



U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

September 28, 2011

MEMORANDUM FOR: CATHLEEN C. KRONOPOLUS
REGIONAL COMMISSIONER
PUBLIC BUILDINGS SERVICE (WP)

R. Nicholas Goco

FROM: R. NICHOLAS GOCO
DEPUTY ASSISTANT INSPECTOR GENERAL FOR
REAL PROPERTY AUDITS (JA-R)

SUBJECT: Recovery Act Memorandum—One Constitution
Square Swing Space Lease for the General Services
Administration
Review of Lease Projects Funded by the American
Recovery and Reinvestment Act of 2009
Audit Memorandum Number A100203-2

The General Services Administration's (GSA) Office of Inspector General is conducting oversight of projects funded by the American Recovery and Reinvestment Act¹ (Recovery Act). The Public Buildings Service (PBS) in the National Capital Region used \$33,275,505 of Recovery Act funds to pay for tenant improvements at One Constitution Square in Washington, D.C. The objective of our oversight of this project was to determine if PBS procured and implemented the lease tenant improvements in accordance with the provisions of the Recovery Act and PBS guidance.

During our review, we identified two issues that require your attention. Specifically:

1. PBS hired a cost estimating firm through the Lessor, therefore it cannot be assured that pricing of the tenant improvements was fair and reasonable.

¹ The American Recovery and Reinvestment Act of 2009 appropriated \$5.55 billion to the Public Buildings Service's Federal Buildings Fund, the majority of which are related to measures necessary to convert its facilities to High-Performance Green Buildings. The Act provided \$108 million for leasing temporary space in connection with these projects. The Recovery Act also required the Office of Inspector General to oversee and audit programs, grants, and projects funded under this Act.

2. PBS did not perform timely wage rate verifications as required by the Recovery Act Labor Standards.

PBS Hired an Estimator Through the Lessor

PBS cannot be assured that the prices proposed by the Lessor were fair and reasonable because its cost estimates² and reconciliation services were prepared by a company hired through the Lessor. This calls into question whether there was an arm's length relationship between the firms.

Initially, the estimating services for these tenant improvements were provided by an existing GSA contractor; however, the Project Manager believed this contractor did not have sufficient capacity to provide the estimates for this particular project. PBS then asked the Lessor to submit a proposal for estimating and scheduling support services. The proposal called for cost estimates for construction with design drawings at 65 percent and 95 percent completion. It also requested reconciliation services to analyze any cost discrepancies between the estimating firm and the Lessor's General Contractor. The Project Manager stated that PBS requested these services through the Lessor, rather than performing a separate procurement, because of the project's tight time schedule.

In January 2010, the Lessor submitted a pricing proposal that included proposals from two construction consulting firms. The PBS project team advised us that one firm had a relationship with the Lessor and was therefore familiar with the building. The PBS project team viewed this as an advantage. In addition, this firm submitted the lowest cost proposal at \$52,300 (\$17,380 less than the other contractor and nearly \$7,000 below the \$59,995 Independent Government Estimate). Subsequent scope of work increases raised the amount paid for the estimating and scheduling services to \$134,768, including the 4 percent fee paid to the Lessor.³

Despite being aware of the firm's possible relationship with the Lessor, the Contracting Officer and Project Manager did not obtain conflict of interest statements from either firm. While there could be benefits to using a firm knowledgeable about the building, this consultant lacked independence due to its prior relationship with the Lessor and the fact that under the current contract it would be hired and paid by the Lessor.

Our review of documents prepared by the construction consulting firm show detailed estimates and reconciliations that do question some of the General

² Leasing guidance requires an independent government estimate for each alteration project, including changes to existing alteration agreements with the Lessor-GSA Acquisition Regulation, Acquiring Leasehold Interests in Real Property, 570.502-2.

³ The additional services included reviewing and reconciling the pricing delta from the 95 percent to the 100 percent construction drawings, and providing a detailed estimate for light fixture and electrical changes.

Contractor's proposed costs. However, we believe PBS should not have contracted for a firm to provide independent estimates in this manner, especially if it did not have the additional safeguards provided by organizational and personal conflict of interest statements.

Management Comments

Regional PBS management agreed with the review finding in a September 14, 2011, exit conference. They commented that the Lessor and construction consulting firm did function independently and subsequently provided letters from both firms (dated September 13, 2011 and September 14, 2011) stating this. PBS also estimated that the consulting firm's services saved \$3.9 million in project costs.

PBS Did Not Verify Compliance With the Davis Bacon Act During the Project

The pay rates on this project were not verified for compliance with Davis Bacon regulations in a timely manner because the Contracting Officer did not solicit certified payrolls until the end of the project.

Realty Services Letter-2009-04 (RSL) provided implementation guidance to Contracting Officers for leases funded by the Recovery Act. The RSL requires that ARRA's Labor Standards be referenced in these leases. The RSL notes that, under the Labor Standards, certain Federal Acquisition Regulation (FAR) clauses "shall apply to all work (including base building and tenant build out) performed using ARRA funds." These clauses include: (1) FAR 52.222-6, Davis Bacon Act, which requires the General Contractor to pay the appropriate wages to laborers on a weekly basis, and (2) FAR 52.222-8, Payrolls and Basic Records, which requires that, each week, the Contractor submit a copy of all payrolls to the Contracting Officer for any contract work performed, along with a "Statement of Compliance."

Although PBS eventually received the certified payrolls, and no discrepancies were identified, PBS did not properly monitor compliance with the wage regulations while the tenant improvements were in process.

Management Comments

Regional PBS management agreed with the review finding and acknowledged a lack of administrative oversight in timely verification of Davis Bacon Act compliance. They stated they have included this topic in two seminars for regional leasing staff.

We appreciate the support provided during this review. If you have any questions about this memorandum, please contact me or Susan P. Hall, Audit Manager, at (202) 219-0088.

Recovery Act Memorandum
One Constitution Square Swing Space Lease for
the General Services Administration
Review of Lease Projects Funded
by the American Recovery and Reinvestment Act of 2009
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