



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

**PBS Did Not Follow Internal Guidance for
Congressional Notification When Supplementing
Funding for the Recovery Act Project at
10 W. Jackson**

*Report Number A090172/P/5/R14002
April 18, 2014*



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

DATE: April 18, 2014

TO: Ann P. Kalayil
Regional Administrator, 5A

FROM: Michael C. Lamonica 
Audit Manager, Great Lakes Field Office, (JA-5)

SUBJECT: PBS Did Not Follow Internal Guidance for Congressional Notification
When Supplementing Funding for the Recovery Act Project at
10 W. Jackson
Report Number A090172/P/5/R14002

This report presents the results of our audit of the American Recovery and Reinvestment Act modernization project at 10 W. Jackson, Chicago, Illinois.

This examination was performed as part of the Office of Inspector General's (OIG) oversight of the General Services Administration's (GSA) implementation of the American Recovery and Reinvestment Act of 2009 (Recovery Act). Our objective was to determine if GSA plans, awards, and administers contracts for major construction and modernization projects in accordance with prescribed criteria and Recovery Act mandates. This audit addresses some of the modifications to Contract Number GSP0510GB5006, related to the 10 W. Jackson modernization project. The total value of the modernization project is approximately \$25 million.

Our audit found that PBS did not notify Congress that it used non-prospectus Repair and Alterations funds (Budget Activity, BA 54¹) on these modifications as a supplement to its Recovery Act funding (BA 03²). According to PBS guidance, this should have resulted in Congressional notification because the non-prospectus Repair and Alterations funding was being used on a project above the prospectus level.

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

¹ BA54 funding is used for non-prospectus Repair and Alterations, also referred to as Basic or Minor Repairs and Alterations.

² BA03 represents Recovery Act funding designated specifically for high-performance green building modernization and limited scope projects.

If you have any questions regarding this report, please contact me at:

Michael Lamonica Audit Manager michael.lamonica@gsaig.gov 312-353-8481

Thank you to you and your staff for your assistance during this audit.

Background

Upon passage of the Recovery Act,³ PBS began the process of obtaining bids and awarding contracts for federal buildings for both minor repair work and capital work such as building modernizations. Among the projects PBS selected for modernization were the buildings at 10 W. Jackson, 18 W. Jackson, and 230 S. State Street in Chicago, Illinois. Intended as a Recovery Act project, PBS entered into a contract with M. A. Mortenson Company (Mortenson) for the modernization of the properties with plans for immediate federal agency occupancy as soon as the construction was completed. Work items included improvements to the HVAC and high performance lighting systems, elevators, plumbing, fire and life safety, exterior envelope, and windows. One of the goals of the project is to reconfigure “the first floor existing space to maximize the potential for retail leasing.” Parts of the building, including the first floor on State Street, contained retail tenants who are continuing occupancy.

Finding 1 – PBS supplemented Recovery Act projects with non-Recovery Act funds without notifying Congress.

PBS did not notify Congress that it used non-prospectus Repair and Alterations funds from Budget Activity (BA) 54 to supplement Recovery Act funding from BA03 for the 10 W. Jackson project. During the project, PBS originally used Recovery Act funds from BA03 on four modifications. However, PBS subsequently replaced the funding with non-prospectus Repair and Alterations funds from BA54.

Minor R&A funds,⁴ part of PBS’s Capital Program, are generally used for projects below the prospectus limit.⁵ They are necessary to keep GSA’s building inventory in a proper state of repair to protect the building’s value, contribute to its income-producing potential, and ensure the continuity of client missions. PBS’s use of these funds to supplement Recovery Act projects reduces the funding available for its normal improvement, maintenance, and repair of building inventory.

If Minor R&A funds are used for another purpose for work within the same scope, Congress should be notified. As part of its Recovery Act implementation, PBS issued Guidance on use of BA54 funds on ARRA (Recovery Act) projects to clarify how Minor R&A funds could be used in combination with Recovery Act funding. This policy states that “if the BA03 funding exceeds the prospectus threshold and BA54 funding is also planned for the same scope, Congressional notification is also recommended.” In the case of the 10 W. Jackson project, PBS transferred monies out of BA03 after work was completed in order to fund the completed work from BA54.

³ The Recovery Act provided GSA with \$5.55 billion for the Federal Buildings Fund. In accordance with the Recovery Act, GSA’s Public Buildings Service (PBS) is using the funds to convert federal buildings into High-Performance Green Buildings, as well as construct federal buildings, courthouses, and land ports of entry. The Recovery Act mandated that \$5 billion of the funds be obligated by September 30, 2010, and the remaining funds by September 30, 2011.

⁴ Also referred to as BA54 funds.

⁵ The prospectus limit is the dollar threshold (\$2.79 million for fiscal year 2013) above which a project requires Congressional approval.

PBS issued:

Modification No.	Award Date	Cost	Scope
6	May 5, 2010	\$44,700	Repair ramps related to a retail space entrance on the building including, but not limited to demolition of the existing ramp, replacement of new ramp with concrete and granite, steel painted railings, new doors, and drywall work.
11	July 30, 2010	\$24,579	Provide 400A power to one retail space in lieu of 200A existing service.
29	March 2, 2011	\$45,424	Relocate two condensing units servicing two separate retail spaces from the courtyard in the back of the building to the roof, including relocation of all associated mechanical and electrical lines.
30	March 2, 2011	\$48,592	Provide 400A power to the second retail space to accommodate tenant requirements.

PBS awarded these modifications to Mortenson, the prime contractor, under the previously-awarded Recovery Act contract for the property using BA03 funding. Using Recovery Act funds, as well as awarding the contract to the current on-site contractor, indicates that this was logical follow-on work related to the overall Recovery Act project in the general scope of the Recovery Act. This is supported by the original request for proposals, which has “Reconfigure the first floor existing space to maximize the potential for retail leasing” as one of the stated project goals.

PBS was not required to compete the award because it was awarded to the same contractor already on the premises for the same general scope of modernization and renovation work. Were these modifications outside the planned scope of work for the project, then these items would have required competition.

On August 24, 2011, PBS issued modification number 37 to “cost transfer \$176,260.00 from budget activity (BA) 03 to BA54 for retail work.”⁶ With this modification, PBS substituted \$176,260 in non-prospectus Repair and Alterations funding for Recovery Act funding. This cost transfer covered funding originally obligated from BA03 from contract modifications 6, 11, 29 and 30.

According to PBS, it believed the cost transfer was appropriate because the items now funded by the BA54 money were potentially outside the scope of the Recovery Act project. PBS stated this was work that would need to be done to an already leased out space at some point and decided to use the money now.

⁶ Because of an accounting correction, this total does not equal the total of the four modifications noted above; however Modification 37 is a direct transfer of the cost of Modifications 6, 11, 29, and 30 from BA03 to BA54.

Conclusion

In accordance with its guidance, PBS should have notified Congress when it used non-prospectus Repair and Alteration funds from BA54 to supplement Recovery Act funds from BA03 on the 10 W. Jackson project. Because the maximization of retail space was one of the original goals of the project, the money spent on the project's retail space was within the project's general scope of work. According to PBS internal guidance, Congressional notification was recommended. If PBS believed this work was outside the scope of maximizing the potential for retail leasing under the base Recovery Act contract, then the work should have been competed and issued as a separate contract.

Recommendation

As PBS has taken corrective action on this issue as part of corrective actions related to a prior report (A120111/P/R/R14001, issued March 17, 2014), we are making no recommendations at this time.

Management Comments

In its response to the draft report, PBS management concurred with the audit findings. PBS's response is included in its entirety as **Appendix B** to this report.

Appendix A – Purpose, Scope, and Methodology

Purpose

This audit was performed as part of the Office of Inspector General's oversight of the GSA's implementation of the American Recovery and Reinvestment Act of 2009. Our objective was to determine if GSA plans, awards, and administers contracts for major construction and modernization projects in accordance with prescribed criteria and Recovery Act mandates.

Scope

This audit addresses some of the modifications to Contract Number GSP0510GB5006, for the 10 W. Jackson modernization project in Chicago, Illinois. The total value of the modernization project is approximately \$25 million.

Methodology

To accomplish our objective, we:

- Performed fieldwork in the Great Lakes Region;
- Interviewed GSA contracting and project staff;
- Reviewed and analyzed contract files; and
- Reviewed applicable guidance and regulations.

We conducted the audit between April 2012 and January 2013 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

Internal Controls

As this work was performed under the continuing oversight of all GSA Recovery Act projects, management controls are currently under assessment. Only those management controls discussed in the report have been assessed.

Appendix B – Management Comments



GSA Great Lakes Region

March 20, 2014

MEMORANDUM FOR ADAM R. GOOCH
REGIONAL INSPECTOR GENERAL FOR AUDITING
GREAT LAKES FIELD OFFICE (JA-5)

FROM ANN KALAYIL *Ann Kalayil*
REGIONAL ADMINISTRATOR
GREAT LAKES REGION (5A)

SUBJECT PBS Did Not Follow Internal Guidance for Congressional
Notification When Supplementing Funding for the Recovery Act
Project at 10 W. Jackson, Report Number A090172-24

The Public Buildings Service appreciates the opportunity to comment on the draft report and concurs with its finding and recommendation. The report recommends that GSA should notify Congress of the use of minor repairs and alterations funds (BA54) to supplement Recovery Act Projects.

The Great Lakes Region has performed an internal review to identify Recovery Act projects that were supplemented with BA54 funds without congressional notifications and transmitted this list to the PBS Office of Design and Construction for inclusion in the next PBS Recovery Spend Plan.

We appreciate your support throughout this review. If you have any questions or require further information, please contact Lucrezia Patruno at (312) 886-3533.

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Appendix C – Report Distribution

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Regional Commissioner, Public Buildings Service (5P)

Regional Recovery Executive (5PC)

Commissioner, Public Buildings Service (P)

Deputy Commissioner, Public Buildings Service (PD)

Chief of Staff, Public Buildings Service (PB)

Director, Public Buildings Service Executive Response (PBA)

Senior Accountable Official for Recovery Act Reports (PCBJ)

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