

Department of Health and Human Services
**OFFICE OF
INSPECTOR GENERAL**

**FIRST COAST SERVICE OPTIONS,
INC., CLAIMED SOME UNALLOWABLE
MEDICARE NONQUALIFIED PLAN
COSTS THROUGH ITS
INCURRED COST PROPOSALS**

*Inquiries about this report may be addressed to the Office of Public Affairs at
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Amy J. Frontz
Deputy Inspector General
for Audit Services

August 2023
A-07-23-00632

Office of Inspector General

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The designation of financial or management practices as questionable,
a recommendation for the disallowance of costs incurred or claimed,
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the findings and opinions of OAS. Authorized officials of the HHS
operating divisions will make final determination on these matters.

Report in Brief

Date: August 2023

Report No. A-07-23-00632

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

The Centers for Medicare & Medicaid Services (CMS) reimburses a portion of its contractors' nonqualified plan costs.

The HHS, OIG, Office of Audit Services, Region VII pension audit team reviews the cost elements related to qualified defined-benefit, postretirement benefit, and any other pension-related cost elements claimed by Medicare contractors through Incurred Cost Proposals (ICPs).

Previous OIG audits found that Medicare contractors did not always correctly identify and claim nonqualified plan costs.

Our objective was to determine whether the calendar years (CYs) 2015 through 2018 nonqualified plan costs that First Coast Service Options, Inc. (First Coast), claimed for Medicare reimbursement, and reported on its ICPs, were allowable and correctly claimed.

How OIG Did This Audit

We reviewed \$926,836 of Medicare nonqualified costs that First Coast reported on its ICPs for CYs 2015 through 2018.

First Coast Service Options, Inc., Claimed Some Unallowable Medicare Nonqualified Plan Costs Through Its Incurred Cost Proposals

What OIG Found

First Coast claimed Medicare nonqualified costs of \$926,836 for Medicare reimbursement, through its ICPs, for CYs 2015 through 2018. However, we determined that the allowable costs during this period were \$853,642. The difference, \$73,194, represented unallowable nonqualified costs that First Coast should not have claimed on its ICPs for CYs 2015 through 2018. This overstatement occurred primarily because First Coast based its claims for Medicare reimbursement on incorrectly calculated Cost Accounting Standards-based nonqualified costs.

What OIG Recommends and Auditee Comments

We recommend that First Coast work with CMS to ensure that its final settlement of contract costs reflects a decrease in Medicare nonqualified costs of \$73,194 for CYs 2015 through 2018.

First Coast agreed with our recommendation and said that it would work with CMS to ensure that its final settlement of contract costs reflects a decrease in Medicare nonqualified costs.

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INTRODUCTION

WHY WE DID THIS AUDIT

The Centers for Medicare & Medicaid Services (CMS) reimburses a portion of its contractors' nonqualified plan costs. In claiming nonqualified plan costs, contractors must follow cost reimbursement principles contained in the Federal Acquisition Regulation (FAR), Cost Accounting Standards (CAS), and the Medicare contracts. Previous Office of Inspector General audits found that Medicare contractors have not always complied with Federal requirements when claiming nonqualified plan costs for Medicare reimbursement.

At CMS's request, the Department of Health and Human Services, Office of Inspector General, Office of Audit Services, Region VII pension audit team reviews the cost elements related to qualified defined-benefit, nonqualified defined-benefit, postretirement benefit (PRB), and any other pension-related cost elements claimed by Medicare fiscal intermediaries and carrier contractors and Medicare administrative contractors (MACs) and CAS- and FAR-covered contracts through Final Administrative Cost Proposals, Incurred Cost Proposals (ICPs), or both.

For this audit, we focused on one Medicare contractor, First Coast Service Options, Inc. (First Coast). In particular, we examined the Medicare segment nonqualified plan costs that First Coast claimed for Medicare reimbursement and reported on its ICPs.

OBJECTIVE

Our objective was to determine whether the calendar years (CYs) 2015 through 2018 nonqualified plan costs that First Coast claimed for Medicare reimbursement, and reported on its ICPs, were allowable and correctly claimed.

BACKGROUND

First Coast Service Options, Inc., and Medicare

First Coast is a wholly owned subsidiary of Diversified Service Options, Inc. (DSO). Since 2015, DSO has been doing business as GuideWell Source (GWS), which is a holding company created and owned by Blue Cross and Blue Shield of Florida, Inc. (BCBS Florida), whose office is located in Jacksonville, Florida. First Coast administered Medicare Part A and Medicare Part B contract operations under MAC contracts for Medicare Parts A and B Jurisdictions 9 and N.¹

The disclosure statement that First Coast submits to CMS states that First Coast uses pooled cost accounting. Medicare contractors use pooled cost accounting to calculate the indirect cost rates (whose computations include pension, PRB, Supplemental Executive Retirement Plan, and

¹ Medicare Parts A and B Jurisdictions 9 and N include the State of Florida and the territories of Puerto Rico and the U.S. Virgin Islands.

nonqualified plan costs) that they submit on their ICPs. The indirect cost rates are used to calculate contract costs reported on the ICPs. CMS uses these indirect cost rates in determining the final indirect cost rates for each contract.²

Nonqualified Plan

First Coast participates in a nonqualified plan, called the Supplemental Executive Retirement Plan for Certain Team Members of the GuideWell Source Family of Companies. This nonqualified plan is accounted for as a deferred compensation plan under CAS 415 as it does not qualify as a pension plan under FAR 31.001. The purpose of this nonqualified plan is to provide a benefit to attract and retain talent for director and executive positions. The nonqualified plan is designed to supplement the contributions received in the qualified 401(k) plan and provides supplemental benefits to offset Internal Revenue Code limits on the 401(k).

This report addresses the nonqualified costs that First Coast claimed under the provisions of its MAC-related contracts.

Accounting Methodologies

The Medicare contracts require First Coast to calculate nonqualified plan deferred compensation costs in accordance with the FAR and the CAS. The FAR and the CAS require that the costs for nonqualified plans be measured under either the accrual method or the pay-as-you-go method. First Coast accounted for its plan under the accrual method, in accordance with CAS 415, "Accounting for the Cost of Deferred Compensation" (Appendix B).

Incurred Cost Proposal Audits

At CMS's request, CliftonLarsonAllen, LLP (CLA), and CohnReznick, LLC (CohnReznick), performed audits of the ICPs that both GWS and First Coast submitted for 2015 through 2018. The objectives of the CLA and CohnReznick ICP audits were to determine whether costs were allowable in accordance with the FAR, the U.S. Department of Health and Human Services Acquisition Regulation, and the CAS. Each of the ICP audits qualified its opinion (or disclaimed an opinion) because the BCBS Florida costs were not audited.

For our current audit, we relied on the CLA and CohnReznick ICP audit findings and recommendations when computing the allowable nonqualified costs discussed in this report.

We incorporated the results, if any, of the CLA and CohnReznick ICP audits into our computations of the audited indirect cost rates, and ultimately the nonqualified costs claimed, for the contracts subject to the FAR. CMS will use our report on allowable nonqualified costs,

² For each CY, each Medicare contractor submits to CMS an ICP that reports the Medicare direct and indirect costs that the contractor incurred during that year. The ICP and supporting data provide the basis for the CMS Contracting Officer and the Medicare contractor to determine the final billing rates for allowable Medicare costs.

as well as the CLA and CohnReznick ICP audit reports, to determine the final indirect cost rates and the total allowable contract costs for First Coast for CYs 2015 through 2018. The cognizant Contracting Officer will perform a final settlement with First Coast to determine the final indirect cost rates. These rates ultimately determine the final costs of each contract.³

HOW WE CONDUCTED THIS AUDIT

We reviewed \$926,836 of Medicare nonqualified costs that First Coast reported on its ICPs for CYs 2015 through 2018.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains details of our audit scope and methodology.

FINDING

First Coast claimed Medicare nonqualified costs of \$926,836 for Medicare reimbursement, through its ICPs, for CYs 2015 through 2018. However, we determined that the allowable costs during this period were \$853,642. The difference, \$73,194, represented unallowable nonqualified costs that First Coast should not have claimed on its ICPs for CYs 2015 through 2018. This overstatement occurred primarily because First Coast based its claims for Medicare reimbursement on incorrectly calculated CAS-based nonqualified costs. Specifically, First Coast did not calculate the executive compensation in accordance with FAR 31.205-6(p).

ALLOCABLE MEDICARE SEGMENT NONQUALIFIED PLAN COSTS

During this audit (and before we incorporated the results of the CLA and CohnReznick ICP audits), we calculated the allocable nonqualified costs for CYs 2015 through 2018 in accordance with Federal requirements. We determined that the allocable Medicare segment nonqualified costs for CYs 2015 through 2018 totaled \$446,059. First Coast identified allocable nonqualified costs of \$446,059 for this period. Therefore, there were no differences between First Coast's calculations and our calculations of the Medicare segment nonqualified allocable plan costs for this period.

³ In accordance with FAR 42.705-1(b)(5)(ii) and FAR 42.705-1(b)(5)(iii)(B), the cognizant Contracting Officer shall "[p]repare a written indirect cost rate agreement conforming to the requirements of the contracts" and perform a "[r]econciliation of all costs questioned, with identification of items and amounts allowed or disallowed in the final settlement," respectively.

ALLOCABLE OTHER SEGMENT NONQUALIFIED PLAN COSTS

During this audit (and before we incorporated the results of the CLA and CohnReznick ICP audits), we calculated the allocable nonqualified costs in accordance with Federal requirements. We determined that the allocable Other segment nonqualified costs for CYs 2015 through 2018 totaled \$1,584,585.⁴ First Coast identified allocable nonqualified costs of \$1,741,922 for this period. Therefore, First Coast overstated the allocable Other segment nonqualified costs by \$157,337. This overstatement occurred because First Coast did not limit its executive compensation in accordance with Federal regulations.⁵

Table 1 shows the differences between the allocable Other segment CAS-based nonqualified costs that we determined for CYs 2015 through 2018 and the allocable Other segment nonqualified costs that First Coast calculated for the same time period.

Table 1: Comparison of Allocable Other Segment Nonqualified Costs

CY	Allowable Per Audit	Per First Coast	Difference
2015	\$396,021	\$428,871	(\$32,850)
2016	468,561	504,992	(36,431)
2017	310,434	348,593	(38,159)
2018	409,569	459,466	(49,897)
Total	\$1,584,585	\$1,741,922	(\$157,337)

After performing the calculations discussed above, we used the allocable nonqualified costs to adjust the indirect cost rates (i.e., the fringe benefit and general and administrative rates) and, in turn, to calculate the information presented in Table 2 later in the report. (Our calculations do not appear in this report because those rate computations that First Coast used in its ICPs, and to which we referred as part of our audit, are proprietary information.)

UNALLOWABLE NONQUALIFIED PLAN COSTS CLAIMED

First Coast claimed nonqualified costs of \$926,836 for Medicare reimbursement, through its ICPs, for CYs 2015 through 2018. After incorporating the results of the CLA and CohnReznick ICP audits and our adjustments to the indirect cost rates, we determined that the allowable nonqualified costs for CYs 2015 through 2018 were \$853,642. Thus, First Coast claimed

⁴ The Other segment costs claimed by First Coast are attributable to GWS.

⁵ Specifically, we limited two participants' accrual calculations using the compensation limits described in the FAR (Appendix B). These participants were two of GWS's top five most highly compensated employees. These participants' compensation should have been limited to the compensation benchmarks determined by the Office of Federal Procurement Policy (OFPP). In our calculations, we therefore limited each participant's compensation for the years in which the participant was considered one of the five most highly compensated employees, in accordance with FAR 31.205-6(p).

\$73,194 of unallowable nonqualified costs on its ICPs for CYs 2015 through 2018. This overclaim occurred because First Coast based its claim for Medicare reimbursement on incorrect allocable nonqualified costs included in the indirect cost rates on the ICPs.

In accordance with the FAR and the CAS, we calculated the allowable nonqualified costs under the accrual method. For details on the Federal requirements, see Appendix B.

Table 2 compares the Medicare nonqualified costs that we calculated (using our adjusted indirect cost rates) to the nonqualified costs that First Coast claimed for Medicare reimbursement for CYs 2015 through 2018.

Table 2: Comparison of Allowable and Claimed Nonqualified Costs⁶

CY	Allowable Per Audit	Per First Coast	Difference
2015	\$310,105	\$325,871	(\$15,766)
2016	223,246	244,018	(20,772)
2017	167,045	179,866	(12,821)
2018	153,246	177,081	(23,835)
Total	\$853,642	\$926,836	(\$73,194)

Because First Coast did not calculate its nonqualified costs in accordance with Federal regulations and the Medicare contracts' requirements, it claimed \$73,194 of unallowable nonqualified costs.

RECOMMENDATION

We recommend that First Coast Service Options, Inc., work with CMS to ensure that its final settlement of contract costs reflects a decrease in Medicare nonqualified costs of \$73,194 for CYs 2015 through 2018.

AUDITEE COMMENTS

In written comments on our draft report, First Coast agreed with our recommendation and said that it would work with CMS to ensure that its final settlement of contract costs reflects a decrease in Medicare nonqualified costs.

First Coast's comments appear in their entirety as Appendix C.

⁶ Our calculations of allowable costs do not appear in this report because those rate computations that First Coast used in its ICPs, and to which we referred as part of our audit, are proprietary information.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

We reviewed \$926,836 of nonqualified costs that First Coast claimed for Medicare reimbursement on its ICPs for CYs 2015 through 2018.

Achieving our objective did not require that we review First Coast's overall internal control structure. We reviewed the internal controls related to the nonqualified costs that were included in First Coast's ICPs and ultimately used as the basis for Medicare reimbursement, to ensure that the nonqualified costs were allocable in accordance with the CAS and allowable in accordance with the FAR.

We performed audit work in our office in Jefferson City, Missouri.

METHODOLOGY

To accomplish our objective, we:

- reviewed the portions of the FAR, CAS, and Medicare contracts applicable to this audit;
- reviewed the nonqualified plan documents;
- reviewed accounting records and information provided by First Coast to identify the amount of nonqualified costs claimed for Medicare reimbursement for CYs 2015 through 2018;
- calculated the allowable nonqualified costs in accordance with applicable provisions of the FAR and the CAS;
- reviewed the results of the CLA and CohnReznick ICP audits and incorporated those results into our calculations of allowable nonqualified costs; and
- provided the results of our audit to First Coast officials on May 22, 2023.

We performed this audit in conjunction with the following audits and used the information obtained during these audits:

- *First Coast Service Options, Inc., Did Not Claim Allowable Medicare Postretirement Benefit Costs (A-07-23-00630)*; and
- *First Coast Service Options, Inc., Did Not Claim Some Allowable Medicare Supplemental Executive Retirement Plan Costs (A-07-22-00626)*.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: FEDERAL REQUIREMENTS RELATED TO NONQUALIFIED DEFERRED COMPENSATION PLAN COSTS

FEDERAL REGULATIONS

Federal regulations (FAR 31.001) define deferred compensation as an award made by an employer to compensate an employee in a future cost accounting period or periods for services rendered in one or more cost accounting periods before the date of receipt of compensation by the employee.

Federal regulations (FAR 31.205-6(k)) state that deferred compensation shall be measured, assigned, and allocated in accordance with CAS 415.

Federal regulations (FAR 31.205-6(p)) state that costs incurred after January 1, 1998, for compensation of a senior executive in excess of the benchmark compensation amount determined applicable for the contractor fiscal year by the Administrator, OFPP, are unallowable.

Federal regulations (FAR 52.216-7(a)(1)) address the invoicing requirements and the allowability of payments as determined by the Contracting Officer in accordance with FAR subpart 31.2.

Federal regulations (CAS 415.40(a)) state that the cost of deferred compensation shall be assigned to the cost accounting period in which the contractor incurs an obligation to compensate the employee. In the event no obligation is incurred prior to payment, the cost shall be assigned to the cost accounting period in which the payment is made.

Federal regulations (CAS 415.50(a)) state that the contractor shall be deemed to have incurred an obligation for the cost of deferred compensation when all of the following conditions have been met. However, for awards which require that the employee perform future service in order to receive the benefits, the obligation is deemed to have been incurred as the future service is performed for that part of the award attributable to such future service:

- (1) There is a requirement to make the future payment(s) which the contractor cannot unilaterally avoid.
- (2) The deferred compensation award is to be satisfied by a future payment of money, other assets, or shares of stock of the contractor.
- (3) The amount of the future payment can be measured with reasonable accuracy.
- (4) The recipient of the award is known.

- (5) If the terms of the award require that certain events must occur before an employee is entitled to receive the benefits, there is a reasonable probability that such events will occur.
- (6) For stock options, there must be a reasonable probability that the options ultimately will be exercised.

Federal regulations (CAS 415.50(b)) state: "If any of the conditions in [CAS 415.50(a)] is not met, the cost of deferred compensation shall be assignable only to the cost accounting period or periods in which the compensation is paid to the employee."

MEDICARE CONTRACTS

The Medicare contracts require First Coast to submit invoices in accordance with FAR 52.216-7, "Allowable Cost & Payment." (See our citation to FAR 52.216-7(a)(1) in "Federal Regulations" above.)



A CMS-Contracted Medicare Administrative Contractor

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July 12, 2023

Mr. James I. Korn
Regional Inspector General for Audit Services
Office of Audit Services, Region VII
601 East 12th Street, Room 0429
Kansas City, MO 64106

Reference: A-07-23-00632

Dear Mr. Korn:

We received the U.S. Department of Health & Human Services, Officer of Inspector General (OIG) draft report entitled, "*First Coast Service Options, Inc. Claimed Some Unallowable Medicare Nonqualified Plan Costs Through Its Incurred Cost Proposals*" and reviewed.

In the draft report, you outlined a recommendation that we have addressed as follows:

Recommendation:

First Coast Service Options, Inc. will work with CMS to ensure that its final settlement of contract costs reflects a decrease in Medicare nonqualified costs of \$73,194 for CYs 2015 through 2018.

Response:

First Coast Service Options, Inc. agrees with this recommendation. First Coast will work with CMS to ensure that its final settlement of contract costs reflects a decrease in Medicare nonqualified costs.

If you have any questions or need additional information, please do not hesitate to contact me.

Very truly yours,

/s/

Joshua Clifton

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