

Inspector General

United States
Department of Defense



American Recovery and Reinvestment Act of 2009
Funds Used to Repair and Renovate Building 216 at
Fort Riley, Kansas

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Acronyms and Abbreviations

FAR	Federal Acquisition Regulation
FBO	Federal Business Opportunities
FPDS	Federal Procurement Data System
FSRM	Facilities Sustainment, Restoration, and Modernization
OMB	Office of Management and Budget
QMAD	Quantitative Methods and Analysis Division
USACE	U.S. Army Corps of Engineers



INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202-4704

February 18, 2011

MEMORANDUM FOR UNDER SECRETARY OF DEFENSE (COMPTROLLER)/
CHIEF FINANCIAL OFFICER
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: American Recovery and Reinvestment Act of 2009 Funds Used to Repair and
Renovate Building 216 at Fort Riley, Kansas
(Report No. D-2011-041)

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 determined that the project to repair and renovate building 216 at Fort Riley, Kansas, was justified and met the American Recovery and Reinvestment Act of 2009 goals for accountability and transparency. We are making no recommendations and do not require a written response. Therefore, we are publishing this report in final form.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-9201 (DSN 664-9201).

A handwritten signature in black ink, reading "Richard B. Jolliffe", is positioned above the typed name.

Richard B. Jolliffe
Assistant Inspector General
Acquisition and Contract Management



Results in Brief: American Recovery and Reinvestment Act of 2009 Funds Used to Repair and Renovate Building 216 at Fort Riley, Kansas

What We Did

We reviewed the planning, funding, initial execution, and tracking and reporting of an American Recovery and Reinvestment Act of 2009 (Recovery Act) project at Fort Riley to determine whether efforts of Fort Riley and U.S. Army Corps of Engineers personnel complied with Recovery Act requirements, Office of Management and Budget guidance, the Federal Acquisition Regulation, and DOD implementing guidance.

What We Found

The project to repair and renovate building 216 at Fort Riley, estimated to cost \$9.8 million, met the Recovery Act goals for accountability and transparency. In addition, Fort Riley and U.S. Army Corps of Engineers personnel adequately planned, funded, initially executed, and tracked and reported the project to repair and renovate building 216 as required by the Recovery Act, Office of Management and Budget guidance, the Federal Acquisition Regulation, and DOD implementing guidance.

What We Recommend

This report contains no recommendations.

Management Comments

Fort Riley and U.S. Army Corps of Engineers personnel had no comments on a discussion draft of this report.

Figure 1. Building 216 at Fort Riley, Kansas



Source: U.S. Army Corps of Engineers

Figure 2. Interior of Building 216 at Fort Riley, Kansas



Source: U.S. Army Corps of Engineers

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Introduction

Audit Objectives

The primary objective of the audit was to determine whether DOD and its Components were planning and implementing the American Recovery and Reinvestment Act of 2009 (Recovery Act) by meeting the requirements in the Recovery Act, Office of Management and Budget (OMB) Memorandum M-09-10, “Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” February 18, 2009, and subsequent related guidance. For this audit, we reviewed the planning, funding, initial execution, and tracking and reporting of Recovery Act Project 64572 to repair and renovate the interior and exterior of building 216 at Fort Riley, to determine whether the efforts of the Army complied with Recovery Act requirements, OMB guidance, the Federal Acquisition Regulation (FAR), and DOD implementing guidance. See Appendix A for a discussion of our scope and methodology.

Recovery Act Background

The President signed the Recovery Act into law on February 17, 2009. It is an unprecedented effort to jump-start the economy and create or save jobs.

The purposes of this Act include the following:

- (1) To preserve and create jobs and promote economic recovery.
- (2) To assist those most impacted by the recession.
- (3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.
- (4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.
- (5) To stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases

... the heads of Federal departments and agencies shall manage and expend the funds made available in this Act so as to achieve the purposes specified . . . including commencing expenditures and activities as quickly as possible consistent with prudent management.

Recovery Act Requirements

The Recovery Act and implementing OMB guidance require projects to be monitored and reviewed. We grouped these requirements into the following four phases: (1) planning, (2) funding, (3) execution, and (4) tracking and reporting. The Recovery Act requires that projects be properly planned to ensure the appropriate use of funds. The funding phase is to ensure the funds were used for authorized purposes and distributed properly to the projects. The initial execution phase is to ensure that contracts awarded with Recovery Act funds were transparent to the public, competed, and contained specific FAR clauses for Recovery Act contract actions. The execution phase also ensures that program goals were achieved, including specific program outcomes and improved results on broader economic indicators; that projects funded avoided unnecessary delays and

cost overruns; and that contractors or recipients of funds reported results. The tracking and reporting phase ensures that the recipients' use of funds was transparent to the public and that benefits of the funds were clearly, accurately, and timely reported.

Recovery Act Contracting Requirements

The Recovery Act establishes transparency and accountability requirements. Federal Acquisition Circular 2005-32, March 31, 2009, provides policies and procedures for the Government-wide implementation of the Recovery Act and guidance on special contract provisions. Federal Acquisition Circular 2005-32 amended the FAR and provided interim rules that made FAR solicitation provisions and contract clauses immediately available for inclusion in contracts for Recovery Act work.

The specific FAR Recovery Act requirements are for:

- buying American construction material,
- protecting contractor whistleblowers,
- publicizing contract actions,
- reporting, and
- giving the Government Accountability Office and agency Inspectors General access to contracting records.

Federal Government organizations meet requirements for Recovery Act contract actions by posting information on the Federal Business Opportunities (FBO) and Federal Procurement Data System (FPDS) Web sites. FAR Subpart 5.7, "Publicizing Requirements Under the American Recovery and Reinvestment Act of 2009," directs contracting officers to use the Government-wide FBO Web site (<http://www.fbo.gov>) to:

- identify the action as funded by the Recovery Act,
- post pre-award notices for orders exceeding \$25,000,
- describe supplies in a clear narrative to the general public, and
- provide the rationale for awarding any contracting actions that were not both fixed-price and competitive.

FBO is the Federal Government's central source of Federal procurement opportunities. FBO is a Web-based portal that allows agency officials to post Federal procurement opportunities and contractors to search and review those opportunities. Agencies also post contract award notices on FBO. In addition, to provide transparency, FBO has a separate section identifying Recovery Act opportunities and awards.

FPDS is the Federal Government's central source of procurement information. Contracting officers enter information, to include the Treasury Account Symbol, in the FPDS for all Recovery Act contract actions. The Treasury Account Symbol enables FPDS to provide transparency by generating and posting a report containing all Recovery Act contract actions.

OMB Recovery Act Guidance

Criteria for planning and implementing the Recovery Act continue to change as OMB issues additional guidance, and DOD and the Components issue their implementation guidance. OMB has issued 11 memoranda and 1 bulletin to address the implementation of the Recovery Act. See Appendix B for Recovery Act criteria and guidance.

DOD Recovery Act Program Plans

Under the Recovery Act, Congress appropriated approximately \$12 billion to DOD for the following programs: Energy Conservation Investment; Facilities Sustainment, Restoration, and Modernization (FSRM); Homeowners Assistance; Military Construction; Near Term Energy-Efficient Technologies; and U.S. Army Corps of Engineers (USACE) Civil Works.

DOD Agency-Wide and Program-Specific Recovery Act Programs

Program	Amount (in millions)
Energy Conservation Investment	\$120
Facilities Sustainment, Restoration, and Modernization	4,260*
Homeowners Assistance	555
Military Construction	2,185
Near Term Energy-Efficient Technologies	300
U.S. Army Corps of Engineers Civil Works	4,600
Total	\$12,020*

*On August 10, 2010, Public Law 111-226, Title III, "Rescissions," rescinded \$260.5 million of funds from DOD Operations and Maintenance Accounts supporting the Recovery Act. This reduced the DOD Recovery Act FSRM amounts to approximately \$4 billion and total DOD Agency-wide and Program-Specific Recovery Act program funding to approximately \$11.76 billion.

The Recovery Act divides the approximately \$12 billion among 32 DOD and USACE line items of appropriations.

Fort Riley Mission

Fort Riley is under the authority of the West Region of the U.S. Army Installation Command. Fort Riley provides facilities for training, readiness, and deployability for three combat brigades. It also provides support for mobilizing and deploying active and reserve component units. Fort Riley is home to the 1st Infantry Division, which deploys to conduct a full spectrum of operations.

Fort Riley had 39 Recovery Act-funded FSRM projects, estimated to cost \$54.9 million. We reviewed one FSRM project, estimated to cost \$9.8 million, for the repair and renovation of building 216 at Fort Riley, Kansas. The scope of work included renovating building 216, a historic building, to provide administrative offices, council rooms, and courtrooms for the Judge Advocate General staff.

USACE Kansas City District

The USACE Kansas City District (USACE Kansas City) supported Fort Riley by providing contracting and project management services. These services included awarding the contract and assigning personnel to oversee the contracted work. USACE Kansas City executed a total of 11 Recovery Act-funded FSRM projects at Fort Riley valued at \$33.5 million.

Review of Internal Controls at Fort Riley and USACE Kansas City

Fort Riley and USACE Kansas City internal controls over the planning, funding, initial execution, and tracking and reporting of the repairs and renovations of building 216 at Fort Riley were effective as they applied to the audit objectives.

Proper Planning, Funding, Execution, and Tracking and Reporting of the Recovery Act Project to Repair and Renovate Building 216 at Fort Riley, Kansas

Fort Riley and USACE Kansas City personnel adequately justified the project to repair and renovate building 216 at Fort Riley, and the project met the Recovery Act goals for accountability and transparency. In order to achieve these goals, Fort Riley and USACE Kansas City personnel adequately planned, funded, and initially executed the project. Fort Riley and USACE Kansas City personnel also appropriately tracked and reported the project as required by the Recovery Act.

Project Planning Was Adequate

Fort Riley and USACE Kansas City personnel adequately planned the repair and renovation project for building 216. We reviewed DD Form 1391, “Military Construction Project Data,” and supporting documentation to include planning documents, engineering drawings, and cost estimates for the project. DOD Regulation 7000.14-R, “DOD Financial Management Regulation,” volume 2B, chapter 6, requires DOD Components to use DD Form 1391 when requesting authorization of both new construction and urgent, unforeseen projects using emergency or contingency authorization. Two specific sections of DD Form 1391 detail the requirements for proposed projects and how the proposed projects would benefit the mission. Specifically, Item 10, “Description of Proposed Construction,” requires clear and concise descriptions of the proposed construction, including a complete outline of all principal features of the work. Item 11, “Requirement,” provides a detailed information statement of why the project is needed, how and under what conditions the requirements are presently being met, and the manner and extent to which mission accomplishment would be affected if projects were not approved.

We reviewed the DD Form 1391 for the project. The DD Form 1391 adequately justified and explained the requirements, current state, and impact of repairing and renovating building 216. Specifically, building 216, a nationally registered building, had deteriorated while vacant for the last 10 years, and the deterioration presents many health hazards (see figures 3 and 4). The DD Form 1391 states that this project will make the building safe and useable so it can house the administrative offices, council rooms, and courtrooms of the Staff Judge Advocate. Upon completion of the project, the Staff Judge Advocate will move from building 200, which is scheduled for repair and must be vacated, to building 216.

Fort Riley and USACE Kansas City personnel also supported the planning process by hiring an architecture and engineering firm to assess the deteriorated condition of the building. The firm prepared drawings of the construction area that were included in the solicitation package and developed construction cost estimates for the project. USACE

Kansas City also prepared an Independent Government Estimate approved by its Chief of Cost Engineering.

Figure 3. Hazardous Conditions Inside Building 216 at Fort Riley, Kansas



Source: U.S. Army Corps of Engineers

Figure 4. Staircase in Need of Repairs Inside Building 216 at Fort Riley, Kansas



Source: U.S. Army Corps of Engineers

Project Funding Was Proper

In May 2009, Headquarters USACE properly distributed \$8.0 million in Recovery Act funds to USACE Kansas City to repair and renovate building 216. Between January 5, 2010 and March 16, 2010, USACE Kansas City officials stated that they transferred to the project additional funding in bid savings from another Recovery Act project to fund the contract award. These transfers increased the amount available for the project to approximately \$10.77 million. USACE Kansas City officials subsequently returned approximately \$.99 million to Headquarters USACE in three separate transactions between July 27, 2010 and August 10, 2010; leaving approximately \$9.78 million in reserve for the project to repair and renovate building 216.

Initial Project Execution Was Proper

USACE Kansas City contracting personnel properly performed initial project execution of the Recovery Act project to repair and renovate building 216. In our evaluation of the initial project execution, we determined that USACE Kansas City contracting personnel competitively solicited and awarded, with full transparency, a contract for renovating building 216 that contained the FAR clauses required for Recovery Act contract actions.

Transparency and Recovery Act FAR Clauses

USACE Kansas City contracting personnel took the required steps to ensure that transactions related to the project were transparent. They properly posted a solicitation notice and a separate award notice, both containing the required Recovery Act language and a clear description of the work required, on the FBO Web site. The contracting office recorded all contract actions in FPDS and correctly included the Treasury account

symbol in the Description of Requirement field. Further, the contract contained all applicable FAR clauses required by the Recovery Act.

Competition and Contract Award

As indicated in the solicitation, USACE Kansas City contracting personnel competed the project among 8(a) small businesses in Region VII, which included Kansas, Missouri, Nebraska, and Iowa. Two contractors submitted proposals that were evaluated based on technical factors and price. USACE Kansas City contracting personnel determined that the Caman Construction Company—Titan Construction Joint Venture offer provided the best value to the Government and on February 12, 2010, awarded the joint venture a firm-fixed price contract valued at approximately \$9.0 million with two options valued at \$.45 million. The Army incorrectly reported the project to Congress and, as a result, the issuance of the Notice to Proceed was delayed.

Section 2811, title 10, United States Code, requires Congress be notified of FSRM projects greater than \$7.5 million. On March 20, 2009, the Under Secretary of Defense (Comptroller)/Chief Financial Officer submitted a report to Congress that contained DOD's FSRM repair and renovation project notification. The plan incorrectly described the scope of work for building 216 as repairs to an existing barrack, stating that the facility may be used to house soldiers redeploying from Iraq or Afghanistan. During the audit, we informed the Army of the errant notification and Army officials corrected the project description in subsequent letters to Congress.

USACE Kansas City contracting personnel issued the Notice to Proceed to the Caman Construction Company—Titan Construction Joint Venture on April 20, 2010. On April 21, 2010, USACE Kansas City contracting personnel modified the contract to exercise options, thereby increasing the cost of the contract to approximately \$9.45 million.

Project Cost and Schedule

According to USACE Kansas City personnel, the project to repair and renovate building 216 was in the design phase and about 6 percent complete. The design-build contract project schedule indicated that the contractor is scheduled to complete work by October 12, 2011, within projected cost.

Project Tracking and Reporting Was Adequate

The USACE Kansas City personnel had adequate resources to track and report the project. USACE Kansas City assigned a contracting officer's representative at Fort Riley to monitor, evaluate, and document the contractor's performance. The contracting officer included FAR clause 52.204-11, "American Recovery and Reinvestment Act – Reporting Requirements," which requires the contractor for Recovery Act-funded projects to report project information at <http://www.federalreporting.gov>. Caman Construction Company—Titan Construction Joint Venture reported the number of jobs and the total dollar value for the project as required for January 1, 2010 through March 31, 2010, and April 1, 2010 through June 30, 2010.

Appendix A. Scope and Methodology

We conducted this audit from September 2009 through December 2010 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 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.

Scope

We selected for review one Recovery Act project at Fort Riley. The project to repair and renovate building 216 to provide administrative offices, council rooms, and courtrooms for the Judge Advocate General staff was estimated to cost \$9.78 million. USACE Kansas City awarded the contract with modifications for approximately \$9.45 million. The remaining estimated cost of \$0.33 million was used for planning and administrative costs.

Methodology

Our overall audit objective was to evaluate DOD's planning and implementation of the Recovery Act of 2009. To accomplish our objective, we reviewed the planning, funding, execution, and tracking and reporting of Project 64572. We interviewed key personnel from the USACE Kansas City and Fort Riley Army Garrison and conducted a site visit to observe the conditions of building 216. We also reviewed official contract file documentation including the economic analysis, cost estimate, DD Form 1391, and budget authorization and associated support to determine whether efforts of Fort Riley and USACE Kansas City personnel complied with Recovery Act requirements, OMB guidance, the FAR, and DOD implementing guidance. Specifically, we determined whether:

- the project was adequately planned to ensure the appropriate use of Recovery Act funds (Planning);
- funds were used for authorized purposes and properly distributed to the project (Funding);
- the contract was competed and awarded with full transparency and contained the required Recovery Act FAR clauses (Initial Project Execution);
- projects avoided unnecessary delays and cost overruns (Project Execution); and
- recipients' use of funds was transparent to the public and the benefits of the funds were clearly, accurately, and timely reported (Tracking and Reporting).

Use of Computer-Processed Data

We used computer-processed data from the Federal Procurement Data System, Central Contractor Registration, Excluded Parties List System, FBO, www.federalreporting.gov, and other systems to determine whether the project met the Recovery Act requirements for accountability and transparency. We tested the accuracy

of the computer-processed data by obtaining copies of contracting, funding, and project documentation from Fort Riley and USACE Kansas City District. We also interviewed Fort Riley and USACE Kansas City personnel responsible for managing the project. We did not identify problems related to the integrity of the data.

Use of Technical Assistance

Before selecting DOD Recovery Act projects for audit, 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 selected most audit projects and locations using a modified Delphi technique, which allowed QMAD to quantify the risk based on expert auditor judgment, and other quantitatively developed risk indicators. QMAD used information collected from all projects to update and improve the risk assessment model. QMAD selected 83 projects with the highest risk rankings; auditors chose some additional projects at the selected locations.

QMAD 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 Defense agencies and Military Services, State National Guard units, and public works projects managed by USACE.

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>.

Appendix B. Recovery Act Criteria and Guidance

The following list includes the primary Recovery Act criteria and guidance (notes appear at the end of the list):

- U.S. House of Representatives Conference Committee Report 111-16, “Making Supplemental Appropriations for Job Preservation and Creation, Infrastructure Investment, Energy Efficiency and Science, Assistance to the Unemployed, and State and Local Fiscal Stabilization, for the Fiscal Year Ending September 30, 2009, and for Other Purposes,” February 12, 2009
- Public Law 111-5, “American Recovery and Reinvestment Act of 2009,” February 17, 2009
- OMB Memorandum M-09-10, “Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” February 18, 2009
- OMB Bulletin No. 09-02, “Budget Execution of the American Recovery and Reinvestment Act of 2009 Appropriations,” February 25, 2009
- White House Memorandum, “Government Contracting,” March 4, 2009
- White House Memorandum, “Ensuring Responsible Spending of Recovery Act Funds,” March 20, 2009
- OMB Memorandum M-09-15, “Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” April 3, 2009¹
- OMB Memorandum M-09-16, “Interim Guidance Regarding Communications With Registered Lobbyists About Recovery Act Funds,” April 7, 2009
- OMB Memorandum M-09-19, “Guidance on Data Submission under the Federal Funding Accountability and Transparency Act (FFATA),” June 1, 2009
- OMB Memorandum M-09-21, “Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009,” June 22, 2009²
- OMB Memorandum M-09-24, “Updated Guidance Regarding Communications with Registered Lobbyists About Recovery Act Funds,” July 24, 2009
- OMB Memorandum M-09-30, “Improving Recovery Act Recipient Reporting,” September 11, 2009

- OMB Office of Federal Procurement Policy, “Interim Guidance on Reviewing Contractor Reports on the Use of Recovery Act Funds in Accordance with FAR Clause 52.204-11,” September 30, 2009²
- OMB Memorandum M-10-08, “Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates,” December 18, 2009²
- OMB Memorandum M-10-14, “Updated Guidance on the American Recovery and Reinvestment Act,” March 22, 2010²
- White House Memorandum, “Combating Noncompliance With Recovery Act Reporting Requirements,” April 6, 2010²
- OMB Memorandum M-10-17, “Holding Recipients Accountable for Reporting Compliance under the American Recovery and Reinvestment Act,” May 4, 2010²
- OMB Memorandum M-10-34, “Updated Guidance on the American Recovery and Reinvestment Act,” September 24, 2010²

Notes

¹ Document provides Government-wide guidance for carrying out programs and activities enacted in the American Recovery and Reinvestment Act of 2009. The guidance states that the President’s commitment is to ensure that public funds are expended responsibly and in a transparent manner to further job creation, economic recovery, and other purposes of the Recovery Act.

² Document provides Government-wide guidance for carrying out the reporting requirements included in section 1512 of the Recovery Act. The reports will be submitted by recipients beginning in October 2009 and will contain detailed information on the projects and activities funded by the Recovery Act.



Inspector General Department of Defense

