

ETA and OASAM Response to Draft Report

U.S. Department of Labor

Office of the Assistant Secretary
for Administration and Management
Washington, D.C. 20210



SEP 29 2010

MEMORANDUM FOR ELLIOT P. LEWIS
Assistant Inspector General

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SUBJECT: OIG Audit of Job Corps Multi Year Lease
Draft Report # 18-10-009-03-370

This memorandum responds to the subject draft audit report, dated September 28, 2010, Recovery Act: Job Corps Could Not Demonstrate That The Acquisition Of The New Facility At The Los Angeles Job Corps Center Using A Multi-Year Lease Was The Least Expensive Option. We appreciate the opportunity to provide input to this draft audit report.

Background and Context

The new Los Angeles Job Corps Center (LAJCC) leased facility will address critical issues pertaining to the current LAJCC complex. In 2001, Job Corps identified a seismic deficiency in an LAJCC building which is located at 1106 South Broadway and identified as Building 1. Job Corps hired a structural engineering firm to evaluate seismic safety evaluation and to perform a seismic retrofit study on the building. The Structural Building Evaluation Final Report issued on April 25, 2001, found that seismic retrofit was needed and that it was estimated to cost between \$4.5 million to \$5.5 million, depending on the retrofit scheme selected.

Job Corps currently occupies a number of buildings in downtown Los Angeles, some owned and some leased, for the current LAJCC. One of the leased buildings is for a dormitory complex with a Wellness Center and a cafeteria, located less than two blocks from the administration and educational buildings owned by the Department of Labor (DOL). The lease for this building will expire in November, 2012 and Job Corps cannot renew the lease because the building does not meet the Executive Order relating to seismic codes and the Landlord will not make the necessary renovations to meet the Executive Order.

Further, the LAJCC is currently spread over a wide area across the downtown, with some facilities situated five miles in each direction from the DOL-owned administration and

educational buildings. The typical Job Corps center environment is a consolidated campus where students have access to training, medical, counseling, recreation and residential facilities in close proximity. This approach is considered to be a very valid model for Job Corps centers.

However, in the case of the Los Angeles Job Corps Center, students are currently bussed from two other leased dormitory facilities to their training classes and back each day, often sitting for long periods in freeway traffic. Even the location of the current seismically-deficient dormitory complex/wellness facility/cafeteria, being one-half mile from the central complex, is an issue. The geographical dispersion of the facility has diminished the learning experience, due to transportation and concerns for the safety of the students traversing problem areas. This, in turn, has necessitated additional expenses for a van service and additional security.

The consolidation effort achieved with the new LAJCC building focuses on the dorm/wellness center/cafeteria, another leased dormitory, and some small educational buildings being consolidated into one building. By consolidating the center around the three DOL-owned buildings and the new building, DOL maintains the viability of its owned assets, while centralizing the campus in a more optimal configuration. Moreover, the continued location of the LAJCC in downtown LA will ensure the continuity of services to targeted youth between the ages of 16 and 24. The LAJCC currently serves over 1,000 youth annually. The program will also remain in a familiar location and will be able to continue operations without disruption.

The consolidation will enable Job Corps to eliminate over 170,000 square feet of leased space in four buildings. Consolidation into a single 110,000 square foot space will result in a 35% decrease in leased square footage, as the new building is designed to current design standards and efficiencies.

The new building will also meet current seismic standards and will remove a seismically deficient building from the DOL inventory. Further, the new building will allow two leased facilities with high deferred maintenance costs (Facility Condition Indices (FCI) of 69% and 76%) to be removed from the inventory. Moving functions into the new building will likely result in lower operating costs due to the smaller space and more energy efficient utilities. The need for additional security and transportation costs will likely be eliminated. The new facility will also provide a much improved learning environment for the students.

Our responses to the draft report's recommendations follow:

OIG Recommendation 1. *Demonstrate, in accordance with OMB Circular A-94, that the multi-year lease with the YWCA to acquire a new facility at the LAJCC was the least expensive option to the Government and if appropriate, renegotiate the multi-year lease agreement to ensure that the total cost of the lease including the bargain purchase option is the least expensive option to the Government.*

Response: Management accepts this recommendation, in part.

As outlined in Circular A-94, Paragraph 4, Scope, the provisions of the Circular are “suggested”

for agencies' internal use as delineated below—

“The Circular’s guidelines are *suggested* for use in the internal planning of Executive Branch agencies. The guidelines must be followed in all analyses submitted to OMB in support of legislative and budget-programs in compliance with OMB Circulars No. A-11....” (Emphasis added.)

The use of the Circular is required for analyses submitted to OMB, but that was not the case with the LAJCC lease. There was no such requirement from OMB for the LAJCC lease project. In fact, the Office of Job Corps worked closely with OMB throughout the planning stages leading to this acquisition and were advised by OMB staff that an OMB Circular A-11 Exhibit 300 was not required for the LAJCC capital lease. Had there been an OMB requirement to submit an Exhibit 300, the Department would have followed the guidelines of Circular A-94 in completing its analysis. Management believes that the use of Circular A-94 was not, and is not, required for this project.

The LAJCC lease was acquired through a fully competitive acquisition process. The audit report correctly notes that the Los Angeles YWCA submitted the *only* response to the Request for Proposals (RFP). The lack of other respondents does not negate the fully competitive nature of the process. During the time the RFP was open, the Department received inquiries from other interested parties and potential bidders. Neither the Department nor the YWCA could have known how many proposals would ultimately be received, and it was in the best interest of any offeror—including the YWCA—to submit its most competitive proposal. Nevertheless, in final negotiations the Department succeeded in reducing the YWCA’s proposed \$105 million cost down to \$82 million, a savings of \$23 million in ARRA funds that were available for redeployment to other projects.

Management objects to the audit report’s estimate of potential savings that might have accrued from a direct land or building purchase as speculative. Given that no offeror came forward through the fully competitive acquisition process to offer a suitable building or parcel of land, it is conjecture to assert that direct purchase would have been a less costly option.

Management is open to the possibility of renegotiating the bargain purchase option (BPO) price if that option presents itself. There are many factors that could intercede over the 20-year term of the lease that could make purchase of the building more or less desirable to the Department, including changes in Job Corps program direction or changing demographics of the client base to be served. At this time, with the leased building neither complete nor occupied, the Department’s leverage in negotiating a new BPO price is limited. Given the \$23 million savings already realized through the recent contract negotiations and the funds already committed to the project, management believes it would be imprudent to seek to reopen negotiations at the present time.

OIG Recommendation 2. Update Departmental and Job Corps policies and procedures for facility leasing to incorporate the requirements of OMB Circular A-94.

Response: Management accepts this recommendation in part.

As noted above, the use of Circular A-94 is “suggested” for internal agency use, although it is required for analyses submitted to OMB. Management believes that existing guidance is sufficient—an analysis under Circular A-94 was not conducted in this instance because it was not required, and not due to a deficiency in Departmental policies and procedures.

It should be noted that the policies referenced in the recommendation are those of the Employment and Training Administration (ETA) and were not applicable to Job Corps at the time, since the Office of Job Corps was not located in the ETA. The Job Corps program is transitioning back to the ETA in 2010, and will collaborate with ETA officials to review the current policies and procedures and revise them accordingly.

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