



U.S. Army Audit Agency

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American Recovery and Reinvestment Act of 2009

Fort Benning, Georgia

Executive Summary

Audit Report A-2010-0072-ALO
18 March 2010



American Recovery and Reinvestment Act of 2009

Fort Benning, Georgia

Results

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

We reviewed the Army's implementation of ARRA at Fort Benning, Georgia, to ensure that it was in accordance with the requirements of the Act, Office of Management and Budget guidance, and subsequent related guidance. Specifically, we assessed whether personnel adequately planned, funded, executed, and tracked and reported their ARRA projects.

The Army implemented the ARRA of 2009 for the project we reviewed at Fort Benning. It properly planned, funded, executed, and tracked and reported the project as the Act and related guidance stipulated. As a result, there was reasonable assurance that the Army, at Fort Benning, expended public funds responsibly and in a transparent manner to further job creation and economic recovery.

However, the contract for the project didn't contain the most applicable Federal Acquisition Regulation (FAR) clause for the Buy American Act that the ARRA required. The clause was required to be in the solicitation and the contract; the version to be used depended on the value of the project. The contracting officers used the proper version of the clause when preparing the solicitation. The clause applied to projects estimated to cost more than \$8.8 million and the estimated cost for the three buildings included in the solicitation was over \$25 million. However, when the contracting officers awarded the contract for one building for about \$8.3 million, they should have used a different version of the clause applicable to projects costing between about \$7.4 and \$8.8 million. Without the most applicable FAR clause, the contract wasn't in full and complete compliance with the guidance.

Recommendation

We recommended the Commanding General, U.S. Army Corps of Engineers review all contracts for ARRA projects at Fort Benning to determine if each contains the most applicable FAR clauses the Act and other guidance require and add the appropriate clauses to any contracts that don't have them.

The Corps agreed with the recommendation. Its comments represent the official Army position for the audit report.



DEPARTMENT OF THE ARMY
U.S. ARMY AUDIT AGENCY
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18 March 2010

Commanding General, U.S. Army Corps of Engineers

This is the report on our audit of the American Recovery and Reinvestment Act of 2009 project at Fort Benning, Georgia. The audit was a joint oversight approach executed with the Office of the Inspector General, DOD and other Service audit agencies. The audit focused on the Army's implementation of the American Recovery and Reinvestment Act of 2009 in accordance with the requirements of the Act, 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 one recommendation addressed to your office.

For additional information about this report, contact the Installation Operations Audits Division at 703-681-9855. I appreciate the courtesies and cooperation extended to us during the audit.

FOR THE AUDITOR GENERAL:

Alice S. Arielly

ALICE S. ARIELLY
Program Director
Installation Operations Audits

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INTRODUCTION

WHAT WE AUDITED

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

We audited the Army's implementation of ARRA at Fort Benning, Georgia, to ensure that it was in accordance with the requirements of the Act, Office of Management and Budget (OMB) guidance, and subsequent related guidance. Specifically, we assessed whether personnel:

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

BACKGROUND

The ARRA of 2009 was established to stimulate economic growth by creating jobs through investments in infrastructure improvements and expanding energy research. ARRA requires unprecedented levels of transparency, oversight, and accountability. DOD received about \$12 billion as part of ARRA and distributed about \$7.7 billion to the Army. The Office of the Inspector General, DOD executed a joint oversight approach with U.S. Army Audit Agency and other Service audit agencies to ensure maximum and efficient coverage of ARRA plans and implementation.

On 3 April 2009 OMB issued memorandum M-09-15 (Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009) that provides an updated set

of governmentwide requirements and guidelines that Federal agencies must implement or prepare for to effectively manage activities under ARRA. The guidance establishes and clarifies the required steps Federal agencies must take to meet these crucial accountability objectives:

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

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

According to the DOD Expenditure Plans, Fort Benning received about \$31.5 million for 31 Facilities Sustainment, Restoration, and Modernization (FSRM) projects. For our review at Fort Benning, the Office of the Inspector General, DOD selected one FSRM project. Annex C shows pictures of the existing facility (Building 2832) the Army, at Fort Benning, will restore and modernize in the FSRM project. Here is a description of the project:

| Project Type | Project Title | Project Description | Cost Estimate (\$000) |
|--------------|-------------------------------------|--------------------------|-----------------------|
| FSRM | Barracks Renovation – Building 2832 | Repair failed components | \$9,800 |

AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009

OBJECTIVE

Did the Army implement the American Recovery and Reinvestment Act of 2009 in accordance with the requirements of the Act, Office of Management and Budget guidance, and subsequent related guidance?

CONCLUSION

Yes, the Army implemented the ARRA of 2009 – for the project that we reviewed at Fort Benning – in accordance with the requirements of the Act, OMB guidance, and subsequent related guidance. The Army properly planned, funded, executed, and tracked and reported the project as the Act and related guidance stipulated. As a result, there was reasonable assurance that the Army, at Fort Benning, expended public funds responsibly and in a transparent manner to further job creation and economic recovery.

However, the contract for the project didn't contain the most applicable Federal Acquisition Regulation (FAR) clause for the Buy American Act that the ARRA required. The clause was required to be in the solicitation and the contract; the version to be used depended on the value of the project. The contracting officers used the proper version of the clause when preparing the solicitation. The clause applied to projects estimated to cost more than \$8.8 million and the estimated cost for the three buildings included in the solicitation was over \$25 million. However, when the contracting officers awarded the contract for one building for about \$8.3 million, they should have used a different version of the clause applicable to projects costing between about \$7.4 and \$8.8 million. Without the most applicable FAR clause, the contract wasn't in full and complete compliance with the guidance.

Our detailed discussion of these conditions follows. Our recommendation to correct the missing FAR clause begins on page 9.

DISCUSSION

In this section, we discuss these four areas:

- Installation planning.
- Project funding.
- Project execution.
- Installation tracking and reporting.

Installation Planning

The Army, at Fort Benning, properly planned its ARRA projects.

For installation planning, the Office of the Inspector General, DOD asked us to review the process for all 31 projects identified in the DOD Expenditure Plan for Fort Benning.

Our review of the 31 projects showed the Army, at Fort Benning, properly planned its ARRA projects by:

- Identifying projects, to include scope and cost, eligible for ARRA funding.
- Entering the projects into U.S. Army Installation Management Command's (IMCOM's) central database – the Project Prioritization System.
- Working with IMCOM to select projects for ARRA funding. The project we reviewed in detail matched the one in the DOD Expenditure Plan for ARRA.
- Determining the best execution strategy, in-house or contracting, to complete each project.
- Incorporating ARRA project execution into garrison personnel's current roles and responsibilities.
- Establishing key controls in the process. For example, personnel from the public works, contracting, and resource management offices met weekly to discuss the project status for each ARRA project and identify problems in executing the projects.

As a result, there was reasonable assurance that the Army, at Fort Benning, properly planned ARRA projects to expend public funds responsibly and in a transparent manner to further job creation and economic recovery.

Project Funding

The Army, at Fort Benning, properly funded the ARRA project we reviewed. U.S. Army Corps of Engineers (USACE) distributed funds for the ARRA projects, consistent with the original estimates and with the appropriate ARRA funding designation. Headquarters, USACE issued about \$9.8 million to USACE, Savannah District for the barracks renovation project at Building 2832. USACE, Savannah District awarded a contract of about \$8.3 million for the project. Fort Benning public works personnel stated they would use the difference of about \$1.5 million to complete other ARRA projects at Fort Benning. USACE, Savannah District personnel confirmed the garrison's plan for the difference. This is acceptable according to OMB guidance.

As a result, there was reasonable assurance that the Army, at Fort Benning, properly funded the ARRA project and used public funds responsibly and in a transparent manner to further job creation and economic recovery.

Project Execution

The Army, at Fort Benning, properly executed the ARRA project we reviewed, except it didn't use the most applicable FAR clause in the contract for the Buy American Act that the ARRA required. Overall, project execution was proper because:

- Garrison and USACE, Savannah District personnel appropriately justified the project and documented the environmental considerations.
 - They justified the project's need on DD Form 1391 (Military Construction Project Data) in accordance with DOD and Army guidance. The justification stated that Building 2832 had a level-3 rating in the Installation Status Report¹ due in part to mold and mildew from cracks in the foundation and hazardous materials (asbestos and lead base paint) that needed abating. After the project is completed, the building will have a level-1 rating and the other safety and environmental issues will be resolved.

¹ The Installation Status Report displays the condition of Army facilities. A level-1 rating represents that the facility requires little immediate attention, whereas a level-4 rating suggests major deficiencies.

- They completed the mandatory National Environmental Policy Act requirements. They prepared a Record of Environmental Consideration for the project.
- Overall, USACE, Savannah District personnel followed proper contract solicitation, evaluation, and award procedures in accordance with FAR and ARRA guidance. For example, they awarded the barracks renovation contract on 29 September 2009 as a firm, fixed-price contract and issued the notice to proceed on 21 October 2009.
- USACE, Savannah District personnel prepared transparent contract documentation that was clear, unambiguous, and included the ARRA identifiers.
 - The description of needed services in the pre-solicitation notice was clear and unambiguous.
 - The solicitation and award for the renovation of the barracks renovation project identified it as an ARRA project, to include all products and services related to the project.
 - USACE, Savannah District personnel posted the pre-solicitation and award notices on the Federal Business Opportunities Web site that identified the project as ARRA in the first word of the project title.
- Quality assurance personnel from the USACE resident office at Fort Benning planned to use an overarching quality assurance surveillance plan the area resident office developed. They planned to develop a project-specific quality assurance surveillance plan once the contractor completed the design. In addition, quality assurance personnel planned to obtain the quality control plan the contractor developed for the project and review it for adequacy. The contractor planned to use its plan to ensure that the work performed meets the contract requirements. These actions should help ensure adequate project execution.

However, the contracting officers at USACE, Savannah District didn't use the most applicable FAR clause in the contract the ARRA required for the Buy American Act. FAR clause 52.225-23 (Required Use of American Iron, Steel, and Other Manufactured Goods-Buy American Act-Construction Materials under Trade Agreements) was required to be in the solicitation and the contract; the version to be used depended on the value of the project. The contracting officers properly used the basic clause version in the solicitation. This version of the clause was required for contracts costing over \$8.8 million (the estimated project cost for the three buildings included in the solicitation was over \$25 million). However, when Fort Benning decided to award the contract for only one building (at a cost of about \$8.3 million), the contracting officers didn't use the alternative version of FAR clause 52.225-23 that is required for contracts

costing between about \$7.4 and \$8.8 million. The alternate clause requires the contracting officers to add the definition of “Bahrainian, Mexican, and Omani construction materials” into FAR clause 52.225-23 and substitute two paragraphs in the basic clause with the two paragraphs that add the words “Bahrainian, Mexican, and Omani” to them.

Overall, there was reasonable assurance that the Army, at Fort Benning, properly executed the ARRA project. Therefore, it used public funds responsibly and in a transparent manner to further job creation and economic recovery. However, USACE, Savannah District needs to ensure that all applicable FAR clauses required in the Act and other guidance are in contracts for ARRA projects so the contracts are in full and complete compliance with the Act.

We address the action needed to address this problem in our recommendation.

Installation Tracking and Reporting

The Army, at Fort Benning, properly tracked and reported its ARRA projects.

For tracking and reporting, the Office of the Inspector General, DOD asked us to review the process for all 31 projects identified in the DOD Expenditure Plan for Fort Benning.

Our review of the 31 projects showed the Army, at Fort Benning, properly tracked and reported its ARRA projects by:

- Establishing a process to track and report on the 31 ARRA projects.
- Identifying personnel responsible to track and report on the 31 ARRA projects.
- Verifying the economic benefits the contractor reported using the on-line reporting tool for the one project we reviewed in detail, such as jobs created, description of jobs created, and amount of award. At the time of our review, the contractor reported that no jobs were created and the project hadn’t started. This was correct because the contractor was still designing the project at the time of our review.

As a result, there was reasonable assurance that the Army, at Fort Benning, properly tracked and reported ARRA projects to ensure it expended public funds responsibly and in a transparent manner to further job creation and economic recovery.

RECOMMENDATION AND COMMENTS

This section contains a specific recommendation and a summary of command comments for the recommendation. The official Army position and verbatim command comments will be in Annex D.

For the Commanding General, U.S. Army Corps of Engineers

Recommendation 1

Review all contracts for ARRA projects at Fort Benning to determine if each contains the most applicable FAR clauses required in the Act and other guidance and add the appropriate clauses to any contracts that don't have them.

Command Comments and Official Army Position

The U.S. Army Corps of Engineers agreed and issued an order on 10 March 2010 to each district/center contracting office to review all ARRA-related contracts for the applicable language. If any contract doesn't contain the required clauses, the district/center contracting office will enter into negotiations with the contractor to modify the contract to add the required clauses.

A – GENERAL AUDIT INFORMATION

SCOPE AND METHODOLOGY

We conducted the audit from November 2009 through February 2010 under project A-2010-ALO-0163.003.

We conducted this performance audit in accordance with generally accepted government auditing standards. 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 provides a reasonable basis for our finding and conclusion based on our audit objective.

We obtained data from the Federal Business Opportunities and Federal Reporting Web sites. We obtained additional documentation, such as contract files, to help validate the information obtained from the Web sites and determined we could sufficiently rely on the information.

The audit covered transactions current at the time of the audit. According to the DOD Expenditure Plan, Fort Benning received about \$31.5 million for 31 FSRM projects. For our review, the Office of the Inspector General, DOD used a predictive analytics sampling method to select one FSRM project (the barracks renovation project estimated to cost about \$9.8 million) at Fort Benning based on the parameters set in the model.

To determine if the Army implemented ARRA in accordance with the Act, OMB guidance, and subsequent related guidance, we focused our audit approach on how the Army at Fort Benning planned, funded, executed, and tracked and reported ARRA projects. This included:

- Reviewing prior audits on ARRA to determine the level of risk associated with ARRA execution and reporting requirements.
- Visiting the Fort Benning garrison to gather relevant information and to physically observe the existing facility (Building 2832) scheduled for renovation under the project.
- Identifying and interviewing key personnel at Fort Benning to understand all aspects of the process, to include identifying projects for ARRA funding, determining the funding process for ARRA projects, deciding how to execute projects, and tracking and reporting project progress.
- Comparing the DOD ARRA Expenditure Plan to ARRA projects at Fort Benning to determine if the Army approved the ARRA project in our review.

- Obtaining ARRA funding documents to determine if the Army properly funded the ARRA projects at Fort Benning.
- Reviewing requirements documentation, such as DD Form 1391 and Record of Environmental Consideration, to determine if the Army had adequate justification and conducted the required environment review for the ARRA project.
- Analyzing contract documents and reviewing information contained on ARRA-related Web sites to determine if the Army properly executed the ARRA project. We reviewed and analyzed the:
 - Federal Business Opportunities Web site to verify the contracting office posted a pre-solicitation notice on the Web site and that the notice was appropriately identified with the word “Recovery” as the first word in the title.
 - Central Contractor Registration Web site to verify the contractor was a government approved contractor.
 - Excluded Parties List System Web site to verify the contractor was eligible to conduct business with the government.
 - Small Business Coordination Record to identify whether the contracting office coordinated the project with the Small Business Administration.
 - Federal Procurement Data System Web site to verify that all contract actions were recorded in the system.
 - Independent government estimate to verify the contracting office obtained a cost estimate.
- Interviewing personnel and reviewing their reports from the ARRA Federal reporting Web sites to determine if the Army complied with ARRA tracking and reporting requirements.

RESPONSIBILITIES AND RESOURCES

The Office of the Assistant Chief of Staff for Installation Management provides policy formulation, strategy development, enterprise integration, program analysis and integration, requirements and resource determination, and best business practices for services, programs, and installation support to Soldiers, Families, and civilians of an expeditionary Army in a time of persistent conflict. The Office was responsible for approving projects eligible for ARRA funding and overseeing execution of the projects.

The U.S. Army Corps of Engineers provides vital public engineering services in peace and war to strengthen our Nation's security, energize the economy, and reduce risks from disasters. USACE, Headquarters was responsible for distributing ARRA funding for selected projects. The Savannah District, under the South Atlantic Division, was responsible for soliciting and awarding the contract and conducting quality assurance for the project we reviewed.

U.S. Army Installation Management Command provides the Army with the installation capabilities and services to support expeditionary operations in a time of persistent conflict, and to provide a quality of life for Soldiers and Families commensurate with their service. The Southeast Region includes U.S. Army Garrison Fort Benning. The region approved projects from the garrison that were eligible for ARRA of 2009 funding.

U.S. Army Garrison Fort Benning determined requirements for projects and submitted them to IMCOM's Southeast Region for review and approval as eligible for ARRA of 2009 funding.

ACKNOWLEDGMENTS

These personnel contributed to the report: Linda Colquitt (Audit Manager), Christopher Wenthold (Auditor-in-Charge), Kimberly Gibbs and Josie Smallwood (Auditors), and Harvey Reinkemeyer (Editor).

DISTRIBUTION

We are sending copies of this report to:

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Assistant Chief of Staff for Installation Management
Deputy Commanding General for Operations, U.S. Army Installation Management Command
Commander, U.S. Army Corps of Engineers, Savannah District
Garrison Commander, Fort Benning

We will also make copies available to others on request.

B – ABBREVIATIONS USED IN THIS REPORT

| | |
|-------|--|
| ARRA | American Recovery and Reinvestment Act |
| FAR | Federal Acquisition Regulation |
| FSRM | Facilities Sustainment, Restoration, and Modernization |
| IMCOM | U.S. Army Installation Management Command |
| OMB | Office of Management and Budget |
| USACE | U.S. Army Corps of Engineers |

C – TRAINEE BARRACKS (BUILDING 2832) PRE-RENOVATION

The trainee barracks was built in the 1950's and is in the hammerhead design. Fort Benning identified this barracks renovation project for ARRA funding to address environmental and safety concerns. Here are pictures of the barracks.



Front of Building 2832



Back of Building 2832

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

5 March 2010

MEMORANDUM FOR U.S. Army Audit Agency, Office of the Deputy Auditor General
Acquisition and Logistics Audits, 3101 Park Center Drive,
Alexandria, Virginia 22302-1596

SUBJECT: AAA Draft Report American Recovery and Reinvestment Act of 2009, Fort
Benning, Georgia (A-2009-ALO-0163.003)

1. Reference AAA draft report, subject as above.
2. AAA recommended that the Commanding General, U.S. Army Corps of Engineers review all contracts for ARRA projects at Fort Benning to determine if each contains the most applicable FAR clauses required in the Act and other guidance and add the appropriate clauses to any contracts that don't have them.
3. USACE concurs with this recommendation. USACE will incorporate a requirement for each District/Center Contracting Office to review 100% of ARRA contracts to determine if required ARRA FAR Clauses were incorporated in the contract. If clauses were not incorporated at the time of award, negotiations to include these required Clauses will be conducted by the Contracting Officer with the contractor and a modification will be issued to include the modifications. This requirement will be included in the next FRAG Order to the field, which is scheduled for release on 10 March 2010. USACE will provide a copy at that time.
4. Please feel free to contact my point of contact, Alicia Matias (202) 761-4573 or via email at Alicia.S.Matias@usace.army.mil if you further questions regarding this matter.


BRENDA L. MAYES
Deputy Chief
HQ USACE Internal Review Office

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