



U.S. GENERAL SERVICES ADMINISTRATION
Office of Inspector General

March 29, 2011

MEMORANDUM FOR: JULIA E. HUDSON
REGIONAL ADMINISTRATOR
NATIONAL CAPITAL REGION (WA)

*Maigie A. Royster
for*

FROM: R. NICHOLAS GOCO
DEPUTY ASSISTANT INSPECTOR GENERAL FOR
AUDITING
REAL PROPERTY AUDIT OFFICE (JA-R)

SUBJECT: Recovery Act Memorandum—High Performance Green
Building Tune-up for the Ariel Rios Federal Building
Review of PBS's Limited Scope and Small Construction
Projects Funded by the American Recovery and
Reinvestment Act of 2009
A090184-29/P/R

As part of our oversight of the National Capital Region's (NCR) limited scope and small construction projects funded by the American Recovery and Reinvestment Act¹ (Recovery Act), we reviewed the contract award² for the high performance green building tune-up project at the Ariel Rios Federal Building in the amount of \$1,314,540. Our objectives were to determine if the project met the requisite "green building" investment strategy and if GSA's Public Buildings Service (PBS) awarded the contract in accordance with the provisions of the Federal Acquisition Regulation.

During our review, we identified two issues that require your attention. Specifically:

- The project scope was significantly reduced after receipt of offers, yet the solicitation was not reissued to maximize competition; and
- The technical review of a bidder's bonding capacity was not properly performed.

¹ The American Recovery and Reinvestment Act of 2009 appropriated \$5.55 billion to the Public Buildings Service's Federal Buildings Fund, the majority of which was related to measures necessary to convert its facilities to High Performance Green Buildings. The Recovery Act also required the Office of Inspector General to oversee and audit programs, grants, and projects funded under this Act.

² Contract number GS-11P-10-YA-C-0090.

Competition Requirements Not Met

GSA lost the advantage of competition because the solicitation was not reissued when the scope of the project was revamped.

The project scope originally called for 15 energy conservation measures (ECMs). Eight bidders submitted offers. The three lowest priced bids were evaluated by the Technical Evaluation Board (Board); two were found to be technically acceptable. Due to funding limitations, the project scope was reduced from 15 ECMs to 2 ECMs, an 88 percent decrease in estimated project value; however, the solicitation was not reissued to reflect this change. Instead, PBS opened discussions with the two technically acceptable bidders, and amended solicitations were sent to those contractors. In view of the fact that the scope of the project was substantially reduced, the contracting officer should have cancelled the solicitation and issued a new Request for Proposals in compliance with Federal Acquisition Regulation 15.206(e)³.

Bidder's Bond Capacity Not Reviewed by Technical Evaluation Board

The Board did not independently determine if a bidder had sufficient bond capacity. The lack of an independent review could have put the Government at risk.

The Board reviewed the bidders' technical proposals against four evaluation factors: (1) experience of the proposed design build team, (2) past performance of the design build team, (3) key personnel, and (4) bonding capacity. The technical proposal evaluation plan states that the Board will review all evidence of bonding capacity. However the Board did not review the bonding documents for one bidder, but instead relied on unverified input from the contracting officer. The Board's report states that the "Proof of bonding capacity was not included in the documentation provided to the Technical Evaluation Board...[the] contracting officer confirmed that the contractor submitted sufficient information to support bonding capacity." Based on this, the Board concluded that the bidder had sufficient bonding capacity. Had this bidder won and had insufficient bonding capacity, the lack of independent review could have put the Government at risk. Having the Board independently review the technical factors is an important safeguard. In a similar case in this region where the contracting officer reviewed bonding rather than the Board, the contractor was ultimately found to not have adequate bonding capacity and was eliminated from the procurement.

Our audit efforts related to the Recovery Act are ongoing and future work products are anticipated. We appreciate the support provided during this review.

³Federal Acquisition Regulation 15.206(e): If, in the judgment of the contracting officer, based on market research or otherwise, an amendment proposed for issuance after offers have been received is so substantial as to exceed what prospective offerors reasonably could have anticipated, so that additional sources likely would have submitted offers had the substance of the amendment been known to them, the contracting officer shall cancel the original solicitation and issue a new one, regardless of the stage of the acquisition.

**Recovery Act Memorandum—
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for the Ariel Rios Federal Building
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Regional Administrator (WA)

Regional Commissioner, Public Buildings Service (WP)

Regional Recovery Executive (WP)

Public Buildings Service Commissioner (P)

National Program Office Recovery Act Executive, Public Buildings Service (PCB)

Public Buildings Service Audit Liaison (PFF)

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