



U.S. Army Audit Agency

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American Recovery and Reinvestment Act of 2009

**U.S. Army Corps of Engineers Portland
District**

Executive Summary

Audit Report A-2010-0223-FFE

30 September 2010



American Recovery and Reinvestment Act of 2009

U.S. Army Corps of Engineers Portland District



Results

On 17 February 2009, the President signed into law the American Recovery and Reinvestment Act of 2009 with the expressed purpose of stimulating economic growth. The Recovery Act requires unprecedented levels of transparency, oversight, and accountability. The Office of the DOD Inspector General is executing a joint-oversight approach with the Service audit agencies to ensure maximum and efficient audit coverage of Recovery Act plans and implementation.

We reviewed the U.S. Army Corps of Engineers Portland District's implementation of the Recovery Act to ensure that it was in accordance with the requirements of the Act, the Office of Management and Budget guidance, and subsequent related guidance for the three projects we reviewed. Specifically, we focused on the planning, funding, project execution, and tracking and reporting of Recovery Act projects to ensure transparency, accountability, and mitigation of fraud, waste, and abuse.

The Portland District generally implemented the Recovery Act in accordance with the requirements of the Act, the Office of Management and Budget guidance, and subsequent related guidance. Specifically, for the three projects our review showed that the district:

- Properly planned its Recovery Act project implementation.
- Distributed and awarded Recovery Act funds in a prompt and reasonable manner.
- Properly performed project and contract execution duties.
- Tracked and reported most of its Recovery Act information.

However, the Portland District didn't post and report all information for one of the three projects to public Web sites, as required by the Act, because it believed it wasn't required to do so. As a result, the actions for the project weren't fully transparent to the public.

Despite the minimal reduction in transparency for the one project, there is reasonable assurance that the Portland District used Recovery Act funds for authorized purposes, mitigated the risks of fraud, waste, and abuse, and achieved program transparency goals.

Recommendations

We recommended the Commander, U.S. Army Corps of Engineers Portland District direct personnel to:

- Post the rationale for using a sole-source award for Amazon Creek and any other future noncompetitive awards, funded by the Recovery Act, to required Web sites.
- Post the synopsis for the Amazon Creek project and all other grants and cooperative agreement projects funded by the Recovery Act to Grants.gov.

The Commander, U.S. Army Corps of Engineers Portland District agreed with our recommendations. U.S. Army Corps of Engineers headquarters provided the official Army position and agreed with our report and Portland District's response.



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30 September 2010

Commanding General, U.S. Army Corps of Engineers
Commander, U.S. Army Corps of Engineers Portland District

This is the report on our audit of the American Recovery and Reinvestment Act of 2009 at the U.S. Army Corps of Engineers Portland District. The audit was part of a Defensewide effort, executed by the Office of the Department of Defense Inspector General and the Service audit agencies. In accordance with requirements of the Act, we will make the results of this audit available to the public. We focused the audit on determining whether the Portland District implemented the Recovery Act in accordance with the requirements of the Act, the Office of Management and Budget guidance, and subsequent related guidance.

We conducted this audit in accordance with generally accepted government auditing standards.

This report has two recommendations addressed to the Commander, U.S. Army Corps of Engineers Portland District.

The Army's official position on the conclusion, recommendations, and command comments is in Annex D. For additional information about this report, contact the Environment and Civil Works Audits Division at 410-278-4287.

I appreciate the courtesies and cooperation extended to us during the audit.

FOR THE AUDITOR GENERAL:

A handwritten signature in black ink, reading "Clarence G. Johnson, Jr.", is positioned above the typed name.

CLARENCE G. JOHNSON, JR.
Program Director
Environment and Civil Works Audits

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INTRODUCTION

WHAT WE AUDITED

On 17 February 2009, the President signed into law the American Recovery and Reinvestment Act of 2009 with the expressed purpose of stimulating economic growth. The Act required unprecedented levels of transparency, oversight, and accountability. The Office of the DOD Inspector General (DODIG) is executing a joint-oversight approach with the Service audit agencies to ensure maximum and efficient audit coverage of Recovery Act plans and implementation.

We audited the Army's implementation of the Act at the U.S. Army Corps of Engineers (USACE) Portland District. Specifically, we assessed whether Portland District personnel:

- Sufficiently planned the projects to ensure the appropriate use of Recovery Act funds. (Planning)
- Awarded and distributed funds in a prompt, fair, and reasonable manner. (Funding)
- Performed contract administration and project execution duties in a manner to ensure the uses of Recovery Act funds were for authorized purposes, instances of fraud, waste, error, and abuse were mitigated, program goals were achieved, and funded projects avoided unnecessary delays and cost overruns. (Execution)
- Ensured that recipients and uses of funds were transparent to the public and the benefits of the funds were reported clearly, accurately, and in a timely manner. (Tracking and Reporting)

BACKGROUND

The Office of Management and Budget (OMB) Memorandum M-09-15 (Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009), dated 3 April 2009, provides an updated set of governmentwide requirements and guidelines that Federal agencies must implement or prepare for, to effectively manage activities under the Recovery Act. Specifically, the guidance establishes and clarifies the required steps Federal agencies must take to meet the following crucial accountability objectives:

- Funds were awarded and distributed in a prompt, fair, and reasonable manner.
- The recipients and uses of all funds were transparent to the public and the public benefits of these funds were reported clearly, accurately, and in a timely manner.
- Funds were used for authorized purposes and the potential for fraud, waste, error, and abuse were mitigated.
- Projects funded under this Act avoided unnecessary delays and cost overruns; and program goals were achieved, including specific program outcomes and improved results on broader economic indicators.

Additionally, the guidance requires agencies to compile weekly reports, including financial and activity details, to ensure that they were meeting the transparency and accountability objectives and to mitigate the potential for fraud, waste, and abuse.

DOD received approximately \$12 billion as part of the Recovery Act. Of the \$12 billion, the Army received about \$7.7 billion for operation and maintenance; military construction; research, development, test, and evaluation; and USACE civil works projects. All funds are available for obligation until 30 September 2010, and until 30 September 2013 for military construction. As of 30 November 2009, the USACE Portland District planned to expend about \$171.7 million for 157 projects.

The Office of the DODIG analyzed all DOD agency-funded projects, locations, and contracting oversight organizations to assess the risk of fraud, waste, and abuse associated with each. The DODIG used predictive analytics to quantify the risks and select projects to review. The predictive analytics identified the following three project groups for our review at the Portland District:

- Amazon Creek, with estimated costs of about \$400,000.
- Bonneville Lock and Dam, with estimated costs of about \$8.8 million.
- Columbia River Treaty Fishing Access Sites, with estimated costs of about \$28.3 million.

The 3 project groups included 26 projects from the approved USACE expenditure plan: 1 project for Amazon Creek, 22 projects for the Bonneville Lock and Dam, and 3 projects for the Columbia River Treaty Fishing Access Sites. We reduced the scope of our review by selecting the projects with the largest dollar value from the Bonneville Lock and Dam and the Columbia River Treaty Fishing Access Sites. As a result, we reviewed the following three projects, valued at \$17.9 million:

Projects Reviewed by USAAA		
Project Title	Cost Estimate	Project Type
Amazon Creek	\$438,000	Investigations
Rehab Domestic Water Systems—Bonneville Lock and Dam	2,450,000	Operation and Maintenance
Design/Build Contract for Wyeth—Columbia River Treaty Fishing Access Sites	15,000,000	Construction

Annex C includes pictures of the Bonneville Lock and Dam.

OTHER MATTERS

We conducted the review of Portland District as a joint effort with the DODIG. This report addresses our review of three projects. The DODIG will report separately on the following three projects that they reviewed.

Projects Reviewed by DODIG		
Project Title	Cost Estimate	Project Type
John Day Lock and Dam Downstream Lift Gate Replacement	\$16,000,000	Operation and Maintenance
Mount Saint Helens Sediment Control Castle Rock Levee	2,800,000	Construction
Willamette River Environmental Dredging Ecosystem Restoration Feasibility Study	615,000	Investigations

RECOVERY ACT IMPLEMENTATION

OBJECTIVE

Did the U.S. Army Corps of Engineers Portland District implement the American Recovery and Reinvestment Act of 2009 in accordance with the requirements of the Act, the Office of Management and Budget guidance, and subsequent related guidance?

CONCLUSION

Generally, yes. The USACE Portland District implemented the Recovery Act in accordance with the requirements of the Act, the OMB guidance, and subsequent related guidance for the three projects within the scope of our review. Specifically, for the three projects that we reviewed, the Portland District:

- Sufficiently planned its Recovery Act project implementation by identifying projects eligible for Recovery Act funding and having sufficient controls and an approved expenditure plan in place.
- Distributed and awarded funds in a prompt and reasonable manner.
- Performed contract and project execution duties in a manner that provided reasonable assurance that the district used Recovery Act funds for authorized purposes, mitigated risks of fraud, waste, and abuse, and the achieved program goals.
- Properly tracked and reported information to ensure the recipients, uses, and benefits of Recovery Act funds were transparent to the public.

However, the Portland District didn't post all information to public Web sites as required by the Act. Specifically, for one of the three projects reviewed, the district didn't post its rationale for using a sole-source versus a competitive award to the Federal Business Opportunities Web site and didn't report the actual award to Grants.gov. As a result, the project award wasn't fully transparent to the public. The Portland District needs to post and report all Recovery Act actions to meet requirements of the Act and ensure transparency.

Our recommendations to correct transparency and reporting issues are in the next section. We discuss our detailed audit results for the four areas of planning, funding, project execution, and tracking and reporting beginning on page 8.

RECOMMENDATIONS AND COMMENTS

This section contains two recommendations and a summary of command comments for each recommendation. The official Army position and verbatim command comments are in Annex D.

For the Commander, U.S. Army Corps of Engineers Portland District

Recommendation 1

Direct personnel to post the rationale for using a sole-source award for Amazon Creek and any future noncompetitive awards, funded by the Recovery Act, to required Web sites.

Command Comments

Command concurred with the recommendation and posted a new special notice to the Federal Business Opportunities Web site on 7 September 2010. The special notice included the rationale for using a sole-source award for the Amazon Creek project.

Recommendation 2

Direct personnel to post the synopsis for the Amazon Creek project and all other grants and cooperative agreement projects funded by the Recovery Act to Grants.gov.

Command Comments

Command concurred with the recommendation. It also stated that the recommended corrective action, which was based on an interpretation of OMB Guidance M-09-10, isn't consistent with existing DOD Guidance (A Guide for DOD Staff, November 2008) for use of Grants.gov. Command further stated that Grants.gov wasn't adapted to support notices or to fully implement American Recovery and Reinvestment Act requirements and recommended that other documents be modified to match the requirements.

However, it stated that it would use the solicitation feature of Grants.gov to post an after-the-fact notice.

Before the report was published, command stated that it attempted to post the synopsis to Grants.gov, but was unsuccessful because the Web site wasn't capable of accepting a past date. Command further stated that it would post all future Recovery Act funded grants and cooperative agreement projects to Grants.gov as required.

Official Army Position

Headquarters, U.S. Army Corps of Engineers provided the official Army position and agreed with the comments provided by the Portland District.

Agency Evaluation of Command Comments

Under the circumstances, command's actions generally met the intent of our recommendation. Although command agreed to post all future Recovery Act grants and cooperative agreements projects to Grants.gov, its attempt to post the synopsis for the Amazon Creek project to Grants.gov was unsuccessful. We obtained verification – from DOD's Program Manager for Grants.gov – that Grants.gov wasn't capable of accepting a past date. The program manager told us the Web site has system controls that prevent past dates from being entered, as the district attempted, or the submission of a new application and a synopsis for an opportunity that has been completed – even for informational purposes. Consequently, there will be reduced transparency for the Amazon Creek project. Command needs to ensure that it posts all future American Recovery and Reinvestment Act grants and cooperative agreements projects to Grants.gov when required to ensure complete transparency.

Also, OMB M-09-10 (Implementing Guidance for the American Recovery and Reinvestment Act of 2009), which is dated 18 February 2009, takes precedence over DOD's Guide for DOD Staff, dated November 2008. OMB requires that the recipients and uses of all Recovery Act funds are transparent to the public and the public benefits of these funds are reported clearly, accurately and in a timely manner. Additionally, our review of the Grants.gov Web site showed that it does contain specific guidance for posting new Recovery Act opportunities and modifying posted Recovery Act opportunities. It also lists agency points of contact, such as for DOD, Department of Commerce, Department of Justice, and several other agencies, which system users can contact to obtain additional information.

A – PLANNING

BACKGROUND

Operations Order 2009-11 (USACE Execution of the American Recovery and Reinvestment Act of 2009), dated March 2009, provides overall guidance for the Corps on the requirements of the Recovery Act.

U.S. Army Corps of Engineer Circular 11-2-195 (Execution of the American Recovery and Reinvestment Act 2009 Civil Works Program), dated 30 April 2009, provides USACE program and project management guidance to govern execution of Civil Works funds provided by the Recovery Act. In accordance with requirements of the Recovery Act, the guidance states that no new specifically authorized programs, projects, or activities could receive Recovery Act funds unless they had first received regularly appropriated Energy and Water Development funds.

Fragmentary Orders (FRAGOs) 4 and 11 to Operations Order 2009-11, dated 25 March and 27 May 2009, provide guidance for procedures and documentation of communications with registered lobbyists regarding the Recovery Act. The guidance requires USACE officials to document their communications with registered lobbyists under the Lobbying Disclosure Act of 1995.

FRAGOs 12, 19, and 22 to Operations Order 2009-11, dated 3 June, 20 July, and 9 November 2009, provide the USACE Recovery Act Risk Management Plan and guidance on implementing the management control requirements specific to the Act, including quarterly management control checklists and reporting schedules.

DISCUSSION

The USACE Portland District sufficiently planned its Recovery Act projects. Our review showed that the district worked with USACE headquarters to identify, validate, and prioritize requirements eligible for Recovery Act funding. The district also had sufficient controls and processes in place to implement its Recovery Act projects to include:

- Conducting monthly program review board meetings to discuss Recovery Act project status and issues.

- Designating a Recovery Act program manager to oversee the district's implementations of Recovery Act projects.
- Implementing management control checklists for engineering and construction, contracting, public affairs, and resource management to ensure the district applied all the management control requirements for the Recovery Act projects.
- Developing risk management plans, when appropriate, to assess the risks of the Recovery act projects.

In addition, for the projects we reviewed, the Portland District followed all applicable USACE Civil Works specific guidance for the Recovery Act. We also found that Portland District's expenditure plans for its Recovery Act projects were consistent with the approved USACE headquarters' expenditure plans, including 157 projects requiring about \$171.7 million in Recovery Act funds. As a result, there is reasonable assurance that the Portland District appropriately used Recovery Act funds for the three projects we reviewed.

Because our results are positive, there are no recommendations for this area.

B – FUNDING

BACKGROUND

OMB Bulletin 09-02 (Budget Execution of the American Recovery and Reinvestment Act of 2009 Appropriations) requires agencies to use a separate Treasury appropriation fund symbol to track and report Recovery Act funding in order to facilitate transparency.

DISCUSSION

The USACE Portland District distributed and awarded funds in a prompt, fair, and reasonable manner for the three projects included in our review. Specifically, our review showed that USACE headquarters appropriately used separate appropriation fund symbols to transfer \$172.5 million in Recovery Act funds to the Portland District's contracting authority. Of the \$172.5 million, the USACE headquarters transferred \$1.4 million to investigations, \$94.2 million to operation and maintenance, and \$76.9 million to construction accounts for Recovery Act projects, including the three that we reviewed as of August 2009. The USACE Expenditure plan totaled \$171.7 million for Portland District Recovery Act projects, which included \$1.5 million for investigations, \$74.7 million for operation and maintenance, and \$95.5 million for construction. The difference of about \$800,000 was attributable to an overall increase in the estimated project cost at the district. The district's distribution of the funds to the project level was reasonably consistent with prior funding plans and estimates. Further, the district started the three projects in prior years using regularly appropriated funds in accordance with USACE Recovery Act guidance.

The Portland District appropriately distributed funds to the three projects. Specifically, at the time of our review, the district:

- Distributed \$416,500 to the Amazon Creek project from the investigations account and planned to receive the additional \$21,500 amount later.
- Distributed about \$372,500 to the Bonneville Lock and Dam Rehab Domestic Water Systems project from the operation and maintenance account and planned to receive additional funds later.
- Distributed about \$12.8 million to the Columbia River Treaty Fishing Access Sites for the Wyeth project from the construction general account, and awarded a

contract for the project for \$8.3 million on 4 January 2010. However, the district anticipated the total cost for the project would be about \$11.3 million, due to supervision and overhead costs. The district was in the process of using about \$1.5 million in excess funds on other projects.

As a result, there is reasonable assurance that the Portland District properly funded its Recovery Act projects and the use was appropriate.

Because our results are positive, there are no recommendations for this area.

C – PROJECT EXECUTION

BACKGROUND

The National Environmental Policy Act of 1969 requires Federal agencies to integrate environmental values into their decisionmaking processes by considering the environmental effects of their proposed actions and develop reasonable alternatives to those actions. To meet National Environmental Policy Act requirements, Federal agencies should prepare a detailed statement known as an environmental statement.

OMB M-09-10 (Implementing Guidance for the American Recovery and Reinvestment Act of 2009), dated 18 February 2009, states that agencies using Recovery Act funds through grants and cooperative agreements will:

- Within 20 days after enactment of the Recovery Act, post funding opportunity announcement (synopsis) to Grants.gov.
- Within 30 days of enactment, link the Grants.gov synopsis to the full announcement on the agency Web site.

OMB M-09-15 (Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009), dated 3 April 2009, added a new part 176 to Title 2 of the Code of Federal Regulations to provide interim final guidance and standard award terms for grants and cooperative agreement and loan awards funded with Recovery Act funds. It includes requirements for implementing the following Recovery Act sections:

- Section 1512 – Reporting and Registration Requirements.
- Section 1605 – Buy American Requirements.
- Section 1606 – Wage Rate Requirements.

FRAGO 5 to Operations Order 2009-11, dated 31 March 2009, provides guidance for the USACE's division level to report all Recovery Act funded contract/purchase actions through Federal Procurement Data System-Next Generation. The guidance states that the contracting office should post all solicitations to the Army Single Face to Industry Acquisition Business Web site. It also requires the divisions to use Federal Acquisition Circular 2005-032 and incorporate the following interim rules into all Recovery Act solicitations/contracts:

- Federal Acquisition Regulation (FAR) 2009-008-American Recovery and Reinvestment Act-Buy American Requirements for Construction Materials.
- FAR 2009-009-American Recovery and Reinvestment Act-Reporting Requirements.
- FAR 2009-010-American Recovery and Reinvestment Act-Publicizing Contract Actions.
- FAR 2009-011-American Recovery and Reinvestment Act-Government Accountability Office/Inspector General Access.
- FAR 2009-012-American Recovery and Reinvestment Act-Whistle Blower Protections.

FAR Subpart 5.7, Publicizing Requirements under the American Recovery and Reinvestment Act of 2009, requires the contracting officers to use the Federal Business Opportunities Web site to:

- Identify the action as funded by the Recovery Act.
- Post preaward notices for orders exceeding \$25,000 for “informational purposes only.”
- Describe supplies and services that are clear and unambiguous.
- Provide a rationale for awarding any action that is not both fixed-price and competitive.

DISCUSSION

For the three projects we reviewed, the USACE Portland District generally performed contract administration and project execution duties in accordance with the requirements of the Act. Our review showed that the three projects represented valid needs that supported Recovery Act goals, the district had reasonable cost estimates for the three projects, contracting personnel generally met competition and transparency goals and requirements, and the district had quality assurance measures in place. However, personnel didn't post some information for one of the three projects as required for transparency.

Project Justification

We determined that the three projects that we reviewed represented a valid need. The district had project management plans for the projects, which outlined the authority and requirements for each of the projects. Specifically, our review showed that:

- Senate Report 107-39, “Energy and Water Development Appropriation Bill, 2002,” the 2001 Energy and Water Development Act, and two additional study authorities (the Senate Committee on Public Works resolution for the Willamette River Basin Comprehensive Study, adopted 15 November 1961, and the House Committee on Public Works resolution for the Willamette Basin Review Study, adopted 8 September 1988), authorized the Amazon Creek project. This investigation project was a feasibility study to determine the best course of action to resolve multiple issues affecting the waterways in the Eugene-Springfield metro area located in Lane County, Oregon.
- U.S. Congress authorized the Bonneville Lock and Dam Rehab Domestic Water Systems project in the River and Harbor Act of 30 August 1935 and later granted specific authority for the completion, maintenance, and operation of the Bonneville Dam in the Bonneville Project Act of 1937. It was an operation and maintenance project to design and construct an improved water system along the shores of Oregon and Washington.
- Public Law 100-581, Title IV- Columbia River Treaty Fishing Access Sites and a 1939 agreement that held the USACE responsible for providing 400 acres of land to compensate for the flooding of several fishing sites along the Columbia River both authorized the Columbia River Treaty Fishing Access Sites for the Wyeth project. Categorized as construction, the project was to design and construct a bridge that spans over a railroad, boat ramps, and facilities for the campsites.

The Portland District complied with the National Environmental Policy Act for the projects. Specifically, our review showed:

- The final product for the Amazon Creek project will be a feasibility report and an environmental document that complies with National Environmental Policy Act.
- The district completed a “Finding of No Significant Impact” report for the first phase of the Columbia River Treaty Fishing Access Sites for the Wyeth project.
- The district completed a National Environmental Policy Act waiver with a categorical exclusion for the Bonneville Lock and Dam Project.

Project Estimates

The Portland District had reasonable cost estimates for the three projects that we reviewed. The district engineers used programmatic and other analyses to develop estimates and contracting personnel reviewed the estimates. The district also included contingencies in the estimates to offset the risks associated with unknown variables. Our review showed that the district had sufficient justification to support the estimates and the variances found between the project management plans and the Corps' project list. Specifically:

- The \$375,000 estimate and award for the Amazon Creek project was 14 percent less than the \$438,000 estimate included in the Corps' approved project list. The district planned to fund the Portland District's program management and technical lead labor for the project with the \$63,000 difference.
- The \$1.27 million difference between the \$3.72 million estimated cost listed in the project management plan and the estimated cost of \$2.45 million listed on the Corps' project list the Bonneville Lock and Dam Rehab Domestic Water Systems project was attributable to a decision to split the project into Phase I and Phase II. The district planned to use Recovery Act funds to complete Phase II, which had an estimated cost of \$2.45 million in the approved project list.
- The 1 percent difference between the \$15.1 million estimated in the program management plan and the \$15 million estimated cost listed on the Corps' civil works project list for the Columbia River Treaty Fishing Access Sites for the Wyeth project was attributable to rounding.

Competition and Transparency Goals

Contracting personnel generally met competition and transparency goals and requirements. Contracting officers competitively awarded a firm, fixed-price contract for the Columbia River Treaty Fishing Access Sites for the Wyeth project, used an existing cooperative agreement for the Amazon Creek project, and awarded a sole-source, firm-fixed price contract for the Bonneville Lock and Dam Rehab Domestic Water Systems project. The district justified the use of the sole-source cooperative agreement and the sole-source award based on the following:

- The agreement for Amazon Creek was between the district and the Lane Council of Governments. The Council possessed unique experience and ability and the district could only achieve its long-term statutory goals and missions, shared by the Council, through the cooperative agreement.

- A statute exists that expressly authorizes or requires that the acquisition for the Bonneville Lock and Dam Rehab Domestic Water Systems project be made from a specific source or through another agency (FAR 6.302-5) – specifically, sole-source awards under the Veterans Benefits Act of 2003. According to FAR 6.302-5, a justification and approval isn't required for this award.

Based on the type of work involved with the projects and the justifications provided by the district, we concluded that it was reasonable for the district to use the existing sole-source cooperative agreement for Amazon Creek and the sole-source award for the Bonneville Lock and Dam Rehab Domestic Water Systems project.

In addition, our review showed that:

- Contracting officers included applicable FAR clauses or equivalent language in the contracting documents for the three projects.
- Contracting officers properly posted most of the required notices (solicitation and awards) on the Federal Business Opportunities Web site for the three projects that we reviewed. However, the contracting officers didn't include the rationale for using a noncompetitive award for the Amazon Creek project in its post to the Federal Business Opportunities Web site. District personnel stated that they didn't post the information because they didn't know that it was a requirement for cooperative agreements. In the absence of the posting, the project wasn't fully transparent to the public.

We address actions needed to meet the Recovery Act goal of full transparency for all projects in Recommendation 1 on page 6.

Quality Assurance

The Portland District had quality assurance measures in place for the three projects. The district completed quality assurance surveillance plans for two of the three projects we reviewed. For the Amazon Creek Project, the district implemented a review plan, instead of the quality assurance surveillance plan, because the project was a feasibility study and the district planned to complete a quality assurance surveillance plan during the next phase of the project. As a result, there is reasonable assurance that the Portland District will avoid unnecessary delays and cost overruns for the three projects that we reviewed.

Despite the reduced transparency for one of the three projects that we reviewed, there is reasonable assurance that the Portland District performed contract administration and project execution duties for the projects in a manner to ensure:

- The use of Recovery Act funds was for authorized purposes.
- Instances of fraud, waste, error, and abuse were mitigated.
- Program goals were achieved.
- Funded projects avoided unnecessary delays and cost overruns.

D – TRACKING AND REPORTING

BACKGROUND

FAR 4.15 and 52.204-11 (American Recovery and Reinvestment Act-Reporting Requirements) require contractors to report on their use of Recovery Act funds. Contracting officers must include these clauses in solicitations and contracts funded with Recovery Act funds.

FAR Subpart 4.1501 (Procedures) requires contracting officers to ensure that the contractor complies with reporting requirements.

FAR Subpart 4.6 (Contract Reporting) requires agencies to report their contract actions in the Federal Procurement Data System – a Web-based tool for reporting contract actions. “Contract action,” as discussed in this subpart, means any oral or written action that results in the purchase, rent, or lease of supplies or equipment, services, or construction using appropriated dollars over the micropurchase threshold, or modifications to these actions regardless of dollar value; however, it doesn’t include cooperative agreements.

DISCUSSION

The USACE Portland District properly tracked the three Recovery Act projects we reviewed. Specifically, the district:

- Tracked and reported the status, receipt, and distribution of funding, and contract actions.
- Included the appropriate FAR clauses in contract actions and equivalent language in the cooperative agreement for Recovery Act reporting.
- Reported award summaries and contract modifications for two of the three projects to the Federal Procurement Data System. All but one of the contract modifications for the Columbia River Treaty Fishing Access Sites for the Wyeth project included the Treasury Account Symbol in the description of requirement. The district corrected the issue during the audit. Under FAR 4.6, the Portland District wasn’t required to post award actions for the Amazon Creek project to the Federal Procurement Data System because it was a cooperative agreement.

- Had processes and procedures in place to track and report real or potential savings and/or economic benefits derived from Recovery Act projects.

We also found that the contractors for the three projects complied with Recovery Act reporting and transparency requirements (jobs created, project progress, and information) using the online reporting tools at Federalreporting.gov. For example, as of June 2010, Lane Council of Governments reported 3 jobs were created for the Amazon Creek project; Advanced American Construction reported 1 job was created for the Columbia River project; and Force 1 Construction reported 15 jobs created for the Bonneville Lock and Dam project.

However, we found that the district didn't post a synopsis for the award of the cooperative agreement for the Amazon Creek project to the Grants.gov Web site, as required by OMB M-09-10. According to district personnel, they didn't post the information because they used existing cooperative agreements exclusively for noncompetitive statutory partners and it wasn't a part of their normal procedures to synopsize their cooperative agreement awards. By not posting the information, the district didn't fully comply with the requirements of the Recovery Act and reduced the transparency for the project.

We address actions needed to comply with the Recovery Act reporting requirements for all projects in Recommendation 2 on page 6.

Although the Portland District didn't fully comply with the reporting requirement for the one project, there is reasonable assurance that the recipients and uses of Recovery Act funds at the Portland District were transparent to the public and the benefits of the funds were reported clearly, accurately, and in a timely manner.

A – GENERAL AUDIT INFORMATION

SCOPE AND METHODOLOGY

We conducted the engagement from August 2009 through August 2010 under project A-2009-FFE-0446.003

We performed this engagement at the U.S. Army Corps of Engineers Portland District in accordance with generally accepted government auditing standards for performance audits. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our finding and conclusion based on our audit objective. We believe that the evidence obtained provided a reasonable basis for our finding and conclusion based on our audit objective.

We covered issues, items, and transactions representative of operations current at the time of our audit.

We obtained computer-generated data from the Federal Business Opportunities Web site, the Central Contractor Registration, the Excluded Parties List, Federal Procurement Data System, and Microsoft Excel spreadsheets provided by Portland District personnel. We reviewed the Recovery Act project data and contracting documents to verify the need for the projects, reasonableness of cost estimates, contractor eligibility, and the inclusion of required language and clauses. We assessed the reliability of the data by testing for completeness, accuracy, and consistency. However, we didn't test or evaluate any general or application controls of the systems. Our assessment showed that the data was sufficiently reliable to answer our audit objective and support our conclusion.

To determine whether the Army implemented the Recovery Act in accordance with the requirements of the Act, the OMB guidance and subsequent related guidance, we:

- Identified key personnel from the Planning, Program, and Project Management Division, Engineering and Construction Division, Resource Management Office, Operations Division, Contracting Division, and Internal Review Office of the Portland District to obtain an understanding of their involvement in satisfying the requirements for identifying and contracting projects, distributing funding, and tracking and reporting for the Recovery Act.
- Reviewed and analyzed the Funding Authorization Documents and Work Allowance Letters to identify the amount of funding Portland District received to execute the three Recovery Act projects reviewed.

- Reviewed and analyzed the project management plans to verify that the contracting office performed a cost estimate and that projects were valid.
- Reviewed and analyzed the Central Contractor Registration database to verify the contractor is a government-approved contractor and to obtain the contractor's address.
- Reviewed and analyzed the Excluded Parties List System to verify the contractor is eligible to conduct business with the government.
- Reviewed and analyzed printouts from the Federal Business Opportunities Web site to verify whether the contracting office competed the opportunity and the synopsis contained a description of services, and to identify the Recovery Act designation, contract date, project duration and completion date.
- Reviewed and analyzed the Cooperative Agreement to verify the inclusion of required FAR clauses for the Amazon Creek project.
- Reviewed and analyzed the solicitation to verify the inclusion of required FAR clauses for the Columbia River Wyeth project.
- Reviewed and analyzed the contracts to verify the inclusion of required FAR clauses for the Columbia River Wyeth project and the Bonneville Lock and Dam Rehab Domestic Water Systems project.
- Reviewed completed Engineering and Construction Checklist, the Contracting Quarterly Recovery Act Management Control Checklist, the Public Affairs Control Check, and the Resource Management Control Checklist.
- Reviewed postings on the Federal Procurement Data System to determine whether the district posted the contract actions and modifications for the Amazon Creek project, the Bonneville Lock and Dam Rehab Domestic Water Systems project and the Columbia River Wyeth project.
- Reviewed postings on Recovery.gov to determine whether the contractor for the Amazon Creek project, posted the project to Federalreporting.gov.
- Reviewed postings on Recovery.gov to determine whether the contractor for the Columbia River Wyeth project, posted the project to Federalreporting.gov.
- Reviewed postings on Recovery.gov to determine whether the contractor for the Bonneville Lock and Dam project, posted the project to Federalreporting.gov.

RESPONSIBILITIES AND RESOURCES

The mission of the USACE is to provide vital public engineering services in peace and war to strengthen our Nation's security, energize the economy, and reduce risks from disasters.

The mission of the USACE Portland District is to provide vital public engineering services to the Pacific Northwest and Nation during peace and war to strengthen our security, promote a strong economy, and enhance environmental sustainability. The Portland District accomplishes its mission by:

- Improving and maintaining navigation for economic development and safety.
- Preventing and reducing flood damage.
- Restoring, enhancing, and maintaining ecosystems.
- Generating reliable and efficient hydropower.
- Regulating activities in wetlands and waterways.
- Supporting combat, stability, and disaster operations through forward deployed and reach back capabilities.
- Providing Corps-wide expertise in hydroelectric planning and engineering.
- Providing safe and healthful recreational opportunities for the public.

The Portland District Commander is responsible for ensuring the implementation of projects receiving Recovery Act funds are in accordance with the requirements of the Recovery Act, OMB guidance, and subsequent related guidance. The commander received support in implementing the Recovery Act projects from several key offices:

- The contracting office has the responsibility for issuing bid solicitations, managing the proposal evaluation process, ensuring contractor eligibility, including required language and clauses in solicitation/contracting documents, and posting the documents to required Web sites and systems.
- The resource management office has the responsibility for accountability of Recovery Act funds received and distributed to projects.
- The Planning, Programming, and Project Management Division has responsibility for maintaining project management plans and tracking project progress.

ACKNOWLEDGMENTS

These personnel contributed to the report: Kimberly Craig and John Vietor (Audit Managers); Laura Knebel (Auditor-in-Charge); Hathor Dickerson and Patrick Fyalka (Auditors); and Elizabeth Curran (Editor).

DISTRIBUTION

We are sending copies of this report to the Assistant Secretary of the Army (Financial Management and Comptroller) and the U.S. Army Corps of Engineers Northwest Division.

In accordance with requirements of the Recovery Act, we are sending a copy of this report to the DOD Inspector General to make the results available to the public.

We will also make copies available to others upon request.

B – ABBREVIATIONS USED IN THIS REPORT

DODIG	Department of Defense Inspector General
FAR	Federal Acquisition Regulation
FRAGO	Fragmentary Order
OMB	Office of Management and Budget
USACE	U.S. Army Corps of Engineers

C – BONNEVILLE LOCK AND DAM



Bonneville Dam and Navigation Lock



Hydropower Turbine inside the Bonneville Dam

D – OFFICIAL ARMY POSITION AND VERBATIM COMMENTS BY COMMAND



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CEIR

24 September 2010

MEMORANDUM FOR U.S. Army Audit Agency, Office of the Deputy Auditor General
Forces and Financial Audits, 3101 Park Center Drive,
Alexandria, Virginia 22302-1597

SUBJECT: AAA Draft Report, American Recovery and Reinvestment Act of 2009 at the
U.S. Army Corps of Engineers Portland District (A-2009-FFE-0446.003)

1. Reference AAA draft report, subject as above.
2. HQs USACE concurs with the Portland District. The USACE reply is attached.
3. Please contact the undersigned or my point of contact, Alicia Matias, at (202) 761-4573
or via email at Alicia.S.Matias@usace.army.mil.

Attch


BRENDA L. MAYES
Deputy Chief
HQ USACE Internal Review Office



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
DIRECTORATE OF CONTRACTING
OFFICE OF THE PRINCIPAL ASSISTANT RESPONSIBLE FOR CONTRACTING
1100 COMMERCE STREET, SUITE 840
DALLAS, TEXAS 75242-0218

REPLY TO
ATTENTION OF
CECT-DAL

24 Sep 2010

MEMORANDUM THRU Commander, U.S., Army Corps of Engineers (CEIR/Ms. Mayes), 441
G Street NW, Washington, DC 20314-1000

FOR U.S. Army Audit Agency, Office of the Deputy Auditor General Forces and Financial
Audits, 3101 Park Center Drive, Alexandria, VA 22303-1596

SUBJECT: Draft Report on the Audit of the American Recovery and Reinvestment Act of 2009
at the U.S. Army Corps of Engineers Portland District (Project A-2009-FFE-0446.003)

1. Reference the district comments to recommendation of subject audit dated 23 Sep 2010; the Dallas PARC office has reviewed Portland's response/comments to the recommendations and concur with the proposed action plan.
2. If you have any questions, or need additional information, please contact Vernon Vann at 469-487-7155.

A handwritten signature in cursive script that reads "Patricia Brown Trainer".

Patricia Brown Trainer
Deputy Principal Assistant Responsible
for Contracting – Dallas

Encl
CENWP Memo dated
23 Sep 2010 (3 pgs)

CF: Cheryl Anderson, Acting RCC
Michael Freudenthal, NWP/IR



REPLY TO
ATTENTION OF

DEPARTMENT OF THE ARMY
CORPS OF ENGINEERS, PORTLAND DISTRICT
PO BOX 2946
PORTLAND OR 97208-2946

CENWP-IR

23 SEP 2010

MEMORANDUM THRU Commander, U.S. Army Corps of Engineers (CEIR/Ms. Mayes), 441 G Street NW, Washington, DC 20314-1000

FOR Auditor General, U.S. Army Audit Agency, Office of the Deputy Auditor General Forces and Financial Audits, 3101 Park Center Drive, Alexandria, VA 22302-1596

SUBJECT: Draft Report on the Audit of the American Recovery and Reinvestment Act of 2009 at the U.S. Army Corps of Engineers Portland District (Project A-2009-FFE-0446.003)

1. We would like to thank the Army Audit Agency (AAA) for their review and are pleased to report that AAA found that the Portland District implemented the American Recovery and Reinvestment Act of 2009 (ARRA) in accordance with the Act, Office of Management and Budget (OMB), and subsequent related guidance.
2. Enclosed are the Portland District comments to the recommendations from the AAA review on the implementation of the ARRA as requested in your memorandum, dated 31 August 2010.
3. Point of contact for this action is Michael J. Freudenthal at michael.j.freudenthal@usace.army.mil or 503-808-4545.

Encl


STEVEN R. MILES, P.E. 23SEP10
COL, EN
Commanding

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Project: A-2009-FFE-0446.003
Audit Location: U.S. Army Corps of Engineers, Portland District, Portland, OR
Objective Designation: NA
Objective Title: Recovery Act Implementation

Objective:

Did the U.S. Army Corps of Engineers Portland District implement the American Recovery and Reinvestment Act of 2009 in accordance with the requirement of the Act, the Office of Management and Budget (OMB) guidance, and subsequent related guidance?

Conclusion:

Generally, yes. The USACE Portland District implemented the Recovery Act in accordance with the requirements of the Act, the OMB guidance, and subsequent related guidance for the three projects within the scope of our review. Specifically, for the three projects that we reviewed, the Portland District:

- a. Sufficiently planned its Recovery Act project implementation by identifying projects eligible for Recovery Act funding and having sufficient controls and an approved expenditure plan in place.
- b. Distributed and awarded funds in a prompt and reasonable manner.
- c. Performed contract and project execution duties in a manner that provided reasonable assurance that the District used Recovery Act funds for authorized purposes, mitigated risks of fraud, waste, and abuse, and the achieved program goals.
- d. Properly tracked and reported information to ensure the recipients, uses, and benefits of Recovery Act funds were transparent to the public.

However, the Portland District did not post all information to public Web sites as required by the Act. Specifically, for one of the three projects reviewed, the District did not post its rationale for using a sole-source versus a competitive award to the Federal Business Opportunities Web site and did not report the actual award to Grants.gov. As a result, the project award was not fully transparent to the public. The Portland District needs to post and report all Recovery Act actions to meet requirements of the Act and ensure transparency.

Our recommendations to correct transparency and reporting issues are in the next section. We discuss our detailed audit results for the four areas of planning, funding, project execution, and tracking and reporting beginning on page 7.

Additional Comments:

None provided.

Recommendations(s):

Recommendation 1: Direct personnel to post the rationale for using a sole-source award for the Amazon Creek and any future noncompetitive awards, funded by the Recovery Act, to required Web sites.

Action Taken or Planned:

Concur. A Special Notice was originally entered into Army Single Face to Industry (ASFI) which posted the information to FedBizOpps (fbo.gov) on 17 August 2009. The Special Notice included information on the award of a Task Order to the Lane Council of Governments for Programmatic Environmental Assessment and Phase II Eugene-Springfield Metropolitan Waterways Study Technical Assessment (Amazon Creek). The Special Notice did not include all information required under the American Recovery and Reinvestment Act. On 7 September 2010, a new Special Notice was entered into ASFI for posting to fbo.gov which included the all the information from the initial notice as well as the TAS, Recovery Project Number, CFDA, and sole source justification.

Potential Monetary Benefits:

None identified.

Recommendation 2: Direct personnel to post the synopsis for the Amazon Creek project and all other grants and cooperative agreement projects funded by the Recovery Act to Grants.gov.

Action Taken or Planned:

Concur. It was noted that the recommended corrective action based on interpretation of OMB Guidance M-09-10 is not consistent with existing DoD Guidance for use of Grants.gov (see page 5, DoD in Grants.gov: A Guide for DoD Staff, Nov 2008). Grants.gov was never adapted to support notices or to fully implement the requirements of ARRA. We recommend that the other documents be modified to match the requirements. Regardless, we will use the solicitation feature of grant.gov to post an after-the-fact notice.

Potential Monetary Benefits:

None identified.

Our Mission

To serve America's Army by providing objective and independent auditing services. These services help the Army make informed decisions, resolve issues, use resources effectively and efficiently, and satisfy statutory and fiduciary responsibilities.

To Suggest Audits or Request Audit Support

To suggest audits or request audit support, contact the Office of the Principal Deputy Auditor General at 703-681-9802 or send an e-mail to AAAAuditRequests@conus.army.mil.

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