,110	3,494,478		6.410%	223,996
	Div 6: Detroit	3,685,202		5.430%	200,106	7,133,341		5.000%	356,667	3,685,202		4.110%	151,462	7,133,341		6.410%	457,247
	CY Sub-Totals				**1,261,850**				**1,313,579**				**695,216**				**1,521,858**
2006	Div 2: Cleveland	4,271,645		8.140%	347,712	8,852,818		5.630%	498,414	4,271,645		3.690%	157,624	8,852,818		8.820%	780,819
	Div 4: MST-CTS	439,415		8.750%	38,449	744,329		5.630%	41,906	439,415		9.340%	41,041	744,329		8.820%	65,650
	Div 4: MT-CTS	146,472		8.750%	12,816	248,110		5.460%	13,547	146,472		9.340%	13,680	248,110		8.820%	21,883
	Div 5: ECC	2,230,724		10.240%	228,426	3,115,098		6.000%	186,906	2,230,724		2.520%	56,214	3,115,098		8.820%	274,752
	Div 6: Detroit	3,691,252		5.430%	200,435	7,296,395		5.000%	364,820	3,691,252		5.580%	205,972	7,296,395		8.820%	643,542
	CY Sub-Totals				**827,838**				**1,105,592**				**474,532**				**1,786,645**
2007	Div 2: Cleveland	4,341,593		8.140%	353,406	8,387,366		5.630%	472,209	4,341,593		1.990%	86,398	8,387,366		6.000%	503,242
	Div 4: MT-CTS	709,414		8.000%	56,753	1,020,169		5.630%	57,436	709,414		4.610%	32,704	1,020,169		6.000%	61,210
	Div 5: ECC	2,396,908		10.240%	245,443	3,150,947		6.000%	189,057	2,396,908		0.430%	10,307	3,150,947		6.000%	189,057
	Div 6: Detroit	4,043,484		5.430%	219,561	7,813,790		5.000%	390,690	4,043,484		3.810%	154,057	7,813,790		6.000%	468,827
	Div 7: Jacksonville	3,222,328		5.400%	174,006	6,204,333		5.000%	310,217	3,222,328		6.000%	193,340	6,204,333		6.000%	372,260
	CY Sub-Totals				**1,049,169**				**1,419,607**				**283,465**				**1,222,336**
Sub-Total	OIG Calculations				4,522,646				5,139,506								
	ATSI Submission				2,925,268				5,739,690								
	Total by Category				**1,597,378**				**(600,184)**								
Sub-Total	OIG Calculations				9,662,151	*Reconciled to Table 2, page 7, OIG Report*											
	ATSI Submission				8,664,958	*Reconciled to Actual Submission FY04,FY05,FY06,FY07*											
	Grand Total				**997,194**												
Additional OIG Questioned Costs					(245,531)	*OIG Questionsed Costs, Table 3, page 8, OIG Report*											
Total Amount to ATSI					**751,663**												

Appendix F

Acknowledgements

Key contributors to this report were Ray Armada (Audit Director), Robert Richardson (Audit Manager), James Turkvant (Auditor-in-Charge), Cory Grode, Sheila Lay, Lorenzo Thornton, Travis Williams, and Alvin Edwards.

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