



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

# Reimbursable Work Authorizations for the Peachtree Summit Building Violated Appropriations Law and GSA Policy

*Report Number A130110/P/4/R14006  
September 30, 2014*



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

## REPORT ABSTRACT

### OBJECTIVE

The objective of the audit was to determine whether the Public Buildings Service (PBS) allowed changes to the scope, funding type, or obligation expiration date of Reimbursable Work Authorizations (RWAs) from the Internal Revenue Service (IRS) that were not in compliance with GSA's RWA National Policy Document and appropriations law, as summarized in the Government Accountability Office's Principles of Federal Appropriations Law, Vol. III, 12(C)(4)(c), and 31 U.S.C. 1502(a), and 31 U.S.C. 1552(a)(2).

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### Reimbursable Work Authorizations for the Peachtree Summit Building Violated Appropriations Law and GSA Policy

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### WHAT WE FOUND

We identified the following during our audit:

Finding 1 – PBS violated appropriations law and GSA policy by accepting RWA amendments that used expired funds for work unrelated to the scope of the original RWA.

Finding 2 – PBS RWA files are incomplete and lack adequate support.

### WHAT WE RECOMMEND

We recommend the Southeast Sunbelt PBS Regional Commissioner:

1. Develop and implement controls to ensure client agency fund certifications are valid.
2. Ensure that Independent Government Estimates, whether generated by client agencies or GSA, satisfy the requirements established by the RWA National Policy Document.
3. Develop and implement a process to ensure timely closeout of RWAs that are substantially complete and ensure closed RWAs are only re-opened for valid transactions.
4. Develop controls to ensure RWAs receive an appropriate level of scrutiny to ensure a *bona fide* need.
5. Clarify and actively manage the policy regarding RWA documentation in the RWA Entry and Tracking Application to ensure the service centers apply the policy consistently and maintain appropriate documentation.

### MANAGEMENT COMMENTS

Regional management partially agreed with both findings and accepted two of the five recommendations. Management's written comments to the report are included as **Appendix D**.

We reaffirm our findings and have provided a detailed response to management's comments. See **Appendix E**.




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

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DATE: September 30, 2014

TO: John Smith  
Regional Commissioner for PBS (4P)



FROM: Elizabeth Telo  
Audit Manager, Southeast Sunbelt Region Audit Office

SUBJECT: Reimbursable Work Authorizations for the Peachtree Summit Building  
Violated Appropriations Law and GSA Policy  
*Report Number A130110/P/4/R14006*

This report presents the results of our audit of the Internal Revenue Service's Reimbursable Work Authorizations for the Peachtree Summit Federal Building. Our findings and recommendations are summarized in the Report Abstract. Instructions regarding the audit resolution process can be found in the email that transmitted this report.

Your written comments to the draft report are included in **Appendix D** of this report.

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

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On behalf of the audit team, I would like to thank you and your staff for your assistance during this audit.

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## **Introduction**

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We initiated this limited scope audit after the Treasury Inspector General for Tax Administration brought to our attention possible improper use of Reimbursable Work Authorizations (RWA) for work at the Peachtree Summit Federal Building.

RWAs are agreements between the Public Buildings Service (PBS) and client agencies, whereby PBS agrees to provide goods and services in exchange for reimbursement of cost plus expenses and fees. RWAs are used to capture and bill client agencies for the cost of altering, renovating, repairing, or providing services that are outside the scope of basic operations financed through an agency's rent payment.

A properly executed RWA provides written documentation of the formal agreement between the client agency and PBS and must clearly identify funds as annual, multi-year, or no-year. The expiration date of obligational authority must be specified as well. PBS should not accept an RWA unless it includes and meets the following minimum criteria:

- A bona fide need;<sup>1</sup>
- A preliminary Scope of Work (SOW) that clearly describes the objectives and requirements of the customer request;<sup>2</sup>
- A cost estimate, using the Summary Cost Estimate worksheet, that supports the preliminary SOW and in the same level of detail. The cost estimate should equal the total authorized amount of the RWA;
- Proper funding certification; and
- A client agency signature.

Our audit objective was to determine whether PBS allowed changes to the scope, funding type, or obligation expiration date of RWAs from the Internal Revenue Service (IRS) that were not in compliance with GSA's RWA National Policy Document and appropriations law, as summarized in the Government Accountability Office's Principles of Federal Appropriations Law, Vol. III, 12(C)(4)(c) and 31 U.S.C. 1502(a), and 31 U.S.C. 1552(a)(2).

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

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<sup>1</sup> The RWA National Policy Document states, "The bona fide need rule, 31 U.S.C. 1502(a), establishes that a fiscal year appropriation can be obligated only to meet a legitimate need arising in (or in some cases arising before but continuing to exist in) the fiscal year for which the appropriation was made."

<sup>2</sup> This supports the Description of Requirements block on RWA Form 2957.

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## Results

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### **Finding 1 – PBS violated appropriations law and GSA policy by accepting RWA amendments that used expired funds for work unrelated to the scope of the original RWA.**

PBS accepted and processed amended RWAs using funds that were outside the period of obligational authority for work that was unrelated to the original scope. Since the charges ultimately placed against these RWAs did not constitute antecedent liabilities,<sup>3</sup> this practice violated GSA's RWA National Policy Document (National Policy Document) and appropriations law.

GSA's National Policy Document states that a client agency may spend excess RWA funds on new or amended RWAs if the RWA meets all of the following conditions:<sup>4</sup>

- 1. The appropriated funds must be legally available for the purpose for which they are being redirected;*
- 2. There must be a bona fide need for which the funds are applied; and*
- 3. The appropriation must not have lapsed and must remain available until PBS can accept, and thereby obligate, the funds.*

Similarly, under the "bona fide need" rule of appropriations law, an agency may validly obligate an appropriation only to meet a legitimate and documented need existing during the period of the appropriation's availability.<sup>5</sup> Within-scope contract modifications issued in a fiscal year subsequent to the year of the original contract are considered bona fide needs of, and thus chargeable to, the appropriation used to fund the original contract.<sup>6</sup> However, funds from a fiscal year appropriation that are not obligated during that period of availability are not generally available for new obligations in a subsequent year.<sup>7</sup>

Further, once an agency learns that an RWA is overfunded, and no additional funds are required for a project, it must de-obligate the excess amount. Surplus funds resulting from a cost underrun cannot be used in a succeeding fiscal year.<sup>8</sup>

During our limited scope audit, we reviewed 11 N-type RWAs and found 6 instances where the RWA fund type was changed from annual to multi-year after the obligational

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<sup>3</sup> An antecedent liability is the liability of the Federal Government that arises and is enforceable under a provision of an original contract.

<sup>4</sup> Section 4.4.2.4, Uncommitted, Residual, or Excess Funds.

<sup>5</sup> 31 U.S.C. 1502(a); Comptroller General Legal Decisions B-226198, July 21, 1987; and B-207433, September 16, 1983.

<sup>6</sup> 31 U.S.C. 1553(a).

<sup>7</sup> 31 U.S.C. 1341(a) and 1553(a).

<sup>8</sup> Comptroller General Legal Decision B-257617, April 18, 1995.

authority had expired.<sup>9</sup> In all six instances, the RWA scope was expanded to include unrelated projects after the period of obligational authority expired. These practices violate GSA's policies on the use of excess funds on new or amended RWAs. Further, these are violations of the bona fide need rule and account closing laws.<sup>10</sup> In addition, we found four instances where the initial RWA fund type was coded incorrectly, yet accepted by GSA. See **Appendix B** for additional details.

We identified four factors that contributed to these policy and appropriations law violations:

1. PBS lacks controls for identifying questionable fund changes and accepting RWAs with incorrect codes;
2. PBS accepted IRS-provided cost estimates without verification of price reasonableness;
3. PBS did not closeout RWA projects in a timely manner; and
4. PBS accepted RWAs at fiscal year-end without adequate scrutiny.

### **PBS lacks controls for identifying questionable fund changes and accepting RWAs with incorrect codes**

PBS does not have controls in place to identify questionable fund change requests or prevent the acceptance of RWAs with incorrect fund types. Of the six amended RWAs discussed above, we found:

- Four instances where the Treasury Account Symbol (TAS) changed but the Agency Accounting Data code did not change and still reflected annual funding;
- Four instances where the obligational authority expiration date changed;
- Three instances where the amended RWAs were signed by the same IRS certifying official on the same day and subsequently approved by the same GSA official;
- Six instances where the TAS listed was not a valid TAS; and
- Two instances where the initial RWAs did not include the date the obligational authority expired.

During the audit, PBS officials initially acknowledged that errors were made with these IRS RWAs. They stated that due to a lack of training and/or understanding of appropriations law, employees accepted and processed IRS RWA amendments that should have been rejected. Some employees in the Atlanta North Service Center believed that PBS had 5 years after an RWA was approved to spend the money or make unrelated scope changes, regardless of the expiration date of obligational

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<sup>9</sup> N-type RWAs depict non-recurring, non-prospectus, standalone projects for a 1-time need that are fully funded by a client agency.

<sup>10</sup> Account closing laws refer to cost underruns which are addressed in 31 U.S.C 1552(a)(2) and Comptroller General Legal Decisions B-183184, May 30, 1975 and B-257617, April 18, 1995.

authority. As a result, PBS accepted scope changes outside the legal obligational authority period.

After draft findings were provided, PBS management stated that the certification of funds is the responsibility of the client agency.<sup>11</sup> They added that the client agency's fund certifying official initially validated the funds of the six RWAs as annual but later submitted amendments changing the fund types to multi-year. PBS accepted the erroneous amendments based on the IRS's funds certification. Finally, PBS management believed that, at the time of acceptance, the service center did not have the capability to determine whether the fund types were correct.

PBS's National Policy Document addresses employees' duty to investigate transactions equal to or in excess of the prospectus threshold that cast doubt on the availability of funds and appropriations. Similar language for RWAs below the prospectus threshold does not exist. However, even without a specific policy, the unusual nature of the IRS requests should have been sufficient to seek clarification on the requested fund type changes.

We researched Public Law documents and determined that in fiscal years 2008 through 2012, multi-year appropriations for the IRS 's Operations Support account were limited to Information Technology Support and Research.<sup>12,13</sup> To further confirm the appropriation fund types, we reviewed the Department of the Treasury's Financial Management Reference Data website, and found no evidence that the TAS referenced in the IRS RWAs applied to multi-year appropriations. In fact, with the exception of one instance, the TAS on the IRS RWAs could not be found in the Department of the Treasury's database.

### **GSA accepted IRS-provided cost estimates without verification of price reasonableness**

PBS Southeast Sunbelt Region management instructed its RWA service centers that they did not have to prepare an Independent Government Estimate (IGE) if the IRS provided an estimate from its space project management system, Electronic Project Investment Process (ePIP). However, PBS could not determine if the RWA amount submitted by the client agency was reasonable and accurate without developing its own IGE or analyzing the estimate provided by the client agency. We found amended RWAs with significant excess funds because the IRS estimate greatly exceeded the actual amount spent on the original project. (see *Figure 1*)

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<sup>11</sup> The draft findings were prepared by the Southeast Sunbelt Region Audit Office and issued to the Acting Regional Administrator on January 13, 2014.

<sup>12</sup> Operations Support is the appropriations account used to fund the acquisition of real property, equipment, construction, and renovation of facilities.

<sup>13</sup> In fiscal year 2012, funding for IRS building renovations was either annual or no-year. GSA accepted RWA N0584063 on September 26, 2012, which was certified with multi-year funds expiring on September 30, 2013.



In one instance, we found documentation that a PBS official questioned the estimate provided by the IRS. GSA performed an analysis and determined that the IRS overestimated the project by approximately \$100,000. However, PBS subsequently accepted the RWA at the higher amount. *Figure 1* details the cost underruns observed.

**Figure 1 – RWA Cost Underruns**

<b>RWA Number</b>	<b>Initial Amount Approved (1)</b>	<b>Cost of Original Scope of Work (2)</b>	<b>Cost Underrun (3)</b>	<b>Underrun as % of Initial Amount (4)</b>
N0117728	\$130,119	\$61,821	\$68,298	52.5%
N0358053	26,998	8,078	18,919	70.1%
N0358189	15,972	3,346	12,626	79.1%
N0358312	5,873	2,877	2,996	51.0%
N0568403	13,856	11,703	2,153	15.5%
N0569512 <sup>14</sup>	260,171	187,006	73,164	28.1%

**Notes**

1. Amount Approved for the initial statement of work, excluding PBS management and overhead fees.
2. Costs associated with the original scope of work, excluding PBS management and overhead fees.
3. Initial Amount Approved (1) less Cost of Original Scope of Work (2).
4. Cost Underrun (3) divided by Initial Amount Approved (1).

The National Policy Document (May 4, 2005) states, “GSA agrees to do the work as requested on the RWA and provide a cost estimate acceptable to the agency.”<sup>15</sup> The June 21, 2010, version of the National Policy Document states, “It is the PBS representative’s responsibility to prepare the cost estimates.” However, in cases where the client agency requests that its estimate is used, the policy states:

*Upon receipt of the cost estimate prepared by the customer agency, the PBS representative (project manager or construction representative) will review the cost estimate for validity and, upon acceptance, document the file with a concurring fair and reasonable statement.*

<sup>14</sup> The initial cost estimate provided by the IRS totaled \$282,070 (\$260,171 excluding PBS management and overhead fees). The RWA closed with a balance of \$53,486 after the initial project and unrelated amendment was completed.

<sup>15</sup> Section 4.3, Cost Estimates.

With the exception of RWA Number N0117728, noted above, no other RWA file provided any evidence that PBS performed an analysis or reviewed any IRS cost estimates.

After reviewing the Summary of Findings, PBS management acknowledged that even though there were some substantial differences in the IRS estimate and the ultimate cost of the project, situations like these are common because of the nature of construction work. However, PBS management also acknowledged that it did not document its review of the client estimates provided for the RWAs examined by the audit team.

### **PBS did not closeout RWA projects in a timely manner**

PBS did not always provide timely closeout of projects that were substantially completed. As a result, excess funds on completed RWAs were held and used later to complete unrelated projects. In addition, we identified two RWAs that were financially closed, but subsequently re-opened when PBS officials asked the finance group to lift the termination date in order to charge expenses unrelated to the original SOW. For instance:

- A PBS official sent an email request on September 27, 2010, requesting that RWA N0358053 be reopened in order to amend the scope and use the remaining funds. The period of obligational authority expired at the end of fiscal year 2008 and the last invoice for the original SOW posted in June 2009.<sup>16</sup> The termination date was subsequently lifted and charges unrelated to the original SOW were made to the RWA as late as April 19, 2012.
- A PBS official sent an email on May 14, 2013, requesting that RWA N0569512 be reopened. The period of obligational authority expired at the end of fiscal year 2009 and the last invoice for the original SOW posted in February 2013. The termination date was subsequently lifted and charges unrelated to the original SOW were made to the RWA as late as September 20, 2013.

PBS's National Policy Document requires that an RWA be closed 60 days after the substantial completion date.<sup>17</sup> By keeping an RWA open, PBS increases the risk that excess funds due to cost underruns will be used improperly. Further, PBS undermines its own controls by reopening RWAs that have been closed and using the excess funds.

### **PBS accepted RWAs at fiscal year-end without adequate scrutiny**

PBS did not appropriately scrutinize RWAs accepted at the end of the fiscal year, effectively allowing the IRS to hold or "park" funds with GSA. PBS accepted RWAs with incomplete estimates and without an apparent bona fide need.

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<sup>16</sup> The government's fiscal year ends on September 30<sup>th</sup>.

<sup>17</sup> Section 4.5.2, Completion of Non-Recurring RWAs.

We found that GSA approved 6 of 11 RWAs reviewed late in the fiscal year (August or September). Although PBS may accept RWAs at any time, the proximity of these RWAs to the end of the fiscal year, along with the generic SOWs and incomplete estimates, raises red flags. Further, subsequent events cause concern that the IRS parked these funds with GSA. For instance:

- In four of six instances, the client agency later requested scope changes, unrelated to the original RWA scope. In two of these instances, the scope changes occurred outside the period of obligational authority.
- PBS approved RWA N0584063 for \$1.2 million on September 26, 2012. No obligations or expenditures had been charged to the RWA as of May 5, 2014. GSA's National Policy Document gives PBS 90 days to contractually obligate funds accepted from a client agency.<sup>18</sup> When asked about this RWA, PBS management stated that a purchase request to the PBS Acquisition Division was issued on January 28, 2013; however, in September 2013, the request was ultimately cancelled due to project work delays. A new purchase request was issued in January 2014.

### Recommendations

We recommend the Southeast Sunbelt PBS Regional Commissioner:

1. Develop and implement controls to ensure client agency fund certifications are valid.
2. Ensure that Independent Government Estimates, whether generated by client agencies or GSA, satisfy the requirements established by the RWA National Policy Document.
3. Develop and implement a process to ensure timely closeout of RWAs that are substantially complete and ensure closed RWAs are only re-opened for valid transactions.
4. Develop controls to ensure RWAs receive an appropriate level of scrutiny to ensure a *bona fide* need.

### Management Comments

In its comments, regional management, generally disagreed with *Finding 1*, stating that only one of the six RWAs violated appropriations law and GSA policy. According to the comments, the other five RWAs were acceptable because the client agency submitted certified amendments correcting errors that initially classified the funds type as annual instead of multi-year. In addition, regional management stated that they rely on the client agency's certification because it is not PBS's responsibility to validate RWA funds. Management's comments are included in their entirety as **Appendix D**.

After reviewing management's comments, we reaffirm our findings. Our response is included as **Appendix E**.

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<sup>18</sup> Section 4.3.2., Obligation of Funds by Client Agency.

## Finding 2 – PBS RWA files are incomplete and lack adequate support.

During our audit, we found the type and extent of documentation maintained electronically in the RWA Entry and Tracking Application (RETA) was inconsistent. In addition, we found that this documentation was not sufficient to support the RWAs reviewed.

We reviewed ten RWAs in RETA and found supporting documentation lacking, as indicated below:<sup>19</sup>

- None of the ten RWAs had a detailed SOW loaded into RETA; and
- While each RWA had a summary cost estimate in RETA, none provided enough detail to support the amount authorized in the RWA.

We also reviewed the hard copy files for the ten RWAs maintained by the region and found:

- Five instances where PBS did not provide the cost estimate as required by policy;
- Three instances where PBS did not have evidence of its review and acceptance of the client agency provided estimate;
- Three instances where work performed was not adequately supported by a detailed estimate from ePIP or an IGE;
- One instance where a detailed SOW was not included.

See **Appendix C** for details.

Vague or missing documents reduce assurance that PBS has fulfilled its responsibilities. At the onset of our audit, PBS personnel stated that RETA was the official document repository for RWAs in the Atlanta North Service Center. In later discussions, PBS management asserted that there was no current guidance supporting what documentation should reside in RETA.

The current National Policy Document states that only a signed Form 2957 and client agency letters need to be uploaded into RETA. However, other PBS guidance describes additional RWA documents that should be loaded into RETA. For example, the *PBS Reimbursable Services Standard Operating Procedure User Guide* (April 2008) lists deliverables that should reside in RETA, including a signed Form 2957, Customer Service Letters, and a comprehensive description of requirements. Additionally, the *PBS National Financial Accounting Process and Internal Controls Desk Guide* (February 2011) states that all documentation related to an RWA is to be stored in RETA.<sup>20</sup>

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<sup>19</sup> Only 10 of the 11 RWAs identified in *Finding 1* were selected because 1 was a regional RWA and the file was not maintained in the Atlanta North Service Center.

<sup>20</sup> Section 3.12, Internal Control Chart – RWAs.

## Recommendation

We recommend the Southeast Sunbelt PBS Regional Commissioner:

5. Clarify and actively manage the policy regarding RWA documentation in RWA Entry and Tracking Application to ensure the service centers apply the policy consistently and maintain appropriate documentation.

## Management Comments

In its comments, regional management agreed that six of the ten RWA files were incomplete and lacked adequate support. In the other four instances, regional management stated that they: found sufficient documentation to support the original and amended RWAs, had no requirement to maintain specific documents in RETA, or was permitted to use client-agency prepared cost estimates. Management's comments are included in their entirety as **Appendix D**.

After reviewing management's comments, we reaffirm our findings. Our response is included as **Appendix E**.

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## Conclusion

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We found that PBS accepted and processed amended RWAs that used funds outside of the period of obligational authority for work that was unrelated to the scope of the original RWAs. In addition, PBS accepted and processed new RWAs identified as multi-year that actually should have been annual year. These transactions violated GSA's National Policy Document and appropriations law.

We also found that RWA file documentation was missing or incomplete and as a result, there was no assurance that PBS was fulfilling its responsibilities.

To address the above concerns, the Southeast Sunbelt PBS Regional Commissioner should:

1. Develop and implement controls to ensure client agency fund certifications are valid.
2. Ensure that Independent Government Estimates, whether generated by client agencies or GSA, satisfy the requirements established by the RWA National Policy Document.
3. Develop and implement a process to ensure timely closeout on RWAs that are substantially complete and ensure closed RWAs are only re-opened for valid transactions.
4. Develop controls to ensure RWAs receive an appropriate level of scrutiny to ensure a *bona fide* need.
5. Clarify and actively manage the policy regarding RWA documentation in RETA to ensure the service centers apply the policy consistently and maintain appropriate documentation.

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## ***Appendix A – Purpose, Scope, and Methodology***

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### **Purpose**

We initiated this limited scope audit after the Treasury Inspector General for Tax Administration brought to our attention possible improper use of RWAs for work at the Peachtree Summit Federal Building.

### **Scope**

The audit was limited to IRS RWAs processed and managed by the Atlanta North Service Center in the Southeast Sunbelt Region. Using RETA's reporting tools, we identified a universe of 50 "N" type IRS RWAs at the Peachtree Summit Federal Building. From this universe, we narrowed the scope to RWAs with changes to fund type and/or original scope of work. RWAs without fund type or date histories in RETA were excluded. Using this process, we judgmentally selected 11 RWAs for additional review.

### **Methodology**

To accomplish our objective, we:

- Reviewed relevant criteria from GAO's Principles of Federal Appropriations Law;
- Reviewed GSA's National Policy Document (September 2012, June 2010, and May 2005 editions);
- Reviewed IRS appropriations funding bills and TAS from 2008 to 2012;
- Reviewed prior audit reports and findings, GSA memoranda, and PBS internal policies and procedures pertaining to the RWA process;
- Conducted interviews and meetings with PBS Southeast Sunbelt Region staff members and service center employees;
- Performed walkthroughs of different stages of the RWA process with staff members; and
- Selected and examined a sample of RWA files, including supporting documentation maintained in both hardcopy RWA files and RETA.

We conducted the audit between June and September 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

Our examination of internal controls was limited to IRS RWAs managed by the Atlanta North Service Center. We tested internal controls and compliance with applicable policies and appropriations laws, including the National Policy Document, GAO's Principles of Federal Appropriations Law, and United States Codes (the Economy Act, the Property Act, and the *bona fide* need rule).



## Appendix B – RWA Appropriations and Policy Exceptions

RWA Number	Final Approved Amount	Initial Approval Date	Original Funds Type	Date of Final Scope Change	Notes
N0117728	\$142,759	4/5/2008	Annual	10/26/2010	1,2
N0358053	30,418	6/23/2008	Annual	9/22/2010	1,2
N0358189	17,375	8/21/2008	Annual	10/26/2010	1,2,4
N0358312	6,683	2/13/2009	Annual	4/13/2011	1,2
N0568403	15,688	6/23/2009	Annual	4/18/2011	1,2
N0569512	282,070	8/21/2009	Annual	4/16/2012	1,2,4
N0572994	133,525	9/17/2010	Multi-Year	7/6/2011	4,6
N0573003	425,322	9/21/2010	Multi-Year	10/26/2010	4,6
N0573126	149,263	9/17/2010	Multi-Year	5/10/2011	3,6
N0584063	1,246,816	9/26/2012	Multi-Year	N/A	3,5,6

### Notes

1. The RWA fund type was changed from annual to multi-year after the obligational authority expired.
2. The RWA scope was expanded and amended after the period of obligational authority expired.
3. GSA accepted the IRS RWA late in the fiscal year (August or September).
4. The RWA was accepted at the end of the fiscal year and later had modifications unrelated to the original scope.
5. Regional RWA accepted on September 26, 2012, with no obligations or expenditures in fiscal years 2012, 2013 or through September 9, 2014.
6. Client agency funding coded and classified as multi-year; however, determined to be annual year funding.

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## Appendix C – RWA Documentation Exceptions

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RWA Number	Final Approved Amount	Notes
N0117728	\$142,759	1,2,3,6
N0358008	4,327	1,2
N0358189	17,375	1,2,6
N0358312	6,683	1,2,4
N0572994	133,525	1,2,5
N0573003	425,322	1,2,5
N0573126	149,263	1,2,5
N0358053	30,418	1,2,3,6
N0568403	15,688	1,2,6
N0569512	282,070	1,2,3,6

### Notes

1. The RWA documentation in RETA did not include a detailed or preliminary SOW.
2. The Summary Cost Estimate in RETA was not detailed enough to support the amount authorized in the RWA.
3. The RWA hard copy file did not have an IGE or ePIP estimate that supported the work performed.
4. The RWA hard copy file did not include a detailed SOW to support the work performed.
5. The RWA file did not have evidence of GSA's review and acceptance of the client agency's estimate as required by the National Policy Document (June 2010).
6. The RWA file did not have an estimate prepared by PBS as required by the National Policy Document (May 2005).

## Appendix D – Management Comments



GSA Southeast Sunbelt Region

July 21, 2014

MEMORANDUM FOR NICHOLAS PAINTER  
REGIONAL INSPECTOR GENERAL FOR AUDITING  
SOUTHEAST SUNBELT REGION AUDIT OFFICE (JA-4)

FROM ERY KOEHLER  
ACTING REGIONAL ADMINISTRATOR  
SOUTHEAST SUNBELT REGION (4A)

JOHN SMITH  
REGIONAL COMMISSIONER  
PUBLIC BUILDINGS SERVICE (4P)

SUBJECT Management Response to Reimbursable Work Authorizations  
for the Peachtree Summit Federal Building Violated  
Appropriations Law and GSA Policy  
Audit Report Number A130110

The Region 4 Acting Regional Administrator and the Public Buildings Service (PBS) appreciate the opportunity to comment on the Inspector General's draft audit report referenced above. PBS partially agrees with the report's two findings and accepts two of the five recommendations. As discussed in more detail below, the Reimbursable Work Authorization (RWA) scope and funding changes that PBS accepted for the Peachtree Summit Federal Building complied with GSA policy and appropriations law, with the exception of one instance (RWA Number N0568403). PBS agrees that RWA files were incomplete and lacked adequate support in numerous instances.

### **Response to Finding 1 - PBS violated appropriations law and GSA policy by accepting RWA amendments that used expired funds for work unrelated to the scope of the original RWA**

PBS agrees that PBS violated appropriations law and GSA policy in one instance when PBS accepted an RWA amendment that used expired funds for work unrelated to the scope of the original RWA. In July 2009, PBS accepted RWA Number N0568403 from the U.S. Department of Treasury Internal Revenue Service (IRS) to perform alterations on the 16<sup>th</sup> floor of the Peachtree Summit Federal Building. The original RWA noted an annual fund type and a September 30, 2010 expiration date of obligational authority. The RWA was subsequently amended in September 2009 to increase the funding and again in April 2011 to change the fund type from annual to multi-year (noting the same expiration date as the original RWA) and increase the scope of work to include alterations in Suites 1102 and 1112. The April 2011

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## Appendix D – Management Comments (cont.)

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amendment should not have been accepted given the change in scope and expiration of the agency's period of obligational authority. This error resulted in an \$800 expense that violated appropriations law and GSA policy.

In all other instances noted, PBS disagrees that PBS violated appropriation law and GSA policy. For the remaining five RWAs, IRS officials certified the funds were an annual fund type in the original RWA submission to GSA. Later, IRS submitted certified amendments to correct the fund type to multi-year. These amendments met the requirements of acceptance (e.g., *bona fide* need, scope of work and government estimate) and were accepted by PBS based on the client agency's certification. The subsequent scope changes occurred within the amended period of obligational authority of the RWAs and were deemed allowable.

GSA RWA Form 2957 requires the client agency's Fund Certifying Official to validate and verify the agency's financial information as reported on the form and to certify that the funds identified by the requesting agency in the RWA are legally available for further obligation and expenditure by GSA, in furtherance of the work described in the RWA. Certifying officials are responsible for the accuracy and legality of payments made from the funds they have certified (31 U.S.C. 3528). PBS has no requirement to further investigate a requesting agency's certified appropriations. Furthermore, PBS relies on the certifications of the requesting agency's Funds Certifying Official in the RWA acceptance process and to do otherwise would shift the responsibility for funds certification from the requesting agency to PBS.

### Additional comments:

- RWA Number N0358053 was originally accepted in July 2008 and closed in October 2009 (20 days after the substantial completion date, 26 days after the processing of PBS fees; and 13 days after the last invoice). IRS officials subsequently submitted an amendment in September 2010, citing multi-year funds with a period of obligational authority through September 30, 2011. Based on this amendment, the use of remaining funds for the requested scope changes was deemed allowable.
- RWA Number N0589512 was originally accepted in August 2009 and closed in February 2013 (7 days after the substantial completion date; 35 days before the processing of PBS fees; and 12 days before the last invoice). IRS officials subsequently submitted an amendment in April 2012, citing multi-year funds with a period of obligational authority through September 30, 2013. Based on this amendment, the use of remaining funds for the requested scope changes was deemed allowable.
- Appropriation law and GSA policy allow for acceptance of agency funds throughout the fiscal year including at or near the end of the fiscal year. Regardless of the date of receipt and acceptance, each RWA request is evaluated to ensure all requirements for acceptance are met (e.g., *bona fide* need, scope of work and government estimate).
- GSA Acquisition Letter V-07-04 specifies that GSA has a "reasonable time" in which to contractually obligate a customer agency's funds. A "reasonable time" is influenced by several factors, including type and complexity of the project, method of procurement, workload, and availability of staffing resources. Although PBS strives to obligate RWA funds within 90 days, construction and alteration projects are frequently obligated after this timeframe as a result of lengthy planning and procurement lead times. According to the PBS Office of Facilities Management and Services Programs, the next update to the RWA National Policy Document will incorporate this Acquisition Letter and clarify the requirement.

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## Appendix D – Management Comments (cont.)

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- RWA Number N0584063 was not cancelled. The project work was delayed and the original purchase request cancelled. GSA issued a new purchase request with an estimated project completion date of April 30, 2015.

### Response to Finding 2 • PBS RWA files are incomplete and lack adequate support

PBS agrees that the RWA files were incomplete and lacked adequate support in six instances. For RWA Numbers N0572994, N0573003 and N0573126, the RWA files did not include evidence of GSA's review of the client agency's estimate. For RWA Numbers N0117728, N0358053, and N0559512, PBS also agrees that these files lacked the *detailed* support for the project cost and Electronic Project Investment Process (ePIP) estimates included in the files. For the remaining RWAs, PBS found sufficient documentation, including scopes of work and government estimates, in either the RWA or project file to support original and amended RWAs.

#### Additional comments:

- At the time these RWAs were performed, there was no requirement that any specific supporting documentation be included in the RWA Entry and Tracking Application (RETA).
- GSA Policy<sup>1</sup> issued in 2007 permitted the utilization of client agency-prepared cost estimates.
- For the one instance where it was noted that a detailed SOW was not included, the information provided on the RWA was used as the detailed SOW. The National Policy Document (May 4, 2005) indicates that a sufficiently detailed scope of work includes the location, type of work, amount of work, requested completion date and all required signatures. The Description of Requirements listed on the original and amended RWAs for RWA Number N0358312 were sufficient to clearly establish the *bona fide* need of the request. The purpose of the original RWA was to "install top feed electrical junction boxes for replacement in W&J HQ on the 20<sup>th</sup> and 31<sup>st</sup> floors of the Summit FOB at 401 W. Peachtree St., Atlanta, GA 30308." The amended RWA expanded the scope to "add 21<sup>st</sup> floor disconnect and reconnect junction boxes."

### Response to Recommendations

1. **Develop and implement controls to ensure client agency fund certifications are valid.**

PBS believes the client agency is the entity that must submit valid fund certifications, therefore PBS does not agree with this recommendation or advise any change in this position.

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<sup>1</sup> Memorandum on *Reimbursable Services Process Improvements* from Lawrence A. Mellor, Senior Advisor to the Assistant Commissioner, Office of Organizational Resources through Sean M. Mildrow, Assistant Commissioner, Office of Organizational Resources, Martha Benson, Assistant Commissioner, Office of the National Customer Services Management, and David Buffington, Acting Assistant Commissioner, Office of Budget and Financial Management; dated November 27, 2007.

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## Appendix D – Management Comments (cont.)

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While PBS does not assume the responsibility of ensuring client agency fund certifications are valid, PBS has implemented additional system and review measures that enhance the program and reduce the reliance on the requesting agency's fund certification as it relates to the fund year and fund type. First, RETA is now able to match an agency's provided Treasury Account Symbol (TAS) to the Department of Treasury's new Component TAS format, which includes the agency's fund year and fund type. Also, PBS recently issued national RWA guidance requiring an additional review prior to acceptance of all non-severable RWAs funded by annual or multi-year appropriations. The review team is comprised of the Regional RWA Program Manager and representatives from the Office of the Chief Financial Officer (OCFO) and the Office of General Counsel.

- 2. Ensure that Independent Government Estimates (IGE), whether generated by client agencies or GSA, satisfy the requirements for IGEs established by the RWA National Policy Document.**

PBS agrees with this recommendation and the recently implemented reviews of all non-severable RWAs prior to acceptance ensures that IGEs meet the requirements established by the RWA National Policy Document. This topic will also be addressed in upcoming regional RWA training.

- 3. Develop and implement a process to ensure timely closeout of RWAs that are substantially complete and ensure closed RWAs are only re-opened for valid transactions.**

The RWAs noted in the report were closed timely (within 60 days of the completion dates and within a reasonable timeframe of the last financial transaction) and each was re-opened for valid transactions based on the certified amendments of IRS officials. Therefore, PBS does not agree with this recommendation.

- 4. Develop controls to ensure RWAs receive an appropriate level of scrutiny to ensure a bona fide need.**

The Region has controls in place to ensure RWAs receive an appropriate level of scrutiny to ensure a bona fide need; therefore, PBS does not agree with this recommendation. Regardless of the date of receipt, it is regional practice to review each RWA request and evaluate it to ensure all requirements for acceptance are met (e.g., bona fide need, scope of work and government estimate). RWAs that do not meet these requirements are returned to the client agency and only accepted once all requirements are met.

The requested scope changes unrelated to the original RWA scopes noted in the report were deemed allowable based on the certified amendments submitted by IRS officials that extended the period of obligational authority.

- 5. Clarify and actively manage the policy regarding RWA documentation in RETA to ensure that it is consistently applied among service centers and appropriate documentation is maintained.**

The policy documents referenced in the report regarding documentation requirements in RETA are managed by the PBS Office of Facilities Management and Services Programs

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## **Appendix D – Management Comments (cont.)**

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(i.e., National Policy Document and *PBS Reimbursable Services Standard Operating Procedure User Guide*) and the OCFO Office of Financial Policy and Operations (i.e., *PBS National Financial Accounting Process and Internal Controls Desk Guide*).

PBS agrees with the recommendation as it relates to regional practice; and as a result, the Region implemented documentation requirements that the original signed GSA Form 2957, scope of work, IGE, drawings, and project milestones be uploaded in RETA for all non-severable RWAs.

Should you have any questions, please contact John Smith at 404-562-0644.

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## ***Appendix E – Audit Response to Management Comments***

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The audit report states that PBS violated appropriations law and GSA policy by accepting six RWA amendments that used expired funds for work unrelated to the scope of the original RWA. The report also states that ten RWA files reviewed were incomplete and lacked adequate support. Finally, the report makes five recommendations to improve controls to prevent this in the future.

In its comments, regional management states that only one of the six RWAs violated appropriations law and GSA policy because the client agency submitted certified amendments to correct the funds type from annual to multi-year. In addition, PBS maintained that only six of the ten RWA files were incomplete and lacked adequate support. It further disagreed with three of the five recommendations.

We reaffirm our findings. Despite GSA regional management's assertions that the Agency corrected the fund types, we concluded that the funds were annual funds. Further, by not following PBS policy, it enabled the expenditure of expired funds as well as the "banking" of customer agency funds. In addition, PBS's assertions that four of the RWA files were complete are not supported.

*Finding 1 - PBS violated appropriations law and GSA policy by accepting RWA amendments that used expired funds for work unrelated to the scope of the original RWA.*

Regional management's comments ignore the nature of the funds. We concluded that all six of these RWAs were funded with annual appropriations. The accounting codes for the RWAs indicate that the funds were appropriated and expired in the same fiscal year. Further, for the timeframe involved, the customer agency's appropriations lacked multi-year funds for real property. Additionally, during our review, we found no documentation indicating that the amended RWAs were submitted to correct the funding. Lastly, we asked PBS to provide evidence that the RWAs were using multi-year funds; however, it did not.

As these were annual funds that had expired prior to the RWA amendments, their use on work unrelated to the original RWAs violated appropriations law. Instead of addressing this, regional management comments appear to state that there was no law violation because the customer agency changed the funding type from annual to multi-year on the amended RWA form and that GSA has no requirement to inquire about the requesting agency's changes.



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## ***Appendix E – Audit Response to Management Comments (cont.)***

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While there may not be a specific policy requirement for PBS to inquire about customer funding, PBS does have a responsibility to ensure the validity of funding. This responsibility is not limited to obtaining a signature from a fund certifying official, as is reflected on the RWA form which states: “Further written assurances regarding funding availability may be required depending on the facts and circumstances of individual requests.” Although the IRS submitted multiple amendments, some on the same day, with fund type changes, missing data, and incorrect accounting information, PBS did not seek clarification.

Further, a lack of due diligence regarding the funding is not the sole issue here. PBS enabled the appropriations law violation by not following its own policies and in some cases circumventing them. According to PBS policy, within 60 days of substantial completion of the work performed under an RWA, PBS should perform a financial closeout of the RWA, which would include notifying the customer of any excess funds for deobligation and terminating the RWA. For the RWAs in question, PBS did not follow policy.

Regional management states that RWAs N0358053 and N0569512 were closed shortly after substantial completion. Then, based on amendments submitted by the IRS, PBS reopened the RWAs and the excess funds were correctly used for unrelated scope changes. However, if the financial closeout had been performed according to policy, PBS should have notified the IRS that excess funds were ready for deobligation. For the two RWAs in question, we found:

- PBS reopened RWA N0358053 11 months after it was initially closed and had sufficient time to identify the excess funds and notify IRS about the need for deobligation.
- RWA N0569512 was amended in April 2012, 9 months prior to the February 2013 closing date. However, of the \$187,006 spent on the initial scope of the project, \$186,216 (99.58 percent of the total) was spent by March 2011. Since the work on the RWA was substantially completed at this time, PBS should have performed a financial close-out and notified the IRS of the excess funds. However, PBS accepted the amendment 13 months later for new work unrelated to the original scope.

In both cases, PBS had sufficient time to perform a financial close-out, notify IRS of the excess funding, and terminate the RWA. However, although the RWAs had been closed, PBS did not perform the complete financial close out. Instead, it circumvented controls by reopening the RWAs and allowed the client agency to use the funds for new work, thereby violating appropriations law.

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## **Appendix E – Audit Response to Management Comments (cont.)**

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Regional management states that policy allowed the acceptance of agency funds at any time in the fiscal year as long as the RWA meets the requirements of acceptance. However, regional management does not take into account its own policy that requires extra scrutiny on projects accepted at the end of the fiscal year. The National Policy Document Section 7.1, Acceptance of RWAs at Fiscal Yearend states:

*Before acceptance of an RWA by PBS, a careful review must be conducted to confirm that the order represents a bona fide need of the requesting client agency. Doing so will help prevent PBS from unknowingly assisting a client agency to improperly obligate funds. While such due diligence is true of all RWAs received throughout the course of the fiscal year, **it becomes especially important at yearend, when client agencies are under increased pressure to obligate funding before the period of availability for new obligations expires for annual funding, or multiyear funding in the last year of availability for new obligations. The Federal Buildings Fund cannot and must not be used as a means to hold or “park” client agency funding** [emphasis added].*

Four of the six RWAs accepted close to the fiscal year end were overfunded and subsequently had scope changes that were unrelated to the original RWA scope. If PBS had provided additional scrutiny as required by its own policy, it could have determined the funding amounts were excessive when compared to the work requested. This would have prevented the possibility of the Federal Buildings Fund being used to hold or park client agency funding.

Finally, in response to RWA N0584063, regional management states that GSA Acquisition Letter V-07-04 allows it a “reasonable time” to contractually obligate a customer agency’s funds. However, PBS’s National Policy Document clearly states that a reasonable time is 90 days, and includes language about dealing with complex projects that could take longer than 90 days. Section 7.1 further states:

*If a determination is made that, based on the complexities of the work requested, contract award will not occur within 90 calendar days, the separate, mutually agreed-upon contract award date required under OCAO policy must be recorded in Block 24a of the RWA, Agreed-Upon Contract Award Date.*

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## ***Appendix E – Audit Response to Management Comments (cont.)***

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We found no evidence that PBS fulfilled this policy requirement for RWA N0584063. Further, despite regional management's assurance that this project is ongoing, the RETA system has assigned two red flags to this RWA noting that the RWA is: "1-4 yrs old, no activity in 12 months" and has a "Start date > 12 months old and no obligations or expenses." As such the funds on this RWA appear to be parked and the RWA should be reviewed for termination by PBS and deobligation by the IRS.

### ***Finding 2 – PBS RWA files are incomplete and lack adequate support.***

Regional management's comments incorrectly state that at the time the RWAs were accepted, there were no requirements stating that specific documents be included in RETA. PBS guidance, such as the *PBS Reimbursable Services Standard Operating Procedures User Guide* (April 2008), lists deliverables that should reside in RETA. Additionally, the *PBS National Financial Accounting Process and Internal Controls Desk Guide* (February 2011) states that all documentation related to an RWA be stored in RETA.

In addition, regional management states that a GSA policy issued in November 2007 allowed PBS to use client agency prepared cost estimates. However, regional management did not provide a copy of the policy as requested.

Finally, regional management states that the description included in Box 7 of RWA N0358312 was sufficiently detailed to serve as the SOW. However, the National Policy Document from May 2005 states, "To be accepted by the GSA, the RWA must contain a sufficiently detailed scope of work, including the location, type of work, amount of work, requested completion date and all required signatures." We found that GSA had questions about the SOW and did not consider what was written in Box 7 "sufficiently detailed". In a letter to the client agency on February 13, 2009, GSA's Deputy Director of the Atlanta North Service Center wrote:

*We have not processed the RWA due to clarification needed on the scope and timeline. The Project Manager Rod Grant will contact you within the next two weeks to clarify the scope of work, timeline for the work, and any other elements to ensure we can accept the RWA and assign a RWA number.*

This letter clearly shows that the information listed on the RWA was not sufficient for the agency to understand the SOW and what exactly needed to be done with the RWA.

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## ***Appendix E – Audit Response to Management Comments (cont.)***

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### *Conclusion*

We disagree with regional management's comments to *Findings 1 and 2*. Based upon the information in the audit report, PBS violated appropriations law and GSA policy, and failed to maintain RWA files that were complete and adequately supported.

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## ***Appendix F – Report Distribution***

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Regional Commissioner, Public Buildings Service, Southeast Sunbelt Region (4P)

Regional Administrator, Southeast Sunbelt Region (4A)

Commissioner, Public Buildings Service (P)

Deputy Commissioner, Public Buildings Service (PD)

Chief of Staff, Public Buildings Service (P)

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