




U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

May 5, 2011

MEMORANDUM FOR:

J. DAVID HOOD
REGIONAL COMMISSIONER, PBS
GREAT LAKES REGION (5P)

FROM:

ADAM GOOCH 
REGIONAL INSPECTOR GENERAL FOR AUDITING
GREAT LAKES REGION (JA-5)

SUBJECT:

Contract Administration of Lighting Controls and HVAC¹ Upgrades in support of the American Recovery and Reinvestment Act of 2009² at the Federal Building, 536 S. Clark St., Chicago, IL
Memorandum Number A090184-38

During our review of the administration of the HVAC and lighting renovations contract we identified two issues which warrant your attention: 1) not all payroll records were submitted by the subcontractor, raising questions as to whether the subcontractor paid the prevailing wage rates; and, 2) escort coverage provided by the prime contractor was at times not sufficient. We based these observations on documentation found in the contract file and our correspondence with PBS personnel. In some instances, we consulted additional sources for supplemental information.

On March 9, 2010, the Great Lakes Region PBS awarded a task order (GS-P-05-10-SI-5036) to Madison Services, Inc. (Madison) of Chicago, Illinois under Madison's Indefinite Delivery, Indefinite Quantity (IDIQ) contract (GS-05P-07-SI-D-0022) for \$1,678,730. The task order was to provide for the total design and construction of a new ARRA-compliant backbone lighting control system and recommissioning³ of the HVAC units and associated accessories and systems at the Federal Building, 536 S. Clark St., Chicago, IL.

¹ Heating, ventilation, and air conditioning

² The American Recovery and Reinvestment Act of 2009 (ARRA) provides the General Services Administration (GSA) with \$5.55 billion for the Federal Buildings Fund. In accordance with ARRA, the GSA Public Buildings Service (PBS) is using the funds to convert Federal buildings into High-Performance Green Buildings as well as to construct Federal buildings, courthouses, and land ports of entry. The ARRA mandates that \$5 billion of the funds must be obligated by September 30, 2010 and that the remaining funds be obligated by September 30, 2011. The GSA Office of Inspector General (OIG) is conducting oversight of the projects funded by the ARRA. One objective of this oversight is to determine if PBS is awarding and administering contracts for limited scope and small construction and modernization projects in accordance with prescribed criteria and ARRA mandates.

³ According to GSA PBS' "The Building Commissioning Guide", recommissioning includes: "establishing that original basis of design and operation is still appropriate for use, occupancy, tenant agencies and GSA goals, and modify the operations/controls sequencing as appropriate for optimum operations; reviewing and benchmarking key systems operations/performance against the basis of design; evaluating envelope tightness/pressurization by infrared or other methods; performing energy analysis; and, recommending repairs/modifications to optimize building performance."

Incomplete payroll records

In accordance with Federal Acquisition Regulation (FAR) 52.222-8, and as referenced in Madison's IDIQ contract, contractors are required to submit weekly certified payrolls for all work performed, including work done by subcontractors. Madison did not always do this. The payroll records we reviewed were incomplete. At least five weekly payrolls for Any Temperature, Inc., Madison's subcontractor, had not been submitted. Had PBS obtained all certified payrolls, it would have been able to evaluate whether the contractor paid the prevailing wage rates, a key requirement of the Davis-Bacon Act (Davis-Bacon)⁴.

In addition, no apprentice agreement was on file for one subcontractor employee who was listed as an apprentice. In the absence of an apprentice agreement, according to FAR 52.222-9⁵, the employee is entitled to be paid not less than the full wage for the type of work actually performed. In this case, the employee was paid less than the prevailing wage.

The subcontractor's payroll listed this employee as a Sheet Metal Apprentice and showed his base labor rate as either \$27.44 or \$32.41 per hour. However, according to the applicable wage determination, Sheet Metal Workers should be paid a base rate of \$36.96 per hour plus \$17.42 in fringe benefits. While the contractor contends that the employee was not underpaid, without an apprentice agreement, this assertion is unsupported.

The absence of required payroll documentation and proof of apprentice designation precludes the Government from properly assessing whether the subcontractor employees were paid in accordance with Davis-Bacon.

With regards to this issue, the Region responded as follows:

[W]e concur there were missing payroll records in the contract file at the time of your review. These records have since been submitted and added to the contract file. Concerning the missing apprentice agreement, we concur there was an agreement missing for one employee at the time of your review. This Apprenticeship Certification from the U. S. Department of Labor, Office of Apprenticeship has now been added to the contract file. Since the employee had an apprentice agreement in place, the employee was properly paid. A copy of the certification is available upon request.

Escort coverage

Since the subcontractor employees did not have security clearances, Madison employees served as the subcontractor's onsite security escort during the project, according to PBS. At times Madison's coverage of the subcontractor employees was not sufficient.

⁴ The Davis-Bacon Act as amended, requires that each contract over \$2,000 to which the United States or the District of Columbia is a party for the construction, alteration, or repair of public buildings or public works shall contain a clause setting forth the minimum wages to be paid to various classes of laborers and mechanics employed under the contract. Under the provisions of the Act, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character.

⁵ According to FAR 52.222-9, "An apprentice will be permitted to work at less than the predetermined rate for the work performed when employed — Pursuant to and individually registered in a bona fide apprenticeship program registered with the U.S. Department of Labor...."

The HSPD-12⁶ guidelines require temporary contractors working up to 6 months at the site to obtain a clearance through a law enforcement background check, or be escorted as a provision of granting them access to non-public areas of GSA-controlled facilities. Madison's IDIQ contract had more stringent security requirements. It called for all temporary contractors working less than 10 days to be escorted. All temporary contractors working 10 days or longer required a security clearance.

Payroll records indicate that Madison employees were not on the construction site for at least 3 weeks that subcontractors were working there. Given that the work occurred on multiple floors within this building, which covers a full city block in length, the presence of escorts is very important to ensure the building's security. Lack of adequate escort coverage could put the occupants of the building, as well as the public, at risk.

Concerning this issue, the Region responded:

[T]he complete payroll records now in place substantiate that Madison Services, Inc. was in fact on-site at all times while their subcontractor, Any Temperature, Inc. was working on the site. It should be noted that these Any Temperature, Inc. employees had Security Clearance Applications in pending status awaiting suitability determinations. Copies of the missing records are available upon request.

The response continued: "We will take the following step to ensure these omissions are not repeated. Guidance will be issued to all Property Managers and Technical staff in Property Management Service Center by June 1, 2011. This will include reiterating the importance of having complete documentation of all project files. We appreciate your support throughout this audit."

We appreciate the support that has been provided throughout this review. If you have any questions about this memorandum, please contact me at (312) 353-0500 or John Langeland at (312) 353-6691.

⁶ Homeland Security Presidential Directive 12 (HSPD-12) is a directive establishing a common identification standard for federal employees and contractors. HSPD-12 requires all Federal Executive departments and agencies to conduct personnel investigations, adjudicate the results, and issue identity credentials to all federal employees and contractors who require routine access to their building facilities and information technology systems.