

IMPLEMENTATION REVIEW OF REVIEW OF
PROPOSED LEASE PAYMENT RECOVERIES
NORTHEAST AND CARIBBEAN REGION
REPORT NUMBER A080179/P/2/R09003
DATED JULY 24, 2009
ASSIGNMENT NUMBER A100095

FEBRUARY 24, 2011



General Services Administration
Office of Inspector General
Jacob K. Javits Federal Building
New York, NY 10278



Date: February 24, 2011

Reply to Steven Jurysta
Attn of: Acting Regional Inspector General for Auditing
New York Field Audit Office (JA-2)

Subject: Implementation Review of Review of Proposed Lease Payment Recoveries
Northeast and Caribbean Region
Report Number A080179/P/2/R09003 dated July 24, 2009
Assignment Number A100095

To: Joanna Rosato
Acting Regional Commissioner, Public Buildings Service (2P)

We have completed an implementation review of the management actions taken in response to the recommendation in the subject audit report. Our review found several instances in which the actions listed on the corrective action plan have not been fully implemented. Appendix A contains a copy of the management action plan your office provided.

Background and Audit Report Findings

In January 2003, the Office of Management and Budget issued guidance to all executive departments and agencies citing the Administration's Improved Financial Performance initiative to reduce erroneous payments made by the federal government. Related to this initiative, the National Defense Authorization Act for Fiscal Year 2002 requires agencies that enter into contracts in excess of \$500 million in a fiscal year to carry out a cost-effective program for identifying errors made in paying contractors and recover amounts erroneously paid to the contractors. A required element of such a program is the use of *recovery audits* and recovery activities.

As a participant in this initiative, the General Services Administration has engaged PRG-Schultz International, Inc. (PRG) as its contracted recovery auditor. PRG reviews payments related to leasing, building services, supplies, and information technology to identify erroneous payments. In fiscal year 2008, PRG performed a recovery audit of lease payments in Region 2. On April 16 and June 3, 2008, PRG provided Region 2 with results of its recovery audit of lease payments during fiscal year 2008. The audit identified potential overpayments totaling \$1,830,364 associated with 25 of the leases that PRG reviewed. The Director of Region 2's Account Management Division requested that the Office of Inspector General review eight of the lease files with identified overpayments before they approached the lessors to request refunds.

As a result of our review of the eight lease files, we identified an additional \$157,956 of potential lease payment recoveries that were not included in PRG's recommended recovery calculations. Consequently, we recommended that management initiate prompt action to recoup overpayments

that have been identified and/or verified for the eight leases we reviewed and initiate timely actions to verify and recoup proposed overpayments for the remaining leases reviewed by PRG.

In August 2009, management issued an action plan detailing the steps they proposed to take to implement our recommendation. In addition, management volunteered that additional steps had already been taken to mitigate the occurrence of future lease payment discrepancies; these additional steps were incorporated into management's action plan as well.

Objective, Scope, and Methodology

The objective of this implementation review was to determine if management has fully implemented the steps in their action plan. To accomplish this objective, we:

- 1) Reviewed Report Number A080179/P/2/R09003, Review of Proposed Lease Payment Recoveries, Northeast and Caribbean Region, dated July 24, 2009, and all supporting audit evidence.
- 2) Reviewed the action plan, and related documentation dated August 25, 2009, in response to the original report.
- 3) Retrieved and reviewed relevant Pegasys financial records, from the time the original report was issued to the present.
- 4) Requested and reviewed recent Lease Digest Actions and correspondence between PBS and the lessors.
- 5) Calculated CPI adjustments for lease payments going forward from the date of the original review, and used them to create a schedule of lease payments based on the contractual conditions disclosed.
- 6) Held discussions with agency personnel.

Results of Review

With two exceptions, management responded to our audit recommendation by implementing the actions listed on their corrective action plan. Details follow:

Action to be Taken: Contact lessors to request remittance of overpayments and/or real estate tax receipts.

Regional staff contacted all involved lessors to request remittance of lease overpayments and have received compensation, in full or in part, for all leases. However, the Region has not yet contacted the lessor of lease LNJ23234 to attempt to recoup a \$6,882 overpayment of real estate taxes that was detailed in our report. Therefore, this Action Step remains unresolved.

Action to be Taken: Process finance documents to withhold overpayments from rentals where the lessor has not responded or has refused to remit payment.

None of the involved lessors were unresponsive or refused to remit payment. Regional staff has processed financial documents to recoup overpayments for all leases, although, as discussed below, the overpayments identified for lease LNY22885 have not been fully resolved.

PRG identified a \$232,888 lease overpayment attributable to lease LNY22885, predicated on an annual overpayment of \$74,749 through November 20, 2005. We determined that this overpayment continued beyond this date, resulting in an additional overpayment of \$167,941 through February 29, 2008. The Region has recouped the \$232,888 identified by PRG, and has also amended the lease, effective April 1, 2010, to reduce the annual lease amount by \$74,749. However, the Region but has not yet fully resolved the issue of overpayments that occurred from December 2005 through March 2010.

Additional Observations

As indicated before, in addition to directly addressing our recommendation, management volunteered that additional steps had already been taken to mitigate the occurrence of future lease payment discrepancies. We reviewed these additional steps, and offer the following comments:

- *A one time effort will be made...to review all the lease documents in the inventory to capture those leases that contain step down rental provisions, or stepped rental increases, and to ensure that a STAR project is created for such actions...*

With the action plan, PBS provided lease and rent tracking reports. We verified that these reports capture rental increases and decreases and the years in which they are due to occur.

- *A tracking system will be created to ensure that lessors submit paid tax receipts in accordance with the lease contract provisions so that tax adjustments, whether increases or decreases, are performed in a timely manner.*

We were not provided a copy of this tracking system.

- *Monthly review of the Negative Net Operating Income report; this report indicates discrepancies in revenue vs. expenses, and will provide timely alert when lease rental payments exceed revenue.*

We reviewed the Negative Net Operating Income (NOI) report for the 1st quarter of 2010 and noted that none of the reviewed leases were captured. As such, it appears that this report may not be effective for detecting the types of lease discrepancies found by the review.

Further, Regional management provided us with meeting minutes that explained that they will no longer focus on NOI, but instead on Funds From Operations (FFO).

- *Each branch will be assigned a contract hire to maintain data integrity...*

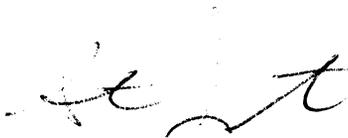
According to Regional management,

Our Action Plan stated that each branch will be assigned a contract hire to maintain data integrity. However, we have determined that one person assigned to each specific task for the entire division is a more feasible option... We believe that having each person focus on their area of expertise fosters consistency and accuracy.

Action Required

The Regional Commissioner, Public Buildings Service (2P), is required to submit a revised corrective action plan to the Internal Control and Audit Division (BEI). The revision should address the elements of the original action plan that were not fully implemented.

Thank you and your staff for the courtesies extended during this review. If you have any questions regarding this report, please contact me at (212) 264-8623 or Michael Vaccarelli at (212) 264-8630.



STEVEN JURYSTA
Acting Regional Inspector General for Auditing
NY Field Audit Office (JA-2)

IMPLEMENTATION REVIEW OF THE REVIEW OF
PROPOSED LEASE PAYMENT RECOVERIES
REPORT NUMBER A080179/P/2/R09003
DATED JULY 24, 2009
ASSIGNMENT NUMBER A100095

Action Plan for Review of Proposed Lease Payment Recoveries



GSA Public Buildings Service

~~SEP 25 2009~~

MEMORANDUM FOR HOWARD R. SCHENKER
REGIONAL INSPECTOR GENERAL FOR GENERAL
FOR AUDITING
NEW YORK FIELD OFFICE (JA-2)

FROM: ROBERT A. PECK, COMMISSIONER – P *Peck*

SUBJECT: Review of Proposed Lease Payment Recoveries,
Northeast and Caribbean Region (Report Number
A080179P2R09003)

In accordance with GSA Order ADM P2030.2C, we have reviewed the Regional Administrator's attached response, dated August 25, 2009, to the recommendation concerning the subject audit. The corrective action plan and the Management Decision Record (MDR) are also attached.

If you have any questions, please contact, John Scorgia on (212) 264-4285.

Attachments

U.S. General Services Administration
1800 F Street, NW
Washington, DC 20405-0002
www.gsa.gov



GSA Northeast and Caribbean Region

August 25, 2009

MEMORANDUM FOR HOWARD R. SCHENKER
 REGIONAL INSPECTOR GENERAL FOR AUDITING
 NEW YORK FIELD OFFICE (JA-2)

FROM: JOHN SCORCIA *John Scorcia*
 REGIONAL COMMISSIONER
 PUBLIC BUILDINGS SERVICE (2P)

SUBJECT: MANAGEMENT RESPONSE
 REVIEW OF PROPOSED LEASE PAYMENT RECOVERIES
 NORTHEAST AND CARIBBEAN REGION
 REPORT NUMBER A080179/P/2/R09003

We have reviewed the Audit Report and concur with the recommendation that the Director, Real Estate Acquisition Division, initiate prompt action to recoup overpayments that have been identified and/or verified for the eight leases reviewed. We will subsequently verify and recoup proposed overpayments for the remaining leases reviewed by the contract recovery auditor, PRG-Schultz International, Inc.

The Director of the Real Estate Acquisition Division has implemented an Action Plan (Attachment 1) and has initiated action to recoup overpayments. In accordance with the Action Plan, a tracking report has been created to ensure that timely action is taken to effect rental changes when required (Attachment 2).

If you have any questions, please contact me at (212) 264-4282.

Attachment (1) Action Plan – Lease Payment Recoveries Report
Attachment (2) Real Estate Acquisition Division Lease Tracking Report



U.S. General Services Administration
Jacob K. Javits Federal Building
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New York, NY 10278
www.gsa.gov



ACTION PLAN

Designated Responding Official: Carol Diaz, Division Director, Real Estate Acquisition
 Public Building Service, Region 2

Contact Person: Carol Diaz
 Telephone Number: 212-264-4214
 Date: August 24, 2009

REPORT NUMBER/TITLE	RECOMMENDATION NUMBER	PROPOSED COMPLETION DATE
A080179/P/2/RO9003 REVIEW OF PROPOSED LEASE PAYMENT RECOVERIES	1	January 24, 2009

Recommendation:

Recoup overpayments that have been identified and/or verified for the eight leases reviewed, and verify and recoup proposed overpayments for the remaining leases reviewed by its contract recovery auditor, PRG-Schultz International, Inc.

<u>Action to be Taken Step by Step</u>	<u>Supporting Documentation To be sent to BECA</u>	<u>Documentation will Be Sent Last Day of</u>
Institute Action Plan to Mitigate Lease Payment Discrepancies	Completed (copy attached)	
Contact lessors to request remittance of overpayments and/or real estate tax receipts	Copies of letters to lessors	September 24, 2009
Process finance documents to withhold overpayments from rental where lessor has not responded or has refused to remit payment	Copies of R-620s	October 24, 2009

Attachment 1

U.S. General Services Administration
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 www.gsa.gov

REAL ESTATE ACQUISITION DIVISION
ACTION PLAN TO MITIGATE LEASE PAYMENT DISCREPANCIES
July 2009

A PRG audit performed in March and June of 2008 uncovered a number of instances where rentals paid to lessors were not in accordance with lease contracts, tax adjustment calculations were not performed due to lack of tax receipts, or CPI increases were not effected. There are a number of reasons for these discrepancies:

1. The decreased rental set forth in the lease or the supplemental lease agreement is not effected on the proper date due to lack of a system alert.
2. The CPI escalation is calculated incorrectly, or not calculated at all.
3. Real estate tax bills are not provided to the Government by the lessor as set forth in the lease.
4. Finance has made erroneous duplicate rental payments to the lessor.

In an effort to prevent these discrepancies from occurring in the future, Real Estate Acquisition has implemented the following Action Plan:

1. A one time effort will be made, during the summer of 2009 with the assistance of summer interns, to review all the lease documents in the inventory to capture those leases that contain step down rental provisions, or stepped rental increases, and to ensure that a STAR project is created for such actions. This will create an alert indicating that a 620 must be created on a date certain to effect the proper rental decrease/increase in a timely manner. This action will also allow for more precise BA53 budget action.
2. A tracking system will be created to ensure that lessors submit paid tax receipts in accordance with the lease contract provisions so that tax adjustments, whether increases or decreases, are performed in a timely manner.
3. Monthly review of the Negative Net Operating Income report; this report indicates discrepancies in revenue vs. expenses, and will provide timely alert when lease rental payments exceed revenue.
4. Each branch will be assigned a contract hire to maintain data integrity, such as the creation of project numbers for rental increases/decreases, calculation of tax adjustments and tracking of tax receipt submissions, timely CPI adjustments, etc.

The Division Director and Branch Chiefs will monitor the actions set forth in the plan and make adjustments where necessary.

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