

Inspector General

United States
Department of Defense



American Recovery and Reinvestment Act
Project—Repairs at Naval Operational
Support Centers in Charlotte and
Greensboro, North Carolina

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Acronyms and Abbreviations

FAR	Federal Acquisition Regulation
NAVFAC	Naval Facilities Engineering Command
NOSC	Navy Operational Support Center
OMB	Office of Management and Budget
ORCA	Online Representations and Certifications Application
PWD	Public Works Department
QMAD	Quantitative Methods and Analysis Division



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
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JUL 7 2010

MEMORANDUM FOR NAVAL INSPECTOR GENERAL
COMMANDING OFFICER, NAVAL FACILITIES
ENGINEERING COMMAND MID-ATLANTIC

SUBJECT: American Recovery and Reinvestment Act Project—Repairs at Naval
Operational Support Centers in Charlotte and Greensboro, North Carolina
(Memorandum No. D2010-RAM-012)

We are providing this report for your information and use. We performed this audit in response to the requirements of Public Law 111-5, "American Recovery and Reinvestment Act of 2009," February 17, 2009. We considered management's response to a discussion draft of the report when preparing the final report. No additional comments are required.

We appreciate the courtesies extended to the staff. Please direct questions to Mr. Timothy Wimette at (703) 604-8876 (DSN 664-8876).

A handwritten signature in black ink, reading "Alice F. Carey".

Alice F. Carey
Assistant Inspector General
Readiness, Operations, and Support

July 7, 2010



Results in Brief: American Recovery and Reinvestment Act Project—Repairs at Naval Operational Support Centers in Charlotte and Greensboro, North Carolina

What We Did

Our overall objective was to evaluate DOD's implementation of Public Law 111-5, "American Recovery and Reinvestment Act of 2009," February 17, 2009. Specifically, we determined whether Navy personnel adequately planned, funded, executed, tracked, and reported Projects RM204-08 and RM203-08, to repair Navy Operational Support Centers (NOSCs) in Charlotte and Greensboro, North Carolina, to ensure the appropriate use of Recovery Act funds.

What We Found

We determined that Projects RM204-08 and RM203-08 were justified and met the Recovery Act goals regarding accountability and transparency. Personnel at the Naval Facilities Engineering Command Mid-Atlantic and the Public Works Department at Naval Air Station Oceana, Virginia, planned, funded, executed, and had procedures in place to track and report the projects as required by the Recovery Act and implementation guidance.

Although the contracts for both projects initially omitted required Federal Acquisition Regulation clauses, and one contract omitted a Federal Acquisition Regulation solicitation provision, contracting personnel subsequently issued contract modifications to include these clauses and this provision.

What We Recommend

This report contains no recommendations.

Management Comments

The Public Works Officer, Naval Facilities Engineering Command Mid-Atlantic Public Works

Department at Naval Air Station Oceana, Virginia, had no comments on the discussion draft report and agreed with our results and conclusions. We do not require any formal comments.



The lavatory at NOSC Charlotte needs repairs.



The heating, ventilation, and cooling system at NOSC Greensboro needs repairs.

Photos courtesy of NAVFAC Mid-Atlantic
Public Works Department

Introduction

Objective

Our overall objective was to evaluate DOD's implementation of Public Law 111-5, "American Recovery and Reinvestment Act of 2009" (Recovery Act), February 17, 2009. We reviewed the implementation of the DOD Recovery Act plans at the Service and installation levels to determine whether Navy personnel managed individual projects to achieve the accountability and transparency goals of the Recovery Act. Specifically, we determined whether personnel at the Naval Facilities Engineering Command (NAVFAC) Mid-Atlantic and the NAVFAC Mid-Atlantic Public Works Department at Naval Air Station Oceana, Virginia, (the PWD) adequately planned, funded, executed, tracked, and reported Projects RM204-08 and RM203-08 for repairs to Naval Operational Support Centers (NOSCs) in Charlotte, North Carolina, and Greensboro, North Carolina, to ensure the appropriate use of Recovery Act funds. See the appendix for a discussion of the audit scope and methodology related to the audit objective.

Background

In passing the Recovery Act, Congress provided supplemental appropriations to preserve and create jobs; promote economic recovery; assist those most impacted by the recession; provide investments to increase economic efficiency by spurring technological advances in science and health; and invest in transportation, environmental protection, and other infrastructure. The Recovery Act also established unprecedented efforts to ensure the responsible distribution of funds for its purposes and to provide transparency and accountability of expenditures by informing the public of how, when, and where tax dollars were being spent. Further, the Recovery Act states that the President and heads of the Federal departments and agencies were to expend these funds as quickly as possible, consistent with prudent management.

DOD received approximately \$6.8 billion¹ in Recovery Act funds to be used for projects that support the Act's purposes. In March 2009, DOD released expenditure plans for the Recovery Act, which list DOD projects that will receive Recovery Act funds. The Department of the Navy received \$1.928 billion in Recovery Act funds for Operations and Maintenance; Military Construction; and Research, Development, Test and Evaluation. Table 1 provides specific funds allocated to each appropriation.

¹ The \$6.8 billion does not include \$4.6 billion for the U.S. Army Corps of Engineers or \$555 million for the Homeowners Assistance Fund.

Table 1. Department of the Navy Program-Specific Recovery Act Appropriations

Appropriations	Amount (millions)
Operations and Maintenance	\$916
Military Construction	937
Research, Development, Test and Evaluation	75
Total	\$1,928

Of the \$1.928 billion appropriated, the Department of the Navy allocated approximately \$2.36 million (Operations and Maintenance) and \$2.84 million (Operations and Maintenance) to repair NOSC Charlotte and NOSC Greensboro, respectively. Both projects consist of repairs to the roof; interior heating, ventilation, and air conditioning components; doors and windows; ceilings and flooring; and lavatories.

The NOSC's in Charlotte and Greensboro provide operational, training, and administrative support for the Navy Reserve mission to provide mission-capable units and individuals to the Navy's active duty Component during peacetime and war. In addition to accommodating full-time command and administrative staff, the facilities accommodate reservists during drill weekends. NOSC's generally include space for administrative support, medical facilities, unit areas, a drill hall, and a vehicle maintenance facility.

NOSC Charlotte

We determined that Project RM204-08 for repairs to NOSC Charlotte met the goals of accountability and transparency as provided in the Recovery Act. The project was justified, and personnel at NAVFAC Mid-Atlantic and the PWD planned, funded, and executed the project in order to achieve the goals of the Recovery Act. In addition, PWD personnel had procedures in place to track and report the project as required by the Recovery Act. Although the contract initially omitted five Federal Acquisition Regulation (FAR) clauses required by implementation guidance for the Recovery Act, contracting personnel subsequently modified it to include the clauses.

Planning

Personnel at the PWD appropriately planned the project, which we determined to be justified. According to planning documents, NOSC Charlotte was constructed in 1988, and the mechanical and electrical systems and other building components are nearing the end of their service life, resulting in unsafe and poor working conditions. The planning documents stated that the facility will remain functional without the repairs, but will require significant effort to address various deficiencies, such as repairing the roof and lights.

PWD personnel developed a detailed cost estimate and an economic analysis for the project. The economic analysis identified possible alternatives to building repairs, such as status quo, leasing, and construction. Based on the economic analysis, PWD personnel concluded that a repair, renovation, and modernization mix was the most cost-effective method to provide safe and up-to-date working conditions at NOSC Charlotte.

Although personnel at the PWD adequately justified and appropriately planned the project, we noted that the cost estimates on DD Form 1391 were significantly higher than the cost of the contract. DD Form 1391, dated June 2008, estimated the project costs at approximately \$8.0 million, whereas NAVFAC Mid-Atlantic awarded the contract in October 2009 for approximately \$2.4 million. However, PWD personnel attributed these cost differences to market conditions at the time of contract award. The contract award amount was comparable to that of a similar project for repairs to a NOSC in Raleigh, North Carolina.

Funding

Navy personnel distributed Recovery Act funds to the project in a timely manner, and the funding documents properly identified a Recovery Act designation. NAVFAC Mid-Atlantic awarded the contract for approximately \$5.7 million less than estimated in DOD's expenditure plan for Recovery Act projects. Funding documents showed that the Commander, Navy Region Mid-Atlantic transferred funds to NAVFAC on September 30, 2009, and NAVFAC Mid-Atlantic awarded the contract on October 22, 2009.

Execution

NAVFAC Mid-Atlantic adequately performed initial execution of the project. In our evaluation of the initial project execution, we determined whether the contract was competitively solicited and awarded with full transparency, and whether it contained the FAR clauses required by implementation guidance for the Recovery Act.

Contracting personnel at NAVFAC Mid-Atlantic awarded the contract competitively at a firm-fixed price of approximately \$2.36 million in October 2009, one month earlier than the milestone set by DOD's expenditure plan for the Recovery Act. Using sealed bidding procedures, contracting personnel at NAVFAC Mid-Atlantic issued the solicitation competitively as a small business set-aside. Seventeen companies responded and MV Momentum Construction, LLC won the contract by submitting the lowest bid. At the time of our review, MV Momentum Construction, LLC was a certified small business and had registered on the Central Contractor Registration Web page as required by FAR subpart 4.11, "Central Contractor Registration." In addition, the Excluded Parties List System did not show MV Momentum Construction, LLC as a debarred contractor.

Contracting personnel properly recorded contract actions to facilitate full transparency. Office of Management and Budget (OMB) Memorandum M-09-15, "Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009," April 9, 2009, describes requirements for reporting Recovery Act-funded actions in the Federal Procurement Data System and publicizing actions on Federal Business Opportunities. Contracting personnel properly reported the contract award in the Federal Procurement Data System and announced the solicitation and award on the Federal Business Opportunities Web site.

The contract originally omitted five FAR clauses; however, contracting personnel subsequently modified it to include these clauses. Contracting personnel at NAVFAC Mid-Atlantic incorporated most of the FAR clauses required by the Recovery Act, including those for whistleblower protection, reporting, the Davis-Bacon Act, and the Buy American Act. However, we identified five missing contract clauses required by FAR Part 23, "Environment, Energy, and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-free Workplace." FAR part 23 prescribes policies and procedures for protecting and improving the quality of the environment.

According to OMB Memorandum M-09-15, agencies must comply with the requirements of FAR part 23 when using Recovery Act funds to acquire supplies and services.² The contract omitted the following clauses required by FAR part 23:

- FAR 52.223-2, “Affirmative Procurement of Biobased Products Under Service and Construction Contracts;”
- FAR 52.223-11, “Ozone-Depleting Substances;”
- FAR 52.223-12, “Refrigeration Equipment and Air Conditioners;”
- FAR 52.223-15, “Energy Efficiency in Energy-Consuming Products;” and
- FAR 52.223-17, “Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.”

Without these clauses, Navy officials could not hold contractors accountable for all Recovery Act requirements or ensure the protection or improvement of the environment. After we identified this issue, PWD personnel modified the contract to include the five missing clauses.

Tracking and Reporting

Although repairs at NOSC Charlotte had not started at the time of our review, PWD personnel had adequate procedures in place to track and report the project. PWD personnel assigned an engineering technician and a construction manager who will monitor project schedules, address nonconformances, and ensure the contractor meets contract requirements.

In addition, contracting personnel reviewed the information reported by the contractor to ensure the contractor reported required Recovery Act information. FAR clause 52.204-11, “American Recovery and Reinvestment Act – Reporting Requirements,” requires contractors for Recovery Act projects to report project information at <http://www.FederalReporting.gov>. MV Momentum, LLC submitted quarterly reports that included total project dollar value, project status, jobs created, and sub-contract awards.

² According to the definition of an acquisition in FAR Subpart 2.101, construction is a service.

NOSC Greensboro

We determined that Project RM203-08 for repairs to NOSC Greensboro met the goals of accountability and transparency as provided in the Recovery Act. The project was justified, and personnel at NAVFAC Mid-Atlantic and the PWD planned, funded, and executed the project in order to achieve the goals of the Recovery Act. In addition, PWD personnel had procedures in place to track and report the project as required by the Recovery Act. Although the contract initially omitted five FAR clauses and one solicitation provision required by implementation guidance for the Recovery Act, contracting personnel subsequently modified it to include the clauses and provision.

Planning

Personnel at the PWD appropriately planned and adequately justified the project. According to planning documents, NOSC Greensboro was constructed in 1979, and the mechanical, electrical, and other building components are at the end of their service life, resulting in unsafe and poor working conditions. Planning documents stated that the facility will remain functional without the repairs but will require significant effort to address various deficiencies, such as repairing the roof and lights.

PWD personnel developed a detailed cost estimate and an economic analysis. The economic analysis identified possible alternatives to building repairs, such as status quo, leasing, and construction. Based on the economic analysis, PWD personnel concluded that a repair, renovation, and modernization mix was the most cost-effective method to provide safe and up-to-date working conditions at NOSC Greensboro.

Although personnel at the PWD adequately justified and appropriately planned the project, we noted that the cost estimates on DD Form 1391 were significantly higher than the cost of the contract. DD Form 1391, dated June 2008, estimated the project costs at approximately \$7.5 million, whereas NAVFAC Mid-Atlantic awarded the contract in October 2009 for approximately \$2.8 million. However, PWD personnel attributed these costs differences to market conditions at the time of contract award. The contract award amount was comparable to that of a similar project for repairs to a NOSC in Raleigh, North Carolina.

Funding

Navy personnel distributed Recovery Act funds to the project in a timely manner, and the funding documents properly identified a Recovery Act designation. NAVFAC Mid-Atlantic personnel awarded the contract for approximately \$4.7 million less than estimated in DOD's expenditure plan for Recovery Act projects. Funding documents showed that the Commander, Navy Region Mid-Atlantic transferred funds to NAVFAC on September 29, 2009, and NAVFAC Mid-Atlantic awarded the contract on October 22, 2009.

Execution

NAVFAC Mid-Atlantic personnel adequately performed initial execution of the project. In our evaluation of initial project execution, we determined whether the contract was competitively solicited and awarded with full transparency, and whether it contained the FAR clauses required by implementation guidance for the Recovery Act.

Contracting personnel at NAVFAC Mid-Atlantic awarded the contract competitively at a firm-fixed price of approximately \$2.84 million in October 2009, one month earlier than the milestone set by DOD's expenditure plan for the Recovery Act. Using sealed bidding procedures, contracting personnel at NAVFAC Mid-Atlantic issued the solicitation competitively as a small business set-aside. Twenty-four companies responded and HM Kern Corporation won the contract by submitting the lowest bid. At the time of our review, HM Kern Corporation was a certified small business and had registered on the Central Contractor Registration Web page, as required by FAR subpart 4.11, "Central Contractor Registration." In addition, the Excluded Parties List System did not show HM Kern Corporation as a debarred contractor.

Contracting personnel properly recorded contract actions to facilitate full transparency. OMB Memorandum M-09-15 describes requirements for reporting Recovery Act-funded actions in the Federal Procurement Data System and publicizing actions on Federal Business Opportunities. Contracting personnel properly reported the contract award in the Federal Procurement Data System and announced the solicitation and award on the Federal Business Opportunities Web site.

The solicitation and contract originally omitted five FAR clauses and one provision; however, contracting personnel subsequently modified the contract to include these clauses and the provision. Contracting personnel at NAVFAC Mid-Atlantic incorporated most of the FAR clauses required by the Recovery Act, including those for whistleblower protection, reporting, the Davis-Bacon Act, and the Buy American Act; however, the solicitation and contract originally omitted five FAR clauses and one provision required by FAR Part 23, "Environment, Energy, and Water Efficiency, Renewable Energy Technologies, Occupational Safety, and Drug-free Workplace." FAR part 23 prescribes policies and procedures for protecting and improving the quality of the environment. According to OMB Memorandum M-09-15, agencies must comply with the requirements of FAR part 23 when using Recovery Act funds to acquire supplies and services.³

³ According to the definition of an acquisition in FAR Subpart 2.101, construction is a service.

We found that the contractor did not acknowledge the solicitation provision for FAR 52.223-13, “Certification of Toxic Chemical Release Reporting” in the Online Representations and Certifications Application (ORCA). In addition, the contract omitted the following clauses required by FAR part 23:

- FAR 52.223-9, “Estimate of Percentage of Recovered Material Content for EPA-Designated Items;”
- FAR 52.223-11, “Ozone-Depleting Substances;”
- FAR 52.223-12, “Refrigeration Equipment and Air Conditioners;”
- FAR 52.223-15, “Energy Efficiency in Energy-Consuming Products;” and
- FAR 52.223-17, “Affirmative Procurement of EPA-designated Items in Service and Construction Contracts.”

Without this provision and these clauses, Navy officials could not hold contractors accountable for all Recovery Act requirements or ensure the protection or improvement of the environment. After we identified this issue, PWD personnel modified the contract to include the missing provision and clauses, and the contractor acknowledged the solicitation provision in ORCA.

Tracking and Reporting

Although repairs at NOSC Greensboro had not started at the time of our review, PWD personnel had adequate procedures in place to track and report the project. PWD personnel assigned an engineering technician and a construction manager who will monitor project schedules, address nonconformances, and ensure the contractor meets contract requirements.

In addition, contracting personnel reviewed the information reported by the contractor to ensure the contractor reported required Recovery Act information. FAR clause 52.204-11, “American Recovery and Reinvestment Act – Reporting Requirements,” requires contractors for Recovery Act projects to report project information at <http://www.FederalReporting.gov>. HM Kern Corporation submitted quarterly reports that included total project dollar value, project status, jobs created, and sub-contract awards.

Conclusion

We concluded that Projects RM204-08 and RM203-08 for repairs to NOSC Charlotte and NOSC Greensboro, respectively, were justified. Personnel at NAVFAC Mid-Atlantic and the PWD adequately planned, funded, and initially executed the projects in order to meet the accountability and transparency goals of the Recovery Act. In addition, PWD personnel had procedures in place to track and report the projects as required by the Recovery Act and implementation guidance. Although the contracts for both projects initially omitted FAR clauses, and one contract omitted a FAR solicitation provision, PWD personnel subsequently modified the contracts to include these clauses and this provision. Therefore, this report contains no recommendations.

Appendix. Scope and Methodology

We conducted this performance audit from October 2009 through June 2010. We interviewed personnel from NAVFAC Mid-Atlantic and the Public Works Department at Naval Air Station Oceana, Virginia. We reviewed documentation including the official contract files, DD Forms 1391, economic analyses, and cost estimates. We reviewed processes for tracking and reporting Recovery Act projects. We reviewed Federal, DOD, and Navy guidance, and compared this guidance with our audit results.

We conducted this 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 findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Use of Computer-Processed Data

We used computer-processed data from the Federal Procurement Data System, Central Contractor Registration, Excluded Parties List System, Federal Business Opportunities, www.federalreporting.gov, and other systems. However, our use of computer-processed data did not materially affect our audit results, findings, or conclusions, and the information we used was obtained from sources generally recognized as appropriate. Therefore, we did not evaluate the reliability of the computer-processed data we used.

Use of Technical Assistance

Before selecting DOD Recovery Act projects for audit, personnel in the Quantitative Methods and Analysis Division (QMAD) of the DOD Office of Inspector General analyzed all DOD agency-funded projects, locations, and contracting oversight organizations to assess the risk of waste, fraud, and abuse associated with each. QMAD personnel selected most audit projects and locations using a modified Delphi technique, which allowed them to quantify the risk based on expert auditor judgment and other quantitatively developed risk indicators. Initially, QMAD personnel selected 83 projects with the highest risk rankings. Auditors chose some additional projects at the selected locations.

QMAD personnel did not use classical statistical sampling techniques that would permit generalizing results to the total population because there were too many potential variables with unknown parameters at the beginning of this analysis. The predictive analytic techniques employed provided a basis for logical coverage not only of Recovery Act dollars being expended, but also of types of projects and types of locations across the Military Services, Defense agencies, National Guard units, and public works projects managed by the U.S. Army Corps of Engineers.

Prior Audit Coverage

The Government Accountability Office, the Department of Defense Inspector General, and the Military Departments have issued reports and memoranda discussing DOD projects funded by the Recovery Act. You can access unrestricted reports at <http://www.recovery.gov/accountability>.



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