



Frederick County Government Fuel Contract Compliance Review

February 15, 2023

Report #22-04

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I. Executive Summary

Background

SC&H Group, Inc. (SC&H) was engaged by Frederick County Government (FCG, the County) Interagency Internal Audit Authority (IAAA) to conduct a contract compliance review (review) of James River Solutions, LLC's (JRS) Contract Services Agreement. The review was performed in three phases: planning, fieldwork, and reporting.

Contract Services Agreements

On January 26, 2017 FCG entered into Contract Services Agreement #17-153 (CSA 17-153) with JRS to provide and deliver vehicle fuels in bulk by transport and tank wagon to various depot locations within the County. The agreement term was for one year commencing February 6, 2017 with renewal options for four additional years in one year term increments, as detailed in Exhibit C. The County accepted each additional year, extending the term from February 6, 2017 to February 6, 2022.

Following CSA 17-153 initial term, a new agreement with JRS was executed with agreed upon terms from February 2022 with one-year extensions to February 2027. The County confirmed the terms of the new agreement were similar in nature to CSA 17-153.

Summary Contract Services Agreement Terms

Exhibit B "Schedule of Compensation" of CSA 17-153 includes the fuel types that the County can order from JRS, the list of locations where fuel is to be delivered, delivery method for each location, and a "differential" price per gallon for each location. The agreement states that JRS will add or subtract the price differential from the OPIS benchmark¹ price for Baltimore when billing the County for the gallons delivered. The differential includes all overhead costs, freight, fuel transfer fees and profit. The differential is different for each fuel type, location, and delivery method but the differentials should remain firm through the entire term.

Whistleblower Claim

On March 15, 2021, a whistleblower provided the County with a letter indicating JRS over charged the County roughly \$218,000 during calendar year 2020. The overbilling total was based on a review and recalculation of charges during January, February, May, June, July, and August of 2020.

The County responded to the letter by engaging SC&H to conduct this review. The following provides the review's objectives, scope, methodology and approach, summary of work, and observations.

¹ <https://www.opisnet.com/> Oil Price Information Services (OPIS), is a price-reporting agency that provides information used for commercial contracts and trade settlement relate to various fuels including petroleum, gasoline, diesel, ethanol, and biodiesel.

Objectives

The following objectives for the fieldwork phase were developed based upon the understanding gained during the planning phase and approved by the IIAA.

- A. Review the CSA 17-153 with JRS.
- B. Review a sample of fuel delivery charges JRS billed the County in calendar year 2020 through 2022 and determine the County was billed in accordance with the CSA 17-153.
- C. Determine if over-charging occurred and determine the total amount of over-billing over the life of the agreement.
- D. Added Objective: Perform expanded testing of May and June 2022 charges to test the County's recalculation of JRS invoices.

Scope

The review was initiated in April 2022 and completed in November 2022. The review included invoice activity between FCG and JRS from January 2020 to June 2022 (the "Review Period").² Starting in March 2022 the County started recalculating the invoices from JRS and paying only the recalculated amount due. Based on this, SC&H tested the County's calculation by pulling a sample from the months May, and June 2022 to verify their calculation was reasonable.

Methodology and Approach

SC&H conducted the following procedures to achieve the objectives.

SC&H obtained the following from the County:

1. System generated population of fuel purchasing card (P-Card) transactions with JRS from January 2020 through December 2021. The report included 313 transactions totaling \$3,301,079.
2. Copies of JRS invoices.
3. Insite delivery reports: Insite is a fuel management software that generates fuel delivery reports that detail the amount of fuel delivered to a specified FCG fuel site location.
4. OPIS reports: OPIS reports provides benchmark pricing for fuel.

Following receipt of information, SC&H selected a random statistical sample from the P-Card transaction data and analyzed the sample invoices to determine if JRS billed the correct amount for the period January 2020 through December 2021. The following review criteria and procedures were applied:

1. The review included both the unit rate per gallon and quantity.
2. SC&H used the fuel type, site location, and invoice date to determine the corresponding OPIS rate.
3. SC&H applied the contract differential to the OPIS rate and multiplied by the gallons recorded in Insite³ to determine what the correct total invoice amount should have been.

The random statistical sample was generated using Rat-Stats. Rat-Stats is a statistical software developed by the Office of Inspector General (OIG) and is the primary statistical tool for OIG's Office of Audit Services to determine sample sizes. More information on Rat-Stats is located at the following link: (<http://oig.hhs.gov/compliance/rat-stats/index.asp>).

² The initial review period was from January 2020 to December 2021. However, based on findings from the initial review period, FCG and IIAA elected to expand the review period to include a second sample of invoices from May 2022 to June 2022.

³ System used by Fleet Department to monitor fuel gallons delivered.

SC&H used a 95% confidence level, 4% margin of error, and 1% anticipated rate of occurrence to calculate the sample size of 104 transactions for the period of January 2020 through December 2021.

After determining the sample size, SC&H utilized the random analysis function in IDEA, a computer-aided auditing solution designed for data extraction and analysis, and pulled the last five digits (25313) of the Dow Jones closing stock price (\$31,253.13) on May 19, 2022 as the random seed number. IDEA then randomly generated 104 transactions, totaling \$1,140,775, from the total population of 313 P-Card transactions.

Original Testing - Calculation of Error Rate (January 2020 through December 2021)

SC&H was able to obtain full supporting documentation (invoices, OPIS reports, and quantity delivered) for 100 out of the 104 randomly selected P-Card transactions. Out of requested 104 transactions, the supporting invoice for four transactions could not be located, therefore, only 100 transactions were reviewed. SC&H identified discrepancies totaling \$32,083 during the review of the 100 transactions. The discrepancies of \$32,083 equated to an error rate/rate of occurrence of 2.759% based on the total of the 100 transaction (\$1,162,718).

When the error rate from the review of the 100 transactions (2.759%) is extrapolated to the spend transacted under the CSA 17-153 from January 2020 through December 2021 (\$3.3 million), the overcharge totals net to \$91,076.

The chart below illustrates the extrapolation calculation for the initial sample (January 2020 through December 2021).

Total Amount From Sample (USD)	Amount Billed in Excess of Agreement	Rate of Occurrence
\$ 1,162,718	\$ 32,083	2.759%
Sample Universe (USD)	Rate of Occurrence	Extrapolated Overbilling (USD)
\$ 3,301,079	2.759%	\$91,076

Expanded Testing – Recent Calculations and Fee Review (May 2022 through June 2022)

Upon completion of testing and communication of results from the initial testing period, FCG requested that SC&H expand testing to more recent invoices. The County asked SC&H to review invoices from May through June 2022 to confirm the amount billed exceeded the agreement rates. SC&H reviewed all 49 transactions from May 2022 through June 2022 totaling \$568,531 and identified discrepancies of \$14,008 or an error rate of 2.464%.

Beginning in March of 2022, FCG began short paying any amount that exceeded FCG’s recalculation of the correct invoice amount. Using this information, SC&H performed an extrapolation over the sampled period in which overpayment occurred (January 2020 through February 2022) noting a total spend amount for this sampled period of \$3,748,044.

When the error rate from the May and June 2022 transactions review (2.464%) is extrapolated to the sampled spend transacted under the CSA 17-153 from January 2020 through February 2022 (\$3.7 million), the overcharge totals net to \$92,352.

The chart below illustrates the extrapolation calculation for the expanded sample (May 2022 through June 2022).

Total Amount From Sample (USD)	Amount Billed in Excess of Agreement	Rate of Occurrence
\$ 568,531	\$ 14,008	2.464%
Sample Universe (USD)	Rate of Occurrence	Extrapolated Overbilling (USD)
\$ 3,748,044	2.464%	\$92,352

Overbilled Calculation – Using the Original Error Rate (February 2017 through June 2022)

After completing the expanded sample, FCG provided total actual spend with JRS during the contract term totaling \$12,094,112 (February 2017 through June 2022. As noted above, beginning in March of 2022, FCG began short paying any amount overbilled by JRS. SC&H extrapolated the error rate in the sample to the spend from February 2017 (contract inception) through February 2022 (last month prior to FCG short paying overcharges) or total spend amount of \$11,189,052 using the error rate of 2.759% (January 2020 through December 2021) as identified in the first calculation noted above. The overbill totaled \$308,706 as illustrated below:

Total Amount From Sample (USD)	Amount Billed in Excess of Agreement	Rate of Occurrence
\$ 1,162,718	\$ 32,083	2.759%
Sample Universe (USD)	Rate of Occurrence	Extrapolated Overbilling (USD)
\$ 11,189,052	2.759%	\$308,706

Summary of Work

Based on review of the JRS Contract Services Agreement, SC&H identified overbillings and potential process improvements within FCG Fuel Division. Although the FCG Fuel Division have areas of improvement, several functional procedures and tools have been implemented to assist and verify billing accuracy. Specifically, a Fiscal Specialist for FCG is responsible for recalculating the correct invoice amounts based on OPIS rates and agreement differentials and short paying JRS to reflect the accurate invoice amount from March of 2022 to current.

The following section provides detailed observations and recommendations.

We appreciate the assistance and cooperation of the management and staff of the FCG Fuel Division and other members of FCG who assisted in the performance of this review. Please contact us if you have any questions or comments regarding any of the information contained in the report.

A handwritten signature in blue ink, appearing to read "William Adams, Jr.", is positioned above a horizontal line.

William Adams, Jr., CPA, CIA
Director
February 15, 2023

II. Detailed Observations and Recommendations

Observation 1

Fuel amounts ordered, shipped, and delivered do not consistently reconcile between JRS and County records.

Observation Detail

The JRS fuel invoice contains several metrics, including the following:

1. County order amount: The amount of fuel requested for delivery by the County.
2. Amount of fuel shipped by JRS to the County: The amount of fuel loaded on the transport or tank wagon by JRS to be delivered to the County.

To verify the amount delivered, FCG leverages a system called Insite, which enables the County to monitor and record fuel delivery amounts to FCG locations. JRS is currently billing on the quantity shipped on the invoice. However, billing and payment should be based on the quantity that was delivered. .

Findings

Sample Discrepancies

A review of 100 sampled JRS transactions from 2020 and 2021 identified discrepancies between the amount ordered, the amount shipped, and the amount delivered to the County. The 100 samples resulted in the following:

Fuel Status	Fuel Amount in Gallons
Ordered by County	503,033*
Shipped by JRS	518,645
Delivered to County	416,031**

* Out of the 100 sampled transactions 5 invoices did not have a documented order amount

** Delivery amounts for Landfill was not obtained as this information is not stored in Insite

Process Gap

During the time of inquiry, the County did not have a formalized process to evaluate and reconcile variances, follow up with the vendor, and resolve variances.

Risks

Failure to ensure fuel amounts ordered, shipped, and delivered reconcile could result in

1. Inaccurate charges, overpayments, underpayments, and inaccurately reported fuel and spend information.
2. Fraudulent billings to the County.

Recommendation 1.1⁴

Management should consider developing and implementing formalized procedures to perform a reconciliation of orders against the amount shipped and delivered. The procedures should include:

1. Validating OPIS pricing against the amount being charged versus the OPIS index reports.
2. Thresholds for variances requiring follow up.

⁴ As of March 2022 Fleet began performing recalculations and reconciling orders against the amounts shipped and delivered to prevent overpayment.

3. Steps to prepare, review, and approve documentation; perform follow-up and escalation procedures; and resolve discrepancies.
4. Steps to recover overpayments made to the vendor.

Management’s Action Plan

As of March 2022, Fleet Services is validating the invoice, verifying the OPIS pricing, freight charges (delivery fees), and gallons delivered versus what is being charged on the invoice from James River. As of January 1, 2023, at the start of the new contract, Fleet Services is continuing the validation process and is recording the price per gallon, per invoice. Any discrepancies are sent to our sales manager at James River for correction.

Implementation Date

Started on January 1, 2023, this is when the new contract went into effect with James River.

Recommendation 1.2

The County should review the JRS contract with Legal, Procurement, and Contracting to discuss contract terms and overpayment that has been noted within this review and within the Fuel Department.

Management’s Action Plan

Fleet Services will reach out to Legal, and Procurement and Contracting to establish meetings to discuss the contract.

Implementation Date

March 2023

Observation 2

JRS OPIS price per gallon for fuel does not align with the County's OPIS price per gallon/the rates and price per gallon following the contract with JRS.

Observation Detail

The invoice price for fuel delivery from JRS to the County is comprised of the following rates, fees, and taxes:

1. OPIS Rates: Pricing of fuel provided by OPIS.
2. Differentials: Pricing that includes overhead cost, freight, fuel transfer fee, and profit.⁵
3. Fees and Taxes, including:
 - a. Federal (Fed) Leaking Underground Storage Tanks (LUST) Fee: Trust fund established by Congress to provide money to oversee, enforce, pay for, and inspect underground storage tank cleanups and leak prevention activities.
 - b. Fed Oil Spill Tax: Fund setup by Federal Government to help aide oil spill responses.
 - c. MD Excise Tax: Maryland legislated tax for gasoline and fuel products.
 - d. MD Environmental (Env) Fee: Maryland environmental fee associated with disposing of hazardous materials.

The combination of these rates, fees, and taxes generates the total price per gallon for fuel.

Findings

Upon review of the 49 transactions from the expanded sample selection from May 2022 through June 2022 an error rate of 2.464% was identified. To determine the cause of the discrepancy, SC&H verified the recalculations performed by the County, which began in March 2022, were correct. This recalculation included the County using the OPIS reports directly from OPIS, agreement differentials, and adding in the associated fees and taxes. The recalculation performed by the County was deemed accurate, based on SC&H's review of the formula and data used.

For the sampled transactions, SC&H then compared the Fed LUST Fee, Fed Oil Spill Fee, MD Excise Fee, and MD Env Fee against the JRS invoices and determined that the fees and taxes were correct as there were no variances between these fees for our sampled months of May 2022 and June 2022.

Identifying that the County's recalculation of the invoice and fees and taxes were accurate, leaves discrepancies between the County and JRS OPIS rates and differentials. Based on the recalculation; using the OPIS rates, agreement differentials, and adding in the associated fees, the County and SC&H concluded that the sampled 49 transactions tested, for May 2022 and June 2022 invoices should have totaled \$568,530.55. However, JRS billed \$582,538.29, which is a \$14,007.74 overcharge or an error rate of 2.464%.

To gain an understanding of the potential overpayment, SC&H extrapolated the 2.759% (error rate identified from the original sample size) error rate from the beginning of the agreement, February 2017 through February 2022 (beginning in March of 2022, FCG began short paying any amount overbilled by JRS), results in an overcharge of \$308,705.95.

Risks

⁵ "Exhibit B "Schedule of Compensation"", Section 1.1, page 12, "Agreement 17-153 – James River Solutions"

Failure to validate the accuracy of OPIS prices being charged could result in inaccurate charges, overpayments, underpayments, and inaccurately reported fuel and spending information.

Recommendation 2

Please refer to Recommendation 1.1

Management's Action Plan

See Management's Action Plan 1.1

Implementation Date

See Management's Implementation Date 1.1

Observation 3

Fuel documentation, such as initial order amount, OPIS reports, invoice copies, records of amount delivered, and actual paid amount by the County is not centrally managed, recorded, and maintained for record keeping.

Observation Detail

On a weekly basis, the County orders fuel for the sites. Two County employees from the Fleet Department order fuel directly from JRS via email.

Beginning March 2022, in an effort to implement checks and balances, a third Fleet Department member pays the invoice and confirms the amount delivered and charges for fuel delivery. Part of this confirmation includes reconciling the OPIS pricing report against the OPIS pricing found on the invoice.

Findings

SC&H requested original order documentation to determine if the amount ordered by the County matched the order amount on the JRS invoice.

However, the County did not provide the documentation. The County explained that original documentation for each sampled invoice would require searching through email accounts to identify the original communicated order request, as the emails are not centrally managed, recorded, and maintained.

Risks

Original fuel request data not centrally managed, recorded, and maintained could result in inaccurate charges, overpayments, underpayments, and inaccurately reported fuel and spend information.

Recommendation 3

Management should consider exploring a process that would allow fuel order requests to be maintained or recorded in a central location that is secured with limited access to ensure unauthorized access and changes do not occur.

Management's Action Plan

Fleet Services is currently tracking and maintaining records of fuel documentation, such as initial order amount, OPIS reports, invoice copies, records of amount delivered, and actual paid amount

Implementation Date

In progress since March 2022.

Observation 4

The County does not consistently record invoice number for payments to JRS in the general ledger.

Observation Detail

The County's general ledger (GL) contains numbered accounts that track financial transactions and drive financial reporting. At the time of review, the County had only one vendor used for bulk fuel orders, JRS. Within the GL, JRS had a unique "Merchant Name" and multiple account numbers used to identify fuel related charges.

Findings

Although the fuel vendor has a unique account number and merchant name within the County's GL records, the GL does not include sufficient details to align each transaction to a specific invoice. FCG and SC&H located the invoices associated to the sample PCard transaction report by matching the transaction date and transaction amount to the JRS invoice. However, those that could not be traced, did not have matching transaction dates and amounts.

Originally SC&H was only able to locate 59 of the 104 sampled fuel transactions from the GL for calendar year 2020 and 2021, or 57%. The Fleet Department was able to identify and provide 41 additional transactions based on their research. Four transactions were not located by FCG or SC&H. The inability to provide the invoice that that corresponded to the sample PCard transaction in a timely manner created significant delays and additional costs.

Risks

Failure to provide details within the GL that allows tracing to a specific invoice from a vendor may result in the inability to spot unusual accounting transactions, identify potential fraudulent activity, and provide accurate financial reports.

Recommendation 4

Management should consider formalizing and implementing a procedure to include details to link a GL transaction to a specific invoice.

Management's Action Plan

The JRS invoices are paid through purchase orders, which would not be visible in the general ledger. We are able to research the purchase orders in Infor to review invoices.

Implementation Date

Currently in use.