



INSTALLATION REPORT OF AUDIT

F2010-0007-FDM000

**The American Recovery and
Reinvestment Act of 2009
Requirements
45th Space Wing
Patrick AFB FL**

Atlantic Area Audit Office

20 October 2009

INTRODUCTION

On 17 February 2009, the President signed into law the American Recovery and Reinvestment Act of 2009, with the express purpose of stimulating the economy. The Recovery Act provided the Department of Defense with \$3.4 billion for facilities sustainment, restoration, and modernization projects. As of July 2009, the 45th Space Wing awarded seven sustainment, restoration, and modernization projects totaling \$3.4 million using Recovery Act funding at Patrick Air Force Base.

OBJECTIVES

We performed this centrally-directed audit to determine whether the 45 SW effectively implemented the American Recovery and Reinvestment Act of 2009. Specifically, we determined whether Wing:

- Civil Engineer personnel properly justified Recovery Act projects.
- Contracting personnel correctly included all new Federal Acquisition Regulation (FAR) clauses in Recovery Act contracts.
- Contracting personnel reported information so it was transparent to the public.
- Contracting personnel met the goals of the Recovery Act by fostering competition, expeditiously awarding contracts, and creating or retaining jobs.

CONCLUSIONS

The 45th Space Wing personnel effectively implemented the American Recovery and Reinvestment Act of 2009 in three of the four areas reviewed. Specifically, Wing:

- Civil Engineer personnel properly justified Recovery Act projects. As a result, the wing provided timely projects to major command and Air Staff for Recovery Act project selection, and timely infused \$3.4 million in Recovery Act funds into the economy (Tab A, page 2).
- Contracting personnel correctly included all new Federal Acquisition Regulation clauses in Recovery Act contracts. As a result, Wing Contracting personnel effectively included Recovery Act clauses in all seven Patrick Air Force Base Recovery Act projects (Tab A,

page 2).

- Contracting personnel properly reported information so it was transparent to the public. Proper reporting of Recovery Act information ensures public transparency, provides oversight of Federal spending, and is a requirement of the Recovery Act and FAR. (Tab A, page 2).
- Personnel generally met the goals of the Recovery Act by fostering competition, expeditiously awarding contracts, and creating or retaining jobs. However, Wing Contracting and Civil Engineer personnel did not have a plan to monitor contractor quarterly submission of money expended, project completion, personnel salaries and number of jobs created. Validating and monitoring the accuracy of contractor Recovery Act reporting information will provide greater public confidence in the economic results and impact of the American Recovery and Reinvestment Act of 2009 (Tab B, page 3).

MANAGEMENT CORRECTIVE ACTION

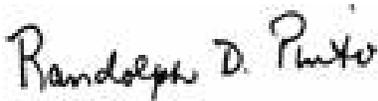
During the audit, management took action to coordinate with project managers of Recovery Act projects to meet and establish a plan to monitor the validity and timeliness of contractor input of Recovery Act information (Tab B, page 3).

RECOMMENDATIONS

There are no recommendations which require management response.

MANAGEMENT'S RESPONSE

Management officials agreed with the audit results in this report. The corrective action taken is responsive to this report. Therefore, this report contains no disagreements requiring further elevation for resolution.



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Chief, Team F Patrick AFB



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BACKGROUND

The goal of the American Recovery and Reinvestment Act of 2009 is to provide an infusion of money, within specific guidelines, that will result in a jump-start to the United States economy. Recovery Act guidelines include initiating expenditures and activities as quickly as possible in a manner consistent with prudent management. Further, Recovery Act projects should include required clauses, and projects must be made transparent to the public.

- Project Justification. Organizations submit Department of Defense Form 1391, *Military Construction Project Data*, to the base civil engineer to request facility sustainment, restoration, and modernization projects. The Form 1391 describes the requested work and details the justification for the project. The civil engineer uses information on these forms as the basis for evaluating requirements and selecting projects for Recovery Act funding.
- Federal Acquisition Regulation (FAR) Clauses. To implement controls over Recovery Act funding and reinforce the goals of the act, the Government established FAR clauses specifically related to Recovery Act contract actions. Contracting officials are required to insert applicable clauses in all contracts funded by the Recovery Act.¹
- Transparency. Organizations meet transparency requirements for Recovery Act contract actions by posting information on the Federal Business Opportunities and Federal Procurement Data System web sites. These web sites include the Federal Business Opportunities site, which is the single government point-of-entry for Federal government procurement opportunities over \$25,000, and the Federal Procurement Data System (FPDS) which is the Federal government's central source of procurement information. Contracting officers enter information, to both systems, and identify Recovery Act actions. Further contracting officers include the Treasury Account Symbol, in the FPDS for all Recovery Act contract actions, which enables the Procurement Data System to provide transparency by generating and posting a report containing all Recovery Act contract actions.

¹ Per FAR 52.203-15, Whistleblower Protection Under the American Recovery and Reinvestment Act of 2009; FAR 52.204-11 Recovery Act Reporting Requirements; FAR 52.225-21, Required Use of American Iron, Steel, and manufactured Goods – Buy American Act – Construction Materials; FAR 52.225-22, Notice of Required Use of American Iron, Steel, and Other Manufactured Goods – Buy American Act – Construction Material; FAR 52.244-6, Subcontracts for Commercial Items and Commercial Components, FAR 52.215-2, Audit and Records – Negotiation; FAR 52.222-6, Davis-Bacon Act; FAR 52.212-4, Contract Terms and Conditions – Commercial Items; FAR 52.212-5, Contract Terms and Conditions Required to Implement Statutes or Executive Orders – Commercial Items.

AUDIT RESULT 1 –JUSTIFICATION

Condition. Wing Civil Engineer Personnel properly justified projects for the Recovery Act. Specifically, all seven Air Force projects reviewed contained current and accurate DD Forms 1391 with project plans that adequately justified and thoroughly addressed work and details of each project.

Cause. This condition occurred because personnel followed established guidelines for justifying Recovery Act projects, providing accurate and detailed information to the major command and Air Staff for Recovery Act project selection.

Impact. Wing Civil Engineer Personnel provided timely projects to major command (MAJCOM) and Air Staff for Recovery Act project selection, and timely infused \$3.4 million in Recovery Act funds into the economy.

AUDIT RESULT 2 – CLAUSES

Condition. Wing Contracting Personnel correctly included all new FAR clauses in Recovery Act contracts. Specifically, all seven project contract files contained the appropriate FAR Recovery Act clauses.

Cause. This condition occurred because Wing contracting personnel followed Air Staff and MAJCOM guidelines for incorporating new FAR clauses specific to the Recovery Act in both new contracts, as well as projects awarded to existing contracts.

Impact. Wing Contracting Personnel effectively included Recovery Act clauses in all seven Patrick Air Force Base Recovery Act projects.

AUDIT RESULT 3 – TRANSPARENCY

Condition. Wing Contracting Personnel properly reported information so it was transparent to the public. A review of documentation on the *Federal Business Opportunity* and *Federal Procurement Data Systems* disclosed all seven contract/project actions were accurately posted in accordance with current requirements.²

Cause. This condition occurred because Contracting Personnel properly monitored required Recovery Act contract action criteria, and timely posted required data for all seven projects to applicable websites.

² Criteria for posting contract information were in a state of flux. No criteria existed to post solicitation notices for 8(a) small business set-asides prior to 26 Jun 2009; however, the later guidance and the new requirement to post, identified no need to re-post solicitation notices retroactive to award.

Impact. Proper reporting of Recovery Act information ensures public transparency, provides oversight of Federal spending, and is a requirement of the Recovery Act and FAR.

BACKGROUND

The President indicated multiple goals for the Recovery Act, which included:

- Awarding projects quickly and putting the money into the economy quickly;
- Fostering competition;
- Creating and retaining jobs; and,
- Using competitive, firm, fixed price contracts to reduce risk to the government and taxpayers.

Federal Acquisition Regulation Clause 52.204-11, *Recovery Act Reporting Requirements*, specifies that beginning 1 October 2009, contractors who receive Recovery Act funds are required to quarterly submit information on the Federal Reporting government website (www.FederalReporting.gov) on the amount of money expended, project completion percentage, salaries of personnel and the number of jobs created/retained.

AUDIT RESULTS 2 – CONTRACTOR MONITORING

Condition. Wing Contracting and Civil Engineer personnel did not have a plan to monitor contractor quarterly Recovery Act reporting of money expended, project completion, personnel salaries and number of jobs created. Specifically, discussion with Wing personnel disclosed there was no plan to verify contractor compliance with the Recovery Act quarterly reporting requirements.

Cause. This condition occurred because there was no guidance on the government oversight of contractor Recovery Act reporting.

Impact. Validating and monitoring the accuracy of contractor Recovery Act reporting information will provide greater public confidence in the economic results and impact of the American Recovery and Reinvestment Act of 2009.

Audit Comment. There is no Air Force instruction or other criteria providing direction on how the government provides oversight of contractor quarterly reporting of money expended, project completion status, personnel salaries, and number of jobs created in accordance with contractor Recovery Act reporting requirements. As a result, we have elevated this issue to the Audit Control Point for inclusion in the related Air Force Report of Audit and for resolution with higher headquarters; therefore, no local recommendation is required.

Management Correction Action. Pending the receipt of official guidance, management took action on 20 August 2009 to coordinate with project managers of Recovery Act projects to meet and establish an interim plan to monitor the validity and timeliness of contractor input of Recovery Act information.

Management Comments. The Vice Commander, 45th Space Wing, concurred with the audit results and stated: “We have implemented the following corrective action: Effective 20 August 2009, management coordinated with project managers of Recovery Act projects to meet and establish an interim plan to monitor the validity and timeliness of contractor input Recovery Act information. Therefore, this report is considered closed. Completion Date: 20 August 2009 (CLOSED)”

Evaluation of Management Comments. Management comments addressed the issues presented in this tab, and management action taken should correct the conditions identified.

AUDIT SCOPE

Audit Coverage. To determine whether 45th Space Wing (45 SW) Personnel properly managed Recovery Act facilities sustainment, restoration, and modernization requirements, we reviewed documentation dated 1 July 2008 to 25 August 2009. We obtained an understanding of the management control structure by reviewing regulatory guidance and discussing Recovery Act processes with comptroller, civil engineer, and contracting personnel. We conducted the audit from 20 July to 25 August 2009 and provided management a draft report on 28 September 2009.

- **Justification.** To determine whether officials properly justified projects for the Recovery Act, we examined Department of Defense Forms 1391, *Military Construction Project Data*, for seven sampled Air Force projects and additionally reviewed two Army Corps of Engineers projects. We also reviewed the wing's Integrated Project Listing and discussed project selection with civil engineer personnel.
- **Federal Acquisition Regulations (FAR).** To determine whether officials included all required FAR clauses in Recovery Act contracts, we reviewed contract files for seven Air Force contracts. We also discussed each FAR clause with contracting officials.
- **Transparency.** To determine whether officials reported contract information to provide transparency to the public, we reviewed information on the *Federal Business Opportunities* website for solicitation and award postings for the seven selected Air Force projects. We also determined whether the posted contract actions complied with Recovery Act requirements. We reviewed information posted on the *Federal Procurement Data System* to determine whether contracting officials properly reported selected projects for Recovery Act visibility. In addition, we reviewed contract files to determine whether contracting officials reviewed contractor status in the Excluded Parties List System. We also reviewed contractor registration in the *Central Contractor Registration* and the *Online Representation and Certifications Application*. To review the accuracy of transparency information, we discussed contracts with contracting officials and examined contract files to review rationale for contract award methods and small business coordination. Specifically, we discussed the period of performance, scope of work, and maximum contract amount (in view of the current Recovery Act projects).
- **Recovery Act Goals.** To determine whether personnel met Recovery Act goals, we obtained the 17 August 2009 open document listing for the Recovery Act codes from the *Commander's Resource Integration System* and compared listed projects with the wing's Recovery Act project listing. We also determined whether funds had been properly transferred for Recovery Act projects. For the seven sampled projects, we compared original project estimates with contract award amounts to confirm personnel did not change the scope of projects to obtain Recovery Act funding. We also reviewed the contract and solicitation to determine use of new or existing contracts, whether solicitations were competed, and whether firm fixed price contracts were awarded.

Additionally, we reviewed award decision documentation to determine whether contracting officers properly evaluated offers. Finally, we met with quality assurance personnel and contracting officers to discuss plans for reviewing contractor required reporting.

- **Sampling Methodology.** To accomplish our audit objectives, the Department of Defense Inspector General judgmentally selected a 100 percent review of nine (seven Air Force and two Army Corps of Engineers) of the 45 SW's Recovery Act facilities sustainment, restoration, and modernization projects. We did not project the review results.

Computer Assisted Auditing Tools and Techniques. We used Microsoft *Excel*TM advanced filters to isolate Recovery Act data, and "Count-if", and "Sum" functions to calculate and summarize missing FAR clauses and contract transparency information.

Data Reliability. Although we relied on computer-generated data from the Commander's Resource Integrated System, we did not evaluate the systems' general or application controls. Instead, we established the data's reliability by comparing system data on the Open Document Listing for Recovery Act fund codes to the recovery act project listing, original project estimates, and contract award amounts for the seven Air Force contracts reviewed. Our tests disclosed that the system data were accurate for the contracts reviewed. Therefore, we concluded that the data were sufficiently reliable to support the audit conclusions.

Auditing Standards. We accomplished this audit in accordance with generally accepted government auditing standards and accordingly included tests of internal controls considered necessary. Specifically, we reviewed management oversight and documentation controls over Recovery Act project selection and contract award processes.

Discussion with Responsible Officials. We discussed/coordinated this report with the Commander, 45SW Contracting Squadron; Commander, 45 SW Comptroller; Commander, 45th Civil Engineer Squadron; and other interested officials. Management's formal comments were received on 13 October 2009 and are included in this report. Management was advised this audit was part of an Air Force-wide evaluation of *American Recovery and Reinvestment Act of 2009 Requirements* (Project F2009-FD1000-0516.000). Therefore, selected data not contained in this report, as well as data contained herein, may be included in a related Air Force report of audit.

PRIOR AUDIT COVERAGE

We did not identify any Air Force Audit Agency; Office of the Inspector General, Department of Defense; or United States Government Accountability Office reports issued to the Air Force Technical Application Center within the past 5 years that related to our specific objectives.

Points of Contact and Final Report Distribution

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FINAL REPORT DISTRIBUTION

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PROJECT NUMBER

We accomplished this audit under project number F2009-FD1000-0516.027

FREEDOM OF INFORMATION ACT

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