



***Department of Defense
Office of Inspector General***



**The American Recovery and Reinvestment Act of 2009:
Naval Medical Center Portsmouth, Building 3**

(Recovery Act Project Number 141)

August 13, 2010

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Results in Brief: Naval Medical Center Portsmouth, Building 3

What We Did

We evaluated DOD's implementation of plans for the American Recovery and Reinvestment Act of 2009. Specifically, we determined whether TRICARE Management Activity, Naval Medical Center Portsmouth, and Naval Facilities Engineering Command Mid-Atlantic adequately implemented the project for Building 3 of the Naval Medical Center Portsmouth in accordance with the requirements of the Recovery Act. We examined the project's requirements for validity and the cost estimate for reasonableness. We reviewed project funding and project execution to determine whether the solicitation was transparent, allowed for competition, and contained required Federal Acquisition Regulation clauses.

What We Found

Although Naval officials selected a project at Naval Medical Center Portsmouth that was a valid requirement, they did not provide adequate supporting documentation for the cost estimate. Despite the inadequacies of the cost estimate, we believe the project should proceed as planned because Naval Facilities Engineering Command Mid-Atlantic personnel received multiple proposals for the project, and competition is sufficient to establish price reasonableness.

Health Affairs personnel distributed project funds to the Bureau of Medicine and Surgery in accordance with Office of Management and Budget guidance, and Naval Facilities Engineering Command Mid-Atlantic personnel properly posted project information on the Federal Business Opportunity Web site. The solicitation included the required Recovery Act clauses. However, we identified a potentially conflicting set of contract clauses in the solicitation.

What We Recommend

We recommended the Commanding Officer, Naval Facilities Engineering Command Mid-Atlantic ensure the contract award for the Recovery Act project at Naval Medical Center Portsmouth includes only the appropriate Buy American Act clause.

Management Comments and Our Response

The Principal Deputy Assistant Secretary of the Navy (Energy, Installations & Environment) comments are fully responsive, and corrective action is complete. We validated that the contract award included only the appropriate Buy American Act clause.



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Audit Objective

- The primary objective of the audit was to determine whether DOD and its Components were planning and implementing the American Recovery and Reinvestment Act of 2009 (Recovery Act) by meeting the requirements in the Recovery Act, Office of Management and Budget (OMB) Memorandum M-09-10, "Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009," February 18, 2009, and subsequent related guidance.
- We reviewed the planning, funding, and initial execution of the Recovery Act project at Naval Medical Center Portsmouth, Virginia to determine whether the efforts of TRICARE Management Activity, Naval Medical Center Portsmouth (NMCP), and Naval Facilities Engineering Command (NAVFAC) Mid-Atlantic, complied with Recovery Act requirements, OMB guidance, the Federal Acquisition Regulation (FAR), and DOD implementing guidance.



Recovery Act Requirements



- The Recovery Act and implementing OMB guidance require projects to be monitored and reviewed. We have grouped these requirements into four phases and determined whether the following Recovery Act requirements were met:
 - Planning – Projects were properly planned to ensure appropriate use of funds.
 - Funding – Funds were distributed in a prompt, fair, and reasonable manner.
 - Execution – Contracts were transparent, competed, and contain specific FAR clauses; funds were used for authorized purposes; instances of fraud, waste, error, and abuse were mitigated; program goals were achieved, including specific program outcomes and improved results on broader economic indicators; projects funded avoided unnecessary delays and cost overruns; and contractors or recipients of funds reported results.
 - Tracking and Reporting – Recipients' use of funds was transparent to the public, and benefits of the funds were clearly, accurately, and timely reported.
- We reviewed the planning, funding, and initial execution of the Recovery Act project at Naval Medical Center Portsmouth. Because NAVFAC recently awarded the contract, there was no recipient reporting to review at the time of our audit.



Project Background

- The project for NMCP is funded by the Defense Health Program, which received \$400 million from the Recovery Act Operations and Maintenance (O&M) appropriation.
- DOD lists these O&M projects as Facilities Sustainment, Restoration, and Modernization (FSRM).
- According to the FSRM Recovery Act Plan, May 15, 2009, the Recovery Act project (Project No. 141) at NMCP consists of replacing the roof and exterior (cavity rebuild) on Building 3 for an estimated cost of \$29 million.



Project Background

(continued)

- Built in 1960, Building 3 is an 18-story 497,500 square foot facility housing clinical services and medical support staff.
- According to the Navy, the building is deteriorating due to age, inadequate maintenance, and poor workmanship when constructed. Specifically, the building is experiencing moisture damage from rainwater penetrating the exterior.
- The project will require removing the existing brick exterior, repairing windows and doors, replacing the roof, repainting finish on metal wall panels, replacing louvers, replacing the structurally unsound main entrance canopy, and repairing the steel supports of the cooling tower.





Project Planning

Navy Project is a Valid Requirement But Support for the Navy's Cost Estimate Was Inadequate

- Navy officials selected a project at NMCP that was a valid requirement. However, we were unable to determine whether the Navy's cost estimate was reasonable.
- This condition occurred because NAVFAC Mid-Atlantic did not:
 - provide adequate supporting documentation for the cost estimate;
 - perform an independent review of the cost estimate; or
 - ensure the cost estimate was free from mathematical and transposition errors.
- Despite the inadequacies of the cost estimate, we believe the project should proceed as planned because NAVFAC Mid-Atlantic personnel received multiple proposals for the project, and competition is sufficient to establish price reasonableness.



Project Planning

(continued)



Project Justification Supported by Economic Analysis

- The Navy's economic analysis (attached to DD Form 1391) listed six possible solutions:
 - Cavity rebuild;
 - Thin stone veneer installed over existing brick;
 - Dryvit finish system over existing brick;
 - Metal panels installed over existing brick;
 - Solargard coating installed over existing brick; and
 - Status quo spot repairs.
- The economic analysis listed the pros and cons of each possible solution.
- According to the Navy, the cavity rebuild of Building 3 was the best solution for correcting the water damage, repairing existing masonry problems, and maintaining the building's architectural character.
- According to the economic analysis, an advantage unique to the rebuild option is the opportunity for inspection and repair of structural steel as needed.



Project Planning

(continued)



Project Justification Supported by Building Observations

- During observations of Building 3, we saw cracks in the brick (page 8), several patches in the roof (pages 9 and 10), and noticeable water damage in the interior office space (page 11).
- We also reviewed studies performed by private companies documenting the water damage to the building.
- We determined that the project to repair the damages to NMCP Building 3 is a valid requirement.



Project Planning

(continued)

Brick Walls with Cracks





Project Planning

(continued)

Patches on Roof and Wall





Project Planning (continued) Additional Patches





Project Planning

(continued)

Water Damage





Project Planning

(continued)

Government Cost Estimate Inadequacies

- The cost estimate for the NMCP project included a summary spreadsheet with line item estimates for direct materials; direct labor; subcontractor costs; profit and standard percentage rates for insurance and overhead; and several pages of specific items of work with a short description, quantity, unit, unit cost, and total estimated cost for each.
- According to NAVFAC Mid-Atlantic personnel, NAVFAC completed the cost estimate by using the RSMeans®¹ Facilities Construction Cost Data book (RSMeans) and by calling companies to receive quotes.
- For supporting documentation, NAVFAC Mid-Atlantic personnel provided only cost engineering notes with vendor price quotes and diagrams of Building 3 with measurements.
- Of 213 detailed cost estimate line items:
 - 198 were not supported;
 - 14 were partially supported; and
 - 1 was fully supported.
- Transposition errors occurred in the line items when costs were moved from the detailed cost estimate line to the summary line.
- Five mathematical errors caused a \$151,706.03 overstatement to the estimate (0.6 percent of the total estimate).

¹The RSMeans ® is used for the maintenance, construction, and renovation of commercial, industrial, municipal, and institutional properties. The book provides access to over 45,000 unit price line items.



Project Planning

(continued)

Government Cost Estimate Inadequacies (continued)

- Because of the lack of supporting documentation and the lack of an independent review of the cost estimate, we were unable to determine whether the project estimate cost of \$29 million was reasonable.
- According to the NAVFAC Cost Engineering Policy and Procedures Guide, cost estimates for projects are to be used to establish and verify budget cost, to verify contract bid prices, and to develop historical data for future estimates. The cost estimate can also be the determining factor as to whether or not the project is included in the budget year program.
- In addition, Naval Operations Instruction 11010.20G states the project must include a verifiable cost estimate that correlates to the project description and scope.
- According to the FAR, competition normally establishes price reasonableness. Therefore, when contracting on a firm-fixed-price basis, comparison of the proposed prices will usually satisfy the requirement to perform a price analysis.
- Despite the inadequacies of the cost estimate, we believe the project should proceed as planned because NAVFAC Mid-Atlantic personnel received multiple proposals for the project, and competition is sufficient to establish price reasonableness.



Project Planning

(continued)

National Environmental Policy Act Requirements Met

- The National Environment Policy Act requires Federal agencies to integrate environmental values into their decisionmaking processes by considering the environmental impacts of their proposed actions and reasonable alternatives to those actions.
- NMCP personnel provided a categorical exclusion² for the removal and replacement of the brick veneer on Building 3.
- The categorical exclusion addresses dust and noise impact which will be minimized during construction by the use of wet methods and dust control tools. NMCP personnel completed the study on May 4, 2009.
- On January 7, 2010, NMCP personnel updated the categorical exclusion to include replacing roofing, flashing, vents, and other necessary project tasks.

²Council of Environmental Quality regulations provide for establishment of categorical exclusions for those actions that after consideration by the Navy have been found not to have a significant effect on the human environment under normal circumstances; therefore, neither an Environmental Assessment nor an Environmental Impact Statement is required.



Project Funding & Project Execution

Project Funding Was Timely

Health Affairs personnel distributed project funds to Bureau of Medicine and Surgery (BUMED) in a timely manner. In addition, BUMED personnel transferred project funds to NAVFAC before the contract was awarded.

Execution Satisfactory With the Exception of Conflicting Buy American Act Clauses in the Solicitation

NAVFAC Mid-Atlantic personnel properly posted project information on the Federal Business Opportunities (FBO) Web site. The solicitation included the required Recovery Act clauses. However, we identified a potentially conflicting set of contract clauses in the solicitation.

- NAVFAC Mid-Atlantic personnel posted a pre-solicitation and solicitation notice for the project on the FBO Web site in accordance with Recovery Act guidance.
- NAVFAC Mid-Atlantic personnel properly included the word “Recovery” as the first word in the project title and provided a clear and unambiguous project description in the FBO posting.
- The solicitation provided for full and open competition for a firm-fixed-price contract regarding construction.



Project Execution

(continued)

Execution Satisfactory With the Exception of Conflicting Buy American Act Clauses in the Solicitation (continued)

- The solicitation included the required Recovery Act FAR clauses, including a Recovery Act Buy American Act clause and provision. However, the solicitation also improperly included a non-Recovery Act Buy American Act clause and provision.
- According to FAR 25.1102(e), the Recovery Act Buy American Act clauses and provisions, instead of non-Recovery Act Buy American Act clauses and provisions, should be used for Recovery Act projects.
- The non-Recovery Act Buy American Act clause could potentially conflict with the Recovery Act Buy American Act clause because the language and terms are different.
- A NAVFAC Mid-Atlantic contracting officer stated that NAVFAC should not have included the non-Recovery Act clause and provision in the solicitation and would not include the clause and provision in the contract.

Management Action to Correct Conflicting Buy American Act Clauses

- On June 18, 2010, NAVFAC Mid-Atlantic personnel awarded the contract for the Recovery Act project at NMCP. The contract included only the appropriate Buy American Act clause.



Recommendations, Management Comments, and Our Response



Recommendation

We recommended the Commanding Officer, Naval Facilities Engineering Command Mid-Atlantic ensure the contract award for the Recovery Act project at Naval Medical Center Portsmouth includes only the appropriate Buy American Act clause.

Management Comments

The Principal Deputy Assistant Secretary of the Navy (Energy, Installations & Environment) agreed with the recommendation. The Principal Deputy stated, "...the contract, awarded on 18 June 2010, included the appropriate clauses."

Our Response

We validated that the contract award included only the appropriate Buy American Act clause. Accordingly, the Principal Deputy Assistant Secretary of the Navy (Energy, Installations & Environment) comments are fully responsive, and no additional comments are required.



Scope & Methodology



- We conducted this audit from August 2009 through April 2010 in accordance with generally accepted government auditing standards. Generally accepted government auditing standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.
- Under the Recovery Act, Congress appropriated approximately \$12 billion to DOD and the U.S. Army Corps of Engineers (USACE).
- DOD manages \$7.4 billion in the following programs: Energy Conservation Investment; FSRM; Homeowners Assistance; Military Construction; and Near-Term Energy-Efficient Technologies.
- USACE manages \$4.6 billion for civil and water projects.
- We reviewed the NMCP project for roof and exterior replacement on Building 3. The project was part of the FSRM Program.



Scope & Methodology

(continued)

Planning

- To determine whether the Navy properly planned the project to ensure appropriate use of funds we:
 - Examined the approved DD Form 1391 and the economic analysis;
 - Reviewed additional supporting documentation for the project, including two private studies on exterior damage to NMCP Building 3;
 - Physically observed the building to be repaired;
 - Interviewed on-site Navy engineers assigned to the project;
 - Reviewed the Record of Categorical Exclusion;
 - Requested and reviewed all documentary evidence supporting the in-house cost estimate;
 - Traced detailed line item estimates back to documentary support;
 - Verified mathematical calculations in the estimate; and
 - Requested a copy of the independent review.
- We did not try to validate the estimated cost of the other possible solutions in the economic analysis.



Scope & Methodology

(continued)

Project Funding

- To determine whether Health Affairs and BUMED distributed funds in accordance with OMB guidance we:
 - Reviewed funding authorization documents;
 - Interviewed BUMED personnel; and
 - Corresponded with NAVFAC Mid-Atlantic personnel.

Project Execution

- To determine whether the NAVFAC Mid-Atlantic solicitation was transparent, allowed for competition, and contained specific FAR clauses we:
 - Reviewed the solicitation;
 - Corresponded with NAVFAC Mid-Atlantic personnel;
 - Reviewed the FBO Web site postings; and
 - Reviewed contract No. N40085-10-C-3002.



Scope & Methodology

(continued)



Use of Technical Assistance

- Before selecting DOD Recovery Act projects for audit, the Quantitative Methods and Analysis Division (QMAD) of the DOD Office of Inspector General analyzed all DOD agency-funded projects, locations, and contracting oversight organizations to assess the risk of waste, fraud, and abuse associated with each. QMAD selected most audit projects and locations using a modified Delphi technique which allowed them to quantify the risk based on expert auditor judgment and other quantitatively developed risk indicators. QMAD used information collected from all projects to update and improve the risk assessment model. QMAD selected 83 projects with the highest risk ranking; auditors chose some additional projects at the selected locations.
- QMAD did not use classical statistical sampling techniques that would permit generalizing results to the total population because there were too many potential variables with unknown parameters at the beginning of this analysis. The predictive analytic techniques employed provided a basis for logical coverage not only of Recovery Act dollars being expended, but also of types of projects and types of locations across the Military Services, Defense agencies, State National Guard units, and public works projects managed by USACE.



Scope & Methodology

(continued)

Use of Computer–Processed Data

- We relied on computer-processed data from the FBO Web site and Navy Electronic Commerce Online. FBO is a single, government-wide point-of-entry for the Federal government procurement opportunities. Navy Electronic Commerce Online is the Navy's Web-based system for electronic exchange of solicitations, offers, and awards. We compared data generated by each system with the DOD expenditure plans, funding authorization plans, information from NAVFAC Mid-Atlantic personnel, information from NMCP personnel, and various Navy and construction guidance to support the audit conclusions. We determined that the data were sufficiently reliable for the purposes of our report.

Prior Audit Coverage

- The Government Accountability Office, the Department of Defense Inspector General, and the Military Departments have issued reports and memoranda discussing DOD projects funded by the Recovery Act. You can access unrestricted reports at <http://www.recovery.gov/accountability>.



Internal Controls

- DOD Instruction 5010.40, "Managers' Internal Control (MIC) Program Procedures," January 4, 2006, requires DOD organizations to implement a comprehensive system of internal controls that provides reasonable assurance that programs are operating as intended and to evaluate the effectiveness of the controls.
- We reviewed internal controls for the Building 3 cavity rebuild project administered by NMCP and NAVFAC Mid-Atlantic. We reviewed the planning, funding, and initial execution of the project.
- We identified an internal control weakness at NAVFAC Mid-Atlantic in developing the cost estimate. NAVFAC Mid-Atlantic personnel lacked adequate supporting documentation for their cost estimate and had no independent reviewer examine the cost estimate for accuracy and completeness.
- We will provide a copy of the final report to the senior official in charge of internal controls for the Assistant Secretary of the Navy (Financial Management and Comptroller).



Recovery Act Background



- The President signed the Recovery Act into law on February 17, 2009. The purposes of the Act are to:
 - Preserve and create jobs and promote economic recovery;
 - Assist those most impacted by the recession;
 - Provide investments needed to increase economic efficiency by spurring technological advances in science and health;
 - Invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits; and,
 - Stabilize state and local government budgets in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.
- Heads of Federal departments and agencies are to expend the funds as quickly as possible consistent with prudent management.
- The Recovery Act establishes transparency and accountability requirements. Federal Acquisition Circular 2005-32, March 31, 2009, provides policies and procedures for the government-wide implementation of the Recovery Act and guidance on special contract provisions. Federal Acquisition Circular 2005-32 amended the FAR and provided interim rules that made FAR solicitation provisions and contract clauses immediately available for inclusion in contracts for Recovery Act work.