



Office of Audits
Office of Inspector General
U.S. General Services Administration

RECOVERY ACT REPORT -

Contract Administration for Group 10
Review of PBS's Limited Scope
and Small Construction Projects
Funded by the American Recovery
and Reinvestment Act of 2009

Report Number A090184/P/R/R12008
June 13, 2012



Office of Audits
Office of Inspector General
U.S. General Services Administration

REPORT ABSTRACT

OBJECTIVE

Determine if GSA is administering the Group 10 limited scope construction contract in accordance with the Federal Acquisition Regulation, General Services Administration Acquisition Manual, and American Recovery and Reinvestment Act of 2009 mandates.

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Office**
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Washington, DC 20405
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WHAT WE FOUND

We identified the following during our review:

Finding 1 – GSA needs to strengthen its implementation of security measures.

Finding 2 – A subcontractor is not in compliance with the Davis-Bacon Act.

Other Observations – We noted untimely aspects of contract administration and the contractor marginally meeting the Limitations on Subcontracting requirement.

WHAT WE RECOMMEND

Based on our review findings, we recommend that the Public Buildings Service National Capital Region Regional Commissioner:

1. Strengthen policies, procedures, and collaboration amongst divisions to ensure that: all contract employees accessing GSA facilities have proper security clearances prior to site access and background check information is shared with and retained by contract and project management staff.
2. Secure physical access at the Group 10 Weaver Building project.
3. Review contractor compliance with the Davis-Bacon Act to identify and correct all violations.

MANAGEMENT COMMENTS

Management agreed with the audit findings and concurred with the recommendations. **Appendix B** contains management's response in its entirety.



**Office of Audits
Office of Inspector General
U.S. General Services Administration**

DATE: June 13, 2012

TO: Julia E. Hudson
Regional Administrator, National Capital Region (WA)

FROM: Marisa A. Roinestad *Marisa A. Roinestad*
Audit Manager, Real Property Audit Office (JA-R)

SUBJECT: Recovery Act Report-Contract Administration for Group 10
Review of PBS's Limited Scope and Small Construction Projects
Funded by the American Recovery and Reinvestment Act of 2009
A090184-53/P/R/R12008

This report presents the results of our audit of contract administration for the Group 10 Limited Scope American Recovery and Reinvestment Act of 2009 construction project. Our findings and recommendations are summarized in the Report Abstract. Instructions regarding the audit resolution process can be found in the email that transmitted this report.

Your written comments to the draft report are included in **Appendix B** of this report.

If you have any questions regarding this report, please contact me or the Auditor-In-Charge at the following:

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Anthony Q. Jones	Auditor-In-Charge	anthony.jones@gsaig.gov	(202)273-7242

On behalf of the audit team, I would like to thank you and your staff for your assistance during this audit.

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Introduction

The American Recovery and Reinvestment Act of 2009 (Recovery Act) provides the General Services Administration (GSA) with \$5.55 billion for its Federal Buildings Fund to be used to convert federal buildings into High-Performance Green Buildings as well as to construct federal buildings, courthouses, and land ports of entry.

One of GSA's Recovery Act projects involves a \$6,159,621 design-build contract to replace the roofs on the Howard T. Markey National Courthouse (Markey Courthouse) and the Robert C. Weaver Federal Building (Weaver Building) (Group 10¹). As part of the Office of Inspector General's ongoing oversight of GSA's implementation of the Recovery Act, we reviewed the administration of this contract. Our objective was to determine if GSA is administering the Group 10 limited scope construction contract in accordance with the Federal Acquisition Regulation (FAR), General Services Administration Acquisition Manual, and Recovery Act mandates.

Work is currently ongoing at the Markey Courthouse and Weaver Building. The Group 10 project entails studying the existing roofs and determining the extent of replacement needed. The roofs at both buildings are extensive, with the Markey Courthouse consisting of a library, courthouse tower penthouse, and upper main level roofs, and the Weaver Building consisting of an office level and penthouse roof. Both buildings are to have installed Energy Star rated insulated roofing systems. At the Markey Courthouse, the work items included an integrated photovoltaic energy system to generate electricity in order to reduce energy consumption and lower operational costs.

See ***Appendix A*** – Purpose, Scope, and Methodology for additional details.

¹ Group 10 includes the Howard T. Markey National Courthouse (Markey Courthouse) and Robert C. Weaver Federal Building (Weaver Building).

Results

Finding 1 – GSA needs to strengthen its implementation of security measures.

There is no assurance that GSA’s contract and project management staff fulfilled their responsibility to ensure contractor personnel had required background checks. This creates a potential security risk to the buildings, to the occupants of the buildings, and any sensitive data stored in the buildings. This is particularly true in the case of the Weaver Building where contractor employees have access to the interior of that facility.

The contract requires that all personnel performing work on the project obtain an “Enter on Duty” determination before they are granted access to the sites. Additionally, the contract file states that, “The contractor will not be authorized to proceed with contract work until all necessary contractor employees have been cleared.” Furthermore, the Physical Security Criteria for Federal Facilities requires a Construction Security Plan that addresses access controls such as background checks and security clearances.

In spite of this, we found five contractor employees who may not have undergone security clearance reviews; GSA’s Credential and Identity Management System had no records for these individuals. In addition, GSA’s contract and project management staff had no documentation verifying that they had reviewed the status of other contractor personnel who were recorded in the Credential and Identity Management System. However, the tenant agency’s (United States Courts) security officer at the Markey Courthouse queried the National Criminal Information Center system to determine the employees’ security status so that contractor personnel could access the facility.

Nevertheless, this situation represents a potential security risk because contractor personnel had unmonitored access to the Weaver Building. When we performed our physical observation, we noted that three of the four doors accessing the roof from the building’s interior were propped open and left unattended after business hours (see *Figure 1*). To compound the problem, the security control room monitors for the doors’ surveillance cameras were inoperable. As a result, contractor personnel, who were to have restricted access to the building (i.e. escorts and limited access via exterior scaffold stairs), now had unfettered access to the building’s interior. While the tenant agency’s building manager² had the monitors repaired, we are not certain the doors are continuously secured.

² GSA delegated its responsibility for operations and maintenance of the Weaver Building to the Department of Housing and Urban Development.

Figure 1 – Unsecured door on Weaver Building rooftop after business hours.



Project management staff informed us that they did not retain security clearance documentation because it contains sensitive information, such as social security numbers, and they could not safeguard it because they do not have locked containers.

Recommendation 1

The Public Buildings Service (PBS) National Capital Region (NCR) Regional Commissioner should strengthen policies, procedures, and collaboration amongst divisions to ensure that: all contract employees accessing GSA facilities have proper security clearances prior to site access and background check information is shared with and retained by contract and project management staff.

Recommendation 2

The PBS NCR Regional Commissioner should secure physical access at the Group 10 Weaver Building project.

Management Comments

In its comments, management agreed with the audit finding and concurred with the recommendations (see **Appendix B**).

Finding 2 – A subcontractor is not in compliance with the Davis-Bacon Act.

One of the subcontractors working on the Group 10 roofing project is not in compliance with the Davis-Bacon Act. The Davis-Bacon Act requires that contractors working on federally-funded projects pay their employees the locally prevailing wage rates as determined by the Department of Labor.

In this case, we reviewed the subcontractor's July 16, 2011, certified payroll and found that 8 of its 15 employees were paid wages that were below the required minimum hourly wage rates for Common Laborer, Roofer and Sheet Metal Mechanic. Underpayments ranged from \$0.01/hour to \$15.03/hour. For example, the prevailing wage rate for a Roofer was \$34.06/hour; the certified payroll showed a Roofer paid only \$32.00/hour.

The construction manager for the project also noted this problem and reported that these underpayments spanned four certified payroll periods from the week ending July 9, 2011, through week ending July 30, 2011.

FAR 52.222-7, *Withholding of Funds*, prescribes that if a contractor does not meet Davis-Bacon Act requirements, the contracting officer may, after written notice to the contractor, take such action as may be necessary to cause the suspension of any further payment until such violations have ceased.

Recommendation 3

The PBS NCR Regional Commissioner should review contractor compliance with the Davis-Bacon Act to identify and correct all violations.

Management Comments

In its comments, management agreed with the audit finding and concurred with the recommendation (see **Appendix B**).

Other Observations

The design phase took 2 months longer than prescribed in the Statement of Work. The Statement of Work's construction schedule called for a 4.5 month design phase, from notice to proceed for design to final submission,³ however, it took 6.5 months to complete this phase. The Contracting Officer's Technical Representative was also appointed 4 months after issuance of the notice to proceed for construction. The Contracting Officer's Technical Representative should have been appointed upon contract award.

Additionally, the construction contractor is marginally meeting the requirement for 15 percent of the work to be performed by the prime contractor during the test periods reviewed. Contract clause FAR 52.219-14 *Limitations on Subcontracting* requires that for general construction, 15 percent of the cost of the contract (not including materials) shall be performed by the prime contractor's own employees. The prime contractor had performed 15.26 percent of work for the certified payroll periods we tested, although the project is ongoing.⁴

³ Calculations include the Government's anticipated time for formal review and approval of required submissions.

⁴ We tested 7 of 29 pay periods (25 percent) that had accumulated at the time of our fieldwork.

Conclusion

GSA needs to strengthen its implementation of security measures and ensure compliance with the Davis-Bacon Act on the Group 10 construction contract. An untimely design phase and appointment of the Contracting Officer's Technical Representative, and marginally meeting the Limitations on Subcontracting requirement, were also of concern.

Appendix A – Purpose, Scope, and Methodology

Purpose

This review was performed as part of the Office of Inspector General's ongoing oversight of the General Services Administration's (GSA) implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act).

Scope

This review covered contract administration for the Group 10 Recovery Act contract,⁵ a limited scope construction project in the National Capital Region.

Methodology

We conducted our review between October 2011 and February 2012. To accomplish our objectives, we:

- Met with GSA contract and project management staff;
- Reviewed contract and project management files;
- Conducted site visits;
- Met with GSA security staff and tenant agency staff; and
- Met with GSA Office of Acquisition Policy staff regarding labor relations.

Except as noted below, we conducted the review in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our review objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives.

The planning for this review is based on the audit plan for oversight of the Recovery Act projects as well as review guidance being applied to all Limited Scope and Small Construction Recovery Act projects. A separate guide was not prepared for this project. As this work was performed under the continuing oversight of all GSA Recovery Act projects, management controls are currently under assessment. Only the management controls discussed in the report have been assessed.

Internal Controls

The focus of the review is to determine if GSA is complying with the Federal Acquisition Regulation, General Services Administration Acquisition Manual, and Recovery Act

⁵ Contract Number GS-11P-10-YA-C-0189

mandates governing the administration of the Group 10 contract. We evaluated internal controls over contract administration to the extent necessary to answer the review objective. Related internal control issues are discussed in the context of the review findings.

Appendix B – Management Comments



GSA National Capital Region

JUN - 8 2012

MEMORANDUM FOR R. NICHOLAS GOCO
DEPUTY ASSISTANT INSPECTOR GENERAL
FOR AUDITING
REAL PROPERTY AUDIT OFFICE (JA-R)

FROM: JULIA E. HUDSON 
REGIONAL ADMINISTRATOR (WA)

SUBJECT: Recovery Act Report–Contract Administration for Group 10
Review of PBS's Limited Scope and Small Construction Projects
Funded by the American Recovery and
Reinvestment Act of 2009
Report Number A090184-53/P/R

This is in response to your Draft Audit Report of Contract Administration for Group 10 Review of PBS's Limited Scope and Small Construction Projects Funded by the American Recovery and Reinvestment Act as of 2009 of May 18, 2012. You issued this report as part of the Office of Inspector General's oversight of the General Services Administration's (GSA) implementation of the National Capital Region's Limited Scope and Small Construction American Recovery and Reinvestment Act (Recovery Act) projects. The objective of your audit was to determine if GSA was administering the Group 10 limited scope construction contract in accordance with the Federal Acquisition Regulation, the GSA Acquisition Manual, and Recovery Act mandates. Under the Recovery Act, Congress appropriated \$5.5 billion to the Federal Buildings Fund, with \$4.5 billion for measures necessary to convert GSA facilities to High-Performance Green Buildings, as defined by Section 401, Public Law 110-140. Subsequently, GSA awarded a design build contract for roofing replacements at the Markey Courthouse and Weaver Building for \$6,159.621. Your review identified several issues that require a written response.

Findings/Responses

Finding #1, in part states: Weaknesses exist in GSA's implementation of security measures. GSA's controls for ensuring contractor personnel have adequate background checks prior to accessing federal buildings are weak. Additionally, you detected physical security vulnerabilities on site.

Response #1: We concur with these findings. All GSA contractors are notified at the time of award by the Contracting Officer that all contract employees and subcontract employees are required to submit HSPD12 Security Applications.

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These applications are required as soon as possible, after contract award. The GSA Contracting Officer Representative (COR) also instructs the prime contractor of the HSPD 12 security requirements at the pre-construction meeting prior to commencement of work. While GSA cannot control the occupant agencies' internal security reviews of contractors and subcontractors gaining access to the buildings, we will coordinate with the occupant agencies to mitigate these findings. In addition, the Contracting Officer will work with the COR to ensure that contract employees accessing GSA facilities are cleared in GSA's Credential Identity and Management System prior to site access; that background check information is shared with and retained by contract and the COR staff; and that physical site access is limited on the Weaver Building project.

Finding #2, in part states: Subcontractor personnel were paid below the hourly wage rates prescribed by the Davis-Bacon Act. The Davis-Bacon Act directs the Department of Labor to determine locally prevailing wage rates that apply to contractors and subcontractors performing on federally funded contracts for construction, alteration, or repair of public buildings. Contractors and subcontractors must pay their laborers and mechanics employed under the contract no less than these locally prevailing wage rates.

Response #2: We agree with this finding. The GSA project management team is responsible for the monthly labor interviews of all workers onsite during contract performance. Additional instruction in proper contract administration procedures will be provided for all project and construction management team members. The Contracting Officer will notify the contractor that its employees must be reimbursed in accordance with the Davis-Bacon wage rates. Furthermore, the Contracting Officer will notify the contractor that any and all Davis-Bacon wage violations will be addressed and if the contractor does not comply within the specified time frames, the Department of Labor, Wage and Hour Division, will be contacted for further investigation.

We appreciate the support that has been provided by your review of PBS's limited scope and small construction projects funded by the ARRA.

If you have any questions or need additional information, please feel free to contact me at (202) 708-9100, or Cathleen Kronopolus, Regional Commissioner, Public Buildings Service. She may be reached at (202) 708-5891.

Appendix C – Report Distribution

Acting Commissioner, Public Buildings Service (P)

Deputy Commissioner, Public Buildings Service (P)

Acting PBS Chief of Staff, Public Buildings Service (P)

Regional Recovery Executive, Public Buildings Service, National Capital Region (WP)

National Program Office ARRA Executive, Public Buildings Service (PCB)

Chief of Staff, PBS Office of Construction Programs (PCB)

Regional Administrator, National Capital Region (WA)

Regional Commissioner, Public Buildings Service, National Capital Region (WP)

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