



U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

November 22, 2011

MEMORANDUM FOR ROBIN GRAF
REGIONAL COMMISSIONER, PBS
NORTHWEST/ARCTIC REGION (10P)

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

SUBJECT Administration of Contract for Construction Services in
Support of the American Recovery and Reinvestment Act of
2009¹ at the James A. Redden Courthouse in Medford,
Oregon, and the Federal Building in Eugene, Oregon
Memorandum Number A090184-54

This is to inform you that a key aspect of the Recovery Act task order was not properly administered. The contractor incorporated foreign-made construction material into the project instead of material manufactured in the United States. PBS did not monitor the project for compliance and thereby marginalized the job-creating intent of the Recovery Act.

GSA awarded a task order against Indefinite Delivery Indefinite Quantity (IDIQ) contract number GS-10P-08-LT-D-0082 to Cherokee General Corporation (Cherokee General) for new and replacement boiler systems and associated equipment. The work was performed at the James A. Redden Courthouse in Medford, Oregon (Medford Courthouse) and the Federal Building in Eugene, Oregon (Eugene Federal Building). The task order, dated November 16, 2009, was valued at about \$1.29 million. Work at both buildings was substantially complete in September, 2010. We conducted our review during July, 2011.

¹ The American Recovery and Reinvestment Act of 2009 (Recovery Act) provides the General Services Administration (GSA) with \$5.5 billion for the Federal Buildings Fund. In accordance with the Recovery Act, 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 Recovery Act mandates that \$5 billion of the funds must be obligated by September 30, 2011. The GSA Office of Inspector General is conducting oversight of the projects funded by the Recovery Act. 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 Recovery Act mandates.

Review of Compliance with Section 1605

We inspected the mechanical and electrical equipment installed by Cherokee General at both buildings to test compliance with Section 1605 (Buy American) of the Recovery Act. Of the 22 different types of equipment reviewed (some equipment types had multiple units installed), we noted several instances of foreign-manufactured construction material that violated the Recovery Act Buy American requirements.

Federal Acquisition Regulation clause 52.225-21, incorporated into Cherokee General's IDIQ contract, defines construction material as an article, material, or supply brought to the construction site by the contractor or subcontractor for incorporation into the building or work. The clause implements section 1605 of the Recovery Act by requiring, unless an exception applies, that all manufactured construction material be produced in the United States. The contracting officer listed no exceptions.

At the Medford Courthouse, Cherokee General had installed a 119-gallon water heater that was manufactured in Ontario, Canada. The contractor had also installed two variable frequency drives; one of the units was made in USA while the other was made in China. At both the Medford Courthouse and Eugene Federal Building, electrical components had been installed in steel panel boxes that were made in Mexico.



Large Water Heater Made In Canada

Based on reviews performed at other locations, we estimate that the value of the foreign-manufactured construction material is less than \$10,000. However, PBS should have reviewed the contractor's equipment submittals for compliance since any amount of foreign-manufactured material marginalizes the job-creating intent of the legislation.

PBS in Region 10 agreed with our conclusions. PBS officials, in identifying the cause of the problem, stated that equipment submittal reviews should have included Buy American information. The contract had been closed out and the contractor paid; therefore, corrective action will consist of the Regional Procurement Officer reviewing and reinforcing compliance on open and new contracts.

If you have any questions about this memorandum, please contact me at (312) 353-0500 or audit manager John Langeland at (312) 353-6691.

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