



OFFICE OF INSPECTOR GENERAL



DEPARTMENT OF THE INTERIOR

RECOVERY OVERSIGHT ADVISORY

A Critical Point Evaluation Product

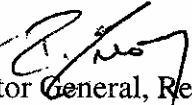




RECOVERY OVERSIGHT OFFICE
Washington, DC 20240

April 20, 2009

To: Chris Henderson
Department Recovery Act Coordinator

From: Robert A. Knox 
Assistant Inspector General, Recovery Oversight

Subject: Recovery Oversight Advisories

- 1) Lack of Clarity on Certain Project Elements in Department Recovery Act Guidance (ROO-ROA-MOA-1003-2009)
- 2) Observations on Initial Project Lists (ROO-ROA-MOA-1004-2009)

Congress provided us with funding to oversee and ensure accountability of the \$3 billion appropriated to the Department of the Interior (Department) in the American Recovery and Reinvestment Act (Recovery Act or Act). To help safeguard these taxpayer dollars, we will focus on: preventing fraud, waste, and abuse of recovery and reinvestment dollars; early detection to reduce the impact of such misuse when it does occur; and ensuring transparency in our oversight efforts. In a spirit of collaboration with the Department as it implements the massive programs envisioned under the Act, this memorandum transmits advisories on 1) lack of clarity in certain portions of Departmental guidance to the bureaus for compiling project lists and 2) the data contained in each bureau's project lists.

We do not require an official response to these advisories, but we will post them on our website (www.doi.ig.gov) and Recovery.gov. Information contained in these advisories may also be included in our semi-annual reports to Congress. Please feel free to contact me if you have any questions.

cc: Acting Assistant Secretary – Policy, Management and Budget
Director, Office of Financial Management
Departmental GAO/OIG Audit Liaison
Audit Liaison, Office of the Secretary



RECOVERY OVERSIGHT OFFICE

Washington, DC 20240

Recovery Oversight Advisory – Lack of Clarity on Certain Project Elements in Department Recovery Act Guidance

The Department issued “Economic Recovery Template and Guidance for Project Lists” on February 20, 2009 that included general guidance and an excel spreadsheet template in which to list projects and several data elements—outlined in the guidance—for each project.¹ The spreadsheet contains several data fields—explained in the guidance—for each project. One of the data fields is “project element,” which includes components of projects that have been presented verbally to the bureaus as “Secretary’s priorities.” Three project elements include “national icon,” “treasured landscape,” and “youth.” Bureaus are to identify proposed projects that include these elements with an affirmative checkmark in the respective column of the template. The guidance provides little direction regarding the specific definitions of or types of projects that might be characterized as having a youth, treasured landscapes, or national icon component.

Lack of clarity on these project elements could lead to inconsistent classification of projects as “youth,” “national icon,” and “treasured landscape.” For example, the National Park Service – in draft project lists shared with us – identified only 29 out of 963 projects as having a “national icon” component and none as having a “treasured landscape” component. This categorization may be accurate but it is surprising, given the NPS charge, as identified in the Organic Act of 1916, which created it:

...the Service thus established shall promote and regulate the use of Federal areas known as national parks, monuments and reservations...by such means and measures as conform to the fundamental purpose of the said parks, monuments and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

This observation is not meant to suggest the NPS project classifications are inaccurate – we did not do a thorough review of each project to make such a determination. We merely intend to provide an example of the potential for inconsistent application of the categories “national icon” and “treasured landscape.”

The “youth” category is centered around jobs. One of the key purposes of the Recovery Act is “to preserve and create jobs and promote economic recovery.” The Act encourages the Department of the Interior to employ young adults through various organizations and

¹ Data elements include, among others, fiscal year in which deferred maintenance or line item constructions projects are planned for funding in the bureau five year plans; state; project elements (including health and safety, energy efficiency/green buildings, use of renewable energy sources, youth/community service, national icons, and treasured landscapes); proposed procurement instrument; NEPA compliance completed; permitting and consultation completed.

partnerships “where practicable” (Section 702). However, direction on when to characterize projects as having a youth component, how to implement the vision of including in youth in projects, and how to measure progress toward accomplishing this vision remain unclear.

The Department has established a youth subgroup of its Recovery Act Task Force to address some of these concerns. Despite the efforts of this group, the meaning of “youth” still remains unclear. For example, based on initial meetings of this subgroup, confusion exists over the basic definition of “youth” in terms of the age – does youth include individuals between the ages of 15 and 24 or between the ages of 18 and 25? The lack of clarity on such a basic definition suggests that there could be a lack of consistency in projects classified as “youth” on the project lists.

It is also unclear how the youth component of Recovery Act activities coincides and supports the Secretary’s vision for increasing youth participation in Departmental programs, a vision communicated verbally to senior leaders in the Department. For example, an emphasis on short-term inclusion of youth laborers for activities such as trail maintenance would likely require a different strategy, different resources, and a different focus than engaging youth in efforts that can lead to longer-term employment. Either type of encounter with the Department—short-term engagements or longer-term employment—acquaint young individuals with opportunities in the Department and provide employment opportunities. However, each approach requires a different strategy. Without additional clarity, the Department, its bureaus, and programs are at risk of not fulfilling the Secretary’s vision regarding youth engagement in Department efforts.

The implementation and realization of the Secretary’s vision of engaging youth is further complicated because the majority of projects will be completed through procurement vehicles such as grants, cooperative agreements, and contracts. For example, if one vendor or applicant explicitly identifies a strategy to employ youth, does that factor into the source selection plan? Is such a strategy legal? We believe that additional guidance from the Department can help to ensure consistency in the approach taken for implementing the Secretary’s vision for youth and to ensure compliance with applicable laws and regulations.

There is also lack of consensus on what data could or should be collected to measure progress in meeting youth employment goals. The reliance on procurement vehicles to implement Recovery Act projects complicates such data collection because less data exists on individuals employed to implement a project through such vehicles. Additionally, the Department must factor into data collection standards the nature of the work in which youth might be employed—on a daily or weekly basis rather than longer-term. Finally, there may be multiple levels of sub-recipients, and obtaining information from them on youth could prove even more challenging. In sum, little clarity exists on how to standardize a measure for youth employment, what information on age can be collected from recipients of federal funds, and from how many sub-recipient levels to require this information.

**RECOVERY OVERSIGHT OFFICE**

Washington, DC 20240

Recovery Oversight Advisory – Observations on Initial Project

The Department and the bureaus that received funding under the Recovery Act have engaged in significant efforts to identify projects that will be funded with Recovery Act appropriations. The Recovery Act provides \$1 billion for the Bureau of Reclamation (BOR); \$750 million for the National Park Service (NPS); \$500 million for Bureau of Indian Affairs (BIA); \$320 million for the Bureau of Land Management (BLM); \$280 million for the U.S. Fish and Wildlife Service (FWS); and \$140 million for the U.S. Geological Survey (USGS). The Act appropriates an additional \$490 million to the Department of Transportation for Interior roads, as well as funding in other Departments that will consult with Interior on allocation.

Each bureau that received funding under the Recovery Act developed a project list (or multiple lists)—as instructed by the Department in guidance issued February 20, 2009—and submitted them to the Department and then to the Office of Management and Budget for review. We commend the Department and bureaus for their diligence, and we thank you for the opportunity to review these lists and provide our observations.²

We realize that the lists are evolving, and that the Department, bureau, or program level may have addressed some of the concerns identified below based on feedback we and others have provided. Given the pace at which activities are occurring under the Recovery Act, however, we feel it is prudent to provide these observations as timely as possible. We also realize that the Department and bureaus may have adequate justification for some areas we highlight as being of concern, and encourage officials to provide transparent explanations of the project selection process in program-specific and agency-specific plans mandated in the Office of Management and Budget’s “Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009” (issued April 3, 2009).

Project Readiness – The Role of Permitting, Tribal Consultation, and Acquisition Planning

Obligating funds in a timely manner is a key success factor in meeting the objective under the Recovery Act of jumpstarting the economy. The Act sets forth a goal of using 50 percent of funds on projects that can be initiated within 120 days of enactment. Additionally, the Act requires *all* funds to be obligated by September 30, 2010. This requirement can pose a significant challenge, particularly given lead time needed for environmental reviews, tribal consultation requirements, acquisition planning and execution, and other project planning steps. The data, or lack thereof, contained in the bureau project lists we received for review raise some concerns over the readiness of projects. We describe these concerns below.

² The data we reviewed included only Central Utah Project Completion Act projects from BOR. Other BOR projects were not included in the original data that we analyzed.

Permitting and Consultation Requirement. Various federal laws and regulations impose permitting and other requirements on federal projects. For example, the National Historic Preservation Act, as amended, of 1966 requires all federal agencies to “take into account” the effects of their undertakings on historic properties (Section 106). Additionally, multiple executive orders and policies require consultations with tribal governments to respect the sovereign status of those governments. The Department’s project template requires the bureaus to indicate whether such requirements were met for each project. There are approximately 1,114 projects (27 percent) on the lists we analyzed for which, according to the data on the lists, such permitting and consultation are incomplete. BLM’s list indicates that about 40 percent of its projects lack the necessary permits and consultations. This reported deficiency could impact the timeliness of project completion.

Acquisition Planning. The project list template lacks information on whether acquisition planning has been completed for each of the projects. The majority of Recovery Act funds will be awarded through contracts and other procurement vehicles. The Recovery Act and the administration have placed increased emphasis on the importance of effective and compliant contracting. OMB’s updated implementing guidance specifically highlights the need for “heightened management attention on acquisition planning” (Section 6.1). Lack of sufficient acquisition planning may add lead time to the projects; could increase risk to meeting cost, schedule, and performance targets; and could lead to other adverse outcomes. It is not clear from project lists whether acquisition planning has been completed.

For example, on the NPS list, the second and third most costly projects—projected to cost nearly \$48.5 million—are in the National Capital Region to repair and restore the Lincoln memorial reflecting pool and the Jefferson memorial plaza. Another project, estimated to cost approximately \$3 million, is to replace heating/cooling and water equipment in 80 national parks across the country. Particularly for large and geographically dispersed projects such as these, effective acquisition planning and administration is critical. It is unclear whether the NPS completed acquisition plans—which document cost and life-cycle costs; cost, schedule, and performance constraints; performance standards; risks; prospective sources; plans to seek, promote, and sustain competition; source selection procedures; and other factors critical to a successful acquisition—for these projects. It is also unclear whether consideration has been given to contract administration, including identifying trained contracting officer technical representatives and other steps to ensure appropriate agency oversight at critical decision points.

We do not mean to imply that the NPS or other bureaus have failed to perform sufficient planning for these projects. Rather, it is unclear from the documentation provided on proposed projects whether such planning has been completed. Given the tight timeframes under the Recovery Act, the Department and its bureaus will need to demonstrate increased diligence to avoid violating acquisition rules and regulations, which are designed to safeguard federal resources but can add time to project completion. As the Department moves forward from project approval to implementation, sufficient attention should be given to ensuring bureaus engage in effective contracting practices that are compliant with applicable rules and regulations. This effort should include ensuring contracting offices have sufficient personnel and support to handle an increased workload.

Relationship of Recovery Act Projects to Five-Year Plans

Ensuring the bureaus initiate “shovel-ready” projects has also been a challenge when balancing this need for timeliness with the direction to undertake priority projects already vetted on the bureaus’ “Five Year Plans.” The five year plans are developed based on a rigorous process that includes calculating a score for each project based on factors such as the importance of a constructed asset to the mission, critical health and safety, resource protection, and sustainable buildings. The majority of projects proposed on the project lists we reviewed are not on the bureau’s five-year plans. For example, based on the project lists we reviewed, only 11 percent of the NPS proposed projects are on its five-year plan; only 6 percent of USGS’s are on its plan; and 14percent of BLM’s are on its plan.

Based on conversations we have had with Departmental and bureau officials, we understand justifications exist for these percentages. For example, not all projects on the five year plans are “shovel-ready.” The project lists also continue to undergo revision, and five year plans are one area under consideration in the revision process. Whatever the outcome of the final project lists, we believe it is vital that the Department and bureaus are transparent about the project selection process, including why they made decisions to include or not include projects from the five year plans. Such information could be provided to OMB and the public in the program specific plans mandated by OMB’s Updated Implementing Guidance (Section 2.8).

Inconsistencies and Gaps in Data

We identified several instances in which the bureaus either failed to provide the required data, or the data provided was inconsistent with the Department’s guidance. We believe correcting these inconsistencies and data gaps will help to ensure transparency and effective oversight now and in the future.

The Department, in its guidance to the bureaus, “strongly suggest[s] that each bureau submit project lists that are greater than the funding level provided in the [Recovery Act] so as to negate the need to obtain a second round of approvals should some projects fall off the list.” All bureau lists we reviewed followed this guidance. However, some bureaus and programs, including BIA, NPS, BLM, and Wildfire Management, did not clearly distinguish which projects were intended to serve as contingency projects if other projects “fall off the list.” To ensure financial accountability and full transparency under the Recovery Act, we believe it is prudent to distinguish projects which the bureaus believe will be completed with Recovery Act funds from the contingency projects identified.

We also found several cases in which information was missing or incorrectly entered into the spreadsheets. The Department’s guidance clearly states **in bold** that “all columns in the template must be completed for all projects with data or N/A as per the detailed instructions – no blank cells.” However, the project list spreadsheets from several bureaus included blank spaces in many cells. For instance, the “Time to Complete Projects” column contained blank cells for 110 of the total 4,057 projects on the lists we reviewed (approximately 3 percent). While 3 percent is not a large percentage, time to complete projects is critical to ensure the bureaus achieve the expedited timeframes mandated by the Recovery Act.

We also identified problems with the project list categories “NEPA [National Environmental Policy Act] Compliance” and “Permitting/consultation.” Several bureaus used

additional categories, besides those assigned by Departmental guidance, for both the “NEPA compliance” and “permitting/consultation” columns. For example, BLM included 38 separate designations in the NEPA compliance column, while Departmental guidance provided 4 categories. Similar lack of consistency occurred with the “permitting/consultation” column. Compliance requirements such as completing environmental assessments can take months and even years. As the Department and bureaus begin to implement projects, clearly identifying which projects have such pre-requisite requirements complete will be critical to ensure timely initiation and completion of projects.

We identified additional data problems in the following data fields. While these observations affected only a few projects, it indicates that data integrity may not be consistent and could limit transparency and the reliability of analysis of projects:

“State.” The column contained the following state designations, which appear to be incorrect: BW, ES, HQ, IMR, MP, TY, and WO (16 total instances).

“Type of Project.” USGS created a “Type of Project” designation (DP - for data processing equipment) for one of its projects.

“Cost Estimates by Geographic Location.” BLM had \$25,469,000 in project dollars (5.6 percent of the Bureau total) that did not have a designated “Region, Area, or District.”

Bureau-Specific Observations

We note below some bureau-specific observations for consideration:

National Park Service

- NPS did not identify any proposed projects as Historically Black Colleges and Universities, as required by the Department's guidance.
- Projects in ten national parks account for about \$350 million, almost half of the Park Service’s Recovery Act funding. This distribution of funding may make implementation of the Recovery Act more manageable, but also raises questions of how allocations were determined. Transparency in project selection will again be critical.
- Specificity on projects is inconsistent. For example, for road projects, some parks included detailed information on the various road projects proposed in the park for implementation, while other parks merely identify that they propose to implement projects throughout the park.

U.S. Geological Survey

- Some projects have no priority listing, and there are 113 projects listed as “number 1” priority. We identified lack of prioritization as a problem for NPS in completing projects after Hurricane Katrina. Effective prioritization of projects could impact the

success of implementation of Recovery Act projects as well.

- Three projects are listed as noncompliant for NEPA. We question whether a project can be completed if it is NEPA noncompliant.
- While 94 percent of projects proposed are not on the five year plan, all deferred maintenance projects on the five year plan are being proposed, which is a positive observation for the USGS list.

U.S. Fish and Wildlife Service

- The project lists fail to identify a procurement mechanism (i.e., grant, contract, cooperative agreement, loan, or tribal “Section 638”) for completion.
- One project, the Rocky Mountain Arsenal, is proposed to be completed in cooperation with the Department of Defense. It is unclear whether there is an agreement in place with DoD or what the outcome of the project will be with DoD if it fails to commit funding.

Bureau of Land Management

- The BLM seems to have allocated funding to states so each state can fund its own priorities, rather than identifying a nationwide prioritization strategy.
- One abandoned mine project – Randsburg, estimated to cost \$22 million – involves relocating a contaminated mine tailings pipe, yet the Bureau marked NEPA as non-applicable. This categorization may be accurate, but seems questionable.
- As discussed in the data inconsistencies section of this advisory, not all project elements were completed according to Department instructions.

Bureau of Indian Affairs

- Road maintenance projects did not identify a priority for any project, and BIA assigned the same title and cost estimate to a number of maintenance projects.
- The project lists indicated that none of the 532 road maintenance projects required permitting.
- None of the 532 road maintenance projects was included in the bureau’s five-year plan.
- The lists include five school construction projects, estimated to cost \$206 million. These projects raise concerns about timely completion, scope, and potential for cost growth.

Report Fraud, Waste, Abuse, and Mismanagement



Fraud, waste, and abuse in government concerns everyone: Office of Inspector General staff, Departmental employees, and the general public. We actively solicit allegations of any inefficient and wasteful practices, fraud, and abuse related to Departmental or Insular Area programs and operations. You can report allegations to us in several ways.



By Mail:

U.S. Department of the Interior
Office of Inspector General
Mail Stop 4428 MIB
1849 C Street, NW
Washington, D.C. 20240

By Phone

24-Hour Toll Free 800-424-5081
Washington Metro Area 703-487-5435

By Fax

703-487-5402

By Internet

www.doioig.gov/hotline