



Department of Homeland Security Office of Inspector General

Review of Department of Homeland Security's Expenditure Plan: Department Headquarters Consolidation

(Letter Report)



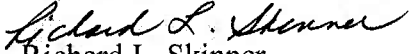
American Recovery and Reinvestment Act of 2009



Homeland Security

SEP 22 2009

MEMORANDUM FOR: The Honorable Elaine Duke
Under Secretary for Management

FROM: 
Richard L. Skinner
Inspector General

SUBJECT: *Letter Report: Review of Department of Homeland
Security's Expenditure Plan: Department Headquarters
Consolidation*

We reviewed the expenditure plan for the Department of Homeland Security headquarters consolidation as part of our oversight responsibilities to monitor the use of funds provided to the department under the *American Recovery and Reinvestment Act of 2009* (Recovery Act). The Recovery Act provided \$200 million to the Department of Homeland Security toward the ongoing consolidation of the department's headquarters at the St. Elizabeths site. The Recovery Act requires that the recipients of Recovery Act funds develop an expenditure plan for the use of the funds.

We reviewed the department's expenditure plan to determine whether the plan was practical, thorough, comprehensive, and designed to meet the Recovery Act's goals. Further, we evaluated the plan according to prudent management principles, to determine whether it contained measures to mitigate other factors that could pose challenges to the headquarters consolidation project.

The department generally developed a practical and comprehensive plan to spend its \$200 million in Recovery Act funds for the consolidation of its headquarters at the St. Elizabeths site. The department also designed its plan to meet Recovery Act goals. However, the department and the General Services Administration do not have a formal interagency agreement to ensure oversight of the Recovery Act funds. In addition, potential issues related to future funding, access, and litigation could delay the implementation of the headquarters consolidation project. We are making one recommendation to the department to help ensure the effective use of the Recovery Act funds. The department concurred with our recommendation. A copy of the department's response is provided at Appendix B.

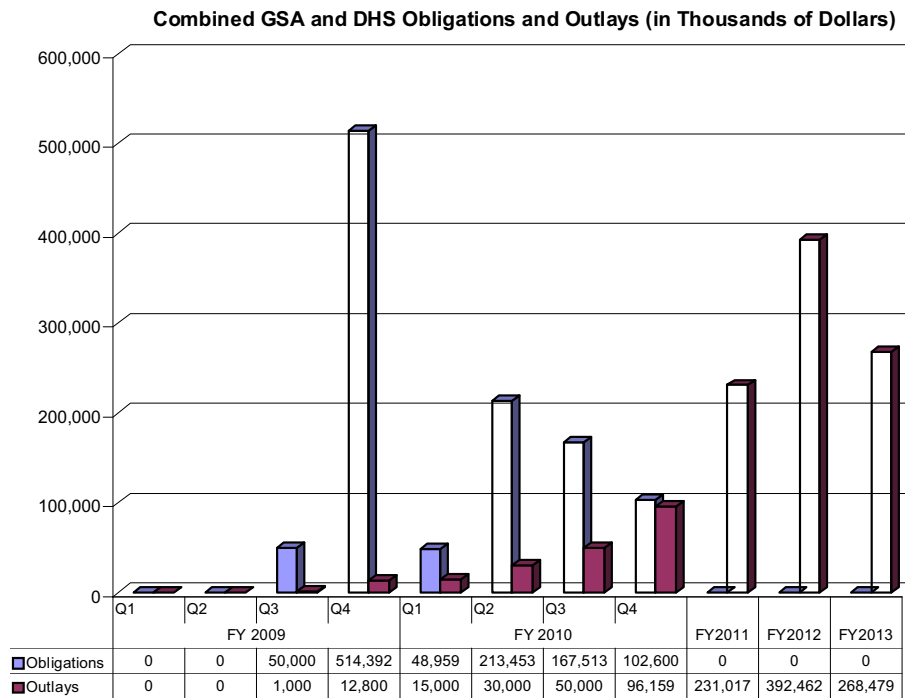
Should you have any questions, please call me, or your staff may contact Anne L. Richards, Assistant Inspector General for Audits, at (202) 254-4100.

Background

The *American Recovery and Reinvestment Act of 2009*, Public Law 111-5, (Recovery Act) was enacted on February 17, 2009, injecting \$787 billion of federal funds into the economy to preserve and stimulate economic growth in the United States. The Recovery Act made supplemental appropriations to federal departments and agencies for infrastructure investment, energy efficiency and science, assistance to the unemployed and disabled veterans, and state and local stabilization.

Under provisions of the act, the Department of Homeland Security (DHS) received approximately \$2.8 billion for equipment, construction, infrastructure improvement, and emergency management grants. Congress designated \$200 million of this amount to continue the development of St. Elizabeths¹ as the new DHS Consolidated Headquarters. The General Services Administration (GSA) has custody and control of St. Elizabeths' 176-acre West Campus and has developed a master plan to revitalize it as a high security campus for DHS headquarters.

GSA received \$450 million in Recovery Act funds and \$346.6 million in FY 2009 appropriations to develop St. Elizabeths. GSA will combine this funding with DHS Recovery Act funds of \$200 million and FY 2009 appropriations of \$100.2 million to begin its construction on the first phase of the project, the U.S. Coast Guard Headquarters. The following graph shows the planned schedule of obligations (commitments to pay) and outlays (actual payments) for the project through FY 2013:



¹ St. Elizabeths is a national historic landmark in southeast Washington, DC. It was established by Congress in 1855 as the Government Hospital for the Insane to provide mental health facilities for the military and the District of Columbia. In 1916, Congress officially changed the name of the facility to St. Elizabeths Hospital (without an apostrophe).

In April 2009, DHS transferred \$198.9 million of the \$200 million designated for headquarters consolidation to GSA through a reimbursable work authorization. These funds will pay for tenant-specific construction requirements for the U.S. Coast Guard Headquarters building and shared use facilities, such as security and telecommunications infrastructure. The department plans to use the remaining \$1.1 million by September 30, 2009, for operational site security staffing and construction activity monitoring.

Results of Review

The department generally developed a practical and comprehensive plan to spend its \$200 million in Recovery Act funds for the consolidation of its headquarters at the St. Elizabeths site. The department also designed its plan to meet Recovery Act goals. As planned, the department transferred \$198.9 in Recovery Act funds to GSA and will use the remaining \$1.1 million for site security and construction monitoring. However, the department and GSA do not have a formal interagency agreement to ensure oversight of the Recovery Act funds. In addition, potential issues related to future funding, access, and litigation could delay the implementation of the headquarters consolidation project.

Recovery Act Goals

We reviewed DHS' expenditure plan for evidence that it met the goal of the Recovery Act's "preference for quick-start activities" provision. The goal of the quick-start activities general provision (Title XVI, General Provision, section 1602 of the Recovery Act) was to use at least 50% of the funds for activities that could be initiated within 120 days of the date the Act was signed, or by June 17, 2009. Since GSA controls the headquarters consolidation project, DHS appears to have met the "preference for quick-start activities" goal by obligating \$198.9 million in Recovery Act funds to GSA in April 2009.

We also reviewed DHS' expenditure plan for evidence that it met the goal of the "special contracting" provision. That provision (section 1554 of the Recovery Act) recommended that, to the maximum extent possible, recipients award fixed-price contracts through the use of competitive procedures. If the plan is implemented as designed, the department should meet this goal by obligating the remaining \$1.1 million in DHS Recovery Act funds through fixed-price contracts for operational site security staffing and construction activity monitoring.

Interagency Agreement

DHS and GSA do not have a formal interagency agreement documenting the respective roles and responsibilities for the DHS headquarters consolidation project. DHS has a reimbursable work authorization with GSA to transfer \$198.9 million in Recovery Act funds to GSA for phases I, II, and III of the headquarters consolidation project. However, this document does not address oversight of the Recovery Act funds or Recovery Act reporting, and does not define roles and responsibilities for DHS and GSA.

According to department officials, DHS' communication with GSA is good. GSA is responsible for activities such as issuing construction contracts, monitoring contractor activities, and submitting monthly reports to the Office of Management and Budget on Recovery Act obligations and outlays. DHS will participate in the source selection team and provide additional oversight, such as determining suitability for access by contract personnel, monitoring construction activities, and ensuring conformance with the contract documents. Nevertheless, since DHS and GSA did not document these roles and responsibilities through a formal interagency agreement, a breakdown of communication between the department and GSA could present a significant barrier to effective project oversight.

An interagency agreement that defines roles and oversight responsibilities would also help ensure that Recovery Act funds are used as intended by Congress. For example, Title XVI, General Provision, section 1605 of the Recovery Act requires that, with certain exceptions, only iron, steel, and manufactured goods produced in the United States be used for the construction or alteration of public buildings. Without sufficient oversight, Recovery Act funds could inadvertently be used for foreign-produced construction materials.

Other Issues

DHS has identified funding, access, and potential litigation issues that could delay the headquarters consolidation project at the St. Elizabeths site. If these issues are not carefully monitored and resolved, the Recovery Act funds may not enter the economy as quickly as the legislation intended.

Funding

DHS' and GSA's ability to maintain the project delivery schedule is dependent on the effective management of the funding provided in the FY 2009 appropriation, the Recovery Act, and future congressional appropriations. To achieve the FY 2013 delivery of phase I, Congress must appropriate funds for equipment, outfitting and moving costs in future fiscal years. Likewise, for phases II and III, GSA and DHS will need additional appropriations to achieve the planned deliveries in FYs 2014 and 2016.

Access

Access to the new DHS headquarters is dependent upon the construction of a new road through an area currently under the jurisdiction of the National Park Service. The Federal Highway Administration is conducting an evaluation to determine whether there is a feasible and prudent alternative to the proposed access road that would not adversely affect parkland. However, according to DHS officials, it is unlikely that the evaluation will reveal an acceptable alternative. Once the Federal Highway Administration completes its evaluation, DHS, GSA, and the National Park Service will discuss the transfer of the affected parkland to GSA and possible measures to mitigate the environmental impact of the new road.

Potential Litigation

GSA and the Federal Highway Administration must make sure they are compliant with National Environmental Policy Act² and National Historic Preservation Act³ processes to avoid litigation surrounding the development of the St. Elizabeths site. Although a National Historic Preservation Act Programmatic Agreement⁴ to preserve the national historic landmark was executed, the agreement did not satisfy all of the nonsignatory consulting parties. In its agency recovery plan, the department recognized the potential for subsequent litigation. However, according to DHS officials, recent meetings with the consulting parties have gone very well and GSA is taking steps to ensure its compliance with all regulations and requirements throughout the planning process.

Conclusion

To achieve its goal of relocating the DHS headquarters to the St. Elizabeths site, the department needs to ensure that outstanding issues, including funding, access, and potential litigation, have been resolved. The department should also consider entering into an interagency agreement, such as a memorandum of understanding, with GSA regarding the roles and responsibilities of both agencies concerning the Recovery Act funds and project oversight.

Recommendations

We recommended that the Department of Homeland Security develop, in coordination with the General Services Administration, an interagency agreement that defines the roles and responsibilities of both agencies for project oversight, reporting, and tracking of Recovery Act funds.

Management Comments and OIG Analysis

DHS concurred with our facts, conclusions, and recommendations. DHS stated the agency and GSA will enter into a formal interagency agreement for the DHS Headquarters Consolidation Project. DHS and GSA will jointly develop and sign a memorandum of understanding that defines roles and responsibilities for oversight of the Recovery Act funds and Recovery Act reporting between DHS and GSA. We consider the recommendation resolved, but it will remain open pending receipt and review of documentation indicating that DHS and GSA have signed the memorandum of understanding.

² Public Law 91-190; 42 U.S.C. 4321-4347.

³ Public Law 89-665; 16 U.S.C. 470.

⁴ A programmatic agreement is a legally binding agreement among state or federal agencies that establishes a process for consultation, review, and compliance with federal historic preservation laws.

Appendix A

Purpose, Scope, and Methodology

The objective of our review was to determine whether the Department of Homeland Security has developed a practical and comprehensive plan to spend the funds provided by the Recovery Act to design and construct a headquarters facility.

To accomplish our objective, we:

- Reviewed laws, regulations, and guidance related to the *American Recovery and Reinvestment Act of 2009*;
- Obtained information on the processes and controls in place for budgetary resources management and financial and contract management;
- Examined prior audit reports issued by GSA's Office of Inspector General and by the Government Accountability Office;
- Reviewed the DHS Consolidated Headquarters Expenditure Plan, dated April 17, 2009;
- Reviewed documentation in support of the project expenditure plan, such as the program specific draft Recovery Act plan and other department and GSA records pertinent to the project; and
- Interviewed key personnel responsible for the expenditure plan and program-specific agency recovery plan from DHS and GSA, including the GSA's Office of Inspector General.

We conducted our review between April 2009 and June 2009 under the authority of the *Inspector General Act of 1978*.

We would like to thank the Department of Homeland Security and the General Services Administration for their cooperation and courtesies extended to our staff during this review.

Appendix B Management Comments to the Draft Letter Report


U.S. Department of Homeland Security
Washington, DC 20528

SEP 08 2009



Homeland
Security

MEMORANDUM FOR: Anne L. Richards
Assistant Inspector General for Audits

FROM: Elaine C. Duke 
Under Secretary for Management

SUBJECT: Response to the Draft Letter Report: *Review of Department of Homeland Security's Expenditure Plan: Department Headquarters Consolidation*

In response to your August 13, 2009 memorandum, *Draft Letter Report: Review of Department of Homeland Security's Expenditure Plan: Department Headquarters Consolidation*, the Department of Homeland Security (DHS)/Under Secretary for Management (USM) agrees with the recommendation in the Draft Letter Report: *We recommend that the Department of Homeland Security develop, in coordination with the General Services Administration, an interagency agreement, such as a memorandum of understanding, that defines the roles and responsibilities of both agencies for project oversight, including reporting, oversight, and tracking of Recovery Act funds.*

The DHS and General Services Administration (GSA) will enter into a formal interagency agreement for the DHS headquarters consolidation project. We will jointly develop and sign a memorandum of understanding that defines roles and responsibilities for oversight of the Recovery Act funds and Recovery Act reporting between DHS and GSA.

We do not have comments on the Draft Letter Report. We also do not have any concerns for publicly releasing any of the information contained in the report and do not believe any specific elements should be excluded.

If there are any questions, please contact Mr. Richard K. McGruder, in the Office of the Chief Administrative Officer, at (202) 447-5028.

Appendix C
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Appendix D
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