



INSTALLATION REPORT OF AUDIT

F2010-0022-FBN000

**American Recovery and Reinvestment
Act of 2009 Program Requirements
3rd Wing
Elmendorf AFB AK**

Northwest Area Audit Office

10 December 2009

INTRODUCTION

On 17 February 2009, the President signed into law the American Recovery and Reinvestment Act of 2009. The Air Force received \$1.15 billion, for 1,548 Recovery Act projects at 107 locations, of which, the 611th Air Support Group received \$19 million for use on five facilities sustainment, restoration, and modernization projects. The 3rd Contracting Squadron was responsible for managing the Indian Mountain Repair Fire Detection Equipment Project.

OBJECTIVES

We accomplished this centrally directed audit to determine whether 3rd Contracting Squadron personnel properly established Recovery Act facilities sustainment, restoration, and modernization requirements. Specifically, we determined whether personnel:

- Properly selected Recovery Act projects
- Included all new Federal Acquisition Regulation clauses in Recovery Act contracts.
- Met the goals of the Recovery Act by expeditiously awarding contracts and fostering competition.
- Reported contract information so that it was transparent to the public.

CONCLUSIONS

The 3rd Contracting Squadron could more effectively establish Recovery Act facilities sustainment, restoration, and modernization requirements in one of the three areas reviewed. The fourth area, selection of Recovery Act projects objective was not applicable. Specifically, 3rd Contracting Squadron personnel:

- Included all appropriate Federal Acquisition Regulation clauses in Recovery Act contracts. Missing Federal Acquisition Regulation clauses result in Air Force non compliance with federal requirements. Additionally, contractors may not have all the information required to perform Recovery Act projects. (Tab A, page 1)
- Achieved the Recovery Act program goal of expeditiously awarding projects and fostering competition. As a result, the Air Force met the requirements of the Recovery Act. (Tab B, page 3)

- Did not report contract information so it was transparent to the public. As a result, the contract is not in compliance with the transparency requirements of the Recovery Act and the Federal Acquisition Regulation. (Tab C, page 4)

RECOMMENDATIONS We made one recommendation to meet the transparency requirements of the Recovery Act and Federal Acquisition Regulation. (Reference Tab C for specific recommendations.)

MANAGEMENT'S RESPONSE Management officials agreed with the audit results and recommendation in this report. The corrective actions planned are responsive to the issues included in this report. Therefore, this report contains no disagreements requiring elevation for resolution.



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BACKGROUND

The intention of the Recovery Act is to place money into the economy quickly in order to jump start the economy. The development of the new Federal Acquisition Regulation (FAR) clauses assist in the prevention of fraud, waste, and abuse that are inherent with the short timelines involved. Nine of the new applicable FAR part 52, Solicitation Provisions and Contract Clauses, 11 August 2009, clauses are as follows:

- 52.203-15 Whistleblower Protection under the American Recovery and Reinvestment Act
- 52.204-11 Recovery Act Reporting Requirements
- 52.212-4 Contract Terms and Conditions - Commercial Items
- 52.214-5 Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items
- 52.215-2 Audit and Records-Negotiation
- 52.222-6 Davis-Bacon Act
- 52.225-21 Required Use of American Iron, Steel, and Other Manufactured Goods-Buy American Act - Construction Materials
- 52.225-22 Notice of Required Use of American Iron, Steel, and Other Manufactured Goods-Buy American Act-Construction Materials
- 52.244-6 Subcontracts for Commercial Items and Commercial Components

AUDIT RESULTS 1 – FEDERAL ACQUISITION REGULATION CLAUSES

Condition. Contracting personnel included all applicable FAR clauses in Recovery Act contracts. Specifically, personnel created a modification to the Arctec contract (FA5000-04-C-0011) to include the Indian Mountain Repair Fire Detection Equipment project and the applicable Recovery Act FAR clauses.

Cause. This occurred because Air Staff provided contracting personnel with a list of requirements including the additional FAR clauses.

Impact. Missing FAR clauses result in Air Force non compliance with the Recovery Act and FAR requirements. Additionally, contractors may not have all the information required to perform Recovery Act projects.

BACKGROUND

On 4 March 2009, the President issued a memorandum stating “it is the policy of the Federal Government that executive agencies not engage in non-competitive contracts except in those circumstances where their use can be fully justified and where appropriate safeguards have been put in place to protect the taxpayer.”

AUDIT RESULTS 2 – AWARDS

Condition. Contracting personnel achieved the Recovery Act program goal of expeditiously awarding projects and fostering competition. First, personnel requested the project in April 2009 and awarded the contract by June 2009. In addition, personnel originally competed the Arctec contract (FA5000-04-C-0011), which includes the Indian Mountain Repair Fire Detection Equipment project modification¹, to ensure the Government received the best price to meet requirements.

Cause. This occurred because management made Recovery Act projects a priority.

Impact. As a result, the Air Force is meeting the requirements of the Recovery Act.

¹ Although the modification was not competed, personnel met Recovery Act requirements for competition by modifying a contract that had been competed.

BACKGROUND

The Federal Business Opportunities (FBO) is the single government point-of-entry for Federal Government procurement opportunities over \$25,000. The FBO website, www.fbo.gov, contains all Federal Government solicitations and contract awards. FAR 5.7, Publicizing Requirements Under the Recovery and Reinvestment Act of 2009, 11 Aug 2009, requires all contract actions over \$25,000 to be posted on FBO as well as any contract action, regardless of amount, that was not awarded both competitively and firm, fixed price.

AUDIT RESULTS 3 – TRANSPARENCY

Condition. Contracting personnel did not report contract information so that it was transparent to the public. Specifically, contracting personnel did not post a clear description of the work requested in the Indian Mountain Repair Fire Detection Equipment project.

Cause. This occurred because Air Staff did not provide contracting personnel with sufficient guidance on Recovery Act requirements.

Impact. As a result, the Air Force did not meet the transparency requirements of the Recovery Act and FAR.

Audit Comment. The issue regarding the Recovery Act requirement guidance was elevated to the audit control point for possible inclusion in an Air Force-wide report of audit.

Recommendation C.1. The 3rd Contracting Commander should direct the contracting officer to update the FBO website to give a detailed description of the work requested.

Management Comments. The 3rd Wing Vice Commander concurred with the audit result and recommendation and stated: “The contracting officer will modify award notice in FBO to accurately reflect the description of work: Repair Fire Detection Equipment/System-Indian Mountain. Estimated Completion Date: 15 January 2010.”

Evaluation of Management Comments. Management comments addressed the issues discussed in the audit result, and corrective action planned should correct the problem.

Policies and Procedures

Criteria. We performed this audit using the following criteria:

- Public Law 111-5, *The American Recovery and Reinvestment Act of 2009*, 19 February 2009
- Office of Management & Budget Memorandum M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, 3 April 2009
- Federal Acquisition Regulation, Parts 5, *Publicizing Contract Actions*, 11 August 2009
- Federal Acquisition Regulation, Parts 6, *Competition Requirements*, 11 August 2009
- Federal Acquisition Regulation, Parts 15, *Contracting by Negotiation*, 11 August 2009
- Federal Acquisition Regulation, Parts 52, *Solicitation Provisions and Contract Clauses*, 11 August 2009
- Air Force Instruction 32-1023, *Design and Construction Standards and Execution of Facility Construction Projects*, 19 July 1994
- Air Force Instruction 32-1032, *Planning and Programming Appropriated Funded Maintenance, Repair, And Construction Projects*, 15 October 2003

AUDIT SCOPE

Audit Coverage. We reviewed documents (to include, project listings, Department of Defense Form 1391, Air Force Information Management Tool 332, and project folders), for the period January 2008 through June 2009, to determine whether contracting personnel properly established Recovery Act Facilities Sustainment, Restoration, and Modernization requirements. We conducted the audit from July to August 2009 and provided management a draft report in October 2009.

- **FAR Clauses.** We reviewed the contract files to determine whether contracting personnel included all applicable Recovery Act FAR clauses, the type of contract awarded, and whether the contract was competed.
- **Recovery Act Goals.** We reviewed contract files to determine the type of contract awards, whether the contract was competed, and how quickly the contract was awarded. Additionally, we held discussions with contracting personnel to determine plans to validate information contained in the contractors Quarterly Reports.
- **Transparency.** We reviewed contract information posted to the FBO website to verify that it was transparent to the public. Specifically, we reviewed the synopsis to determine whether it included a clear description of the work requested, proposal evaluation criteria, and the type and method of contract solicited.

Sampling Methodology. Air Force received \$1.15 billion for 1,548 Recovery Act projects at 107 locations. The audit control point selected two of five Recovery Act projects at the 611th Air Support Group for review. The Indian Mountain Repair Fire Detection Equipment project was included in a random sample and the Eareckson runway project was selected because it was greater than \$7.5 million. The 3rd Contracting was responsible for managing the Indian Mountain project; therefore, this report only addresses that project.

Computer-Assisted Auditing Tools and Techniques. We did not use computer-assisted auditing tools and techniques to complete this audit.

Data Reliability. We relied on information from the Commander's Resource Information System and Electronic Document Access for our audit conclusions. To establish the data's reliability we compared Commander's Resource Information System reports and contracts in Electronic Document Access with physical evidence and available manual records. Based on these tests, we concluded that the data were reliable in meeting the audit objective.

Auditing Standards. We accomplished this audit in accordance with generally accepted Government auditing standards, and accordingly, included such tests of internal controls as considered necessary under the circumstances. Specifically, we evaluated the selection and surveillance of Recovery Act projects.

Discussion with Responsible Officials. We discussed/coordinated this report with the 3rd Wing Commander and other interested officials. We advised management this audit was part of an Air Force-wide evaluation, American Recovery and Reinvestment Act of 2009 Program Requirements (Project F2009-FD1000-0516.000). Therefore, selected data not contained in this report, as well as data contained herein, may be included in a related Air Force report of audit. We received management's formal comments in December 2009 and included the comments in this report.

PRIOR AUDIT COVERAGE

We did not identify any Air Force Audit Agency, DoD Inspector General, or Government Accountability Office reports issued to the 3rd Wing within the last 5 years that related to our specific objectives.

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PROJECT NUMBER

We accomplished this audit under project number F2009-FD1000-0516.035.

FREEDOM OF INFORMATION ACT

The disclosure/denial authority prescribed in AFPD 65-3 will make all decisions relative to the release of this report to the public.