



OFFICE OF INSPECTOR GENERAL
EXPORT-IMPORT BANK
of the **UNITED STATES**

Evaluation of Export-Import Bank's Procurement Process for a Vehicle Lease

September 29, 2016
OIG-EV-16-03

Information identifying certain individuals has been redacted from the publicly released version of this report. The information withheld was compiled for law enforcement purposes and disclosure would constitute an unwarranted invasion of personal privacy.



EXPORT-IMPORT BANK
of the UNITED STATES

INSPECTOR GENERAL

To: Michael Cushing
Senior Vice President, Resource Management Group

From: Terry Settle *TL*
Assistant Inspector General for Audits

Subject: Evaluation of the Export-Import Bank's Procurement Process for a Vehicle Lease, Report Number OIG-EV-16-03

Date: September 29, 2016

This final report presents the results of our evaluation of Export-Import Bank's ("EXIM Bank" or "the Bank") procurement process for the lease of a 2014 Cadillac XTS. The objectives of this evaluation were to determine if (1) the lease of the Cadillac resulted in additional costs in comparison to other options available to the Bank, (2) the lease of the Cadillac was necessary given the Bank already had another vehicle available for use, (3) there were indications the Cadillac was used for anything other than official business, and (4) EXIM Bank personnel complied with the Federal Acquisition Regulation (FAR).

The report contains seven recommendations for corrective action. In response to our report, management concurred with all seven recommendations. Management's comments are included as Appendix I in this report. We consider management's proposed actions to be responsive. The recommendations will be closed upon completion and verification of the proposed actions.

We conducted this evaluation in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency. This evaluation was not an audit and therefore, was not conducted in accordance with generally accepted government auditing standards.

We appreciate the cooperation and courtesies provided to this office during the evaluation. If you have questions, please contact me at (202) 565-3498 or terry.settle@exim.gov. You can obtain additional information about the Export-Import Bank Office of Inspector General and the Inspector General Act of 1978 at www.exim.gov/oig.

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Why We Did This Evaluation

The OIG recently issued an audit report on the Export-Import Bank's contracting processes. One issue identified was that contract files did not contain all required documentation. Specifically, one contract we reviewed did not contain the required justification for a luxury vehicle lease primarily used to transport the Chairman of the Bank. The audit determined that a justification explaining why the vehicle, a 2014 Cadillac XTS, was essential to the Bank's mission was not completed as required by federal acquisition regulations. We reported that we would further evaluate this procurement and would issue a supplemental report as warranted. The objectives of this evaluation were to determine if (1) the lease of the Cadillac resulted in additional costs in comparison to other options available to the Bank, (2) the lease of the Cadillac was necessary given the Bank already had another vehicle available for use, (3) there were indications the Cadillac was used for anything other than official business, and (4) EXIM Bank personnel complied with the Federal Acquisition Regulation (FAR).

What We Recommended

For future vehicle leases, we recommended that the Senior Vice President of the Resource Management Group: (1) Justify and document all EXIM Bank vehicle leases in accordance with federal regulations; (2) Ensure different vehicle options are considered and the impact of any down payment or insurance costs is considered in the cost comparison; (3) Before agreeing to pay insurance costs to a vendor, determine if the costs are necessary or if the self-insurance of the federal government is sufficient; (4) Ensure utilization guidelines will be met or other utilization factors are documented and justified; (5) Develop adequate accounting and reporting procedures for government motor vehicles; (6) Ensure compliance with the Buy American Statute; and (7) Assess the present responsibility and performance of the contractor and take appropriate administrative action regarding ongoing contracts and future contract options. Management concurred with all seven recommendations.

What We Found

The Office of Inspector General (OIG) found the Cadillac appeared to have been used for official business, however; additional costs were incurred in comparison to other available leasing options, leasing two vehicles with low utilization cost the bank funds that could have been put to better use, and EXIM Bank personnel did not fully comply with the Federal Acquisition Regulation (FAR).

Specifically, we identified that: (1) EXIM Bank's 60-month lease cost for the Cadillac was at least \$30,682 more than other vehicle leasing options; (2) leasing a second vehicle cost \$84,956 of funds that could have been put to better use; and (3) EXIM Bank personnel did not fully comply with the FAR in terms of maintaining documentation, negotiating price, including maintenance in the contract, calculating the contract termination settlement amount, and ensuring compliance with the Buy American Statute. Furthermore, issues with the contractor's conduct were identified.

In addition to the recommendations we made to improve the overall contracting processes at EXIM Bank in audit report OIG-AR-16-05, we made seven additional recommendations specific to vehicle leases by the Bank.

For additional information, contact the Office of the Inspector General at (202) 565-3908 or visit www.exim.gov/oig.

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Introduction

The Office of Inspector General (OIG) recently issued an audit report¹ on the Export-Import Bank's ("EXIM Bank" or "the Bank") contracting processes. In this report, the OIG found EXIM Bank's Office of Contracting Services (OCS) did not have adequate internal controls to ensure the Bank's contracting processes complied with federal contracting regulations. One issue identified was that contract files did not contain all required documentation. Specifically, one contract we reviewed did not contain the required justification for a \$75,622² luxury vehicle lease primarily used to transport the Chairman of the Bank. The audit determined that a justification explaining why the vehicle was essential to the Bank's mission was not completed as required by federal acquisition regulations³. We also noted concerns related to the high cost of the vehicle, a 2014 Cadillac XTS, because it was leased through a private vendor rather than the General Services Administration (GSA) and included costs for private insurance. We reported that we would further evaluate this procurement and would issue a supplemental report as warranted.

The objectives of this evaluation were to determine if (1) the lease of the Cadillac resulted in additional costs in comparison to other options available to the Bank, (2) the lease of the Cadillac was necessary given the Bank already had another vehicle available for use, (3) there were indications the Cadillac was used for anything other than official business, and (4) EXIM Bank personnel complied with the Federal Acquisition Regulation (FAR).

To conduct this evaluation, we reviewed applicable regulations and guidance, including the Federal Acquisition Regulation (FAR); Code of Federal Regulations (CFR); and the Federal Management Regulation. We also reviewed the contract files for the Bank's current vehicle leases and one previous lease⁴. We obtained GSA cost data for a 2015 full-size Chevrolet Suburban and other vehicle options available to the Bank. We conducted a cost comparison of the different vehicle options. In addition, we reviewed available usage documentation for the Cadillac and interviewed GSA representatives as well as EXIM Bank personnel involved with the lease or operation of the Cadillac. Finally, we reviewed and relied upon case documentation for a related EXIM Bank OIG investigation. We conducted this evaluation in accordance with the *Quality Standards for Inspection and Evaluation* issued by the Council of the Inspectors General on Integrity and Efficiency. This evaluation was not an audit and therefore, was not conducted in accordance with generally accepted government auditing standards.

¹ *Audit of the Export-Import Bank's Contracting Processes* (OIG-AR-16-05) dated March 30, 2016. The objective of this audit was to determine whether EXIM Bank's contracting processes were in compliance with federal regulations and guidance, and the Bank's contract administration policy.

² The lease was a 60-month lease including insurance costs.

³ Audit Report (OIG-AR-16-05) identified that documentation required by FAR Subpart 8.11 entitled, *Leasing of Motor Vehicles*, to justify the lease of a luxury vehicle was missing.

⁴ At the time of our audit, the Bank was leasing the Cadillac XTS and a Chevrolet Tahoe. Prior to the lease of the Cadillac, the Bank leased a Mercury Grand Marquis.

Results

EXIM Bank's 60-month Lease Cost for the Cadillac was at least \$30,682 more than Other Vehicle Leasing Options

Our previous report found that, in leasing the Cadillac, the Bank did not comply with the FAR, which required a justification explaining why such a vehicle was essential to the Bank's mission. Even if the Bank was able to justify the lease of a luxury vehicle as essential to the mission of the Bank, we found the Bank selected a vehicle higher in price compared to other available options. We compared the cost of the Cadillac to a 2015 GSA full-size Chevrolet Suburban and a 2015 GSA medium sedan. For a 60-month lease, the Cadillac cost was \$45,682 to \$46,282 more than these options. In comparison to other leased vehicles (the Mercury Grand Marquis and the Chevy Tahoe), the Cadillac was \$30,682 to \$53,694 more for a 60-month lease. While the Mercury Grand Marquis was leased through a GSA-approved leasing company, there was no documentation in the file demonstrating other leasing options were considered. Also, as with the Cadillac lease, there was no documentation justifying why the Marquis was "essential" to the Bank's mission.

The Bank made the decision to lease the Cadillac, in part, based on the fact that the monthly lease payments were similar to the monthly payments for the Marquis – \$749 (Marquis) compared to \$819 (Cadillac). However, in comparing the costs, it appears Bank officials overlooked the Cadillac's substantial down payment cost of \$7,725 and its monthly insurance cost of \$312.50, which the Marquis did not have.⁵ We also found that the Bank chose the most expensive of three vehicles for which leasing options were provided by the vendor.

According to case documentation for a related EXIM Bank investigation, we learned the vendor paid \$48,203 for the Cadillac and \$1,726 per year for insurance, which would be an additional \$8,630 for the 60-month lease period. Therefore, the vendor's total cost of the car and insurance for the 60-month lease period was \$56,833. The Bank entered into a contract to pay a total of \$75,622 for the car and insurance, or \$18,879 more than its cost. Furthermore, it is GSA's opinion that most agencies are self-insured and incurring the cost of insurance may not have been necessary. If insurance did not have to be paid under the contract, EXIM Bank would have paid \$27,419 more for the car than it was worth (\$75,622 less the cost of \$48,203). In addition, according to case documentation for the investigation, at the end of the 60-month lease period the vendor would have still owned the vehicle with a substantial residual value.

Federal Acquisition Regulation (FAR) Section 15 requires contracting officers to establish the reasonableness of offered prices to ensure the final agreed-to price is fair and reasonable. The complexity and circumstances of each acquisition should determine the level of detail of the price or cost analysis required.

Table 1 presents the cost comparisons for the different vehicle options.

⁵ In audit report OIG-AR-16-05 we reported the down payment amount was \$9,989 and the remainder of the lease was paid over 58 months. The initial payment of \$9,989 included the down payment of \$7,725 plus two monthly payments of \$1,132 each (including the monthly insurance payment). $\$7,725 + \$1,132 + \$1,132 = \$9,989$.

Table 1: Vehicle Cost Comparisons

	Cadillac (cost to Bank)	Cadillac (cost to Vendor)	Marquis (previous lease by Bank)	Tahoe (current vehicle lease by Bank)	GSA 2015 Full-Size Chevy Suburban	GSA 2015 Medium Sedan Buick Lacrosse (See Note below)
Total Lease Cost for 60 months	\$75,622	\$56,833 ⁶	\$44,940	\$21,928	\$29,340	\$29,940
Monthly Cost	\$1,260 ⁷	\$947	\$749	\$365 ⁸	\$489	\$499
Yearly Cost	\$15,124	\$11,366	\$8,988	\$4,385	\$5,868	\$5,988

Note: The cost comparisons in this table were calculated based on a 60 month lease. However, the GSA table for the Medium Sedan Buick Lacrosse and the Full-Size Chevy Suburban did not have a 60 month lease rate posted. We used the posted 36 month rate to calculate the cost for a 60 month lease. This could result in the calculations of the total lease costs for these two GSA vehicles to be overstated, which is a conservative approach for comparison to the costs of the Cadillac.

Leasing a Second Vehicle Cost \$84,956 of Funds that Could Have Been Put to Better Use

At the time the Cadillac was leased by EXIM Bank to replace a leased Mercury Grand Marquis, the Bank already had a Chevrolet Tahoe available for use. According to Bank management, EXIM Bank has “always” had two vehicles, an SUV-type for inclement weather and moving items, and a sedan primarily for the Chairman’s official business. Nevertheless, documentation to justify why the Bank leased these vehicles was not in any of the procurement files dating back to 2009. Without this documentation, there is no evidence to support that these vehicles were determined to be essential to the Bank’s mission and met other requirements of the federal acquisition regulation in terms of the vehicles’ size and fuel efficiency.

FAR 8.11 *Leasing of Motor Vehicles* states that before preparing solicitations for leasing of motor vehicles, contracting officers shall obtain from the requiring activity a written statement that (1) the vehicles requested are of maximum fuel efficiency and minimum body size, engine size, and equipment (if any) necessary to fulfill operational needs, and meet prescribed fuel economy standards; (2) the head of the requiring agency has certified that the requested passenger vehicle larger than a small, subcompact, or compact are essential to the agency’s mission; (3) internal approvals have been received; and (4) the General Services Administration has advised that it cannot furnish the vehicles.

CFR 41 102-34.50 – *What size motor vehicles may we obtain?* states and agency may only obtain the minimum size of motor vehicle necessary to fulfill its mission in accordance with the following considerations: (1) the agency must obtain motor vehicles that achieve maximum fuel efficiency, (2) the agency must limit motor vehicle body size, engine size and optional equipment to what is essential to meet your agency’s mission, (3) with the exception of motor vehicles used by the President and Vice President and motor vehicles for security and highly essential needs, you must obtain midsize or smaller sedans.

⁶ Case documentation showed the actual vehicle cost to vendor was \$48, 203 plus insurance cost of \$8,630.

⁷ This monthly payment amount differs from the actual monthly payment amount of \$1,131.61 made by the Bank and disclosed in audit report OIG-AR-16-05. The monthly payment amount presented in the table includes the down payment made by the Bank.

⁸ At the time of the audit, OCS did not have a current contract for the Tahoe and verbally reported the monthly amount.

Evidence also suggests that the last three vehicles leased by the Bank – the Cadillac, the Marquis and the Tahoe- may have been underutilized according to federal regulations. While EXIM Bank personnel stated the vehicles were used for many trips, the average annual mileage for these three vehicles was 3,367 miles.⁹ 41 CFR 101-39.301 – *Utilization Guidelines* states an agency must be able to justify a full-time vehicle assignment. For passenger vehicles, the CFR provides a guideline of a minimum of 3,000 miles per quarter or 12,000 miles per year but states other utilization factors, such as days used, agency mission, and the relative costs of alternatives to a full-time vehicle assignment, may be considered as justification where miles traveled guidelines are not met.

The responsible Bank personnel did not maintain logs for how the vehicles were used - who rode in the cars, where the cars were driven, for what purpose, and how frequently the cars were used. Thus, we were unable to report on whether the Bank's usage could justify a full-time vehicle assignment when the mileage indicates the Bank does not meet the minimum mileage requirement. 41 CFR 104 – 340 *What records do we need to keep?* states agencies are required to develop adequate accounting and reporting procedures for Government motor vehicles (leased commercially or through GSA) to ensure accurate recording of inventory, cost, and operational data needed to manage and control vehicles.

According to case documentation for a related EXIM Bank OIG investigation, when concerns about the Cadillac lease were brought to the Chairman's attention, he ordered the return of the vehicle to the vendor and stated there were no plans to replace the Cadillac. The vehicle lease was terminated effective March 31, 2016 and in June 2016, a final settlement amount of \$22,164 was provided to the contractor.

Maintaining the Marquis and then the Cadillac in addition to the Tahoe cost \$84,956 that could have been put to better use. This is comprised of \$36,960.84 in payments made by the Bank for the Marquis and \$25,831.54 in payments made on the Cadillac plus the final settlement amount of \$22,164.

The Cadillac Appears to Have Been Used for Official Business

As discussed above, historically, EXIM Bank has not maintained logs to document how its vehicles were used. However, subsequent to our request for logs and inquiries into the use of the Cadillac during our previous audit, in December 2015, the Bank began documenting the dates, times, mileage, and destinations for the use of the vehicle. The purposes of the trips, however, were still not documented. During our evaluation, the Bank also provided emails between EXIM Bank personnel and the driver of the vehicle to document its use as EXIM Bank personnel stated all directives to the driver for use of the vehicle were provided via email. We performed a high level review of the documentation with a more detailed review of a small sample of trips and saw no indication of the vehicle being used for anything other than official business purposes.

⁹ The average annual mileage for the Cadillac, Marquis and Tahoe individually were 3,236, 3,557 and 3,309, respectively. EXIM did not maintain logs for their vehicles and mileage was obtained verbally from the Contracting Officer Representative for the Cadillac and the Tahoe.

Specifically, we found no evidence in the limited documentation that was available that the vehicle was used for the Chairman's regular commute as is prohibited by 31 U.S.C. § 1344, which states that use of a government vehicle for transportation between an individual's residence and place of employment is not transportation for an official purpose, with certain exceptions for very senior officials, field work, and law enforcement and intelligence duties. The Chairman of the Export-Import Bank is not one of the very senior officials authorized for home-to-work transportation. An agency head may establish an agency policy authorizing home-to-work transportation for those employees engaged in field work, or faced with a clear and present danger, an emergency, or a compelling operational consideration. Section 102-5 of Subpart A of the Federal Management Regulation (FMR) defines field work as official work requiring the employee's presence at various locations other than his/her regular place of work. According to legislative history, place of employment means the primary place where an officer or employee performs his or her business, trade or occupation, and includes, but is not limited to, an official duty station, home base, or headquarters. Section 102-34.200 of Subpart D of the FMR states that official use of a government motor vehicle is using a government motor vehicle to perform the agency's mission(s), as authorized by the agency.

We interviewed the Contracting Officer Representative for the leasing contract who stated the Cadillac was only used for official business and was not used for commuting. Based on the case documentation for the related EXIM Bank OIG investigation, Chairman Hochberg was also interviewed about the use of the Marquis and the Cadillac and he said the vehicles were only used for official business and never for direct home-to-work travel. Chairman Hochberg stated he would use the vehicles to drive to or from home if he was attending a business-related function on the way. The documentation we reviewed appeared to support this statement.

Specifically, we reviewed all instances where the available email directives¹⁰ for transporting the Chairman indicated a stop at Chairman Hochberg's residence. In each of these cases, the stop at the residence was preceded or followed by a stop at a location other than EXIM Bank headquarters. In general, most of the trips were between the residence and an airport when initiating or returning from official travel, or between the residence and a location in the Washington, DC area that appeared to be associated with an official function, such as an embassy or an official government building. We found some trips included stops at area restaurants. Due to the nature of the Chairman's position and GSA's broad definition that official use of a government vehicle is use to perform the agency mission, transportation to receptions or meals with government or business officials relevant to agency business would be a permissible official use. The Chairman and Bank staff stated that the vehicle was only used for official business. However, since there were no detailed records of the participants and agenda for these events, we were not able to verify or refute the statements that all meetings or events were for official government business related to the agency mission. Per the case documentation, Chairman Hochberg recalled several instances when he was scheduled to take one of the vehicles to a function on his way home, but the function was cancelled. On these occasions he instructed his driver to park the vehicle and travelled home by his usual mode of transportation.

¹⁰ These email directives were not official vehicle logs and did not include the mileage or stated purposes of the trips. Without this information, we cannot be sure all trips were reviewed and cannot conclude definitively that all trips were for official business.

In the instances we reviewed, we did not identify any trips between Chairman Hochberg's residence and place of employment at EXIM Bank headquarters. Trips between the residence and airport for official travel are considered as part of official temporary duty travel and excluded from home-to-work regulations. Trips between the residence and locations in the Washington, DC area other than EXIM Bank headquarters could be permitted by the exception for field work in the home-to-work regulations. However, the field work exception requires authorization as determined by the agency head. We did not identify any written determinations or authorizations by the agency head regarding home-to-work transportation. In addition, our review was limited because the Bank did not maintain appropriate vehicle logs that included the purpose and mileage of each trip.

To ensure compliance with laws and regulations regarding use of government vehicles for home-to-work transportation, the Chairman of EXIM Bank should issue home-to-work policies and determinations and EXIM Bank should maintain documentation regarding the use of government vehicles.

EXIM Bank Contracting Personnel Did Not Fully Comply with the Federal Acquisition Regulation

OCS did not fully comply with the FAR when contracting for the Cadillac. OCS did not obtain the required written certification from the agency regarding the vehicles' fuel efficiency, essentialness, and availability through GSA. Additionally, OCS did not (1) include required documentation, such as the market research, in the contract file; (2) negotiate a reasonable price for the leased vehicle; (3) require the contractor to provide maintenance on the vehicle; (4) negotiate the final termination settlement amount in compliance with the FAR; and (5) ensure compliance with the Buy American Statute.

Required Documentation was not Maintained: Although documentation maintained in the contract file indicated OCS began working on the Cadillac lease in September 2014, case documentation for the related EXIM Bank OIG investigation showed OCS discussed leasing a Cadillac as early as March 2014. At this time, the now-former (b) (6), (b) (7)(C) suggested the modification of an existing 8(a) contract to acquire a new vehicle to replace the Chairman's Mercury Marquis. Shortly thereafter, he began conducting market research by obtaining a number of quotes from Cadillac dealers, including a short-term, low-mileage lease for \$519 per month. The former (b) (6), (b) (7)(C) also blind carbon-copied the principal owner of the 8(a) firm on emails including lease requirements and dealer quotes. According to the case documentation, emails between the former (b) (6), (b) (7)(C) and former (b) (6), (b) (7)(C) in May and June 2014 demonstrated their intent to use the 8(a) contract to acquire a 3-year, low-mileage lease that had little or no money down and a monthly lease payment of \$520 with all maintenance included. In accordance with FAR Subpart 4.801, this documentation should have been maintained in the contract file and was not. The (b) (6), (b) (7)(C) left the Bank in June 2014 and there appeared to be no substantive work done on the lease by OCS until September 2014, when the (b) (6), (b) (7)(C) requested the 8(a) contractor to provide quotes for three luxury sedan models of similar quality. The contractor provided quotes for a Cadillac, Lincoln and Buick.

OCS did not Negotiate a Reasonable Price for the Leased Vehicle in Accordance with the FAR: Emails were exchanged between OCS and the 8(a) contractor between September and December 2014¹¹, including one email where the (b) (6), (b) (7)(C) told the contractor it could purchase license plates and insurance and pass the cost on to EXIM Bank. In December 2014, a fourth vehicle was considered - a Lincoln MKT. In two separate memorandums written in December 2014, the Vice President of the Resource Management Group informed the Chairman that OCS obtained multiple dealer quotes for “American manufactured cars” and “there is no major price differential in the 4 vehicles.” On December 31, 2014, the contractor was directed by the former CAO to “take the necessary steps to secure a Cadillac XTS for the Bank to lease from [the contractor].” The contractor purchased the vehicle that day even though the lease option on the contract had not been exercised.

On January 12, 2015, the contractor provided the Bank a final price quote which included a higher down payment amount and an insurance cost which was nearly double the amount included in the original quote. The final monthly payment amount of \$1,131 was also more than double the amount expected based on the market research previously completed by the former (b) (6), (b) (7)(C). Further, despite the (b) (6), (b) (7)(C) instruction to the contractor to pass the insurance cost through to the Bank, case documentation for the related investigation showed the contractor actually charged EXIM Bank more than double its cost.

Maintenance on the Vehicle was Not Included in the Contract as Required by FAR: The responsibility for all maintenance on the vehicle was shifted to EXIM Bank even though the market research showed (as identified in the case documentation for the related investigation), and FAR Part 8.1103 required, maintenance to be included in the contract. Nevertheless, OCS accepted the contractor’s final quote, finalized the lease and took possession of the vehicle on January 20, 2015. The Bank made its monthly payments to the contractor and continued to use the vehicle until the lease was terminated as a result of our previous audit and this evaluation.

Contract Termination Calculation did not Fully Comply with FAR: On March 18, 2016, the OCS notified the contractor of the termination of the lease effective March 31, 2016 and requested a Termination Cost Proposal. On March 24, 2016, the contractor provided its proposal requesting \$50,922.45, which would satisfy the full amount of lease payments expected through the life of the contract if all options were exercised. The proposal was not accepted and revisions were made to reflect the trade-in/re-sale value of the vehicle and termination of the insurance policy. The “total vehicle payments” amount included in the contractor’s original proposal, however, was not questioned by OCS and was used as the starting “Vehicle Costs” figure for determining the final settlement amount to be paid to the contractor. This amount totaled \$65,633, which included profit for the period after the termination of the contract and far exceeded the contractor’s actual cost for the vehicle of \$48,203. In addition, the Bank paid a termination fee of \$4,050. Although OCS consulted with the Office of General Counsel (OGC) in terminating the contract, it did not obtain OGC approval of the termination amount as required by OCS policy.

¹¹ Some of these emails were obtained from the contract file as part of the evaluation and others were identified in the case documentation for the related EXIM Bank OIG investigation.

The final settlement amount of \$22,164.34 was calculated as follows:

Vehicle Cost:	\$65,633.38
Add: Insurance paid through June 2016:	<u>\$ 5,312.50</u>
	\$70,945.88
Less: Total Billed through March 2016:	<u>\$25,831.54</u>
	\$45,114.34
Less: Re-sale Value:	<u>\$27,000.00</u>
	\$18,114.34
Add: Termination Processing Fee:	<u>\$ 4,050.00</u>
Final Settlement Amount:	\$22,164.34

FAR Subpart 12.403 states that when a contracting officer terminates a contract for commercial items for the government's convenience, the contractor shall be paid the percentage of the contract price reflecting the percentage of the work performed prior to the notice of the termination for fixed process contracts plus any charges the contractor can demonstrate directly resulted from the termination. FAR principles for termination of a contract do not allow anticipatory profit to be included in the calculation. We did not calculate the actual cost to terminate the contract because the documentation needed was not available.

OCS did not Ensure Compliance with the Buy American Statute: The Vehicle Identification Number for the Cadillac indicated the country of origin for the vehicle was Canada and not the United States. Therefore, we conducted a limited review of compliance with the Buy American statute. FAR Subpart 25.101 states the Buy American statute restricts the purchase of supplies that are not domestic end products. However, a foreign end product may be purchased if the contracting officer determines that the price of the lowest domestic offer is unreasonable or if another exception applies. Although a memo to the Chairman stated that the vehicles under consideration were American-manufactured, this statement appears to be based on an assumption, since we found no evidence that OCS confirmed the country of origin for the vehicles or conducted any analysis of compliance with the Buy American Act. Given the Bank's decision to terminate the lease and return the vehicle to the contractor, and due to the additional audit and legal analysis that would be required, we did not complete a full analysis of whether the lease of an American-branded product from an American vendor that was manufactured in Canada was compliant with the Buy American Act. However, for future vehicle leases, we are recommending that the Bank ensure compliance with the Buy American Statute, either by using GSA programs where GSA is responsible for Buy American Act compliance, or conducting the appropriate analysis if using options other than GSA.

Issues with the Contractor's Conduct were Identified. In evaluating the contracting personnel's compliance with the FAR, we also noted issues with the contractor's conduct potentially relevant to its performance and responsibility that should be reviewed by the Bank in assessing the contractor's suitability for ongoing or future contract options. As discussed above, we found the contractor (1) increased its final quote significantly from its original quote; (2) charged EXIM Bank more than double its actual costs for insurance after being advised to "pass on" the insurance costs; and (3) after receiving a notice of termination, proposed a settlement significantly higher than its actual costs. In addition, the principal owner of the contractor was

requested to provide information to the OIG for the related investigation and refused to be interviewed.

Although the task order to provide a leased vehicle has been terminated, the contractor still maintains its contract with EXIM Bank to provide a range of support services. Accordingly, we are referring our findings regarding the contractor to EXIM Bank to take appropriate administrative action regarding continuing contracts and future contract options.

Recommendations, Management Comments and OIG Response:

In addition to the recommendations we made to improve the overall contracting processes at EXIM Bank in audit report OIG-AR-16-05, we are making the following recommendations specific to vehicle leases by the Bank.

We recommend that the Senior Vice President of the Resource Management Group:

1. To ensure \$84,956 of funds can be put better use, justify and document all future EXIM Bank vehicle leases in accordance with federal regulations.

Management Comments

Management agreed with this recommendation. The Bank will justify and document all future EXIM Bank vehicle leases in accordance with federal regulations. The Vehicle Use Policy will be updated and expanded to include lease acquisition policies. Lease acquisition policies will require the Bank staff to justify and document all future EXIM Bank vehicle leases in accordance with federal regulations.

OIG Response

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

2. For future vehicle leases, ensure different vehicle options are considered and the impact of any down payments or insurance costs is considered in the cost comparisons.

Management Comments

Management agreed with this recommendation. The Bank will ensure different vehicle options are considered and the impact of any down payments or insurance costs is considered in the cost comparisons.

OIG Response

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

3. Before agreeing to pay insurance costs to a vendor, determine if the costs are necessary or if the self-insurance of the federal government is sufficient.

Management Comments

Management agreed with this recommendation. The Bank, before agreeing to pay insurance costs to a vendor, will determine if the costs are necessary or if the self-insurance of the federal government is sufficient. The Vehicle Use Policy referenced above will reflect this requirement.

OIG Response

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

4. For future EXIM Bank vehicles, ensure utilization guidelines will be met or other utilization factors are documented and justified.

Management Comments

Management agreed with this recommendation. The Bank, for future EXIM Bank vehicles, will ensure that utilization guidelines will be met or other utilization factors are documented and justified. The Bank will update its Vehicle Use Policy to reflect this requirement.

OIG Response

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

5. Develop adequate policies and procedures for Government motor vehicles such as home-to-work policies and determinations, as well as logs to document when the vehicles are used (date and times), by whom, for what purpose, starting and ending locations, total mileage, fuel usage, and other relevant data.

Management Comments

Management agreed with this recommendation. The current Vehicle Use Policy incorporates references to governing statutes and regulations, including home-to-work policies and determinations. EXIM has put in place a vehicle log to document when the vehicles are used (date and times), by whom, for what purpose, starting and ending locations, total mileage, fuel usage, and other relevant data.

OIG Response

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

6. For future EXIM Bank vehicle leases, ensure compliance with the Buy American Statute.

Management Comments

Management agreed with this recommendation. EXIM will include requirements laid out in the Buy American Statute in relevant acquisition policies and documents.

OIG Response

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

7. Considering the potential contractor conduct issues presented in this report, assess the present responsibility and performance of the contractor and take appropriate administrative action regarding ongoing contracts and future contract options.

Management Comments

Management agreed with this recommendation. The Bank will assess the present responsibility and performance of the contractor and take appropriate administrative action regarding ongoing contracts and future contract options.

OIG Response

Management's proposed actions are responsive to the recommendation. Therefore, the recommendation is considered resolved and will be closed upon completion and verification of the proposed actions.

Management's comments are included in their entirety in Appendix I.

Appendix I: Management Comments



EXPORT-IMPORT BANK OF THE UNITED STATES

September 22, 2016

Michael McCarthy
Deputy Inspector General
Office of the Inspector General
Export-Import Bank of the United States
811 Vermont Avenue NW
Washington, DC 20571

Dear Mr. McCarthy,

Thank you for providing the Export-Import Bank of the United States (“EXIM Bank” or “the Bank”) with the Office of the Inspector General’s “Evaluation of the Export-Import Bank’s Procurement Process for a Vehicle Lease” dated September 2, 2016. The Bank continues to support the OIG’s work, which complements the Bank’s efforts to continually improve its processes. EXIM Bank is proud of the strong and cooperative relationship it has with the OIG.

EXIM Bank also appreciates that the OIG “saw no indication of the vehicle being used for anything other than official business purposes.”

OIG issued seven recommendations specific to vehicle leases by the Bank. EXIM Bank agrees to all seven OIG recommendations in this report.

Recommendation 1: OIG recommends that the Senior Vice President of the Resource Management Group:

To ensure \$84,956 of funds can be put better use, justify and document all future EXIM Bank vehicle leases in accordance with federal regulations.

Management Response: EXIM Bank concurs with this recommendation. The Bank will justify and document all future EXIM Bank vehicle leases in accordance with federal regulations. EXIM has in place a policy governing Use of Government Owned or Leased Vehicles (RM-2012-2) (the “Vehicle Use Policy”) that addresses operation and management of the two vehicles typically used by the Bank, and includes references to the governing laws, regulations, and executive orders. The Vehicle Use Policy will be updated and expanded to include lease acquisition policies. Lease acquisition policies will require the Bank staff to justify and document all future EXIM Bank vehicle leases in accordance with federal regulations.

Recommendation 2: OIG recommends that the Senior Vice President of the Resource Management Group:

For future vehicle leases, ensure different vehicle options are considered and the impact of any down payments or insurance costs is considered in the cost comparisons.

Management Response: EXIM Bank concurs with this recommendation. The Bank will ensure different vehicle options are considered and the impact of any down payments or insurance costs is considered in the cost comparisons.

The above referenced lease acquisition policies will include a requirement to ensure that for future vehicle leases different vehicle options are considered and the impact of any down payments or insurance costs is considered in the cost comparisons.

Recommendation 3: OIG recommends that the Senior Vice President of the Resource Management Group:

Before agreeing to pay insurance costs to a vendor, determine if the costs are necessary or if the self-insurance of the federal government is sufficient.

Management Response: EXIM Bank concurs with this recommendation. The Bank, before agreeing to pay insurance costs to a vendor, will determine if the costs are necessary or if the self-insurance of the federal government is sufficient. The Vehicle Use Policy referenced above will reflect this requirement.

Recommendation 4: OIG recommends that the Senior Vice President of the Resource Management Group:

For future EXIM Bank vehicles, ensure utilization guidelines will be met or other utilization factors are documented and justified.

Management Response: EXIM Bank concurs with this recommendation. The Bank, for future EXIM Bank vehicles, will ensure that utilization guidelines will be met or other utilization factors are documented and justified. The Bank will update its Vehicle Use Policy to reflect this requirement.

Recommendation 5: OIG recommends that the Senior Vice President of the Resource Management Group:

Develop adequate policies and procedures for Government motor vehicles such as home-to-work policies and determinations, as well as logs to document when the vehicles are used (date and times), by whom, for what purpose, starting and ending locations, total mileage, fuel usage, and other relevant data.

Management Response: EXIM Bank concurs with this recommendation. The current Vehicle Use Policy incorporates references to governing statutes and regulations, including home-to-

work policies and determinations. EXIM has put in place a vehicle log to document when the vehicles are used (date and times), by whom, for what purpose, starting and ending locations, total mileage, fuel usage, and other relevant data.

Recommendation 6: OIG recommends that the Senior Vice President of the Resource Management Group:

For future EXIM Bank vehicle leases, ensure compliance with the Buy American Statute.

Management Response: EXIM Bank concurs with this recommendation. EXIM will include requirements laid out in the Buy American Statute in relevant acquisition policies and documents.

Recommendation 7: OIG recommends that the Senior Vice President of the Resource Management Group:

Considering the potential contractor conduct issues presented in this report, assess the present responsibility and performance of the contractor and take appropriate administrative action regarding ongoing contracts and future contract options.

Management Response: EXIM Bank concurs with this recommendation. The Bank will assess the present responsibility and performance of the contractor and take appropriate administrative action regarding ongoing contracts and future contract options.

We thank the OIG for your efforts to ensure the Bank's policies and procedures continue to improve, as well as the work you do with us to protect EXIM funds from fraud, waste, and abuse. We look forward to strengthening our working relationship and continuing to work closely with the Office of the Inspector General.

Sincerely,



Charles J. Hall
Executive Vice President / Chief Operating Officer
Export-Import Bank of the United States



Office of Inspector General
Export-Import Bank *of the* United States
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