

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**INCURRED COST AUDIT
JAMES BELL ASSOCIATES, INC.
SUBSTANCE ABUSE AND MENTAL
HEALTH SERVICES
ADMINISTRATION'S GRANT
SM52395**



**MAY 2004
A-03-03-03301**

Office of Inspector General

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OAS FINDINGS AND OPINIONS

The designation of financial or management practices as questionable or a recommendation for the disallowance of costs incurred or claimed, as well as other conclusions and recommendations in this report, represent the findings and opinions of the HHS/OIG/OAS. Authorized officials of the HHS divisions will make final determination on these matters.





Memorandum

Date May 18, 2004

From Regional Inspector General for Audit Services

Subject Incurred Cost Audit James Bell Associates, Inc. – Substance Abuse and Mental Health Services Administration’s Grant SM52395 (A-03-03-03301)

To Dan Spears, Financial Advisory Services Officer
Division of Grants Management
Substance Abuse and Mental Health Services Administration

The purpose of this report is to provide you with the results of our audit of costs claimed by James Bell Associates, Inc. (JBA) located in Arlington, Virginia, under Substance Abuse and Mental Health Services Administration’s (SAMHSA) grant SM52395 (the grant) for the period September 1, 2000 to August 31, 2001¹. The grant required JBA to determine the effects of integrated mental health, substance abuse, and HIV/AIDS primary care services on treatment adherence, health outcomes and costs. During grant year 3, JBA submitted public vouchers totaling \$1,015,239, of which \$716,257 reflected direct costs, and \$298,982 indirect costs.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine whether JBA’s costs claimed from September 1, 2000 to August 31, 2001 were allowable, allocable, and reasonable under the terms of the grant and applicable Federal regulations.

This report is for use by SAMHSA Division of Grants Management to assess the cost practices utilized by JBA in administering the grant. SAMHSA grant officials requested this audit in September 2002 because, at the time, JBA had not yet submitted annual financial audits during the grant period, as stipulated in the administrative terms and conditions of the grant award.

To accomplish the audit objective, we interviewed SAMHSA and JBA officials; reviewed applicable administrative, financial, and accounting records; and performed other auditing procedures as necessary. We performed a detailed review of the costs claimed under the grant from September 1, 2000 to August 31, 2001. We used CFR, Title 48, Part 31, “Contract Cost Principles and Procedures”; and the Public Health Service Grants Policy Statement, “Section 8 – Postaward Administration”, and “Appendix 6 – Grants To For-Profit Organizations”; and SAMHSA’s Notice of Grant Award for the budget period September 1, 2000 to August 31, 2001 as our criteria in determining the allowability and reasonableness of claimed costs.

¹ The grant was for a 5-year performance period of September 1, 1998 to August 31, 2003; however, SAMHSA requested that we review only 1 year. We selected the third grant year, September 1, 2000 to August 31, 2001, because, at the time, it was the most recently completed grant year for which finalized financial data was available.

Our review of fringe benefits and indirect costs consisted of identifying the amounts claimed; determining whether the Department of Health and Human Services, Division of Cost Allocation approved the rates; verifying that the approved rates were used to compute the amounts claimed; and, where applicable, determining the amounts related to questioned and unresolved direct costs.

Our assessment of JBA's internal control structure included a limited review of the "Independent Auditor's Report on the Financial Position of James Bell Associates, Inc, as of December 31, 2001, 2000, and 1999"; the "Independent Auditor's Report on Compliance and on Internal Control over Financial Reporting Based on an Audit of Financial Statements Performed in Accordance with Government Auditing Standards"; and the "Independent Auditor's Report on Compliance with Requirements Applicable to each Major Program and on Internal Control over Compliance in Accordance with OMB Circular A-133", all dated December 13, 2002.

The audit was performed in accordance with generally accepted government auditing standards. Audit fieldwork was performed intermittently from November 2002 to September 2003 at JBA's office in Arlington, Virginia. We discussed the preliminary results of our audit with JBA officials on January 10, 2003. We contacted JBA officials by letter on July 23, 2003 and by phone on August 14, 2003 to obtain additional information to resolve outstanding issues.

RESULTS OF AUDIT

We determined that \$811,968 of the \$1,015,239 in total costs claimed for grant performance was reasonable, allowable, and adequately supported; and concluded that \$203,271 requires further review and adjudication by SAMHSA. The \$203,271 comprises \$174,724 that we did not accept and have recommended for adjustment; and \$28,547 that we have set aside for SAMHSA adjudication.

We noted that JBA did not have adequate accounting policies, procedures, and practices for recording costs timely; or for supporting costs adequately with the proper documentation. Specifically, JBA did not timely record costs charged against the grant; did not always document the methodology used to allocate these costs; and did not maintain adequate documentation to validate the costs claimed. For details on the results of the audit, please see Appendix A.

In its November 28, 2003 written comments to our October 23, 2003 draft report, JBA refuted the majority of our audit results and provided additional documentation to support its position. We have summarized and responded to JBA's comments in Appendix A. The full text of JBA's comments, except for information that is exempt under FOIA, is included as Appendix B.

RECOMMENDATIONS

We recommend that SAMHSA ensure that JBA takes action to:

1. refund to SAMHSA, \$174,724 in costs that were not allowable;
2. provide additional documentation to SAMHSA for \$28,547 in costs that were unresolved; or refund to SAMHSA those unresolved costs for which no additional documentation is available; and
3. develop and implement accounting policies and procedures to ensure adherence to applicable Federal regulations and Public Health Service Grants Policy requirements.

To facilitate identification, please refer to Report Number A-03-03-03301 in all correspondence relating to this report. Any inquiries concerning this report should be directed to Christine Allen, Audit Manager, at (301) 594-6370.



Stephen Virbitsky

APPENDICES

Statement of Costs Claimed and Auditor's Related Recommendation
James Bell Associates, Inc.
Arlington, Virginia
SAMHSA Grant No. SM52395
Report Number: A-03-03-03301

A	B	C	D	E	F
Cost Elements	Claimed	Recommended for Acceptance	Amount Not Accepted	Set Aside for Adjudication	Notes
Subcontractors	\$171,150	\$95,373	\$75,777	\$0	1
Direct Labor	243,453	242,691	762	0	2
Fringe Benefits	████████	████████	████████	0	3
Travel	17,091	3,450	6,226	7,415	4
Consultants	77,727	33,990	43,737	0	5
Other Direct Costs	104,585	38,744	44,709	21,132	6
General & Administrative Costs (G&A)	████████	████████	████████	0	7
Total	\$1,015,239	\$811,968	\$174,724	\$28,547	

NOTES:**1. Subcontractors**

We are not accepting and are recommending for adjustment subcontractor costs totaling \$75,777. This amount comprises \$27,982 incurred in grant year 2 but improperly claimed in grant year 3; \$16,554 incurred prior to one subcontract's effective date; \$16,050 claimed for which there was no signed subcontract; and \$15,191 for which JBA provided no documentation to validate the claimed costs.

According to the Code of Federal Regulations, Title 48, Subpart 31.2d, Contract Cost Principles and Procedures, Contracts with Commercial Organizations (48 CFR, Subpart 31.2d), "A contractor is responsible for accounting for costs appropriately and for maintaining records, including supporting documentation, adequate to demonstrate that costs claimed have been incurred, are allocable to the contract, and comply with applicable cost principles"

JBA Comments

JBA concurred with disallowance of \$15,191, but did not concur with \$60,586, as follows: Acknowledged \$27,982 was incurred in grant year 2 but claimed in grant year 3. Stated that, if requested by SAMHSA, it will amend its financial filings with SAMHSA for grant years 2 and 3. Acknowledged \$16,554 was claimed prior to the subcontract's effective date, but was allowable as per FAR 31.205-32 regarding Pre-contract Costs. Acknowledged \$16,050 was claimed for a subcontract that was not signed due to an administrative oversight; provided a signed subcontract to validate costs claimed.

OIG Response

Finding of \$75,777 stands: JBA did not comply with PHS Grants Policy Statement 8: Postaward Administration for \$27,982 claimed; FAR did not apply to the \$16,554 claimed; and the signed subcontract was dated November 24, 2003 for the \$16,050 claimed.

2. Direct Labor

We are not accepting and are recommending for adjustment \$762 in direct labor costs. This amount represents direct labor costs claimed for one employee that was not adequately supported by the timesheets that JBA had submitted. JBA did not act in accordance with 48 CFR, Subpart 31.2d, cited above.

JBA Comments

Of the \$1,685 initially disallowed, JBA concurred with \$923.40, but did not concur with the remaining \$761.60. JBA provided a timesheet to support the claimed cost.

OIG Response

Finding reduced from \$1,685 to \$762. Timesheet supported an additional \$923 in direct labor costs. JBA miscalculated the amount it had conceded.

3. Fringe Benefits

Fringe benefits costs associated with the direct labor costs not accepted and recommended for adjustment in Item 2 totaled [REDACTED].

JBA Comments

Of the [REDACTED] initially disallowed, JBA concurred with [REDACTED], but did not concur with the remaining [REDACTED] because of timesheet provided to support Item 2.

OIG Response

Finding reduced from [REDACTED] to [REDACTED] as related to item 2. JBA miscalculated the amount it had conceded.

4. Travel

We are not accepting and are recommending for adjustment \$6,226 in travel costs. This amount comprises \$3,274 for which JBA provided only a reconciliation to validate the claimed costs; \$2,874 in one consultant's travel costs for which JBA did not provide the related consultant agreement; and \$78 that was incurred in grant year 2 but improperly claimed in grant year 3. JBA did not act in accordance with 48 CFR, Subpart 31.2d, cited above.

We are also setting aside \$7,415 in travel costs for SAMHSA adjudication. This amount represents travel costs for which JBA provided only a reconciliation, credit card statements, cancelled checks, and bank statements, which did not adequately substantiate that these costs were incurred in conjunction with the grant. JBA did not act in accordance with 48 CFR, Subpart 31.2d, cited above.

JBA Comments

JBA did not concur with disallowance of \$6,226, as follows: Stated \$3,274 represented valid travel expenses and provided a reconciliation to support the claimed costs; acknowledged \$2,874 was claimed under a consulting agreement that had lapsed due to an administrative oversight and that the consulting agreement was reestablished with the consultant; and acknowledged \$78 was incurred in grant year 2, but claimed in grant year 3. Stated that, if requested by SAMHSA, it will amend its financial filings with SAMHSA for grant years 2 and 3.

JBA did not concur with set aside of \$7,415 and provided a reconciliation to support the claimed costs.

OIG Response

Finding of \$6,226 stands: Reconciliation did not support the \$3,274 claimed; JBA did not provide consulting agreement for the \$2,874 claimed; and did not comply with PHS Grants Policy Statement 8: Postaward Administration for the \$78 claimed.

Finding of \$7,415 stands: Reconciliation did not support the \$7,415 claimed.

5. Consultants

We are not accepting and are recommending for adjustment \$43,737 in consultant costs. This amount represents \$22,938 incurred prior to one consultant agreement's effective date; \$14,739 claimed for which there were no signed consultant agreements (two instances); \$3,220 incurred for two consultants in grant year 2 but improperly claimed in grant year 3; \$2,600 related to a rate increase for one consultant that was not supported by the consultant agreement; and \$240 for one consultant for which JBA provided no documentation to validate the claimed costs.

JBA did not act in accordance with 48 CFR, Subpart 31.2d, cited above. Further, Title 48 CFR, Subpart 31.205-33(e)(4)(f), Professional and Consultant Service Costs, requires, in part, that fees for services rendered shall be allowable only when supported by evidence of the nature and scope of the service furnished. Evidence shall include: details of all agreements with the individuals or organizations providing the services and details of actual services performed; and invoices submitted by consultants, including sufficient detail as to the time expended and nature of the actual services provided.

JBA Comments

JBA concurred with disallowance of \$240, but did not concur with the remaining \$43,497, as follows: Acknowledged \$37,677 was claimed under three consulting agreements that had lapsed due to an administrative oversight; stated that the consulting agreements were reestablished with the consultants. Acknowledged \$3,220 was incurred in grant year 2 but claimed in grant year 3. Stated that, if requested by SAMHSA, it will amend its financial filings with SAMHSA for grant years 2 and 3. Acknowledged \$2,600 claimed for one consultant's rate increase was not supported by a modification due to an administrative oversight, but asserted the rate increase totaled \$1,075.

OIG Response

Finding of \$43,737 stands: JBA did not provide the three consulting agreements for the \$37,677 claimed; did not comply with PHS Grants Policy Statement 8: Postaward Administration for \$3,220 claimed; and did not provide a modified contract for the \$2,600 claimed. JBA miscalculated the amount representing the rate increase.

6. Other Direct Costs

We are not accepting and are recommending for adjustment \$44,709 in other direct costs; and are also setting aside \$21,132 in other direct costs for SAMHSA adjudication. JBA did not act in accordance with 48 CFR, Subpart 31.2d, cited above.

OTHER DIRECT COSTS	AMOUNTS		NOTE
	NOT ACCEPTED	SET ASIDE	
Other Miscellaneous ²	\$31,451		6A
Conference Calls	5,992		6B
Printing and Reproduction	5,344	\$21,132	6C
Postage and Courier	1,796		6D
Telephone and E-Mail	126		6E
TOTAL	\$44,709	\$21,132	

6A. Other Miscellaneous

We are not accepting and are recommending for adjustment \$31,451 in other miscellaneous costs. This amount comprises \$24,213 claimed for employees that were not listed on the service agreement; \$6,339 claimed for which there was no signed service agreement; and \$898 for which JBA provided no documentation to validate the claimed costs.³

JBA Comments

JBA did not concur with disallowance of \$33,814 stating that it is not required to list names of employees on service agreement for \$24,213 claimed; is not required to have a service agreement in place for \$6,339 claimed; issued a credit for the duplicate invoice of \$2,363 claimed; and provided a reconciliation to support the \$898 claimed.

JBA did not concur with set aside of \$5,922 and provided documentation to support the claimed costs.

OIG Response

Finding reduced by \$2,363 to \$31,451: JBA did not adhere to the terms of the subcontract agreement regarding identifying additional personnel for \$24,213 claimed; JBA did not comply with Title 48 CFR, Subpart 31.205-33(e)(4)(f) regarding Professional and Consultant Service Costs for \$6,339 claimed; and reconciliation did not support the \$898 claimed.

Finding of \$5,922 set aside reduced to zero.

² This cost category represents two service agreements

³ Difference due to rounding

6B. Conference Calls

We are not accepting and are recommending for adjustment \$5,992 in conference call costs. This amount represents \$5,555 for which JBA provided invoices attributed to personnel who were not listed on the grant; \$322 incurred in grant year 2 but improperly claimed in grant year 3; and \$115 for which JBA provided no documentation to validate the claimed costs.

JBA Comments

JBA did not concur with disallowance of \$5,992 stating that \$5,555 claimed represented conference calls for sub-committee meetings in support of grant; provided a list of participants and their duties. Acknowledged \$322 was incurred in grant year 2, but claimed in grant year 3. Stated that, if requested by SAMHSA, it will amend its financial filings with SAMHSA for grant years 2 and 3. Stated \$115 claimed was associated with coordination and conference activities for grant.

OIG Response

Finding of \$5,992 stands: Documentation did not support the \$5,555 claimed; JBA did not comply with PHS Grants Policy Statement 8: Postaward Administration for \$322 claimed; and JBA provided no support for the \$115 claimed.

6C. Printing and Reproduction

We are not accepting and are recommending for adjustment \$5,344 in printing and reproduction costs. JBA provided no documentation to validate the claimed costs.

We are also setting aside for SAMHSA adjudication \$21,132 in printing and reproduction costs for which JBA provided bank statements, cancelled checks, and an invoice that did not adequately substantiate that these costs were incurred in conjunction with the grant.

JBA Comments

JBA did not concur with disallowance of \$5,344 stating that the costs claimed were associated with printing and reproduction work for the grant.

JBA did not concur with set aside of \$21,132 and provided documentation to support the claimed costs.

OIG Response

Finding of \$5,344 disallowance stands: JBA did not provide documentation to validate the claimed costs.

Finding of \$21,132 set aside stands: Documentation provided did not validate the claimed costs.

6D. Postage and Courier

We are not accepting and are recommending for adjustment \$1,796 in postage and courier costs. This amount represents \$849 in one consultant's costs for which JBA did not provide the related consultant agreement; \$500 for which JBA provided no documentation to validate the claimed costs; and \$447 for which JBA provided invoices attributed to personnel who were not listed on the grant.

JBA Comments

JBA did not concur with disallowance of \$1,796: Acknowledged that \$849 claimed was associated with a consultant whose agreement had lapsed due to oversight; and stated that the \$500 and \$447 claimed were for grant-necessitated work.

OIG Response

Finding of \$1,796 stands: JBA did not provide consulting agreement for \$849 claimed; and did not provide documentation to validate \$500 and \$447 claimed.

6E. Telephone and E-Mail

We are not accepting and are recommending for adjustment \$126 in telephone and e-mail costs. This amount represents one consultant's costs for which JBA did not provide the related consultant agreement.

JBA Comments

JBA did not concur with disallowance of \$126: Acknowledged that \$126 claimed was associated with a consultant whose agreement had lapsed due to oversight.

OIG Response

Finding of \$126 stands: JBA did not provide consulting agreement for \$126 claimed.

7. G&A Costs

G&A costs associated with subcontractor costs (Item 1), direct labor (Item 2), and fringe benefits (Item 3) not accepted and recommended for adjustment totaled \$3,193 as follows:

- ✓ Subcontractors - \$2,273 [REDACTED]
- ✓ Direct Labor - \$648 [REDACTED]
- ✓ Fringe Benefits - \$272 [REDACTED]

JBA Comments

JBA concurred with disallowance of \$1,571, but did not concur with disallowance of \$2,736. Based on JBA's comments on Items 1 through 3 above, it recalculated disallowed G&A costs to be as follows: \$456 for subcontractors [REDACTED]; \$785 for direct labor [REDACTED]; and \$330 for fringe benefits [REDACTED].

OIG Response

Finding reduced from \$4,307 to [REDACTED] as a result of applying G&A rate to revised disallowances for direct labor and fringe benefits.



***ALL REDACTIONS CONTAINED
HEREIN ARE COVERED BY FOIA
EXEMPTION (B)(4)**

November 28, 2003

Department of Health & Human Services
Office of the Inspector General
Office of Audit Services
150 S. Independence Mall West
Suite 316
Philadelphia, Pennsylvania 19106-3499

Mr. Stephen Virbitsky
Regional Inspector General for Audit Services
Report Number: A-03-03-03301

Dear Mr. Virbitsky:

James Bell Associates, Inc., (JBA) received two copies of the Department of Health and Human Services (HHS), Office of Inspector General draft report entitled, Incurred Cost Audit of James Bell Associates, Inc. Substance Abuse and Mental Health Services (SAMHSA) Grant SM52395. As indicated, the JBA formal response will be summarized in the body of the HHS IG report, and included in its entirety as an appendix. The JBA response is categorized in three areas: A. Freedom of Information; B. Compliance; and C. Audit Results and Recommendations. The response consists of this letter with facts that address each item raised in your letter, and a two volume set of attachments that provide additional corresponding detail. Per the attached email, at Tab A. "Approved submission extension date", Ms. Christine Allen extended the date to submit our written comments to November 30, 2003.

A. Freedom of Information.

JBA hereby advises the HHS that in accordance with the report statement "*Services reports are made available to members of the public to the extent that information contained therein is not subject to exemption in the Act (45 CFR Part 5),*" JBA considers that the JBA data that is proposed to be released to the general public is exempt from release because it includes "trade secrets and commercial or financial information obtained from any person and privileged or confidential."

The Freedom of Information Act (P.L. 89-487) specifically exempts certain documents and data: "*EXEMPTIONS.—The provisions of this section shall not be applicable to*

matters that are... (4) trade secrets and commercial or financial information obtained from any person and privileged and confidential:...(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy:..."

The Federal Acquisition Regulation supports this concept. FAR 5f.401 states "(b) Contracting officers may make available maximum information to the public, except information--... (2) Received in confidence from an offeror; (3) Otherwise requiring protection under Freedom of Information Act (see subpart 24.2) or Privacy Act (see subpart 24.1); ... (c) This policy applies to all Government personnel who participate directly or indirectly in any stage of the acquisition cycle." The JBA business data provided to HHS in the proposal and incurred costs reporting was provided to HHS in confidence and was not expected to be made available to competitors or the general public. The FAR admonition on release applies to Inspector General reports. FAR 22.406-6 also advises that "Contractor payroll records in the Governments possession must be carefully protected from any disclosure which is not required by law, since payroll records may contain information in which the contractor's employees have a privacy interest, as well as information in which the contractor may have a proprietary interest that the Government may be obliged to protect. Questions concerning release of this information may involve the Freedom of Information Act."

B. Compliance.

SAMHSA grant officials requested the audit in September 2002, because, at the time, JBA had not submitted annual financial audits during the grant period, as stipulated in the administrative terms and conditions of the grant award.

In February 2003, JBA submitted to SAMHSA the financial statements and reports of Independent Certified Public Accountants, Linton, Shafer & Company, P.A. for the years ending December 31, 2001, 2000, 1999. The audit met the requirements of OMB Circular A-133. The data collection forms for each year audited, as required by OMB Circular A-133 were electronically filed on February 6, 2003. The bound financial statements and audit reports, with signed original collection forms, were submitted to the Federal Audit Clearinghouse, Bureau of Census, 1201 E 10th Street, Jeffersonville, IN 47132, on February 13, 2003. Mr. Frederick S. Price, Financial Advisory Services Officer, Grants Management Branch, SAMHSA acknowledged, in writing, on February 21, 2003 that JBA was in compliance with Title 45, Part 74.26(d)(1).

In September 2003, JBA submitted to SAMHSA the financial statements and reports of Independent Certified Public Accountants, Linton, Shafer, & Company, P.A. for the year ending December 31, 2002. The audit met the requirements of OMB Circular A-133. The data collection forms for the year audited, as required by OMB Circular A-133, were electronically filed on September 29, 2003. The bound financial statements and audit

reports, with signed original data collection forms, were submitted to the Federal Audit Clearinghouse, Bureau of Census, 1201 E 10th Street, Jeffersonville, IN 47132, on September 2003. JBA remains in compliance with Title 45, Part 74.26(d)(1).

C. Audit Results and Recommendations.

During grant year three, JBA submitted public vouchers totaling \$1,015,239, of which \$716,257 reflected direct costs, and \$298,982 indirect costs. The HHS IG auditor has stated that \$801,258 of the costs claimed in the grant year audited are reasonable, allowable, and adequately supported. They contended that \$213,981 require further review and adjudication by SAMHSA. The \$213,981 comprises \$179,512 that the HHS IG recommends for adjustment and \$34,469 set aside for SAMHSA adjudication. The recommendations and JBA responses to those recommendations follow:

“Recommendation 1. Refund to SAMHSA, \$179,512.00, in costs that were not allowable.” The \$179,512 is subdivided into seven cost elements: subcontractors \$75,777; direct labor \$1,685; fringe benefits [REDACTED]; travel \$6,226; consultants \$43,737; other direct costs \$47,072; and general & administrative costs \$4,307.

C.1. JBA non-concurs with Recommendation 1. Cost Element, subcontractors, \$75,777. Tab B, Subcontractor Support Documentation, provides additional documentation for this cost element.

- | | |
|----------|---|
| \$27,982 | “Costs incurred in grant year 2, but improperly claimed in grant year 3”. The costs were for work performed by [REDACTED], and [REDACTED], [REDACTED] under a subcontract to support the cooperative research program supported by JBA under Grant SM52395 and therefore should be allowed. If requested by SAMHSA, JBA will amend its financial filings with SAMHSA for grant years 2 and 3. (See Tab B., pages b.1. through b.17.) |
| \$16,554 | “Costs incurred prior to the subcontractor’s effective date”. The cost should be allowed. [REDACTED] and [REDACTED] initiated programs that were essential to the success of the Cost Study. [REDACTED], developing medication coding instructions, designing baseline data coding and quality assurance manuals, and creating data dictionaries and multi-site optional instruments. [REDACTED] starting the assessment of the feasibility of implementing a Web-based data entry system for a multi-site data entry convention. The work performed by these subcontractors was absolutely essential to the success of the cost study. The |

subcontract agreement between JBA and [REDACTED] defining the effective dates of performance from the effective date of the grant through August 31, 2001 is attached. (See Tab B., pages b.17.a. and b.18 through b.32)

According to the Federal Acquisition Regulation (FAR) 31.205-32, Pre-contract Costs, "*Precontract costs means costs incurred before the effective date of the contract directly pursuant to the negotiation and in anticipation of the contract award when such incurrence is necessary to comply with the proposed contract delivery schedule. These costs are allowable to the extent that they would have been allowable if incurred after the date of the contract (see 31.109).*" This provision essentially has two requirements, that were met, for precontract costs to be allowable: (1) The cost must be necessary to comply with the proposed contract delivery schedule and (2) The cost is one that would have been allowable if incurred after the date of the contract.

Often there is a stigma incorrectly applied to pre-contract costs. In the past, cost regulations have discouraged incurrence of pre-contract costs; however, the practicalities of delayed negotiations and the need to meet a mutually desired delivery schedule make pre-contract costs necessary and desirable by both the government and a contractor.

The need for pre-contract costs has been reinforced in various Board of Contract Appeals decisions. In Radant Technologies, Inc., June 13, 1991, ASBCA NO 38324, 91-3 BCA 24,206, the Board ruled that a contractor reasonably incurred pre-contract costs, despite explicit statements by the government that pre-contract costs were not authorized, because the solicitation's short delivery period required the contractor to begin its efforts before the contract was awarded. Although, the contract's delivery schedule gave sufficient time to manufacture the product after award, the contract also required a final report on the product to be delivered at an earlier date, and it was necessary to complete the product in order to prepare the report. The government did not need the report on the scheduled date, because the test schedule for the product was changed. However, the test for compensable pre-contract costs is not whether it was actually necessary to incur the costs before award, but whether the contractor reasonably believed

it to be necessary in order to comply with the contractor's delivery schedule. The government did not inform the contractor of the change in the schedule for testing or amend the date for delivery of the report.

In AT&T Technologies, Inc., Oct 16, 1989, DOT BCA No. 2007, 90-1 BCA 22,380, the board affirmed an earlier decision that awarded the pre-contract costs incurred by a contractor even though the contract made no mention of pre-contract costs, because the government benefited from the contractor's incurrence of the costs, and the costs were incurred directly pursuant to negotiations. Pre-contract work performed by the contractor that went beyond the bare framework of the proposals and that was required for completion of the contract benefited the government, and the costs were incurred as a result of the solicitation and award process.

\$16,050 "Claimed for which there was no signed subcontract." This cost should be allowed. This is software development performed by [REDACTED]. This was an administrative oversight and the contract is now signed. (See Tab B, pages b.33 through b.52.)

\$15,191 "For which James Bell provided no documentation to validate the claimed costs. An additional document search was unable to produce the required validation. JBA concedes this cost.

C.2. JBA non-concurs with Recommendation 1. Cost Element, direct labor, \$1,685. Tab C, Direct Labor Support Documentation, provides additional documentation for this cost element.

\$1,685 "This amount represents direct labor costs claimed by one employee that was not adequately supported by time sheets that James Bell had submitted." This is time billed for [REDACTED], a JBA employee. The amount billed was \$4,024.48, the amount supported by timesheets is \$3,262.68. JBA concedes a cost of [REDACTED]. (See Tab C., pages c.1 through c.4.)

C.3. JBA non-concurs with Recommendation 1. Cost Element, fringe benefits, \$708. Tab D, Fringe Benefit Support Documentation, provides additional documentation for this cost element.

[REDACTED] "Fringe benefit costs associated with the direct labor costs not accepted and recommended for adjustment." [REDACTED]. The fringe benefit refund should actually be computed on the amount of direct labor to be refunded. JBA concedes [REDACTED]. (See Tab D., page d.1.)

C.4. JBA non-concurs with Recommendation 1. Cost Element, travel, \$6,226. Tab E, Travel Support Documentation, provides additional documentation for this cost element.

\$3,274 “James Bell provided no documentation to validate the costs claimed.” This cost should be allowed. All costs were incurred in support of the SAMHSA grant and represent travel expenses for staff and consultants to attend regional conferences and coordination center meetings. A detailed travel reconciliation for the audited period is attached that fully or partially reconciles the traveler to a destination or the American Express invoice (See Tab E., pages e.1 through e.208). Other than Mr. Bell, all personnel identified in the travel reconciliation are JBA staff or consultants authorized to travel for the SAMHSA grant, and who were employed only in conjunction with the SAMHSA grant. The reconciliation process has been re-engineered and flow charts (See Tab I., page i.2.) are attached to explain the current process and improved reconciliation system. JBA believes this will clarify future reconciliation of travel expenses and American Express invoices where travel expenses were charged.

\$2,874 “One consultant’s travel costs for which James Bell did not provide the related consultant agreement.” This cost should be allowed. The consultant, [REDACTED], had a consulting agreement which lapsed. [REDACTED] works directly with the sites to insure that diagnosis are correct and patients are adhering to HIV medications. The intent of JBA was that the consultants work would be continuous, and the lapsed contract was an oversight. The consultant rendered the services and invoiced JBA for the services provided. The consultant was paid for the services and the program benefited from the services provided. Subsequently a consulting agreement was reestablished with [REDACTED].

\$78 “Cost that was incurred in grant year two but improperly claimed in grant year three.” The costs were for travel taken by [REDACTED] for a steering committee meeting in Washington DC on 24-25 July 2000 authorized under a consulting agreement to support the cooperative research program supported by JBA under Grant SM52395 and therefore should be allowed. If requested by SAMHSA, JBA will amend its financial filings with SAMHSA for grant years 2 and 3.

C.5. JBA non-concurs with Recommendation 1. Cost Element, consultants, \$43,737. Tab F, Consultant Support Documentation, provides additional documentation for this cost element.

- \$22,938 “Costs incurred prior to one consultant agreement’s effective date.” This cost should be allowed. The consultant, [REDACTED] had a consulting agreement which lapsed. The intent of JBA was that the consultant’s work would be continuous, and the lapsed contract was an oversight. The consultant rendered the services and invoiced JBA for the services provided. [REDACTED] services included coordination of multi-site study communications and meeting organization, tracking of all incoming data collection instruments, and data entry for the client assessment battery and intervention service records. The consultant was paid for the services and the program benefited from the services provided. Subsequently a consulting agreement was reestablished with [REDACTED].
- \$14,739 “No signed consultant agreements.” This cost should be allowed. The first consultant, [REDACTED] had a consulting agreement which lapsed. The intent of JBA was that the consultant’s work be continuous, and the lapsed contract was an oversight. [REDACTED]. The consultant rendered the services and invoiced JBA for the services provided. The consultant was paid for the services and the program benefited from the services provided. Subsequently, a consulting agreement was reestablished with [REDACTED]. The second consultant, [REDACTED] performed a specific service for the grant. He provided quality assurance reviews of SCID interviews. The intent of JBA was that a consultant agreement be in place. The absent agreement was an oversight. The consultant rendered the services and invoiced JBA for the services provided. The consultant was paid for the services and the program benefited from the services provided. The only relationship that JBA had with these consultants was for their participation in the cost study. A record of [REDACTED] invoices and JBA payments is attached (See Tab F., pages f.37 through f.70). A record of [REDACTED] invoices and JBA payments is attached (See Tab F., pages f.71 through f.80).
- \$3,220 “Incurred for two consultants in grant year two but improperly claimed in grant year 3.” The costs were for services provided by [REDACTED] and [REDACTED] authorized under consulting agreements to support the cooperative research program supported by JBA under Grant SM52395 and therefore should be allowed. The invoices (See Tab F., pages f.81 through f.84) cover a three month period for each consultant, part of the period is in grant year 2. If requested by SAMHSA, JBA will amend its financial filings with SAMHSA for grant years 2 and 3.

- \$2,600 “Related to a rate increase for one consultant that was not supported by the consultant agreement.” This cost should be allowed. A [REDACTED] increase in rate was approved effective March 2, 2001. The billing from the consultant, [REDACTED], on May 1, for the months of March and April 2001 reflected this increase. The absent modification for this rate increase was an oversight. The consultant rendered the services and invoiced JBA for the services provided. A JBA computation of the amount associated with the rate increase is attached. JBA believes the actual amount to be \$1075. The consultant was paid for the services and the program benefited from the services provided. (See Tab F., page f.85)
- \$240 “For one consultant for which James Bell provided no documentation to validate the claimed costs.” An additional document search was unable to produce the required validation. JBA concedes this cost.

C.6. JBA non-concurs with Recommendation 1. Cost Element, other direct costs, \$47,072. Tab G, Other Direct Cost Support Documentation, provides additional documentation for this cost element.

- \$24,213 “Claimed for employees that were not listed on the service agreement.” This cost should be allowed. MACI provided data input services for the grant; an essential process for the study. The data entry activity is generic in nature and MACI did provide high quality service, but did not state the names of their personnel who would do the data entry, nor was this required by either the grant or the subcontract agreement. The invoices from MACI do reflect the names of MACI personnel and the hours they devoted to data entry. The names also help to corroborate double-data entry by two different people, an essential step in assuring high quality scientific data. Those names are additional documentation to the invoice, not professional staff or consultants dedicated and named for the study effort. (See Tab G., pages g.1 through g.13)
- \$6,339 “Claimed for which there was no signed service agreement.” This cost should be allowed. A service agreement is not required. This amount represents incurred cost to “Hire Standard” a local temp agency. The use of temporary personnel is a common commercial practice. There are many buyers and sellers in the temporary labor marketplace, who purchase such services on an “as needed, as required” basis. The temps were used for processing data entry backlog. As such, temporary labor becomes a market item not

	necessitating a specific agreement with any temporary labor provider. (See Tab G., pages g.14 through g.50)
\$2,363	“That was a duplicate claim.” This is not a duplicate claim. Invoices were issued in June and July for this amount in association with incurred costs for MACI services. The July billing (invoice 33) was the second billing of the June invoice. The error was discovered in August and a credit was issued (invoice 34) for the duplicate invoice. The reconciliation showing this correction is attached. (See Tab G., page g.51)
\$898	“For which James Bell provided no documentation to validate the claimed costs.” This cost should be allowed. The amount referenced is the net number of billing adjustments made in August 2001. The reconciliation of those adjustments is attached at page g.51.a.
\$5,555	“For which James Bell provided invoices attributed to personnel who were not listed on the grant.” This cost should be allowed. The JBA conference call provider is “Chorus Call”. Their invoices are attached. In all cases the conference calls were sub-committee meetings in support of the research grant. The host could be an investigator not listed in James Bell Associates grant for the cooperative research program, but who is a bona-fide participant in the study. Attached is a list of Chorus Call participants and their duties. (See Tab G. page g.52, g.53)
\$322	“Incurred in grant year two but improperly claimed in grant year three.” The costs were for conference call services provided by “Chorus Call”. The vendors billing cycle included two calendar days from grant year two. If requested by SAMHSA, JBA will amend its financial filings with SAMHSA for grant years 2 and 3. (See Tab G., pages g.57, g.58)
\$115	“For which James Bell provided no documentation to validate the claimed costs.” The cost should be allowed. Chorus Call is the service provider. All Chorus Call usage is associated with coordination and conference activities for the SM52395 grant.
\$5,344	“James Bell provided no documentation to validate these claimed costs.” This cost should be allowed. Costs are associated with printing and reproduction work for the grant. An extensive amount of print work was required to produce Intervention Service Records and Client Assessment Batteries, some of which were 150 pages in length. In addition, the total volume of printed hard copy documents exceeded 700,000 individual sheets of paper, uniquely

numbered for data processing quality assurance purposes. Several print vendors were used to support the study initiatives.

- \$849 “One consultant’s costs for which James Bell did not provide the related consultant agreement.” This cost should be allowed. These are postage and courier costs incurred by [REDACTED]. [REDACTED]. As such, much of the coordination and contact with the study participants is done through the mail. The consultant, [REDACTED], had a consulting agreement which lapsed. The intent of JBA was that the consultant’s work be continuous, and the lapsed contract was an oversight. The consultant rendered the services and invoiced JBA for the services provided. The consultant was paid for the services and the program benefited from the services provided. Subsequently a consulting agreement was reestablished with [REDACTED]. (See Tab G., page g.59)
- \$500 “For which James Bell provided no documentation to validate the claimed costs.” This cost should be allowed. These are postage and courier costs, in small individual amounts, applicable to the grant, required by continuing and essential contact and coordination with the research staff and with study participants. This is a routine, administrative task done in conjunction with grant-necessitated work.
- \$447 “For which James Bell provided invoices attributed to personnel who were not listed on the grant.” These costs should be allowed. These are courier costs applicable to the grant. In all cases the sender of these items was an employee of JBA whose name was used to prepare the Federal Express or UPS pick-up and delivery document. This is a routine, administrative task done in conjunction with grant-necessitated work.
- \$126 “One consultant’s costs for which James Bell did not provide the related consultant agreement.” These costs should be allowed. These are telephone costs incurred by [REDACTED]. The consultant, [REDACTED], had a consulting agreement which lapsed. The intent of JBA was that the consultant’s work be continuous, and the lapsed contract was an oversight. The consultant rendered the services and invoiced JBA for the services provided. The consultant was paid for the services and the program benefited from the services provided. Subsequently a consulting agreement was reestablished with [REDACTED]. (See Tab G., page g.60)

C.7. JBA non-concurs with Recommendation 1. Cost Element, general & administrative costs, \$4,307. Tab H, General and Administrative Support Documentation, provides additional documentation for this cost element. The actual amounts of disallowance are computed as follows:

\$2,273	Subcontractor G&A. JBA concedes only the amount of \$15,191, so the computed disallowance is [REDACTED].
\$1,432	Direct Labor G&A. JBA concedes only the amount of [REDACTED], so the computed disallowance is [REDACTED].
\$602	Fringe Benefits G&A. JBA concedes only the amount of \$388, so the computed disallowance is [REDACTED].

C.8. "Recommendation 2. Provide additional documentation to SAMHSA for \$34,469.00 in costs that were unresolved; or refund to SAMHSA those unresolved costs for which no additional documentation is available." This \$34,469 is subdivided into two cost elements; travel \$7415 and other direct costs \$27,054.

C.9. JBA non-concurs with Recommendation 2. Cost element, travel, \$7415.

\$7415	"Represents travel costs for which James Bell provided only credit card statements, cancelled checks, and bank statements, which did not adequately substantiate that these costs were incurred in conjunction with the grant." These costs should be allowed. All costs were incurred in support of the SAMHSA grant and represent travel expenses for staff and consultants to attend regional conferences and coordination center meetings. A detailed travel reconciliation for the audited period is attached that fully or partially reconciles the traveler to a destination or the American Express invoice. Other than Mr. Bell, all personnel identified in the travel reconciliation are JBA staff or consultants authorized to travel for the SAMHSA grant, and who were employed only in conjunction with the SAMHSA grant. The reconciliation process has been re-engineered and flow charts are attached to explain the current process and improved reconciliation system. JBA believes this will forestall reconciliation gaps in the future. (See Tab E., pages e.1 through e.208)
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C.10. JBA non-concurs with Recommendation 2. Cost element, other direct costs, \$27,054. Tab I, Recommendation 2 Support Documentation, provides additional documentation for this element.

\$5,922	"Other miscellaneous costs for which James Bell provided invoices that did not adequately substantiate that these costs were incurred in conjunction with the grant." These costs should be allowed.
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MACI is the service provider for data input services. This amount refers to incurred cost with this particular provider. The invoices do reference grant SM52395 in the body of the invoice and the backup documentation. (See Tab I., pages i.1 through i.3)

\$21,132 “Printing and reproduction costs for which James Bell provided bank statements, cancelled checks, that did not adequately substantiate that these costs were incurred in conjunction with the grant.” These costs should be allowed. An extensive amount of print work was required to produce Intervention Service Records and Client Assessment Batteries, some of which were 150 pages in length. In addition, the total volume of printed hard copy documents exceeded 700,000 individual sheets of paper, uniquely numbered for data processing quality assurance purposes. Several print vendors were used to support the study initiatives. US Print was located directly across the street from the firm and copy/print work was frequently hand-carried to the vendor who provided a very rapid turn-around time. These documents were the fundamental tool in the data collection process. The invoices from the print vendors and JBA payments are attached (See Tab I., pages i.4 through i.33)

C.11. “Recommendation 3. Develop and implement accounting policies and procedures to ensure adherence to applicable Federal regulations and Public Health Service Grants Policy requirements.”

Accounting policy and procedure are institutionalized within the framework of daily office procedures and provide for separation of duties and responsibilities as much as is possible within our small business environment. Process exists for all major accounting operations to include the recording of costs charged against the grant, the allocation of costs against projects and tasks, and the filing of documentation in support of incurred costs. These policies, as practiced by the JBA staff, were not clearly documented in hard copy at the time of the DHHS IG audit. This is now corrected. The following JBA process charts are attached for your review at Tab I, and available for examination in the corporate offices:

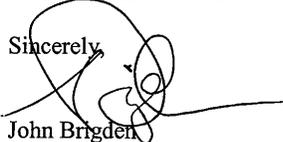
1. Client Invoice Preparation.
2. Travel Process.
3. File System Administration.
4. Time Keeping Process.
5. Vendor Invoice Processing.
6. Grant Processing.

Relying upon the Federal Acquisition Regulation, Public Law, Board of Contract Appeals decisions, accepted business practices, quality of work submitted to SAMHSA,

and the professionalism and integrity of the project staff, JBA believes that incurred costs are allowable, except as noted in the foregoing.

Please feel free to contact the undersigned if you have any questions or need any additional information.

Sincerely,

A handwritten signature in black ink, appearing to read "John Bridgen", written over a horizontal line.

John Bridgen
Director of Finance and Administration

Enclosures

- Tab A. Approved submission extension date.
- Tab B. Subcontractor support documentation.
- Tab C. Direct labor support documentation.
- Tab D. Fringe benefit support documentation.
- Tab E. Travel support documentation.
- Tab F. Consultant support documentation.
- Tab G. Other direct cost support documentation.
- Tab H. General and administrative support documentation.
- Tab I. Recommendation 2 support documentation.
- Tab J. Accounting procedure charts.

ACKNOWLEDGMENTS

This report was prepared under the direction of Stephen Virbitsky, Regional Inspector General for Audit Services. Other principal Office of Audit Services staff that contributed includes:

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