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

DATE:	September 5, 2013
TO:	ANN P. KALAYIL REGIONAL ADMINISTRATOR GREAT LAKES REGION (5A)
FROM:	ADAM R. GOOCH REGIONAL INSPECTOR GENERAL FOR AUDITING GREAT LAKES REGION (JA-5)
SUBJECT:	Region 5 Recovery Act Projects Were Missing Closeout Documents Needed to Support Warranty Audit Memorandum Number A090184-79

As part of our oversight of General Services Administration (GSA) American Recovery and Reinvestment Act (Recovery Act) projects,[1] we reviewed nine limited scope and small project contract files for evidence of adherence to established closeout procedures from Region 5's *COR Construction Handbook* (the Handbook). We found that three of the nine projects were missing closeout documents needed to support the warranty and to properly close out the project. The three projects missing such documents were the Hammond, Indiana U.S. Courthouse; the Minneapolis, Minnesota Federal Office Building (Roof Replacement Project); and the Robert A. Grant Federal Building & U.S. Courthouse in South Bend, Indiana; as shown below in Figure 1.

[1] The Recovery Act provided GSA with $5.55 billion for the Federal Buildings Fund. In accordance with the Recovery Act, 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 mandates that $5 billion of the funds be obligated by September 30, 2010, and the remaining funds by September 30, 2011. The GSA Office of Inspector General is conducting oversight of projects funded by the Recovery Act. One objective of this oversight is to determine if PBS is awarding, administering and closing out contracts for limited scope and small construction and modernization projects in accordance with prescribed criteria and Recovery Act mandates.

Figure 1 – Missing Final Settlement Package Documents by Project

Final Settlement Package Documents	Hammond Courthouse	Minneapolis Federal Building	South Bend Courthouse
GSA Form 2480 List of Omissions and Defects (O&Ds)	✓	✓	✓
Substantial Completion/Beneficial Use Letter	✓	✓	✓
GSA Form 2419 Certificate of Progress Payments Under Fixed Price Construction Contracts	✓		
GSA Form 184 Construction Progress Report	✓		
Warranty of Construction (from prime contractor)	✓		

<u>Hammond, Indiana U.S. Courthouse</u>

On November 25, 2009, the Public Buildings Service (PBS) awarded task order number GS-P-05-10-SI-0051 for $35,000 to Brock Construction Inc. for pre-construction phase services at the Hammond Courthouse. The total value of the contract for heating, ventilation and air conditioning and lighting work, including construction phase, was $1,959,277. It was awarded as a construction manager as constructor (construction services) task order.

The Hammond Courthouse file was missing closeout and final settlement package documents. The documents were:

1. GSA Form 2480 List of Omissions and Defects (O&Ds)
2. Substantial Completion/Beneficial Use Letter[2]
3. GSA Form 2419 Certificate of Progress Payments Under Fixed Price Construction Contracts
4. GSA Form 184 Construction Progress Report
5. Warranty of Construction (from prime contractor)

The documents listed above are required to properly close out the project according to Section 6 (Construction Contract Closeout) of the Handbook. Additionally, three of the five documents listed above are needed to support the warranty for construction work. As the Handbook states:

> [T]he Government is entitled to 'Warranty of Construction' for all work completed under the contract. The warranty continues for one (1) year from the date the Government takes possession of any work prior to final acceptance. That is why it is important to complete the substantial completion/beneficial use letter and/or warranty letter to be completed with the O&Ds list to the COR [Contracting Officer's Representative] and CO

[2] If there are major omissions and defects they would be listed on GSA Form 2480 and a substantial completion letter would not be issued. However, since the file did not contain the aforementioned GSA Form 2480, PBS management and the auditors would never know.

> [Contracting Officer]. (Refer to FAR [Federal Acquisition Regulation] 52.236-11).[3]

Minneapolis, Minnesota Federal Office Building (Roof Replacement Project)

On September 24, 2009, the Public Buildings Service awarded task order GS-P-05-09-GA-0045 to Tecta America Corp. for a roof replacement project at the Minneapolis Federal Office Building, valued at $820,296.

The Minneapolis Federal Office Building contract files were missing closeout documents. The documents were:

1. GSA Form 2480 List of O&Ds
2. Substantial Completion/Beneficial Use Letter

There was email correspondence in the Minneapolis file related to construction deficiencies and PBS staff provided inspection reports beginning a year after project completion, as well as warranty documentation. However, no GSA Form 2480 or substantial completion letter was provided at the time of project completion in 2010.[4] This makes it difficult to enforce the warranty, as noted above. These forms are especially important since the government assessed liquidated damages against the contractor, indicating problems with project performance. For these reasons, the file is considered incomplete.

Robert A. Grant Federal Building & U.S. Courthouse (South Bend, Indiana)

On March 29, 2010, PBS awarded task order GS-P-05-10-SI-5052 to Graycor Construction Company for "perimeter heating system, air handling unit replacement, and temperature controls" in the Robert A. Grant Federal Building & U.S. Courthouse in South Bend, Indiana. The task order was valued at $2,470,473.

The South Bend contract files were missing closeout documents required by Section 6 of the Handbook. The documents were:

1. GSA Form 2480 List of O&Ds
2. Substantial Completion/Beneficial Use Letter

Lack of these documents makes it difficult to enforce the warranty.

Region 5 PBS responded in part:

> We concur with the findings of this audit. Training will be provided to the contracting staff and contracting officer's representative to ensure compliance with close-out procedures according to the Region 5 Contracting Officer's Representative (COR) Construction Handbook. In

[3] The mechanical subcontractor's supplier furnished a commercial warranty for the chillers.
[4] See Footnote 2

addition, we will ensure that missing closeout documents noted in the report are addressed in the contract files.

However, please note that the lack of the documents identified in the report does not make it difficult to enforce the warranty. The warranty period starts with GSA's acceptance and beneficial use of the equipment, space, system, etc. In addition, as part of the final submittal process, GSA accepts specific warranties for individual parts, equipment, systems, etc. This warranty information is included in the operation and maintenance documents that are turned over to GSA at the end of a project in order to enforce the warranty.

If you have any questions regarding this memorandum, please contact me or any member of the audit team at the following:

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I would like to thank you and your staff for your assistance during this review.

Distribution

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