



U.S. GENERAL SERVICES ADMINISTRATION  
Office of Inspector General

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December 17, 2012

MEMORANDUM FOR ALLISON AZEVEDO  
REGIONAL COMMISSIONER, PBS  
GREAT LAKES REGION (5P)

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

SUBJECT: Administration of the Light Court Roof Replacement Project  
in Support of the American Recovery and Reinvestment Act  
of 2009<sup>1</sup> at the Milwaukee Federal Building and Courthouse  
in Milwaukee, Wisconsin  
Audit Memorandum Number A090184-61

As part of our oversight of the General Services Administration's (GSA) American Recovery and Reinvestment Act (Recovery Act) projects, we identified two areas of concern related to the administration of the subject contract. First, the Public Buildings Service (PBS) did not obtain complete and signed payroll which indicated that PBS did not enforce the Davis-Bacon Act.<sup>2</sup> Second, according to the payroll records that were available, three employees were paid below the prevailing wage for their job classifications.

On December 11, 2009, PBS awarded contract GS-05P-10-SA-C-0003 to KPH Construction Corp for \$997,358 using full and open competition. The contract was for a light court roof replacement project at the Milwaukee Federal Building and Courthouse.

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<sup>1</sup> The Recovery Act provides 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 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, 2010 and that the remaining funds 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.

<sup>2</sup> The Davis-Bacon Act, as amended, requires that each contract over \$2,000 to which the United States or the District of Columbia is a party for the construction, alteration, or repair of public buildings or public works shall contain a clause setting forth the minimum wages to be paid to various classes of laborers and mechanics employed under the contract. Under the provisions of the Act, contractors or their subcontractors are to pay workers employed directly upon the site of the work no less than the locally prevailing wages and fringe benefits paid on projects of a similar character.

One of the main goals of the Recovery Act was to put Americans back to work. One of GSA's responsibilities under the Act is to ensure that pay for the construction jobs created is at the prevailing wage rates for federal contracts. However, our review showed that GSA did not always fulfill its responsibility of ensuring compliance with wage determination rates during the contract period.

### **PBS did not enforce Davis-Bacon requirements**

During our review, performed in 2012, we were unable to locate payroll records for eight of the nine subcontractors that worked on this job. After we brought this matter to the attention of PBS officials<sup>3</sup>, we received these required records; however, some were incomplete. Specifically, two of the subcontractors did not provide required Statements of Compliance. PBS did not ensure that any of the payroll records submitted by these subcontractors were complete, even though they worked on the project from 4 to 15 weeks.

Federal Acquisition Regulation 52.222-8,<sup>4</sup> which is incorporated into KPH's contract, requires the contractor to submit weekly payrolls for any contract work performed to the contracting officer. The contractor is also required to submit with each payroll a signed Statement of Compliance stating that all laborers employed on the contract have been paid wage rates found in the applicable wage determination less permissible deductions, for the entire week. Furthermore, it states that the prime contractor is responsible for submitting all subcontractor payrolls. These directives are also found in the Davis-Bacon Act.

PBS's responsibility for ensuring compliance with Davis-Bacon cannot be fulfilled if these requirements are not met.

In its response, PBS stated:

With regard to issue (1), we concur that PBS did not enforce Davis-Bacon requirements to obtain complete payroll records. We will take the following corrective action to ensure compliance. Future training will include a reminder to verify payroll records submitted by subcontractors are complete and corrective action should be taken in a timely manner if discrepancies are found.

### **Three employees were paid less than the prevailing wage rate**

We noted that the certified payrolls for three subcontractor employees indicated that they were paid less than the prevailing wage rate for their job classifications.

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<sup>3</sup> PBS personnel also documented the missing payroll records on an October 2010 Inspection Report.

<sup>4</sup> Per Federal Acquisition Regulation 52.222-8 (a), payrolls and related records are to be maintained by the contractor during the course of the work and preserved for 3 years thereafter for all laborers and mechanics working at the site of the work. These records shall include the name of each worker, classification, hourly rates of wages paid, daily and weekly number of hours worked, deductions made, and actual wages paid.

One employee who worked for Ideal Crane Rental was listed as Operator (Group 1) and was paid \$29.44 per hour or \$5.82 below the wage determination's hourly rate of \$35.26. He was paid this lower rate for 11 of the 12 weeks he was on the job. Although Ideal Crane Rental claimed that the employee was misclassified, it has yet to provide revised payrolls or any other evidence to support this contention.

Two Complete Thermal employees were listed as Union Insulators and paid \$23.62 per hour for the time they spent on the project. The job classification on the wage determination that most closely aligned with their job title was Asbestos Worker/Heat and Frost Insulator, which has a prevailing hourly rate of \$25.36. Complete Thermal claimed that it used prevailing state wages as well as the union scale in determining the pay for these employees. However, as PBS pointed out, federal rates govern on GSA contracts.

In its response, PBS stated:

We do concur that three employees were paid less than the prevailing wage rate for their classification at the time, however corrective action has been taken. Ideal Crane Rental revised their payrolls associated with the employee listed as Operator. The Operator has been reclassified under the correct Group 4 and was paid at the prevailing wage rate. Regarding the two Complete Thermal employees, PBS personnel promptly pointed out the wage discrepancy to the contractor upon your review. Following this being pointed out to the contractor, PBS has been informed that the two Complete Thermal employees had their wages adjusted and were paid the prevailing wage rate.

We requested updated payrolls to verify the corrective action. PBS supplied revised payrolls from both Ideal Crane Rental and Complete Thermal Systems. Based on the revised payrolls, we determined that the subcontractors have resolved the issues.

We appreciate the support that has been provided throughout this review. If you have any questions about this memorandum, please contact me at (312) 353-0500 or Hilda Garcia at (312) 353-6695.

## **Report Distribution**

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