



U.S. GENERAL SERVICES ADMINISTRATION  
Office of Inspector General

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March 29, 2012

MEMORANDUM FOR ALLISON H. AZEVEDO  
REGIONAL COMMISSIONER, PBS  
GREAT LAKES REGION (5P)

FROM ADAM R. GOOCH *Adam Gooch*  
REGIONAL INSPECTOR GENERAL FOR AUDITING  
GREAT LAKES REGION (JA-5)

SUBJECT Administration of Task Order Number GS-P-05-10-SC-0044  
for Construction Services in Support of the American  
Recovery and Reinvestment Act of 2009<sup>1</sup> at the Federal  
Building and United States Courthouse in Danville, Illinois.  
Memorandum Number A090184-18

During our review of the administration of the subject task order, we identified two issues that warrant your attention. First, the Public Buildings Service (PBS) proceeded with the project even though it is a poor investment with minimal return. Second, PBS purchased open market items without proper price analysis.

PBS awarded task order number GS-P-05-10-SC-0044 to Alpha Controls & Services, LLC (Alpha) on March 31, 2010, for \$315,859. The task order was awarded in care of Schneider Electric Building Americas, Inc. (Schneider) through Schneider's GSA schedule contract GS-07F-7851C.<sup>2</sup> Alpha was to upgrade lighting fixtures and the building automation system<sup>3</sup> at the Danville Courthouse.

The PBS Commissioner, Great Lakes Region, submitted a formal response to our audit memorandum. We have incorporated the response into the final memorandum.

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<sup>1</sup> The American Recovery and Reinvestment Act of 2009 (ARRA) provides the General Services Administration (GSA) with \$5.55 billion for the Federal Buildings Fund. In accordance with ARRA, the GSA Public Buildings Service (PBS) is using the funds to convert Federal buildings into High-Performance Green Buildings as well as to construct Federal buildings, courthouses, and land ports of entry. The ARRA mandates that \$5 billion of the funds must be obligated by September 30, 2010 and that the remaining funds be obligated by September 30, 2011. The GSA Office of Inspector General (OIG) is conducting oversight of the projects funded by the ARRA. One objective of this oversight is to determine if PBS is awarding and administering contracts for limited scope and small construction and modernization projects in accordance with prescribed criteria and ARRA mandates.

<sup>2</sup> Alpha has a supply agreement as a value added reseller with Schneider. This agreement allows Alpha to use the GSA schedule contract and makes it responsible for complying with the terms and conditions of the contract.

<sup>3</sup> Building automation systems (BAS) are installed in buildings to control and monitor the building's mechanical and electrical equipment such as ventilation, lighting, power systems, fire systems, and security systems with a computer.

## **The project is a poor investment with minimal return**

As part of our review, we examined the rationale behind PBS's decision to invest in the building and perform the project. We found that the Great Lakes Region's PBS decided to proceed with this work even though it had calculated the payback for the project at 97.8 years (i.e. the period it would take for the savings generated by the improvement to offset the cost of installing the improvement) based on its estimated cost. Based on actual cost, we computed the payback at 103 years.

When we discussed this issue with the Region, PBS told us that:

There are several R5 ARRA [Recovery Act] projects including Danville where other, overriding factors exist that require decisions that make good financial sense but that also reduce the relevancy of relying on the simple payback methodology as a test of project efficacy. GSA has additional obligations to fulfill, such as High Performance Green Buildings criteria along with energy savings in the execution of ARRA projects, and does not simply use payback as the decision point to fund a project. The Danville project and other ARRA projects, some having a high simple payback, accomplish both energy savings and GSA's obligations, under both Executive Orders and legislation.

PBS officials acknowledged that selecting this project for Recovery Act funding relied on subjective analyses. PBS officials told us that replacing the building's automation system was justified due to the age of the existing system and the difficulty in finding replacement parts. However, they also stated that getting a good payback on the lighting upgrade was difficult.

Our overriding concern is that GSA invested taxpayer dollars for the long term in a building that is more than half empty. The Danville Courthouse underwent a major renovation in 1991. At that time, GSA spent approximately \$4 million restoring the lobby, replacing the heating, ventilation and air conditioning, and electrical systems, as well as improving the exterior and some of the interior space. Since then, reinvestment has been limited because the building has a 52.4 percent vacancy rate and the rental rates are low. Moreover, the Return-On-Equity<sup>4</sup> was a negative 3.99 percent in FY10 and is not expected to improve until the building's vacant space is filled.

Furthermore, according to PBS's Asset Business Plan,<sup>5</sup> a retention-disposal study was completed in 2007. The Asset Business Plan stated:

Based on the information available at that time, retaining the building proved to have an economic advantage over relocating federal tenants to lease space. However, the building's reinvestment needs have increased

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<sup>4</sup> Return-On-Equity generally is net operating income divided by value. For most assets, value is the fair market value determined by a recent third party appraisal.

<sup>5</sup> The Asset Business Plan is a comprehensive repository of information about each of PBS' assets.

over the last 4 years. Once the results of the exterior wall study are available, the retention-disposal analysis will need to be revisited. The Asset Team will continue to market the vacant space to federal agencies state and local government and private sector tenants. ... If the vacant space is not backfilled soon, the results of a new retention-disposal study may show that this building should be declared excess.

One of the Recovery Act's purposes is to invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits. With a vacancy rate of 52.4 percent, a negative Return-On-Equity, and a payback period of 103 years, the \$315,859 investment to upgrade all the lighting and the building automation system appears to be a poor investment with minimal return.

In response, PBS stated:

PBS's decision to invest in the building and perform the project was not limited to a simple payback calculation. Other criteria were considered, such as the American Recovery and Reinvestment Act (ARRA) overarching mandate of job creation and to convert Federal buildings into high-performance green buildings. In addition, as part of the approval process, the Program Management Office (PMO) in Central Office reviewed and approved the BAS and lighting upgrade projects.

PBS noted that replacement of the building automation system was necessary and the lighting portion of the ARRA project addressed deficiencies identified in the 2009 Physical Condition survey.

PBS' response also said; "While economics alone cannot justify the BAS replacement and lighting projects, the energy usage has improved even more than anticipated. Energy usage is currently 16% lower than the FY 2009 – 2010 average. The energy reduction associated with the ARRA projects contributed to the achievement of PBS's building strategy."

Finally, PBS stated that "as part of the capital planning process, PBS remains responsible for the stewardship of this historic asset, providing a safe and efficient workplace for the tenants and complying with all environmental and energy mandates. Meeting these obligations involves ongoing investment in this building. PBS's strategy is to pursue energy efficient projects to reduce operating costs while continuing to market the property with Federal agencies and outleasing tenants."

We acknowledge that the energy usage may be lower than the FY 2009-2010 average due to the upgrades, however, our main concern remains: upgrading a building that has a high vacancy rate and is a possibility for excess appears to be a poor investment.

## **PBS purchased open market products without price analysis**

We could not verify the pricing for any of the lighting products used on this task order. Although the task order was placed through Schneider's schedule contract, Schneider did not supply the lighting products; therefore, Alpha purchased them from Graybar, another schedule contract holder. However, the prices could not be tied to either Schneider's or Graybar's schedule pricelists. In fact, the majority of the lighting products were not standard "off the shelf items" - they were made-to-order supplies. Further, only 17 of the controls and sensors were schedule items; the remaining 23 had to be purchased on the open market.

According to the contracting officer and the contract file, the determination was made to accept the contractor's proposal without negotiations because the proposed price was 8.7 percent below the Government estimate of \$346,098 and Alpha has a very good past performance rating.

Federal Acquisition Regulation (FAR) 8.402(f) allows an ordering activity's contracting officer to authorize the procurement of open market items when they are not available on schedule if all applicable acquisition regulations<sup>6</sup> pertaining to the purchase have been followed. The regulations require the contracting officer to determine that the price for the non-schedule items is fair and reasonable, to clearly label the items on the order as items not on the schedule, and to include on the order all clauses applicable to items not on the schedule.

We could find no evidence that any of these requirements were followed, nor did we find any acknowledgement that the order contained items not on the contractor's schedule pricelist. As a result, the procurement of the open market items violates the requirements for using the GSA schedule contract (FAR 8.4). Therefore, the Government may have paid more than it should have for supplies, equipment, and services related to the replacement of the lighting.

In its response, PBS stated that

The ordering activity evaluated the response using the evaluation criteria of past performance and price as contained in the RFQ package. Price analysis involved comparing the quote to the Government Cost Estimate (GCE) and included a thorough review of the FSS contract price list to ensure materials described in the statement of work were on the price list. Due to the high volume of FSS line items pricing pages (172 pages), the Ordering Official conducted a sampling of the price list items to ensure compliance with the statement of work materials. It was determined that the total price was fair and reasonable as compared to contractor's FSS price list and to the GCE.

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<sup>6</sup> These regulations include publicizing (FAR part 5); competition requirements (FAR part 6), contracting methods (FAR parts 13, 14, and 15), and small business programs (FAR part 19).

Further,

In accordance with FAR 8.404(d), Pricing, GSA (FAS) has already determined the prices of supplies, fixed-price services, and rates for services offered at hourly rates, under schedule contracts to be fair and reasonable. In addition, it is understood that in accordance with FAR 8.402, when an FSS vendor submits a quote, the quote is to be inclusive of all supplies and materials as found on the FSS contract price list. As previously explained to the IG and as found in the delivery order file, this FSS delivery order was issued to a Value Added Resaler (VAR). The prices submitted by a VAR are pre-established rates for Government accounts based on the FSS vendor's price list.

PBS stated that the fact that the modification correcting the lighting fixtures was under the Simplified Acquisition Threshold allows the contracting officer to solicit from one source if the contracting officer determines that the circumstances of the contract action deem only one source reasonably available.

The response continues, "PBS acknowledges that item (3) from FAR 8.402(f) was not clearly addressed in the contract modification file as being open market purchases. Additionally, sole source documentation should have been in the file stating the Contracting Officer was following FAR 13.106-1(b). Sole source documentation has been completed and is now included in the delivery order file."

Although we did note that the price analysis involved comparing the quote to the Government Cost Estimate, we did not find evidence that PBS verified the pricing to the contractor's schedule price list prior to the award of the task order. Although items on the schedule have been determined to be fair and reasonable, without verification that the items on the quote are in fact schedule products, there is no assurance that the fair and reasonable prices have been charged.

If you have any questions about this memorandum, please contact Hilda Garcia or me at (312) 353-6695 or (312) 353-0500.

## **Report Distribution**

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