



U.S. Army Audit Agency

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American Recovery and Reinvestment Act of 2009

Pennsylvania Army National Guard

Executive Summary

Audit Report A-2011-0070-IEE

25 March 2011



American Recovery and Reinvestment Act of 2009

Pennsylvania Army National Guard



Results

On 17 February 2009, the President signed into law the American Recovery and Reinvestment Act of 2009 with the express 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 Pennsylvania Army National Guard's (PAARNG's) implementation of the Recovery Act 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 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.

PAARNG generally implemented the Recovery Act in accordance with the requirements of the Act, Office of Management and Budget guidance, and subsequent related guidance for the projects we reviewed. Specifically, for the 18 projects that we reviewed, valued at about \$9 million, PAARNG sufficiently planned project implementation, distributed and awarded funds for projects in a prompt and reasonable manner, generally performed contract and project execution duties in a proper manner, and properly tracked and reported information. However, PAARNG didn't:

- Have sufficient evidence to show how project cost estimates were developed because personnel didn't maintain documentation.
- Verify that a contractor for the State contract for two projects wasn't listed in the Excluded Parties List System (EPLS) because personnel were unaware of the requirement. The Special Military Cooperative Agreement, which was provided by Headquarters, U.S. Army National Guard to all U.S. Property and Fiscal Officers, referenced the applicable Office of Management and Budget guidance, but didn't clearly state the actions needed – checking the EPLS for contractor debarment and suspensions – to comply with the requirement. This could have occurred Army National Guard-wide.

Despite procedural issues with maintaining supporting documentation and verifying contractor eligibility, there is reasonable assurance PAARNG used Recovery Act funds for authorized purposes; mitigated the risks of fraud, waste, and abuse; and generally achieved program transparency goals. However, the Army National Guard doesn't have complete assurance the EPLS is being used Army National Guard-wide.

Recommendations

We recommended that:

The Comptroller and Director, Administration and Management, National Guard Bureau issue supplemental guidance to all U.S. Property and Fiscal Officers clarifying the requirements of Section 808, Debarment and Suspension, of the Special Military Cooperative Agreement and requiring the use of the EPLS for all Recovery Act contracts. Also, require all U.S. Property and Fiscal Officers to ensure State contracting personnel verify contractor eligibility for all Recovery Act-funded projects awarded – and contracts to be awarded – using the EPLS.

The U.S. Property and Fiscal Officer, PAARNG direct engineering personnel to document the methodology used to calculate estimated costs for projects and maintain the supporting documentation.

The Comptroller and Director, Administration and Management, National Guard Bureau provided the official Army position and agreed with the corrective actions planned to be taken by its office and the actions planned and taken by the U.S. Property and Fiscal Officer, PAARNG.



DEPARTMENT OF THE ARMY
U.S. ARMY AUDIT AGENCY
OFFICE OF THE DEPUTY AUDITOR GENERAL
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25 March 2011

Comptroller and Director, Administration and Management, National Guard Bureau
U.S. Property and Fiscal Officer, Pennsylvania Army National Guard

This is the report on our audit of the American Recovery and Reinvestment Act of 2009 at Pennsylvania Army National Guard. The audit was part of a Defense-wide effort executed by the Office of the DOD 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 Pennsylvania Army National Guard implemented 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 the Comptroller and Director, Administration and Management, National Guard Bureau and one recommendation addressed to the U.S. Property and Fiscal Officer, Pennsylvania Army National Guard. 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
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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 express purpose of stimulating economic growth. The 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 audited the Army's implementation of the Recovery Act at Pennsylvania Army National Guard (PAARNG). Specifically, we assessed whether PAARNG personnel:

- Sufficiently planned the projects to ensure the appropriate use of Recovery Act funds. (Planning)
- Distributed and awarded funds in a prompt, fair, and reasonable manner. (Funding)
- Performed contract administration and project execution duties 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; and funded projects avoided unnecessary delays and cost overruns. (Project 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 are awarded and distributed in a prompt, fair, and reasonable manner.
- The 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 the potential for fraud, waste, error, and abuse is 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, including financial and activity details, to ensure that they're meeting the transparency and accountability objectives and mitigating the potential for fraud, waste, and abuse.

DOD received approximately \$12 billion as part of the Recovery Act. Of the \$12 billion, the U.S. Army received about \$7.7 billion for operation and maintenance; military construction; research, development, test, and evaluation; and U.S. Army Corps of Engineers civil works projects. All funds were available for obligation until 30 September 2010, and until 30 September 2013 for military construction. PAARNG received about \$21.3 million to initially complete 80 projects, as part of the Recovery Act. The final list was ultimately reduced to 60 projects because PAARNG replaced 27 projects – 25 projects that didn't have State-matching funds, 1 project that was already completed, and 1 project that PAARNG determined it could complete with other funding – with 7 projects that had matching funds.

The Office of the DOD Inspector General analyzed all DOD agency-funded projects, locations, and contracting oversight organizations to assess the risk of fraud, waste, and abuse associated with each. The DOD Inspector General used predictive analytics to quantify the risks and select projects to review. The predictive analytics results identified 15 projects, which are listed in the following table, to review at PAARNG:

Predictive Analytics Results for PAARNG Projects		
Location/Installation	Project Title	Cost Estimate
Harrisburg Reserve Center	Repair/upgrade all of Readiness Center (Building 2) to Current Building Code and Energy Standards	\$1,181,000
Harrisburg Reserve Center	Repair/upgrade all of Readiness Center (Building 1) to Current Building Code and Energy Standards	2,411,000
Fort Indiantown Gap	Building 11-091 Roof Repair	900,000
Fort Indiantown Gap	Building 19-116 Roof Repair	120,000
Fort Indiantown Gap	Sanitary System Assessment and Improvements	750,000
Fort Indiantown Gap	Repair/upgrade Electrical and Heating, Ventilation, and Air Conditioning Systems in Barracks Building 13-015 to Current Building Standards	120,000
Fort Indiantown Gap	Army National Guard Aviation Support Facility Runway Sealing	725,000
Pittsburgh Crane Readiness Center	Heating, Ventilation, and Air Conditioning Installation	120,000
Fort Indiantown Gap*	Replace Windows in Building 19-117	75,000
Hermitage Readiness Center**	Install Energy Management System	350,000
Phoenixville Readiness Center**	Replace Windows and Doors	200,000
Hamburg Readiness Center**	Renovate Center and Pave	100,000
Pittsburgh Combined Support Maintenance Shop**	Renovate and Pave	200,000
Williamsport Readiness Center**	Renovate and Pave	50,000
State College Field Maintenance Shop**	Connect Advanced Temperature Control to Fort Indiantown Gap	23,000
Total		\$7,325,000

* = Project removed because it was completed with non-Recovery Act funds.

** = Projects removed because required State-matching funds weren't available.

Of the 15 projects identified for review, PAARNG removed 7 projects from the Recovery Act funding – 6 projects because the required State-matching funds weren't available and 1 project that PAARNG completed with other funding. We partially reviewed the seven projects and reviewed three additional projects submitted by PAARNG as replacements for the seven projects. The three additional projects are in the following table:

Additional PAARNG Projects Reviewed by U.S. Army Audit Agency		
Location/Installation	Project Title	Cost Estimate
Fort Indiantown Gap	Provide Power to the Unit Training and Equipment Storage Site Power Controlled Humidity Preservation Program System	\$75,000
Pitt Hunt Readiness Center	Replace Roof, Water Closets, and Electrical Service	728,500
Allentown Readiness Center	Replace Roof and Retrofit Heating, Ventilation, and Air Conditioning	837,500
Total		\$1,641,000

OTHER MATTERS

During our audits of PAARNG and four other National Guard sites—South Carolina (Audit Report: A-2010-0080-ALO, dated 31 March 2010), Idaho (Audit Report: A-2010-0092-ALR, dated 29 April 2010), Connecticut (Audit Report: A-2010-0116-ALR, dated 17 June 2010), and Oregon (Audit Report: A-2011-0034-IEE, dated 13 December 2010)—we identified some issues regarding the transparency of contracts awarded by the States under Special Military Cooperative Agreements.

Guidance

Section 5 of OMB M-09-15 addresses requirements for grants and cooperative agreements. The section states that agencies are expected to follow the same laws, principles, procedures, and practices in awarding discretionary grants with Recovery Act funds as they do with other funds. It also states agencies should review their internal policies with a goal towards promoting competition to the maximum extent practicable. The section further states that agreements must spell out the assignment of agency roles and responsibilities to fulfill the unique requirements of the Recovery Act. These include, but aren't limited to, report development and submission, accurate and timely data reporting, and special posting requirements to agency Web sites and www.Recovery.gov.

Section 6 of OMB M-09-15 addresses key requirements for contracts awarded by Federal agencies under the Recovery Act. The section includes guidance on Federal Acquisition Regulation (FAR) requirements, such as:

- A rationale for using methods other than fixed-price or competitive approaches in award notices.

- A description of supplies and services that is clear and unambiguous to support public transparency and understanding of the procurement.
- Special posting requirements for modifications, as well as orders, under task and delivery order contracts.

National Guard Regulation 5-1 (National Guard Grants and Cooperative Agreements), dated 3 April 2008, establishes policy and procedures for administering cooperative agreements between the U.S. Property and Fiscal Office and the State/territory, and provides information on the use and limitations of available National Guard Bureau (NGB) resources.

Transparency and Use of Special Military Cooperative Agreements

Our review at PAARNG and the four other National Guard sites showed that State personnel weren't required to perform some of the contract administration requirements outlined for equivalent contract actions using Recovery Act funds. For example, for State-awarded contracts, funded in part with Federal funds, contracting personnel didn't:

- Include the word "Recovery" in the title of the solicitation or award notices for Recovery Act projects.
- Indicate which products or services were funded under the Recovery Act in the solicitation, contract award, and purchase orders.
- Post notices disclosing the rationale for awarding contracts that weren't competed.

State personnel weren't required to complete these actions because the Special Military Cooperative Agreements used to implement National Guard Recovery Act projects didn't include equivalent language for these FAR requirements, as they did for others. We found that Headquarters, NGB used available guidance on grants and cooperative agreements to develop the template for the Special Military Cooperative Agreement and provided it to the States to implement the Recovery Act. However, the available guidance on grants and cooperative agreements wasn't sufficient for ensuring full transparency of Recovery Act contracts awarded by the States under cooperative agreements. As a result, State-awarded contracts didn't meet the same level of transparency required for federally awarded contracts – particularly during the solicitation and award process.

Because nontransparency affects the implementation of the Recovery Act throughout the Army National Guard, we elevated the matter with the DOD Inspector General to

Headquarters, NGB; the Office of the Secretary of Defense for Acquisition, Technology and Logistics; and the OMB, Executive Office of the President for resolution. According to OMB personnel, the States weren't required to follow OMB guidance outlined for Federal contracts. OMB personnel further stated that the OMB guidance isn't written to the level of detail that would push all Recovery Act requirements to the States and without supplemental guidance from Federal agencies, the requirement wouldn't filter down. However, OMB didn't issue a specific requirement for Federal agencies to develop supplemental guidance on these types of actions. As a result, there was reduced transparency during the solicitation and award process for State-awarded contracts.

Because the transparency requirements are tied to the use of Recovery Act funds and aren't dependent upon the agency using the funds, it's our opinion that the OMB guidance should have required Federal agencies using grants and cooperative agreements to issue supplemental guidance that ensures the same level of transparency throughout the process of executing Recovery Act funds.

RECOVERY ACT IMPLEMENTATION

OBJECTIVE

Did Pennsylvania Army National Guard 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

Generally, yes. PAARNG generally implemented the Recovery Act in accordance with the requirements of the Act, OMB guidance, and subsequent related guidance for the 18 projects we reviewed. Overall, PAARNG:

- Sufficiently planned 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 administration and project execution duties in a manner that provided reasonable assurance that Recovery Act funds were used for authorized purposes; instances of fraud, waste, and abuse were mitigated; and program goals were achieved.
- Properly tracked and reported information to ensure recipients, uses, and benefits of Recovery Act funds were transparent to the public.

However, our review showed that PAARNG didn't have sufficient evidence to support project cost estimates because key personnel didn't maintain documentation. Consequently, PAARNG didn't have sufficient documentation to show how the projects' cost estimates were developed, which are used to support cost-related requirements during the contracting process.

In addition, we found that PAARNG didn't comply with Section 808, Debarment and Suspension, of the Special Military Cooperative Agreement, which requires, by reference, the verification that contractors aren't listed in the Excluded Parties List System (EPLS) before issuing contracts for Recovery Act projects funded in part with Federal funds. This primarily occurred because:

- Key PAARNG personnel were unaware of the specified requirement. It was normal procedure for contracting specialists to check the State debarment list, which isn't comparable to the EPLS.
- Section 808 of the Special Military Cooperative Agreement referenced the OMB guidance, but didn't clearly state the actions needed – checking the EPLS for contractor debarment and suspensions – to comply with the requirement.

We also identified this same condition in our Recovery Act audit of Oregon Army National Guard and made a recommendation to ensure State contracting personnel checked the EPLS before issuing a contract funded in part with Federal funds. However, because the Special Military Cooperative Agreement didn't clearly state the actions needed, we believe the condition – State Army National Guard personnel not verifying that contractors for State contracts, funded in part with Federal funds, aren't listed in the EPLS – could exist throughout the Army National Guard. Although we didn't identify any awarded projects that went to debarred or suspended contractors for the two State projects we reviewed at PAARNG, the Army National Guard doesn't have complete assurance that Recovery Act projects aren't being awarded to debarred or suspended contractors at other Army National Guard locations.

In addition, State contracting personnel didn't clearly identify the use of Recovery Act funds in the public notices for the State contract – involving two projects totaling \$3.7 million – because the Special Military Cooperative Agreement that was developed in accordance with available guidance didn't require them to do so. As stated in the “Other Matters” section of this report, we also identified similar conditions during audits of the Army National Guard at Oregon, Idaho, Connecticut, and South Carolina and elevated the nontransparency condition with the DOD Inspector General to Headquarters, NGB; the Office of the Under Secretary of Defense for Acquisition, Logistics and Technology; and the OMB. However, without additional OMB guidance and requirements for Federal agencies using grants and cooperative agreements, we weren't able to resolve the matter to ensure transparency.

Our recommendations to validate contractor eligibility and correct cost estimate documentation are in the next section. We aren't making any recommendations for the matter related to PAARNG's use of the Special Military Cooperative Agreement because we weren't able to resolve the matter at the Army or DOD level. We discuss our detailed audit results for the four areas of planning, funding, project execution, and tracking and reporting, beginning on page 12.

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 Comptroller and Director, Administration and Management, National Guard Bureau

Recommendation 1

Issue supplemental guidance to all U.S. Property and Fiscal Officers clarifying the requirements of Section 808, Debarment and Suspension, of the Special Military Cooperative Agreement and requiring the use of the Excluded Parties List System for all Recovery Act contracts. Also, require all U.S. Property and Fiscal Officers to ensure State contracting personnel verify contractor eligibility for all Recovery Act-funded projects awarded – and contracts to be awarded – using the Excluded Parties List System.

Command Comments/Official Army Position

The Comptroller agreed with the recommendation. National Guard Bureau's Office of the Principal Assistant Responsible for Contracting stated it would change the award term in each cooperative agreement, Section 808, Debarment and Suspension, to articulate the State (Grantee) and subrecipient contracting officer's responsibility in complying with the Office of Management and Budget guidance currently referenced in the award term. The change will require the contracting officer to verify, by checking the Excluded Parties List System, that the person they intend to award the contract to isn't excluded or disqualified. National Guard Bureau's Office of the Principal Assistant Responsible for Contracting stated it would complete this action by 31 March 2011.

The U.S. Property and Fiscal Officer indicated that the Commonwealth of Pennsylvania Governor's Office issued Management Directive 215.9 Amended, dated 25 October 2010, which outlines the Commonwealth's Contractor Responsibility Program. The program now includes a requirement for contracting personnel to verify a contractor's status on the Excluded Parties List System to ascertain whether the contractor is suspended or debarred by the Federal Government, prior to awarding any contract using Federal funds.

**For the U.S. Property and Fiscal Officer,
Pennsylvania Army National Guard**

Recommendation 2

Direct engineering personnel to document the methodology used to calculate estimated costs for projects and maintain the supporting documentation.

Command Comments/Official Army Position

The Pennsylvania U.S. Property and Fiscal Officer concurred with the recommendation and stated the office will again direct the Construction and Facilities Manager to have all engineering personnel document the methodology they use to develop the independent government cost estimate and to maintain supporting documentation. The Comptroller and Director, Administration and Management, National Guard Bureau concurred and provided the official Army position. The fiscal officer implemented the recommendation on 24 February 2011.

A – PLANNING

BACKGROUND

Division A, Title III, of the Recovery Act, requested that the Secretary of Defense provide a project list for the facilities sustainment, restoration, and modernization projects funded under the Act.

In a February 2009 memorandum, the Office of the Secretary of Defense directed the Army and other military departments to identify military construction and facilities sustainment, restoration, and modernization projects they planned to execute using Recovery Act funding. The memorandum stated that, in accordance with Section 1602, the departments should give preference to activities that could be started and completed expeditiously – with a goal of using at least 50 percent of the funds for activities that could be initiated no later than 120 days after the date of the enactment of the Act.

In December 2008, NGB’s Army Installation Division directed all National Guard State headquarters to develop a list of sustainment, restoration, and modernization projects for Recovery Act funding that could be executed quickly, was consistent with Army priorities, and would help the Army achieve a near-term strategic objective.

DISCUSSION

PAARNG sufficiently planned its projects to ensure the appropriate use of Recovery Act funds. Our review showed PAARNG identified projects from a preexisting list of workorders and worked with local personnel and NGB headquarters to validate and prioritize projects for Recovery Act funding. Initially, PAARNG received approval to execute 80 projects using Recovery Act funding, but subsequently had to remove 27 of the approved projects from the list, primarily because the State didn’t have required matching funds. PAARNG took the appropriate actions to nominate 7 projects to replace the 27 projects. Our review also showed PAARNG had sufficient controls and procedures in place to implement the Recovery Act. These controls included:

- Designated Recovery Act officials to monitor implementation of the projects, in accordance with the Act. Construction Facilities Maintenance Office personnel oversaw all matters pertaining to Federal real property assets, accounts, and records of PAARNG. Department of Military and Veterans Affairs personnel monitored and reported Recovery Act funds that flowed through the Commonwealth of Pennsylvania.
- The use of a separate Treasury appropriation fund symbol to ensure Recovery Act funds are clearly distinguished.
- A process in place to track and report the receipt of funding, status, and milestone completion for Recovery Act projects.

Further, the PAARNG expenditure plan accounted for all 80 projects initially listed on the approved DOD expenditure plan. PAARNG submitted a request to update the plan with a total of 60 projects, reflecting the projects that were removed and added because of the State-matching fund problems. During our review, PAARNG was waiting for the plan's approval. The funding allowance targets for the original 80 projects matched the DOD expenditure plan. We also found that PAARNG appropriately transferred funds between approved Recovery Act projects, in accordance with Recovery Act guidance.

Because of sufficient planning, there is reasonable assurance PAARNG appropriately used Recovery Act funds for the projects that we reviewed.

Because our results were positive, there are no recommendations for planning.

B – FUNDING

BACKGROUND

OMB Bulletin No. 09-02 (Budget Execution of the American Recovery and Reinvestment Act of 2009), dated 25 February 2009, provides instructions on processing apportionments and submitting budget execution reports for Recovery Act funds. It requires agencies to use a separate Treasury appropriation fund symbol to track and report Recovery Act funding in order to facilitate transparency.

The Office of the Secretary of Defense (Comptroller) Memorandum (Project Cost Variations during Execution of American Recovery and Reinvestment Act Expenditure Plans for Infrastructure Investments), dated 7 May 2009, contains guidance that applies to facilities sustainment, restoration, and modernization projects funded by the Recovery Act in three appropriations, including operation and maintenance. The guidance is for:

- **Availability of Operation and Maintenance Funds to Complete Recovery Act Projects.** Operation and maintenance funds, appropriated in DOD Appropriations Acts or in emergency supplemental appropriations, shouldn't be used to carry out Recovery Act projects, except when Recovery Act supplemental operation and maintenance appropriated funds are no longer available and the component's request to use operation and maintenance funds, appropriated in DOD Appropriations Acts, is approved by the Principal Deputy Under Secretary of Defense (Comptroller).
- **Bid Savings.** Components should use their management discretion to use bid savings – as they occur – to offset the cost growth in other projects, regardless of location. If bid savings aren't available, then the component should "borrow" funds from the later-executing projects to cover cost variations. When subsequent bid savings become available, the later-executing projects should be executed from Recovery Act operation and maintenance appropriations, in accordance with the original expenditure plan.
- **Project Cancellations and Additions.** If a project is determined to be unexecutable or no longer required and cancellation is deemed the better course of action rather than retaining unobligated balances in the Recovery Act operation and maintenance appropriations, then the component must nominate a replacement project.

The PAARNG Special Military Cooperative Agreement, dated 29 April 2009, is an agreement between NGB and the Commonwealth of Pennsylvania. It establishes the terms and conditions applicable to the contribution of NGB funds or in-kind assistance for the operation and training of the State Army and Air National Guard. In-kind assistance is the transfer of supplies or services by NGB to the State to satisfy – in whole or part – NGB’s obligation of assistance support to the State. The State must obligate sufficient funds to pay its share of the costs of the Special Military Cooperative Agreement. The State's obligations are contingent upon NGB funding this agreement each fiscal year. NGB is required to reimburse the State for the allowable costs incurred from performing the Special Military Cooperative Agreement. The Special Military Cooperative Agreement allows NGB to provide in-kind assistance in the form of federally procured supplies and/or services.

DISCUSSION

PAARNG distributed and awarded funds in a prompt, fair, and reasonable manner for the projects that we reviewed. Specifically, we found:

- NGB headquarters transferred approximately \$21.3 million in Recovery Act funds to PAARNG in two funding authorization documents to initially execute 80 projects. The first document, dated 1 May 2009, was for \$14.6 million and covered 55 projects, while the second document, dated 12 May 2009, was for \$6.7 million and covered 25 projects.
- PAARNG distributed the Recovery Act funds to each of the approved projects using a funding allowance target. Both the funding authorization documents and funding allowance targets properly cited the Recovery Act designation.
- The Special Military Cooperative Agreement between NGB and the Commonwealth of Pennsylvania established the funding limit of approximately \$21.3 million in Recovery Act funds for the Commonwealth to execute the initially approved 80 projects and identified about \$12.2 million that would be expended through in-kind assistance from PAARNG.
- PAARNG and/or the State awarded contracts for 7 of the 11 projects we reviewed, as of 1 March 2010, totaling \$6.4 million (PAARNG removed 7 of the 18 projects in our review). The awards were consistent with the funding allowance targets.

Also, PAARNG adhered to guidance for transferring funds and replacing projects. Specifically, PAARNG appropriately submitted a request to replace 27 projects – 25 projects because required State-matching funds weren’t available, 1 project because it

was already completed with other funding, and 1 project that it determined could be completed with other funding – with 7 new projects totaling the same amount of \$3.5 million from Recovery Act funding.

Further, for the project that PAARNG completed with non-Recovery Act funding and erroneously included on the list for Recovery Act projects (Replace Windows in Building 19-117), PAARNG personnel immediately took corrective action and submitted a request to replace the project with the Unit Training and Equipment Storage Site project.

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

Because our results are positive, there are no recommendations for funding.

C – PROJECT EXECUTION

BACKGROUND

OMB Memorandum M-09-15 requires agencies to follow guidance in Title 2, Part 176 of the Code of Federal Regulations, OMB Government, Grants and Agreements. Title 2, Part 176 establishes award terms for assistance agreements that include funds under the Recovery Act.

NGB 420R (OMNG [Operation and Maintenance National Guard] Project Request) is the standard project documentation form for the National Guard. The form is used to record the project estimate, justify the project, and identify the Federal and State share of estimated costs. Approval of the NGB 420R form shows the project is approved. It doesn't provide funding or obligate Federal funds.

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 developing reasonable alternatives to those actions. To meet National Environmental Policy Act of 1969 requirements, Federal agencies should prepare a detailed statement known as an environmental statement.

FAR Subpart 5.7 (Publicizing Contracts 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 isn't both fixed-price and competitive.

The Office of the Secretary of Defense for Acquisition, Technology and Logistics Memorandum (Updated Instructions for Posting Pre-Solicitation and Award Notices; Reporting Contract Actions; and Reporting Performance Assessments for Actions Funded by the American Recovery and Re-Investment Act of 2009), dated 21 April 2009, provides updated instructions specific to publicizing and reporting contract

actions on the Federal Business Opportunities Web site and the Federal Procurement Data System, in compliance with the transparency and accountability requirements associated with the Recovery Act.

The PAARNG Special Military Cooperative Agreement establishes the terms and conditions applicable to the contribution of NGB funds or in-kind assistance for the operation and training of the State Army and Air National Guard between NGB and the Commonwealth of Pennsylvania. NGB provided the Commonwealth of Pennsylvania with about \$12.2 million of Recovery Act in-kind assistance. Article VIII of the Master Cooperative Agreement (Representations and Certifications) contains award terms that must be included into State contracts utilizing Recovery Act funds. It contains similar language of most FAR clauses required in Federal Recovery Act contracts. Additionally, it requires the States to comply with disbarment and suspension policies contained in Subpart C of OMB guidance, Title 2, Code of Federal Regulations Part 180.

Title 2 (Grants and Agreements), Code of Federal Regulations, Part 180 (OMB Guidelines to Agencies on Governmentwide Debarment and Suspension (Non-Procurement)), Subpart C (Responsibilities of Participants Regarding Transactions Doing Business With Other Persons), identifies the responsibilities of persons who participate in covered transactions. Cooperative agreements are classified as covered transactions. The policy requires parties to verify that the person with whom you intend to do business isn't excluded or disqualified – this can be accomplished by checking the EPLS.

DISCUSSION

PAARNG generally performed contract administration and project execution duties in accordance with the requirements of the Recovery Act for the 18 projects we reviewed. The review consisted of:

- 15 projects from the original list submitted to Headquarters, NGB.
- 3 projects from our replacement list.

As of 1 March 2010, PAARNG personnel awarded the following 8 of 18 projects in our review:

PAARNG Projects Awarded		
Location/Installation	Project Title	Contract
Harrisburg Reserve Center	Repair/upgrade all of Readiness Center (Building 2) to Current Building Code and Energy Standards	State
Harrisburg Reserve Center	Repair/upgrade all of Readiness Center (Building 1) to Current Building Code and Energy Standards	State
Fort Indiantown Gap	Building 11-091 Roof Repair	Federal
Fort Indiantown Gap	Building 19-116 Roof Repair	Federal
Fort Indiantown Gap	Sanitary System Assessment and Improvements	Federal
Fort Indiantown Gap	Repair/upgrade Electrical and Heating, Ventilation, and Air Conditioning Systems in Barracks Building 13-015 to Current Building Standards	Federal
Fort Indiantown Gap	Army National Guard Aviation Support Facility Runway Sealing	Federal
Fort Indiantown Gap	Provide Power to the Unit Training and Equipment Storage Site Power Controlled Humidity Preservation Program System	Project performed in-house
Total		Eight awarded

Our review showed the 18 projects represented valid needs that supported Recovery Act goals, contracting personnel generally met competition and transparency goals and requirements, and PAARNG had quality assurance measures in place. However, only five of the eight awarded projects had reasonable cost estimates and there was reduced transparency for two Recovery Act-funded projects.

Project Justification

We initially determined that 17 of the 18 projects we reviewed represented a valid need. Specifically, our review showed the 17 PAARNG projects representing valid needs met the criteria for Recovery Act funding and PAARNG personnel justified the projects using the NGB 420R form. However, personnel didn't include the full scope of the effort on the initial NGB 420R form for the Army National Guard Aviation Support Facility Runway Sealing project. When we discussed the matter with key PAARNG personnel, they took corrective action during our audit and added additional information to the NGB 420R form to justify the entire project. In addition, our review showed PAARNG personnel complied with National Environmental Policy Act of 1969 requirements for all 18 projects by completing records of environmental consideration.

Project Estimates

PAARNG had reasonable cost estimates for five of the eight projects awarded. Our review showed that PAARNG engineering personnel developed cost estimates for the five projects using resources such as the RS Means Electrical Cost Data, 2009. The contracting officers reviewed the estimates for reasonableness and the Construction and Facilities Manager signed off on the final packages. Although PAARNG personnel stated that they prepared independent government estimates for all eight projects, here's what we found for three projects:

- PAARNG personnel significantly overstated the \$750,000 cost estimate included in the DOD expenditure plan for the Sanitary System Assessment and Improvements project by \$288,730 and, as discussed below, didn't have supporting documentation. This occurred primarily because they didn't use an estimate provided by the contractor prior to the Recovery Act. The contractor-provided cost estimate of \$461,270, which was documented and provided a rationale for the costs, was significantly less than the estimate included in the expenditure plan and closer to the actual award amount of \$478,770. Because the actual award was less than the expenditure plan cost estimate and was reasonably supported by the contractor's estimate, we concluded that it resulted in effective use of Recovery Act funds.
- PAARNG personnel couldn't provide any supporting documentation or explanation on how expenditure plan cost estimates were calculated for the Sanitary System; Barracks' Heating, Ventilation, and Air Conditioning; and the Unit Training and Equipment Storage Site projects because documentation wasn't maintained. As a result, PAARNG didn't have an auditable trail of evidence to support the estimates and the process wasn't fully transparent.

We address actions needed to maintain sufficient documentation for project cost estimates in Recommendation 2 on page 11.

Competition and Transparency Goals

Contracting personnel generally met and reinforced the Recovery Act's competition and transparency goals and requirements. Specifically, as of 1 March 2010, contracting officers competitively awarded firm, fixed-price contracts for seven of the eight projects – two of the projects through one new contract and five through existing indefinite-delivery, indefinite-quantity contracts. PAARNG personnel completed the Unit Training and Equipment Storage Site project using in-house resources. Personnel told us the project was completed using in-house personnel because it was more

expeditious to the government and because labor costs weren't charged to Recovery Act funding. Although the use of in-house resources didn't create or save jobs, PAARNG met the goal of stimulating the economy by purchasing U.S. products to complete the project. We also found that contracting officers:

- Included all applicable FAR clauses or equivalent language in the contracting documents for the seven projects with contracts.
- Posted most of the required notices (solicitations and awards) on the Federal Business Opportunities Web site for Federal projects. Contracting officers didn't post "For Informational Purposes Only" for the Sanitary System Assessment and Improvements and the Army National Guard Aviation Support Facility Runway Sealing projects on the Federal Business Opportunities Web site because they were unaware of the requirement to do so, since these were indefinite-delivery, indefinite-quantity contracts. However, although there was reduced transparency for these two projects, PAARNG took corrective actions during the audit to post the required information to the Web site.
- Ensured that contractors had active registration in the Central Contractor Registration.
- Ensured contracts identified Recovery Act-funded goods or services in the five contracts funded with Federal funds.

However, we did identify some issues for the State-awarded contract involving the use of the EPLS and reduced transparency for two projects.

EPLS

PAARNG took sufficient actions to ensure contractors weren't on the EPLS for the five Recovery Act contracts awarded with Federal funds. However, we found that State contracting personnel reviewed the State debarment list to check for contractor debarments and suspensions for the State-awarded contract, funded in part with Federal funds, instead of the EPLS. State personnel told us they weren't aware of the EPLS requirement. In addition, we found that the State personnel's unawareness of the EPLS requirement could be due, in part, to the fact that Section 808 of the Special Military Cooperative Agreement requires the State to comply with debarment and suspension requirements in Section C of Title 2, Code of Federal Regulations Part 180, but doesn't explicitly list the actions required to comply with the guidance. Our recent audit of Oregon Army National Guard showed its State personnel weren't aware of the requirement either. When we discussed the issue with NGB headquarters personnel,

they agreed that the guidance could be clearer and specifically mention the EPLS rather than referring to a requirement to research the meaning.

Our review of the State debarment list for the Commonwealth of Pennsylvania showed that it wasn't as extensive as the EPLS. Additionally, the audit of Oregon Army National Guard's system showed the criteria for debarment in the State weren't as stringent as the EPLS. We checked the EPLS and determined the contractor, who received the State contract for the two projects we reviewed, wasn't on the list. However, with the use of the less stringent State debarment lists, there is the risk that a contractor debarred or suspended from Federal contracting could have received a Recovery Act award.

Recovery Act funding wasn't intended for debarred or suspended contractors. Debarment is an administrative remedy created by Congress to address serious improper behavior by contractors, including fraud and theft. Violation of FAR 9.402 can rise to discipline of the contracting officer and can serve as a basis for "termination for cause" or "termination for convenience" on the basis the contractor was ineligible for the contract.

Actions NGB needs to take to ensure contractor eligibility for State-awarded Recovery Act contracts National Guard-wide are provided in Recommendation 1 on page 10.

Special Military Cooperative Agreement

PAARNG didn't complete some Recovery Act contract administration requirements for two projects handled by State personnel. Specifically, State contracting personnel didn't:

- Include the word "Recovery" in the title of the solicitation or award notices for the two Harrisburg Reserve Center projects.
- Indicate which products or services were funded under the Recovery Act in the solicitation, contract award, and the purchase orders for the two State projects valued at approximately \$3.7 million.

State personnel didn't complete these actions because the Special Military Cooperative Agreements used to implement National Guard Recovery Act projects didn't require them to do so. Because the Special Military Cooperative Agreement template and related issues affect the implementation of the Recovery Act throughout the Army National Guard, we elevated the issues, along with the DOD Inspector General, to Headquarters, NGB; the Office of the Secretary of Defense for Acquisition, Technology and Logistics; and the OMB, Executive Office of the President for resolution.

We found that Headquarters, NGB used available guidance on grants and cooperative agreements to develop the template for the Special Military Cooperative Agreement and provided it to the States to implement the Recovery Act. However, the available guidance on grants and cooperative agreements wasn't sufficient for ensuring full transparency of Recovery Act contracts awarded by the States under cooperative agreements. Additionally, according to OMB personnel, the States weren't required to follow OMB guidance outlined for Federal contracts. OMB personnel further stated that the OMB guidance isn't written to the level of detail that would push all Recovery Act requirements to the States and without supplemental guidance from Federal agencies, the requirement wouldn't filter down. However, the OMB didn't issue a specific requirement for Federal agencies to develop supplemental guidance on these types of actions. As a result, a State-awarded contract didn't meet the same level of transparency required for federally awarded contracts using Recovery Act funds – particularly for the solicitation and award process.

We're providing no recommendation for this issue because it couldn't be resolved at the DA or DOD level. As stated in the "Other Matters" section of this report, without additional guidance and requirements from the OMB level, there is no assurance that the State-awarded contracts resulting from Special Military Cooperative Agreements will meet the same level of transparency required for contracts awarded by Federal agencies – particularly during the solicitation and award process.

Quality Assurance

PAARNG had sufficient quality assurance measures in place for all seven of the awarded contracts we reviewed. Although PAARNG didn't have quality assurance surveillance plans, it had surveillance controls in place to monitor the seven projects. For example, the controls ensured that:

- Contractors adhered to the technical requirements of the contract.
- Contract requirements included quality inspections for services acquired.
- Contractors worked agreed-to contractor schedules.
- Contractor nonconformances were identified and corrected.

PAARNG accomplished these measures by performing onsite inspections of all projects and documenting the results of inspections and meetings, preparing biweekly progress reports, and conducting progress meetings with the contractors. The reports documented the percentages of project completion and identified technical and administrative actions the government or contractors had to perform to keep the

projects on schedule. Personnel attending these progress meetings included the Contracting Officer, Department of Public Works; the contractor of the project; the State Safety Officer; Bureau of Military Construction and Engineering; Fort Indiantown Gap Police; and other personnel involved in the projects. As a result, there is reasonable assurance that PAARNG will avoid unnecessary delays and cost overruns for the projects that we reviewed.

Despite the reduced transparency and the procedural issues with checking contractor eligibility for some of the projects, there is reasonable assurance that PAARNG 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

Recovery Act Section 1512 requires 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. The provision applies to commercial item contracts and commercially available off-the-shelf item contracts, as well as actions under the simplified acquisition threshold. It also requires contracting officers to ensure that the contractor complies with reporting requirements.

OMB Memorandum M-09-10 (Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009), dated 18 February 2009, requires agencies to provide spending and performance data to the Recovery.gov Web site and includes requirements for awarding and distributing funds.

DISCUSSION

PAARNG had sufficient procedures to track and report Recovery Act-funded projects. Specifically, PAARNG personnel:

- 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 Special Military Cooperative Agreement for Recovery Act reporting.
- Reported award summaries on the Federal Procurement Data System.
- 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 five federally awarded contracts complied with Recovery Act reporting and transparency requirements—jobs created, project progress, and information—using the online reporting tools at Federalreporting.gov. For example, we found reports for all five projects on www.recovery.gov. The data submitted on the projects included:

- Award amount and description.
- Award date.
- Project status.
- Number of jobs saved or created.
- Total recovery dollars invoiced.

Additionally, State contracting personnel complied with Recovery Act reporting requirements for the contract they awarded by recording information into the State's Central Access to Recovery-Based Systems for the State-awarded contract and posting it to Federalreporting.gov.

As a result, there is reasonable assurance that the recipients and uses of Recovery Act funds were transparent to the public and the benefits of the funds were reported clearly, accurately, and in a timely manner.

Because our results are positive, there are no recommendations for tracking and reporting.

A – GENERAL AUDIT INFORMATION

SCOPE AND METHODOLOGY

We conducted the engagement from October 2009 through November 2010 under project A-2009-FFE-0446.004.

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 EPLS, Central Contractor Registration database, Pennsylvania's Central Access to Recovery-Based Systems, and FederalReporting.gov and Recovery.gov Web sites. We obtained additional documentation, such as contract files, to help validate the information obtained from the Web sites. We determined that we could sufficiently rely on the information obtained from the Web sites.

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

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

- Interviewed key Federal and State personnel involved with Recovery projects to obtain an understanding of their involvement in the requirements identification, contracting, and funding distribution processes for the Recovery Act.
- Reviewed and analyzed Recovery Act guidance on grants and cooperative agreements to determine the requirements for implementing Recovery Act projects under such agreements.
- Reviewed and analyzed installation status reports and the NGB 420R form to identify whether selected Recovery Act projects constituted a valid need.
- Reviewed and analyzed records of environmental consideration to identify whether the installation considered the environmental effects of selected Recovery Act projects.
- Compared the installation's expenditure plan against the DOD expenditure plan to determine if dollar amounts matched.

- Reviewed and analyzed the funding authorization documents and funding allowance targets for each project to determine the amount of Recovery Act funds received and amounts obligated for each project.
- Reviewed and analyzed project contracts, solicitations, and awards to verify the inclusion of required FAR clauses or similar language.
- Researched the EPLS to ensure vendors for projects in our review weren't debarred from performing work for the Federal Government.
- Reviewed and analyzed printouts from the FederalReporting.gov and Recovery.gov Web sites to determine if the installation met Section 1512 reporting requirements.
- Reviewed and analyzed printouts from the U.S. Property and Fiscal Office and Pennsylvania Department of Military and Veterans Affairs to:
 - Determine whether the contracting office presolicited and competed the opportunity.
 - Identify the Recovery Act designations and contract award.
 - Verify the synopsis contained a description of services.
- Obtained and reviewed before and after photos of completed projects to verify completion.
- Conducted a site visit to Fort Indiantown Gap, Pennsylvania to observe and inspect completed projects.
- Coordinated with the DOD Inspector General and interviewed personnel from Headquarters, NGB; the Office of the Secretary of Defense for Acquisition, Technology and Logistics; and the OMB, Executive Office of the President to obtain clarification regarding the intent of Recovery Act guidance for the Special Military Cooperative Agreements.

RESPONSIBILITIES

The Office of the Assistant Secretary of the Army (Financial Management and Comptroller) formulates, submits, and defends the Army budget to Congress and the American people. The Office oversees the proper and effective use of appropriated resources to accomplish the Army's assigned missions and provides transparent reporting to Congress and the American people on the use of appropriated resources and the achievement of established Armywide performance objectives.

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 Chief, National Guard Bureau is responsible to the Secretary of Defense and Congress for the proper management of funds. The Chief normally assigns fund management to the U.S. Property and Fiscal Officer of each State upon distributing funds to the States through cooperative agreements.

The U.S. Property and Fiscal Office of the Commonwealth of Pennsylvania is the primary focal point for Federal funds and property allotted to the State. The U.S. Property and Fiscal Office is accountable and responsible for all Federal funds and property provided to the National Guard of Pennsylvania. The officers are responsible for financial management, property accountability, Federal contracting, and internal review.

The Assistant U.S. Property and Fiscal Officer for Real Property of Pennsylvania/Construction Facility Management Officer of Pennsylvania is the authorized representative in matters pertaining to Federal real property assets, accounts, and records of Pennsylvania Army National Guard. The Assistant U.S. Property and Fiscal Officer/ Construction Facilities Maintenance Office is the designated official, who monitors Recovery Act implementation.

The Department of General Services of Pennsylvania manages the significant tracking, monitoring, and reporting requirements associated with the American Recovery and Reinvestment Act of 2009 funds that will flow through the Commonwealth of Pennsylvania. The Department of General Services works to ensure the Department of Military and Veterans Affairs conveys how projects funded with stimulus dollars benefit the local, State, and military communities.

ACKNOWLEDGMENTS

These personnel contributed to the report: Kimberly Craig (Audit Manager); Neil Reeves (Auditor-in-Charge); Devyn Pulliam (Assistant Auditor-in-Charge); Brandon Barbee, Brian Desvignes, and Crystal Myers (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 Assistant Chief of Staff for Installation Management.

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

EPLS	Excluded Parties List System
FAR	Federal Acquisition Regulation
NGB	National Guard Bureau
OMB	Office of Management and Budget
PAARNG	Pennsylvania Army National Guard

C – BUILDING 11-091 ROOF REPAIR



The above picture is Building 11-091's southern region damage viewed from inside the facility.



The above picture is Building 11-091's soft spots in the center roofing that are being repaired.



The above picture is Building 11-091's south portion of the center roof that is being repaired and reinforced.

D – OFFICIAL ARMY POSITION AND VERBATIM COMMENTS BY COMMAND



NATIONAL GUARD BUREAU
1636 DEFENSE PENTAGON
WASHINGTON DC 20301-1636

NGB-ZC

16 FEB 2011

MEMORANDUM FOR U.S. Army Audit Agency (USAAA), Office of the Deputy Auditor General, Environment and Civil Works Audit Division, 3101 Park Center Drive, Alexandria, Virginia 22302-1596

SUBJECT: USAAA Draft Report on the Audit of American Recovery and Reinvestment Act (ARRA) of 2009, Pennsylvania Army National Guard (A-2009-FFE-0446.004)

1. Reference. USAAA draft report, A-2011-0XXX-IEE
2. I have reviewed recommendations on the subject report.
3. Recommendation 1 - The report recommended the National Guard Bureau Comptroller and Director of Administration and Management (CDAM) issue supplemental guidance to all U.S. Property and Fiscal Officers (USPFOs) clarifying the requirements of Section 808, Debarment and Suspension, of the Special Military Cooperative Agreement and requiring the use of the Excluded Parties List System (EPLS) for all Recovery Act contracts. Also, require all USPFOs to ensure State contracting personnel verify contractor eligibility for all Recovery Act-funded projects awarded – and contracts to be awarded – using the EPLS. The National Guard Bureau's Office of the Principal Assistant Responsible for Contracting (NGB-PARC) will implement the recommendation as indicated in enclosure 1.
4. Recommendation 2 – The report recommended the USPFO for the Pennsylvania National Guard direct engineering personnel to document the methodology used to calculate estimated costs for projects and maintain the supporting documentation. The USPFO for the Pennsylvania National Guard will implement the recommendation as indicated in enclosure 2.

5. The point of contact for this action is Mr. Derrick Miller, Chief, NGB Internal Review, at 703-607-0755, or derrick.e.miller@us.army.mil.



LOUIS A. CABRERA
Comptroller and Director,
Administration and Management
National Guard Bureau

2 Encls

CF:
NGB-PF
NGB-JA
NGB-PARC
USPFO (Pennsylvania)



REPLY TO
ATTENTION OF

NATIONAL GUARD BUREAU
1411 JEFFERSON DAVIS HIGHWAY
ARLINGTON, VA 2202-3231

NGB-ZC-PARC-A

02 February 2010

MEMORANDUM THRU Comptroller and Director of Administration and Management (CDAM), National Guard Bureau, 1411 Jefferson Davis Highway, Arlington, VA 22202-3231

FOR Auditor General, US Army Audit Agency, Office of the Deputy Auditor General, Environment and Civil Works Audit Division, 3101 Park Center Drive, Alexandria, VA 22302-1596

SUBJECT: Draft Report on the Audit of the American Recovery and Reinvestment Act (ARRA) of 2009, Pennsylvania Army National Guard (A-2009-FFE-0446.004)

1. Reference. USAAA draft report, A-2011-0XXX-IEE
2. As the NGB's Principal Assistant Responsible for Contracting (NGB-PARC), we have reviewed the subject report and its findings and recommendations. Specifically, the report recommended NGB CDAM to, *"Issue supplemental guidance to all U.S. Property and Fiscal Officers clarifying the requirements of Section 808, Debarment and Suspension, of the Special Military Cooperative Agreement and requiring the use of the Excluded Parties List System for all Recovery Act contracts. Also, require all U.S. Property and Fiscal Officers to ensure State contracting personnel verify contractor eligibility for all Recovery Act-funded projects awarded—and contracts to be awarded—using the Excluded Parties List System."*
3. NGB-PARC concurs with the recommendation. The award term in each Cooperative Agreement at Section 808, Debarment and Suspension, will be revised to clearly articulate the State (Grantee) and Sub-recipient contracting officer's responsibility in complying with the OMB guidance currently referenced in the award term. Compliance with Subpart C of the OMB guidance in 2 CFR Part 180, requires that the contracting officer verify that the person with who they intend to award a contract to is not excluded or disqualified. The guidance continues, "... You do this by: (a) Checking the EPLS; or"

The award term will be revised to read as follows:

Section 808. Debarment and Suspension.

The State (Grantee/Recipient) covenants and agrees to comply with the requirements regarding debarment and suspension in Subpart C of the OMB guidance in 2 CFR Part 180, as implemented by the DoD in

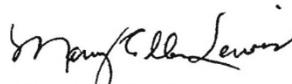
[Auditor's Note: The National Guard Bureau noted in an e-mail, dated 3 March 2011, that the date of this letter should be 2 February 2011.]

2 CFR Part 1125. The Grantee agrees to communicate the requirement to comply with Subpart C to persons at the next lower tier (the subrecipient) with whom the Grantee enters into transactions that are "covered transactions" under Subpart B of 2 CFR Part 180 and the DoD implementation in 2 CFR Part 1125. The Grantee and the Subrecipient shall comply with 2 CFR Part 1125 by checking the Excluded Parties List System (EPLS) to verify contractor eligibility to receive contracts and subcontracts resulting from this Agreement. The Grantee and Subrecipients shall not solicit offers from, nor award contracts to contractors listed in EPLS. This verification shall be documented in the Grantee and Subrecipient contract files, and shall be subject to audit by the Grantor and Federal/State audit agencies.

Completion date for this action is 31 Mar 11. The current award term shall be replaced with the revised award term in 1) the award template for all future cooperative agreements, 2) existing cooperative agreements by modification, and 3) all pending cooperative agreement awards.

4. Potential Monetary Benefits: Not Applicable

5. The point of contact for this action is myself at 703-607-5284, or Maryellen.Lewis@us.army.mil.



Mary Ellen Lewis
Chief, Office of Grants and Cooperative
Agreements
National Guard Bureau



NATIONAL GUARD BUREAU
US PROPERTY AND FISCAL OFFICE FOR PENNSYLVANIA
DEPARTMENT OF MILITARY AND VETERANS AFFAIRS
ANNVILLE, PA 17003-5003

USPFO

7 January 2011

MEMORANDUM THRU Comptroller and Director of Administration and Management,
National Guard Bureau, 1411 Jefferson Davis Highway, Arlington, VA 22202-3231

FOR Auditor General, US Army Audit Agency, Office of the Deputy Auditor General,
Environment and Civil Works Audit Division, 3101 Park Center Drive, Alexandria, VA
22302-1596

SUBJECT: Draft Report on the Audit of the American Recovery and Reinvestment Act of 2009
at Pennsylvania Army National Guard (Project A-2009-FFE-0446.004).

1. I am pleased to report that AAA found that the Pennsylvania Army National Guard 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 Pennsylvania Army National Guard's comments to the recommendations as requested in your memorandum, dated 23 December 2010.
3. Point of contact for this action is John R. Wise at (717)-861-8759 or john.wise1@us.army.mil.
4. USPFO - We're Here to Serve.

Encl


RICHARD A. BAYLOR
COL, NGB
USPFO FOR PA

Recommendations:

Recommendation 2: The U.S. Property and Fiscal Officer, PA, direct engineering personnel to document the methodology used to calculate estimated costs for projects and maintain the supporting documentation.

Action taken or planned:

Concur. The United States Property and Fiscal Officer will again direct that the Construction and Facilities Maintenance Officer have all his engineering personnel document the methodology they used to develop the independent government cost estimate and to maintain supporting documentation. This directive will be issued by 25 February 2011. Our engineers submitted over 130 projects for consideration for ARRA. However, good management practices remain the prudent way forward as it all comes down to discipline when in crisis management. In the future, we can manage an economic crisis more effectively by systematically working our engineering project checklist (which requires the completion of cost estimates) with the goal of achieving a still better outcome.

Potential Monetary Benefits:

None identified

Additional comments: The Commonwealth of Pennsylvania Governor's Office issued Management Directive 215.9 Amended, dated 25 October 2010, which outlines the Commonwealth's Contractor Responsibility Program. This Program includes the requirement to verify a contractor's status on Excluded Parties List System (EPLS) to ascertain whether the contractor is suspended or debarred by the federal government, prior to awarding any contract using federal funds (page 7, paragraph j).

[Auditor's Note: Subsequent to receipt of command's comments, command completed the planned actions on 24 February 2011.]

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