



Office of Audits
Office of Inspector General
U.S. General Services Administration

Recovery Act Report – National Capital
Region’s Regional Office Building Projects
Review of PBS’s Limited Scope and Small
Construction Projects Funded by the
American Recovery and Reinvestment
Act of 2009

Report Number A090184/P/R/R13002
February 21, 2013



Office of Audits
Office of Inspector General
U.S. General Services Administration

REPORT ABSTRACT

OBJECTIVE

Our objective was to determine if the General Services Administration complied with the requirements of the Federal Acquisition Regulation (FAR), General Services Administration Acquisition Manual, and the American Recovery and Reinvestment Act (Recovery Act) in terminating the Group 9 Regional Office Building (ROB) roofing project and subsequently renovating space in the building.

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Recovery Act Report – National Capital Region’s Regional Office Building Projects

Review of PBS’s Limited Scope and Small Construction Projects Funded by the American Recovery and Reinvestment Act of 2009

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WHAT WE FOUND

We identified the following during our audit:

Finding 1 – PBS violated the FAR by paying the roof contractor \$88,887 profit on work that was not performed.

Finding 2 – ROB space renovations project was not a cost-effective use of Recovery Act funds.

Finding 3 – PBS violated the Recording Statute and FAR pricing regulations under the renovations contract.

Finding 4 – PBS made an insufficient price reasonableness determination.

Finding 5 – PBS waived fire safety requirements.

Finding 6 – PBS inappropriately used Recovery Act funds to purchase office furniture.

Finding 7 – PBS violated the Recording Statute under the furniture contract.

WHAT WE RECOMMEND

Based on our audit findings, we recommend that the Acting Regional Commissioner, Public Buildings Service, National Capital Region:

1. Implement a documented control process to ensure that settlement agreements comply with FAR contract termination requirements;
2. Develop a process to ensure that contract and project management staff evaluate the cost-effectiveness of High-Performance Green Building projects;
3. Develop a control process to ensure that statements of work fully define and develop requirements prior to award in order to comply with the Recording Statute and FAR; and
4. Ensure conformance with fire safety regulations and guidance. Disallow waivers from these requirements, regardless of project budget or schedule.

MANAGEMENT COMMENTS


Management partially agreed with the audit findings and partially concurred with the recommendations. Management’s comments are included in **Appendix B**. As discussed with management, the attachments with supporting documentation were not incorporated.



**Office of Audits
Office of Inspector General
U.S. General Services Administration**

DATE: February 21, 2013

TO: Julia E. Hudson
Regional Administrator
National Capital Region (WA)

FROM: 
Marisa A. Roinestad
Audit Manager, Real Property Audit Office (JA-R)

SUBJECT: Recovery Act Report – National Capital Region’s Regional Office
Building Projects
Review of PBS’s Limited Scope and Small Construction Projects
Funded by the American Recovery and Reinvestment Act of 2009
A090184/P/R/R13002

This report presents the results of our audit of the National Capital Region’s Regional Office Building Projects. Our findings and recommendations are summarized in the Report Abstract. Instructions regarding the audit resolution process can be found in the email that transmitted this report.

Your written comments to the draft report are included in **Appendix B** of this report.

If you have any questions regarding this report, please contact me or any member of the audit team at the following:

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On behalf of the audit team, I would like to thank you and your staff for your assistance during this audit.

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Introduction

Under the Recovery Act, Congress appropriated \$5.55 billion to the Federal Buildings Fund. Most of these funds (\$4.5 billion) were to be used to convert GSA facilities to High-Performance Green Buildings, as defined by Section 401 of Public Law 110-140. As part of this effort, the Public Buildings Service (PBS) in the National Capitol Region (NCR) awarded the Group 9¹ contract in May 2010 for \$4,775,614.²

The contract included a design-build component for replacing the roof at the NCR Regional Office Building (ROB). PBS decided to pursue this project despite conflicting reports regarding the roof's physical condition. For example, the *Survey and Analysis Report for Energy Efficient Roof Options*, January 2010, stated that the roof was in fair to good condition with an expected remaining useful life of 10 years. Other studies performed on the ROB recommended shorter-term roof repairs. Specifically, a Building Evaluation Report performed in December 2007 indicated that roof repairs were needed within 1-2 years. A Facility Condition Assessment Final Report from June 2010 disclosed that the roof was aged and damaged, and warranted replacement within 1-2 years. Lastly, a Physical Condition Survey from 2011 noted that roof leakage was found on the south side of the building. Further, the survey noted roofing material was damaged around equipment such as cooling towers and standing water was found on the east perimeter of the roof.³

The apparent goal of this project was to replace the ROB's entire roof. However, PBS NCR did not have enough funding so only the west side of the roof was included in the base contract; the east side was included as an option. The inconsistencies between the project goal, conflicting reports on the roof's condition, and funding availability ultimately led to the termination of the project. It was terminated for convenience and settled for \$110,887 via contract modification PS01, dated December 17, 2010 (Finding 1 is related to this termination).

On March 9, 2011, the remaining funds were reallocated for space renovations in the ROB (Findings 2 through 5 relate to these space renovations). PBS felt the space renovations contract would help meet GSA's Zero Environmental Footprint (ZEF) goals. Under ZEF, GSA intends to: eliminate its impact on the natural environment; use its government-wide influence to reduce the environmental impact of the federal government; minimize its consumption of energy, water, and other resources; and use its purchasing power to drive the market to produce more sustainable products, services, and workspaces. PBS NCR felt the need to showcase alternative office space to customer agencies as part of ZEF. PBS also awarded a contract to furnish the renovated space (Findings 6 and 7 are associated with the furniture contract).

¹ The Group 9 contract (contract number GS-11P-10-YA-C-0100) also includes roofing projects at the Internal Revenue Service Headquarters, Elijah Barrett Prettyman Courthouse, and Reston Advanced Systems Center.

² The contract was awarded using Budget Activity PG03 High-Performance Green Buildings (Modernization and Limited Scope) Recovery Act funds.

³ PBS recently incurred \$2,273 in expenses related to repairing leaks in the ROB roof.

Throughout the project, PBS management expressed urgency to project teams to expend Recovery Act funds. During the budget impasse in February 2011, PBS management expressed concern that any unobligated Recovery Act funds, originally scheduled to expire on September 30, 2011, could be lost.

The objective of our audit was to determine if GSA complied with the requirements of the Federal Acquisition Regulation (FAR), General Services Administration Acquisition Manual, and the Recovery Act in terminating the Group 9 ROB roofing project and subsequently renovating space in the building.

See **Appendix A** – Purpose, Scope, and Methodology for additional details.

Results

Roof Termination

The design-build project for the ROB roof replacement was terminated in December 2010. Finding 1 is related to this termination.

Finding 1 – PBS violated the FAR by paying the roof contractor \$88,887 profit on work that was not performed.

Although the ROB roofing project was terminated prior to construction, PBS paid the Group 9 contractor profit on the entire value of the work. According to termination documents, the contractor began the design work prior to the termination of the roofing project, but never started construction.⁴ Accordingly, the contractor was entitled to payment for design work performed as well as the related profit. However, PBS paid the contractor \$110,887, which included payment for not only the design work but also for profit on the entire value of the project. Essentially, PBS paid \$88,887 in excess profit.

Profit on work not performed violates FAR 52.249-2 Termination for Convenience of the Government (Fixed-Price), which prescribes that “the Contractor and the Contracting Officer may agree upon the whole or any part of the amount to be paid or remaining to be paid because of the termination. The amount may include a reasonable allowance for profit on work done.”

Recommendation 1

We recommend that the Acting Regional Commissioner, Public Buildings Service, National Capital Region, implement a documented control process to ensure that settlement agreements comply with FAR contract termination requirements.

Management Comments

In its comments, management agreed with the audit finding and concurred with the recommendation (See **Appendix B**).

Space Renovations

PBS reallocated the funds remaining from the roof project termination to renovate space within the ROB. Findings 2 through 5 relate to these space renovations.

⁴ Although a Notice to Proceed was not issued, the Group 9 contractor requested reimbursement for design services. An Independent Government Estimate prepared by the construction manager recommended payment for field survey work that the Group 9 contractor completed to evaluate the roof conditions. We did not obtain or review any documentation supporting whether this design work was completed.

Finding 2 – ROB space renovations project was not a cost-effective use of Recovery Act funds.

After the ROB portion of the roof contract was terminated, PBS NCR reallocated the funding for space renovations at the ROB. The first priority for the project was to convert PBS NCR management space on the seventh floor from closed office “executive suites” to an “open-space-style” office design and to create “shared-use workplace settings and functions.” PBS NCR management wanted to ensure they were leading by example in ZEF initiatives. The second priority was to create mobile workspace in another part of the building.

These renovations were not a cost-effective use of Recovery Act funds. In the Limited Scope Approval Request⁵ for the renovations project, PBS stated that the payback period was 45 years. However, based on the annual savings (\$190) cited in the Limited Scope Approval Request, we calculated a simple payback period of 4,617 years.

PBS subsequently informed us that the projected savings were only for the lighting portion of the project, but was unable to locate any additional pre-award cost savings calculations. There is no evidence that PBS analyzed the overall cost-effectiveness of the project before contract award. The minimal amount of quantified savings did not justify the project.

PBS could have selected a different project for a more cost-effective use of Recovery Act funds. Although the project was considered urgent to showcase the space to customer agencies and to meet the agency’s pursuit of ZEF, the primary focus of the project appeared to be the renovation of the PBS NCR Regional Commissioner’s office on the seventh floor. The scope of work included three design concepts for the seventh floor but only a three-line description for renovation work in another location of the building.

Recommendation 2

We recommend that the Acting Regional Commissioner, Public Buildings Service, National Capital Region, develop a process to ensure that contract and project management staff evaluates the cost-effectiveness of High-Performance Green Building projects.

Management Comments

In its comments, management disagreed with the audit finding, but concurred with the recommendation (See **Appendix B**). Management stated that, “While the cost-effectiveness of this effort may not have been adequately documented, this project has resulted in significant quantifiable and unquantifiable savings to the taxpayer.” Management estimated potential future savings related to outleasing space that was

⁵ Limited Scope Approval Requests are reviewed by the Central Office Program Management Office to ensure top energy savings are consistently obtained in Recovery Act projects.

vacated as a result of the ROB renovations. The potential savings are estimated to be realized starting in fiscal year 2014. Additionally, management discussed its success in championing mobility government-wide by showcasing the ROB space.

Office of Inspector General Response

With regard to cost savings, the project was undertaken without any planned space reductions to achieve savings. The ROB renovations project was completed in fiscal year 2012 and although the renovated ROB space can now accommodate more employees, there was no plan to decrease GSA's real estate footprint or realize savings from outleasing vacated space when the project was initiated. Although GSA now plans to start realizing savings in 2014, the future savings may be limited by GSA plans to vacate the building in the future. Additionally, with regard to showcasing the project's mobility space to customer agencies, GSA already had mobility space in the GSA headquarters building as well as under construction in the ROB that could be showcased to customers. As such, we conclude that the ROB renovations were not cost-effective.

Finding 3 – PBS violated the Recording Statute and FAR pricing regulations.

PBS awarded an \$877,152 contract for space renovations using Recovery Act High-Performance Green Building (Budget Activity PG03) funds. Although \$398,562 for the design and construction of the seventh floor space appears to have been properly obligated, the remaining \$478,590⁶ was not because the required services were not adequately defined.

The Recording Statute, 31 United States Code 1501 prescribes that:

- (a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of (1) a binding agreement between an agency and another person (including an agency) that is (A) in writing, in a way and form, and for a purpose authorized by law; and (B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided...

In addition, PBS violated FAR pricing regulations by using an "allowance fund with a not-to-exceed price" with regard to the \$478,590 in design and construction services for the second floor. The FAR allows undefinitized pricing only in exception situations, neither of which was met by the build-out contract. FAR 16.205 discusses pricing when it is possible to negotiate a fair and reasonable firm-fixed price for an initial period but not for subsequent periods of contract performance. FAR 16.603 allows a letter contract to be used when "(1) the Government's interests demand that the contractor be

⁶ This includes \$33,000 for design services and \$445,590 in construction services for the second floor.

given a binding commitment so that work can start immediately and (2) negotiating a definitive contract is not possible in sufficient time to meet the requirement.”

These violations occurred because the statement of work for the space build-out was deficient. While it discussed the design and construction services required for the seventh floor renovations, it did not define the design nor the construction services required for the second floor renovations.

Before an agency may consider an order as legally obligating the appropriation of the fiscal year in which it issued the order, the agency's order must be firm and complete. The statement of work should include the Government's requirements, criteria, budget parameters, and schedule or delivery requirements. Absent such information, PBS could not definitize a price for the contract prior to award.

Recommendation 3

We recommend that the Acting Regional Commissioner, Public Buildings Service, National Capital Region, develop a control process to ensure that statements of work fully define and develop requirements prior to award in order to comply with the Recording Statute and FAR.

Management Comments

Management agreed with the audit finding as it relates to the second floor, but not as it relates to the seventh floor (See **Appendix B**). Management stated that, “NCR believes that the performance work statement constitutes an adequate basis for a firm fixed price proposal.” Management's response included a “Construction Scope & Estimate Worksheet” for the seventh floor, a document that PBS provided to the contractor in conjunction with the statement of work.

Office of Inspector General Response

We concur with management's comments on the seventh floor renovation. In support of its comments, PBS provided the seventh floor “Construction Scope & Estimate Worksheet” that had not been provided previously. We agree that, for the seventh floor project, the worksheet provided the contractor with sufficient details to develop a price proposal and we removed the portion of the finding related to the seventh floor.

Finding 4 – PBS made an insufficient price reasonableness determination.

PBS did not make a sufficient price reasonableness determination with regard to the second floor portion of the space build-out contract, calling into question 54.6 percent of the contract award (\$478,590 of the \$877,152). The contracting officer's pricing memorandum stated that the price was reasonable based on a “given allowance”. There was no further analysis, as prescribed by FAR 15.404-1(b)(2). The design and construction work for this portion of the award was based on an incomplete scope of

work. The independent government estimate and the price proposal included only work on the seventh floor, not the second floor.

The cost per square foot for the build-out was three times that of comparable office space in the building. The seventh and fourth floor⁷ space cost \$107.36 per square foot.⁸ Comparable projects recently completed on the first floor of the building cost \$30.86 per square foot.⁹

Recommendation 4

We recommend that the Acting Regional Commissioner, Public Buildings Service, National Capital Region, develop a process to ensure that contract and project management staff evaluates the cost-effectiveness of High-Performance Green Building projects. (Recommendation 4 is identical to Recommendation 2.)

Management Comments

In its comments, management agreed with the audit finding and concurred with the recommendation (See **Appendix B**).

Finding 5 – PBS waived fire safety requirements.

There was substandard fire protection for over 9 months for the fourth floor mobile office space consisting of 39 workstations. Although GSA's Safety, Environment, and Fire Protection Branch informed management that the sprinkler system did not fully meet requirements, the former PBS NCR Regional Commissioner issued a waiver from the requirements.

Public Law 102-522 prescribes that renovated space be protected by an automatic sprinkler system or equivalent level of safety. Additionally, per PBS's P100 Facilities Standards,¹⁰ the GSA regional fire protection engineer shall make the final determination of the adequacy of proposed equivalent levels of fire protection, not a PBS Regional Commissioner.

PBS took remedial action to install a sprinkler system 9 months after the renovation was completed. The newly installed sprinklers were connected to the main fire system in August 2012.

⁷ The renovations originally contemplated on the second floor were ultimately completed on the fourth floor.

⁸ Calculated by dividing the project cost of \$877,152 by 8,170 square feet.

⁹ Calculated by dividing the project cost of \$228,297 by 7,399 square feet.

¹⁰ Chapter 7, Section 3, Fire Safety During Construction and Renovation Projects.

Recommendation 5

We recommend that the Acting Regional Commissioner, Public Buildings Service, National Capital Region, ensure conformance with fire safety regulations and guidance and disallow waivers from these requirements, regardless of project budget or schedule.

Management Comments

In its comments, management agreed with the audit finding and concurred with the recommendation (See **Appendix B**).

Space Furniture

PBS also awarded a contract to furnish the ROB space renovations. Findings 6 and 7 are associated with the furniture contract.

Finding 6 – PBS inappropriately used Recovery Act funds to purchase office furniture.

Recovery Act High-Performance Green Building funds (Budget Activity PG04¹¹) were improperly used to purchase office furniture and should have been applied to other Recovery Act projects. PBS used \$199,761 in Recovery Act funds to furnish renovated space for an existing tenant in the building. This procurement violated PBS's internal guidance, which allows Recovery Act funds to be used to purchase office furniture only for swing space¹² or forced tenant moves. In this case, PBS employees shifted space within the ROB and did not occupy swing space or permanently relocate to another building. PBS's Recovery Act Program Management Office (PMO) Zone Executive confirmed that this project did not meet swing space or forced move requirements and that Recovery Act funds should not have been used for the purchase of office furniture.

In addition, the furniture purchase was not formally approved. A cost-benefit analysis and business case must be developed and approved by the Regional Recovery Executive and the PMO to ensure the appropriate use of Recovery Act funds. While informal discussions were held regarding the cost-benefit analysis, PBS did not submit the official analysis to the PMO until a year after contract award. This cost-benefit analysis compared the costs to reconfigure¹³ existing furniture to the costs of purchasing new furniture. Reconfiguring existing furniture was estimated to cost \$200,000, while the cost of new furniture was estimated at \$330,000. The PMO may have been able to flag the procurement as an inappropriate use of Recovery Act funds had PBS NCR submitted a cost-benefit analysis and business case to the PMO prior to contract award.

¹¹ High-Performance Green Buildings (Repair and Alteration Small Projects)

¹² Swing space is provided to agencies to meet minimal mission functionality, to allow their operations to continue until they are returned to their renovated building and space.

¹³ Reconfigured workstations involve recycled materials and new furniture, where necessary, to complete the required arrangements.

Recommendation 6

We recommend that the Acting Regional Commissioner, Public Buildings Service, National Capital Region, develop a process to ensure that contract and project management staff evaluates the cost-effectiveness of High-Performance Green Building projects. (Recommendation 6 is identical to Recommendation 2.)

Management Comments

In its comments, management agreed with the audit finding and concurred with the recommendation (See **Appendix B**).

Finding 7 – PBS violated the Recording Statute.

The contract for this office furniture constitutes an improper obligation of funds because the statement of work lacks design specifications and PBS did not provide adequate clarification of its needs. In order for the furniture contract to represent a valid obligation, PBS must provide the contractor with sufficient design specification information to have made the agreement definite. The project manager says the specifications were communicated orally to the contractor but were never documented. Again, the Recording Statute, 31 United States Code 1501 prescribes that:

(a) An amount shall be recorded as an obligation of the United States Government only when supported by documentary evidence of (1) a binding agreement between an agency and another person (including an agency) that is (A) in writing, in a way and form, and for a purpose authorized by law; and (B) executed before the end of the period of availability for obligation of the appropriation or fund used for specific goods to be delivered, real property to be bought or leased, or work or service to be provided...

Recommendation 7

We recommend that the Acting Regional Commissioner, Public Buildings Service, National Capital Region, develop a control process to ensure that statements of work fully define and develop requirements prior to award in order to comply with the Recording Statute and FAR. (Recommendation 7 is identical to Recommendation 3.)

Management Comments

Management disagreed with the audit finding (See **Appendix B**). Management stated that, "The contractor was provided a statement of work which included a material list for the contractor to complete with pricing information."

Office of Inspector General Response

We maintain that the statement of work was deficient in its specifications. The statement of work for furniture services requires the contractor to, "Procure new, sustainable furniture as specified by GSA designers..." The project manager confirmed that these specifications were only provided orally to the contractor. Thus, the statement of work lacked proper specifications to constitute a valid obligation.

Conclusion

Several deficiencies were identified in relation to the termination of the ROB portion of the Group 9 roofing contract and subsequent space renovations and furnishings. GSA needs to: (1) strengthen its document control processes for settlement agreements and statements of work definitization, (2) enhance its methodology to evaluate cost-effectiveness, and (3) ensure compliance with fire safety requirements.

Appendix A – Purpose, Scope, and Methodology

Purpose

This audit was performed as part of the Office of Inspector General's ongoing oversight of GSA's implementation of the American Recovery and Reinvestment Act (Recovery Act).

Scope

This review covered contract administration for the Regional Office Building (ROB) portion of the Group 9 roof contract (contract number GS-11P-10-YA-C-0053). The scope also included the contracts for subsequent space renovations and office furniture (GS-11P-11-MK-C-0034 and GS-11P-11-MK-C-0033 respectively).

Methodology

To accomplish our objectives, we:

- Interviewed GSA contract and project management staff;
- Reviewed and analyzed contract and project management files; and
- Conducted site visits of the ROB roof, space renovations, and furniture purchases.

We conducted the audit between May 2012 and July 2012 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.

Internal Controls

The focus of the review is to determine if GSA is complying with the Federal Acquisition Regulation, General Services Administration Acquisition Manual, and Recovery Act mandates governing the administration of the ROB roof portion of the Group 9 contract and subsequent space renovations and office furniture contracts. We evaluated internal controls over contract administration to the extent necessary to answer the review objective. Related internal control issues are discussed in the context of the review findings.

Appendix B – Management Comments



GSA National Capital Region

FEB 01 2013

MEMORANDUM FOR R. NICHOLAS GOCO
DEPUTY ASSISTANT INSPECTOR GENERAL
FOR AUDITING
REAL PROPERTY AUDIT OFFICE (JA-R)

FROM:

WILLIAM G. DOWD
ACTING REGIONAL COMMISSIONER (WP)
PUBLIC BUILDINGS SERVICE

SUBJECT:

Recovery Act Report–National Capital Region's Regional Office
Building Projects Review of PBS's Limited Scope and Small
Construction Projects Funded by the American Recovery and
Reinvestment Act of 2009
Report Number A090184

This memorandum responds to the subject Draft Audit Report of January 2, 2013, issued as part of the Office of Inspector General's oversight of the General Services Administration's (GSA) implementation of the National Capital Region's Limited Scope and Small Construction American Recovery and Reinvestment Act (ARRA) projects. Under ARRA, Congress appropriated \$5.5 billion to the Federal Buildings Fund, with \$4.5 billion for measures necessary to convert GSA facilities to High-Performance Green Buildings, as defined by Section 401, Public Law 110-140. As part of this effort, the Public Buildings Service (PBS) in the National Capital Region (NCR) awarded the Group 9 contract in May 2010 for \$4,775,814.

The subject audit reviewed the actions surrounding the termination of a contract to make repairs to the roof of GSA's Regional Office Building (ROB), and the transformation of traditional office space on the 4th and 7th floors of that building into modern office space to accommodate employees in a more efficient manner. GSA's Public Buildings Service in the National Capital Region agrees with several of the findings and recommendations contained in the subject draft report, and has already implemented many of the recommendations. However, there are other findings and recommendations that we do not concur with, and believe that a detailed response is necessary.

In creating the mobile work spaces on the 4th and 7th floors of the Regional Office Building (ROB), PBS/NCR balanced two major Administration priorities--implementing 'shovel ready' projects under ARRA to generate jobs for the American people, and reducing the Federal work space footprint to create a leaner and more sustainable Federal Government. Efforts to create mobile work spaces required that PBS devise innovative and experimental solutions to demonstrate their effectiveness to customer

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Appendix B – Management Comments (cont.)

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agencies. PBS/NCR was responsible for managing a significant portion of GSA's ARRA funding, and these funds were expected to be implemented on a tight time schedule.

To support a better understanding of the effectiveness of mobile work spaces, PBS/NCR leadership recognized the need to lead by example. To do so, we started with our executive offices, which consisted of seven individual offices and an open area used by support staff. This project transformed this portion of the 7th floor into one large mobile workspace that now provides work stations for 30 employees. This is an increase of 14 from the original 16 that it originally housed.

The compressed mobile work space that NCR has created serves as a showcase to other Federal agencies to demonstrate how best to carry out the President's mandate to reduce the Federal space footprint. This effort has supported significant savings in the amount of leased space that our customers will occupy in the future. For example, PBS/NCR successfully renegotiated 17 FY11 prospectuses, convincing our customer agencies to lower their space requirements by a total of 500,000 square feet. PBS/NCR believes that the audit report does not accurately reflect the value of this work.

Findings and Responses

A. Roof Termination

Finding 1 -- PBS violated the FAR by paying the roof contractor \$88,887 profit on work that was not performed.

Management Response to Finding 1: We concur with this finding. NCR is currently exploring options to recoup the overpayment.

B. Space Renovations

According to the audit report, PBS reallocated the funds remaining from the roof project termination to renovate space within the ROB. Findings 2 through 5 relate to these space renovations.

Finding 2 - ROB space renovations project was not a cost-effective use of Recovery Act funds.

Management Response to Finding 2: We do not concur with this finding. While the cost-effectiveness of this effort may not have been adequately documented, this project has resulted in significant quantifiable and unquantifiable savings to the taxpayer.

The principal source of savings in any mobility project is the more efficient use of costly office space, and this is precisely what was done at the Regional Office Building. Energy savings, which are cited in the audit as the only source of savings, does not reflect the value of this project.

Appendix B – Management Comments (cont.)

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Specifically, improvements to the 4th and 7th floors have allowed these areas to accommodate an additional 34 employees (20 on the 4th floor, 14 on the 7th floor). These consolidations will allow the future outlease of space that has been vacated. The potential future savings by renting this vacated space is \$109,616/year starting in FY2014 (34 seats x 104 rsf x \$31/sq ft rent).

The 4th and 7th floor spaces were also used to demonstrate the value of transforming individual offices into more efficient mobile work space. PBS is championing mobility to a variety of Federal agencies. The ability to show our clients a fully functional mobile work environment is indispensable to advancing the mobility initiative. Frequent tours of these completed spaces have impressed hundreds of customer representatives of the wisdom and value of this approach. The visual example has proven quite successful because NCR now has over 5 million square feet of mobile workspace either currently underway in various stages of programming, design development, under construction, or completed for customers.

In response to the audit recommendation related to finding number 2, PBS/NCR will ensure that the cost-effectiveness of all future High-Performance Green Building projects is adequately evaluated and documented.

Finding 3 - PBS violated the Recording Statute and FAR pricing regulations.

Management Response to Finding 3: We concur with the finding regarding the Recording Statute for the 2nd/4th floor (Subsequent to the submission of the general contractor's price proposal, NCR determined that the 4th floor was better suited to a mobility space than the 2nd floor.) but not the 7th floor. NCR does not concur with the finding that PBS violated FAR pricing regulations as these regulations pertain to the work done on the 7th floor. We do concur that PBS violated the pricing regulations for the 4th floor.

The design build contract was awarded as a negotiated 8(a) procurement.

The sequence of events is important. The original mobility initiative called for mobility spaces on the 2nd and the 7th floors. NCR developed a performance work statement for the design-build construction of these areas and provided it to the general contractor. See Attachment 1 (the email). The performance work statement includes 8 pages of narrative, citing design standards, applicable code requirements, industry standards for manufactured items as well as schematic drawings of the 7th floor. The performance work statement also included a document entitled "Construction Scope & Estimate" which identified 22 definable elements of work to be priced. An independent Government estimate (IGE) was also developed. The performance work statement is provided as Attachment 2. NCR believes that the performance work statement constitutes an adequate basis for a firm fixed price proposal.

Appendix B – Management Comments (cont.)

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The general contractor submitted a firm fixed price proposal. See Attachment 3. The proposal addressed the 22 definable elements of work, plus firm pricing for another 60+ elements of the work. NCR believes that the level of cost detail in this proposal constitutes an adequate basis for negotiations.

NCR proceeded with price negotiations on the 7th floor work. A firm fixed price agreement, addressing the 7th floor only, was reached shortly thereafter. The pricing of the 7th floor, a written performance work statement, an IGE and a proposal followed by price negotiations fully complies with FAR pricing guidelines and represents a widely accepted approach to pricing construction.

Finding 4 - PBS made an insufficient price reasonableness determination.

Management Response to Finding 4: We concur with the finding of insufficient price reasonableness for the work on the 4th floor.

It should be noted that the cost per square foot for the build-out for the 4th and 7th floor would be more costly than the 1st floor project as it was not comparable in scope or complexity. For instance, the 1st floor was already open space and had no demolition whereas the 7th floor had many demising walls that needed to be removed.

Finding 5 - PBS waived fire safety requirements.

Management Response to Finding 5: We concur with this finding. NCR PBS understands that a waiver of sprinkler system requirements can only be made through the appropriate jurisdictional authority, in this case the regional PBS Office of Fire and Life Safety. Moving forward, NCR PBS will ensure that all project team members during the preplanning stage of design shall be required to obtain input from the Office of Fire and Life Safety as for appropriate requirements and receive approval on the final design.

C. Space Furniture

According to the audit report, PBS also awarded a contract to furnish the ROB space renovations. Findings 6 and 7 relate to the furniture contract.

Finding 6 - PBS inappropriately used Recovery Act funds to purchase office furniture.

Management Response to Finding 6: We concur with this finding. ARRA funding was used to purchase office furniture which was inappropriate. PBS/NCR is in the process of doing an account transfer using BA61 funds to release the BA04 funds that were used.

Appendix B – Management Comments (cont.)

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Finding 7 – PBS violated the Recording Statute.

Management Response to Finding 7: We do not concur with this finding. The contractor was provided a statement of work which included a material list for the contractor to complete with pricing information. See Attachment 4, Statement of Work, for furniture services with IGE and Cazador quote for material and services.

We appreciate the support that has been provided by your review of PBS's limited scope and small construction projects funded by the ARRA, and your recommendations that will help to improve the management of this program. If you have any questions or need additional information, please feel free to contact me at (202) 708-5891, or Andrew Blumenfeld, Director, Office of Project Delivery, Public Buildings Service, at (202) 260-8908.

cc: Julia E. Hudson - WA

Appendix B – Management Comments (cont.)

As discussed with management, the attachments with supporting documentation were not incorporated into the report.

Appendix C – Report Distribution

Commissioner, PBS (P)

Acting Deputy Commissioner, PBS (PD)

Acting PBS Chief of Staff (PB)

Acting Director, PBS Executive Response (PBA)

Regional Recovery Executive, PBS, National Capital Region (WP)

National Program Office ARRA Executive, PBS (PCB)

Chief of Staff, PBS Office of Construction Programs (PCB)

Regional Administrator, National Capital Region (WA)

Acting Regional Commissioner, PBS, National Capital Region (WP)

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Investigator, Office of Internal Operations (JI-I)