

STATEMENT OF HON. BRIAN D. MILLER
INSPECTOR GENERAL, GENERAL SERVICES
ADMINISTRATION

TO

SUBCOMMITTEE ON ECONOMIC DEVELOPMENT,
PUBLIC BUILDINGS, AND EMERGENCY
MANAGEMENT

UNITED STATES HOUSE OF REPRESENTATIVES

MAY 5, 2009



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**GOOD AFTERNOON, MADAME CHAIR, RANKING MEMBER DIAZ-BALART,
MEMBERS, LADIES AND GENTLEMEN. THANK YOU FOR THE OPPORTUNITY TO
ADDRESS THE SUBCOMMITTEE, TODAY, REGARDING USES OF STIMULUS
FUNDS BY GSA. THESE RECOVERY ACT PROJECTS ARE MONUMENTAL.
FIFTY YEARS FROM NOW, PEOPLE WILL BE TALKING ABOUT HOW THESE
RECOVERY ACT PROJECTS TRANSFORMED THE WAY GOVERNMENT
DELIVERS SERVICES TO THE AMERICAN PEOPLE.**

**AS YOU KNOW, GSA'S NORMAL CONSTRUCTION BUDGET FOR PUBLIC
BUILDINGS SERVICE PROJECTS IS ABOUT \$1.3 BILLION A YEAR. THE
RECOVERY ACT PROVIDES GSA WITH AN ADDITIONAL \$5.55 BILLION IN
CONSTRUCTION FUNDING AND \$300 MILLION FOR ACQUISITION OF ENERGY
EFFICIENT VEHICLES. THE INCREASE IN CONSTRUCTION FUNDING ALONE IS
FOUR TIMES GSA'S TYPICAL CONSTRUCTION BUDGET FOR A SINGLE YEAR,
AND THE RECOVERY ACT REQUIRES GSA TO OBLIGATE THE MAJORITY OF
THOSE FUNDS WITHIN A 20-MONTH PERIOD. IN ADDITION TO FUNDS GOING**

DIRECTLY TO GSA, SIGNIFICANT ADDITIONAL AMOUNTS WILL FLOW THROUGH GSA FROM OTHER AGENCIES. THESE ADDITIONAL AMOUNTS INCLUDE, FOR EXAMPLE, \$620 MILLION FOR DEPARTMENT OF HOMELAND SECURITY CONSOLIDATION AND LAND PORTS OF ENTRY, \$90 MILLION FOR THE STATE DEPARTMENT'S PASSPORT OFFICES AND TRAINING CENTER, AND POSSIBLY \$500 MILLION FOR THE SOCIAL SECURITY ADMINISTRATION DATA CENTER. THE BOTTOM LINE IS THAT GSA IS BEING ASKED TO SPEND AND MANAGE FIVE TIMES MORE THAN IT NORMALLY DOES IN A SIGNIFICANTLY SHORTENED TIMEFRAME.

THIS AFTERNOON, I WOULD LIKE TO BRIEFLY ADDRESS THE FOLLOWING: 1) THE OIG RELATIONSHIP WITH GSA ON RECOVERY ACT EFFORTS; 2) STEPS THE OIG IS TAKING TO PROVIDE EFFECTIVE OVERSIGHT; AND 3) CHALLENGES THAT GSA WILL FACE AS RECOVERY ACT EFFORTS MOVE FORWARD.

OIG RELATIONSHIP WITH GSA ON RECOVERY ACT MATTERS.

GSA OIG HAS BEEN MEETING REGULARLY WITH THE AGENCY BOTH TO MONITOR RECOVERY ACT ACTIVITIES AND TO ENSURE WE HAVE A CLEAR UNDERSTANDING OF THE AGENCY'S PLANS. FOR EXAMPLE, WE ATTEND GSA PLANNING AND IMPLEMENTATION MEETINGS TO KEEP CURRENT ON THE PROGRESS OF RECOVERY ACT EFFORTS. THIS POSITIVE WORKING RELATIONSHIP EXISTS PARTLY DUE TO THE EFFORTS OF ACTING ADMINISTRATOR PAUL PROUTY, AND I THANK HIM FOR HIS COLLEGIALLY.

WE HAVE ALSO DEVELOPED STRATEGIES TO CONDUCT MORE TIMELY REVIEWS IN RECOGNITION OF THE NEEDS OF THE AGENCY TO ACT QUICKLY ON RECOVERY ACT PROJECTS, AS I WILL DISCUSS.

EFFECTIVE OVERSIGHT

THE MANTRA FROM THE MOVIE "FIELD OF DREAMS" IS: "IF YOU BUILD IT, THEY WILL COME." WELL, GSA IS BUILDING IT, NOW. HOWEVER, SOME OF THOSE WHO WILL COME ARE THE CRIMINALS, FRAUDSTERS, AND CHEATS. IF

CONTRACTING FOR HURRICANE KATRINA AND THE WAR IN IRAQ TAUGHT US ANYTHING, IT WAS THAT QUICK GOVERNMENT SPENDING OF LARGE AMOUNTS OF MONEY CREATES CONSIDERABLE RISK.

CONGRESS HAD THE FORSIGHT TO INCLUDE IN THE RECOVERY ACT PROVISIONS FOR OVERSIGHT, AND THE OIG HAS DONE SEVERAL THINGS TO PREPARE AND CARRY OUT OUR RESPONSIBILITIES UNDER THE ACT. I WOULD LIKE TO HIGHLIGHT A FEW. AS I MENTIONED, WE ARE WORKING WITH THE AGENCY TO STAY ABREAST OF ITS ACTIVITIES AND IDENTIFYING KEY ISSUES OR RISKS. NEXT, TO ADDRESS THESE RISKS AND MEET THE TIMEFRAMES SET IN THE RECOVERY ACT, WE HAVE DEVELOPED NEW WAYS TO RESPOND QUICKLY. WE HAVE ADOPTED A QUICK RESPONSE APPROACH USING AUDITORS AND INVESTIGATORS TO RAPIDLY FOLLOW UP ON RECOVERY ACT COMPLAINTS AND REFERRALS, INCLUDING ONES FORWARDED BY THE RECOVERY ACCOUNTABILITY AND TRANSPARENCY BOARD.

WE HAVE ESTABLISHED A CORE TEAM OF AUDITORS AND WILL BE USING A STREAMLINED APPROACH TO PERFORMING REVIEWS. BECAUSE TRADITIONAL YELLOW BOOK AUDITS WILL TAKE TOO LONG, WE ALSO ARE TAKING AN AGGRESSIVE APPROACH TO RECOVERY ACT OVERSIGHT. WE PLAN TO REPORT IN REAL TIME ON PROJECTS AS THEY ARE OCCURRING. IN ADDITION, WE WILL EMPLOY VULNERABILITY ASSESSMENTS AND OTHER EVALUATIONS TO ENSURE THAT IMPORTANT ISSUES ARE ADDRESSED EARLY AS PROJECTS MOVE FORWARD.

CHALLENGES FACED BY GSA.

THE AMOUNT OF FUNDS AND SHORT TIMEFRAME WILL CREATE SIGNIFICANT CHALLENGES FOR GSA. I WOULD LIKE TO HIGHLIGHT WHAT I SEE AS FOUR OF THOSE CHALLENGES.

FIRST, I BELIEVE THE MOST CRITICAL CHALLENGE WILL BE THE NEED FOR ADDITIONAL QUALIFIED PERSONNEL, ESPECIALLY CONTRACTING OFFICERS AND PROJECT MANAGERS. BECAUSE GSA MAY NOT BE ABLE TO HIRE SUFFICIENT QUALIFIED NEW EMPLOYEES TO MEET THIS NEED, GSA IS CONSIDERING HIRING CONTRACTORS TO FILL THIS IMMEDIATE VOID AND ASSIST WITH THE INCREASED WORKLOAD.

THIS BLENDED WORKFORCE WILL CREATE A SECOND CHALLENGE, NAMELY THE ADDITIONAL RISKS RELATED TO SECURITY, CONFLICTS OF INTEREST, AND MANAGEMENT OF CONTRACTORS.

A THIRD CHALLENGE, BASED ON PROBLEMS IDENTIFIED IN THE PAST, WILL BE MANAGING PROJECTS TO PREVENT COST ESCALATIONS BEYOND APPROVED FUNDING, RESOLVING CLAIMS, AND AVOIDING PROJECT DELAYS.

A FOURTH CHALLENGE I WOULD LIKE TO MENTION TODAY IS MANAGING UNBUDGETED CUSTOMER NEEDS. BECAUSE OF THE TIMEFRAMES SET BY THE RECOVERY ACT, SOME PROJECTS WILL INVOLVE ITEMS SUCH AS ADDITIONAL TENANT IMPROVEMENTS AND TEMPORARY MOVING COSTS THAT ARE NOT INCLUDED IN ANY AGENCY BUDGET. GSA MUST ANTICIPATE AND PLAN FOR THESE ADDITIONAL COSTS.

AS IT STRUGGLES TO MEET THESE CHALLENGES, GSA IS LIKE A SINGLE-ENGINE FREIGHT TRAIN THAT SUDDENLY MUST CARRY 4 TIMES ITS NORMAL LOAD WITH THE ADDITION OF MORE FREIGHT CARS. THE ANTICIPATED ADDITION OF EVEN MORE CARS TO THAT TRAIN, AS AGENCIES START TURNING OVER PROJECT FUNDING TO GSA, WILL PUT EVEN MORE STRAIN ON THE GSA ENGINE. IT IF HITS A HILL OR A BUMP, THE ENGINE MAY QUICKLY FRY AND BURN OUT.

THANK YOU FOR YOUR ATTENTION. I ASK THAT MY STATEMENT AND WRITTEN MATERIALS BE MADE PART OF THE RECORD. I WOULD BE PLEASED TO RESPOND TO QUESTIONS FROM THE SUBCOMMITTEE.

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Written Portion

Testimony on
Oversight of the American Recovery and Reinvestment Act of 2009
at GSA

The oversight of GSA's implementation of the Recovery Act will require a full range of activities, including contract, financial, and internal audits as well as criminal investigations. The need for oversight will extend beyond the funding period until the projects are completed and claims have been settled. Below we address the OIG relationship with GSA on Recovery Act matters, our plans to ensure effective oversight, and challenges facing GSA.

OIG RELATIONSHIP WITH GSA.

To provide oversight, we have adopted a path that allows the OIG to be available to the agency, but also maintains our independence. We attend the weekly Stimulus meetings held by the Agency, are meeting with key managers on the Recovery Act activities, and attended both PBS's March meeting in Chicago on its approach to implementing the Recovery Act and PBS's April Capital Construction Conference for project management (that included discussion of Recovery Act project issues). We are open to management requests for assistance at these meetings, and we have been in discussion with regional management regarding their need for contract audit assistance

on Architect-Engineering and Construction contracts. As discussed below, in recognition of the agency's need to act quickly, we also have developed prompt methods of review.

OVERSIGHT OF STIMULUS EXPENDITURES

To provide oversight of the Recovery Act funds and GSA's Recovery activities, the GSA OIG will use a multi-faceted approach. We will focus on key issues such as how the agency is addressing its long-standing risks in specific areas and whether activities are complying with regulations and the intended purposes of the Recovery Act. We also will use new, quicker methods to conduct our work. Our audit and investigative efforts will include the following.

Vulnerability Assessments.

We are developing an initial assessment of the vulnerabilities the Agency is facing. As part of this, we have reviewed GSA's responsibilities under the Recovery Act and examined the agency's Recovery spending and program plans, which identify how GSA will meet its responsibilities. We have also assessed these activities in light of the accountability objectives identified by the Office of Management and Budget in its Recovery Act guidance and we have identified issues that may impede the agency in its Recovery Act activities.

This assessment will be used as the basis for identifying how the OIG will approach GSA's Recovery Act programs and projects and then develop targeted oversight initiatives. We will evaluate various aspects of the programs receiving stimulus funding, focusing on management, internal controls, project planning and execution, as well as contracting.

Reviewing Construction Projects.

The overall purpose of our review of construction projects is to answer the question, "Did GSA PBS plan, select, award and administer construction contracts in accordance with the prescribed criteria and Recovery Act mandates?" The purpose can be divided into three distinct phases: 1) Planning; 2) Solicitation/Selection/Award; and 3) Contract Performance.

To accomplish our objectives, we will review selected projects at various points within each phase (Planning, Solicitation/Selection/Award or Performance), taking a snapshot in time to determine if the project meets all prescribed criteria and Recovery Act mandates. Due to time restrictions, reviews will not cover any project completely from inception to completion. Rather, the intent will be to quickly and accurately determine if contracts utilizing Recovery Act funds include standard contracting requirements.

Reporting will be done using Critical Point Evaluations (CPEs) to facilitate fast turnaround times. The CPE will take the form of a summary result of review and, in some cases, may include suggestions to alleviate the issues identified. A series of these memoranda may be compiled at a later date into a summary highlight report. As a result of CPEs, management will be able to address issues on a quick turnaround basis. CPE memoranda and the resulting reports will be issued at the appropriate managerial level with courtesy copies to higher level management. These memoranda will also be posted to and reported through the Recovery.gov website.

Investigative activities.

Our investigative efforts for the Recovery Act will emphasize both preventing and identifying fraud. GSA OIG has established a Quick Response approach that uses auditors and investigators, as appropriate, to efficiently process Recovery Act leads. We have established a central collection point for Recovery Act referrals, complaints and inquiries. Dedicated staff will interview the complainant; collect additional information; evaluate the matter; and determine where the matter should be sent for further investigation. While some matters will fall within the investigative purview of the GSA OIG, others will not, and those will be sent to the appropriate investigative agency.

GSA OIG also will provide proactive fraud prevention briefings targeted to the individuals within GSA who are responsible for the expenditure of Recovery Act funds. GSA OIG will deliver those briefings along with individuals from other federal agencies, including the Department of Justice. In addition, OIG fraud alert memoranda to agency personnel will highlight fraud schemes attempted in other Federal entities to raise awareness levels.

CHALLENGES FACED BY GSA.

GSA's fiscal year 2009 construction budget is approximately \$1.4 billion. The Recovery Act adds \$5.55 billion, more than four times GSA's typical construction budget for a single year, and the Act requires GSA to obligate the majority of these funds within a 20-month period. Specifically, the Recovery Act provides \$750 million for Federal buildings and Courthouses, \$300 million for Land Ports of Entry, and \$4.5 billion for measures necessary to convert Federal buildings to High-Performance Green Buildings. The Act requires that \$5 billion of these funds be obligated by September 30, 2010, and the remainder shall be available until September 30, 2011. The Recovery Act also provides \$300 million to improve the fuel efficiency of vehicles in the Federal fleet, to remain available until September 30, 2011.

In addition to this direct funding, GSA will be tasked by customer agencies in meeting their responsibilities under the Recovery Act. GSA will receive additional funding for construction projects allocated to other agencies, including \$90 million from the Department of State for passport offices and a training center, \$620 million from the Department of Homeland Security for consolidation and land ports of entry, and possibly \$500 million from the Social Security Administration for a data center. Likewise,

customer agencies may take advantage of GSA contract vehicles such as multiple award schedule contracts to meet their Recovery Act responsibilities or task GSA to provide other services using Recovery Act funding through programs such as the Assisted Acquisition Program.

In March 2009, GSA submitted its project list. The project list includes funding 17 projects for Federal Buildings, courthouses, and land ports of entry valued at over \$1 billion; 43 High Performance Green Building full and partial building modernizations valued at over \$3.1 billion; as well as over 190 limited scope High Performance Green Building projects valued at over \$800 million. In addition, GSA has also reserved approximately \$298 million for small High Performance Green Building projects, \$108 million for space rental, and \$127 million for building operations. Some of the challenges facing GSA in managing these funds are highlighted below.

Need for Contracting Officers and Project Managers.

One of the most immediate challenges in undertaking these projects is the need for qualified personnel, especially contracting officers and project managers. PBS staffing is geared more toward its normal workload of about \$1.3 billion per year. With the additional funding from the Recovery Act, GSA's need for contracting personnel and project managers to handle this workload is critical. In early discussions, PBS has been contemplating several options, including using contractors to supplement GSA's in-house staff. Although this may provide some relief to GSA's contracting and project management staff, agency personnel will still be burdened with the need to administer and oversee these contractors in addition to their other work. In addition, GSA will also have to ensure adequate security and minimize any potential conflict of interest that the contractors may have at either the organization or individual level.

Timely Awarding of Contracts.

To award the construction contracts and expend the funds in a timely fashion, GSA needs to not only ensure it has enough qualified personnel as discussed above, but it also needs to ensure that it thoroughly plans for the projects and the related acquisitions. Managing the design and construction of projects is a very complicated process regardless of project size. The projects that GSA will undertake using the Recovery Act funding vary in their state of readiness. Some projects are currently ongoing and will be able to expend the funds with little extra planning, while some projects are still in the early planning or design phases and will require a high degree of planning to get ready just to make an award. The planning for these projects is necessary to limit problems from arising in the future.

Tracking Funding Deadlines and Requirements.

With regard to tracking and planning the expenditure of the Recovery Act funds, GSA will also be challenged by the normal funding stream of a construction project. According to the Recovery Act, \$5 billion of GSA's construction funds need to be obligated by September 30, 2010 and the remainder by September 30, 2011. In addition, the funds expire after five years and cannot be used afterward. However, on a typical large construction project, funds are normally obligated throughout the life of the project, which could be three or more years past the initial award date. On these projects, the funds are obligated when the base contract is awarded and during the construction project as contract modifications due to changes and unforeseen conditions arise. The Recovery Act's deadlines for the obligation and expiration of the funds do not support this funding stream. PBS has been researching its alternatives. However, if this is unresolved, PBS may need to use future funds to augment its Recovery Act projects as the funds cannot be awarded or expended beyond the dates in the Recovery Act.

Completing Projects on Time and Minimizing Cost Overruns.

Historically, GSA has faced a number of issues that could impact its implementation of the Recovery Act. With regard to the construction program, it has had issues with cost escalations, claims, and project delays that have added additional costs to the projects as well as lost revenue. As part of its efforts to address these risks, GSA is establishing a Program Management Office to monitor and oversee all aspects of the construction being performed under the Recovery Act including the adherence to the project budget and schedule. This office is being created from scratch and as such will require high level of management to ensure it operates efficiently and effectively.

Anticipating Unbudgeted Customer Needs.

Customer funding will also be a challenge for GSA. On a typical construction project, customers fund a variety of costs including the costs for above standard tenant improvements and the costs to move into and out of temporary "swing space" for building modernization projects. The need for funding these costs is usually discussed with customer agencies in the early planning stages of a project so that the funding can be incorporated into the budget process. However, as many of the planned Recovery Act projects were not anticipated to occur this quickly, the funding for these costs likely have not been incorporated into the customer agency budgets. As a result, GSA will need to work with customer agencies to determine the source of the funding to move these projects forward.

Reporting Issues.

GSA has a number of reporting requirements under the Recovery Act. One challenge will be tracking, reporting, and reconciling the use of Recovery Act funding on

projects, especially those with multiple funding sources. On some projects, GSA may have not only Recovery Act funding, but also funding from its regular budgetary accounts and customer agency funding as well. According to OMB Guidance (M-09-15), the Recovery Act funding cannot be commingled with the other funding and must be tracked and reported on separately. This necessitates maintaining effective funds management at the project level with careful attention to determining whether the funds can be aligned with project specific tasks or charged against the project using an alternative method.

Another challenge for GSA will be to reconcile its reporting. GSA will be reporting hundreds of contract awards through USAspending.gov, as well as the obligations and outlays related to these contracts. However, the contract dollars being reported will likely always exceed the obligations reported due to multiple funding sources as discussed above and the obligation will likely always exceed the outlays due to timing differences, especially for large, multi-year construction projects. However, other issues can impede the reconciliation of funds. For example, the contract awards related to buildings and construction as well as those for vehicle acquisition are processed in systems that are not integrated with the financial system and in some cases the contracts have not been obligated timely. As a result, a contract could be reported in USAspending.gov although it may not be obligated in the financial system.

Finally, with regard to financial reporting, the FY 2007 financial statements failed to report \$276 million of building related contractual obligations, including one construction contract for \$188 million, as well as \$220 million of contractual obligations for vehicle purchases. GSA will need to ensure it accurately reports on its expenditures of Recovery Act funds in its financial statements.