

Inspector General

United States
Department of Defense



American Recovery and Reinvestment Act - U.S.
Army Corps of Engineers Los Angeles District
Contractor Performance and Reporting Controls
Were Generally Effective

Report Documentation Page				Form Approved OMB No. 0704-0188	
Public reporting burden for the collection of information is estimated to average 1 hour per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden, to Washington Headquarters Services, Directorate for Information Operations and Reports, 1215 Jefferson Davis Highway, Suite 1204, Arlington VA 22202-4302. Respondents should be aware that notwithstanding any other provision of law, no person shall be subject to a penalty for failing to comply with a collection of information if it does not display a currently valid OMB control number.					
1. REPORT DATE 10 MAY 2012		2. REPORT TYPE		3. DATES COVERED 00-00-2012 to 00-00-2012	
4. TITLE AND SUBTITLE American Recovery and Reinvestment Act-U.S. Army Corps ofEngineers Los Angeles District Contractor Performance and Reporting Controls Were Generally Effective				5a. CONTRACT NUMBER	
				5b. GRANT NUMBER	
				5c. PROGRAM ELEMENT NUMBER	
6. AUTHOR(S)				5d. PROJECT NUMBER	
				5e. TASK NUMBER	
				5f. WORK UNIT NUMBER	
7. PERFORMING ORGANIZATION NAME(S) AND ADDRESS(ES) Department of Defense Office of Inspector General,4800 Mark Center Drive,Alexandria,VA,22350-1500				8. PERFORMING ORGANIZATION REPORT NUMBER	
9. SPONSORING/MONITORING AGENCY NAME(S) AND ADDRESS(ES)				10. SPONSOR/MONITOR'S ACRONYM(S)	
				11. SPONSOR/MONITOR'S REPORT NUMBER(S)	
12. DISTRIBUTION/AVAILABILITY STATEMENT Approved for public release; distribution unlimited					
13. SUPPLEMENTARY NOTES					
14. ABSTRACT					
15. SUBJECT TERMS					
16. SECURITY CLASSIFICATION OF:			17. LIMITATION OF ABSTRACT Same as Report (SAR)	18. NUMBER OF PAGES 36	19a. NAME OF RESPONSIBLE PERSON
a. REPORT unclassified	b. ABSTRACT unclassified	c. THIS PAGE unclassified			

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Acronyms and Abbreviations

ACO	Administrative Contracting Officer
AFARS	Army Federal Acquisition Regulation Supplement
AFB	Air Force Base
CEFMS	Corps of Engineers Financial Management System
COR	Contracting Officer's Representative
DFARS	Defense Federal Acquisition Regulation Supplement
FAR	Federal Acquisition Regulation
FSRM	Facilities Sustainment, Restoration, and Modernization
OMB	Office of Management and Budget
SBA	Small Business Administration
USACE	U.S. Army Corps of Engineers



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May 10, 2012

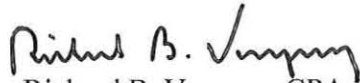
MEMORANDUM FOR COMMANDING GENERAL, U.S. ARMY CORPS OF
ENGINEERS
AUDITOR GENERAL, DEPARTMENT OF THE ARMY

SUBJECT: American Recovery and Reinvestment Act-U.S. Army Corps of Engineers
Los Angeles District Contractor Performance and Reporting Controls Were
Generally Effective (Report No. DODIG-2012-085)

We are providing this report for your information and use. This report discusses the U.S. Army Corps of Engineers Los Angeles District contractor performance and reporting controls over 10 contract actions valued at \$56.6 million at Phoenix, Arizona; Edwards Air Force Base, California; and San Diego, California. Contracting officials fulfilled their contract administration responsibilities, and contractor performance and reporting controls were generally effective to ensure that the 10 contract actions were properly executed. However, contracting officers did not verify that personnel with delegated responsibilities were adequately trained. In addition, contracting officers did not prepare and issue delegation letters correctly.

We considered management comments on a draft of this report when preparing the final report. Comments from the Commander, U.S. Army Corps of Engineers Los Angeles District, conformed to the requirements of DoD Directive 7650.3 and were responsive. Therefore, additional comments are not required.

We appreciate the courtesies extended to the staff. Please direct questions to me at (703) 604-8938 (DSN 664-8938).


Richard B. Vasquez, CPA
Acting Assistant Inspector General
Financial Management and Reporting



Results in Brief: American Recovery and Reinvestment Act–U.S. Army Corps of Engineers Los Angeles District Contractor Performance and Reporting Controls Were Generally Effective

What We Did

We determined whether DoD and its Components implemented Public Law 111-5, “American Recovery and Reinvestment Act of 2009,” (Recovery Act). Specifically, we evaluated the effectiveness of Government controls over contractor performance and reporting on selected projects, including contracts awarded to qualified small businesses. We reviewed 10 contract actions valued at \$56.6 million.

What We Found

The U.S. Army Corps of Engineers Los Angeles District (USACE Los Angeles) contractor performance and reporting controls were generally effective to ensure that the 10 contract actions were properly executed. Contracting personnel established adequate quality controls to:

- ensure that Recovery Act funds were used for contract requirements,
- monitor the contract actions so that contract requirements were met, and
- make certain that the use of funds was reported in a clear and understandable manner.

USACE Los Angeles accepted the contracted goods and services without unnecessary delays and cost overruns for eight completed contract actions and the work completed as of May 2011 on two ongoing contract actions. However, contracting officers needed stronger controls when delegating contract administration responsibilities to administrative contracting officers and contracting officer’s representatives (CORs).

Specifically, contracting officers did not:

- select CORs who had documentation proving they had completed required training;
- prepare delegation letters that complied with the Federal Acquisition Regulation; and
- confirm that delegated responsibilities were performed.

This occurred because contracting officers did not place a high priority on verifying that personnel completed all required training and on preparing and issuing delegation letters correctly. As a result, USACE Los Angeles could experience increased financial risk when administering future contracts.

What We Recommend

The Chief, Contracting Division, USACE Los Angeles, should update the contract administration guidance to implement stronger controls for contracting officers to follow when selecting, delegating, and monitoring personnel to assist with contract administration responsibilities.

Management Comments and Our Response

The Chief, Contracting Division, agreed with all recommendations and stated that USACE Los Angeles would document and improve its training of individuals performing contract administration responsibilities and update its processes to ensure regulatory compliance. The Chief stated that these actions would be completed during this fiscal year. No further comments are required. Please see the recommendations table on the back of this page.

Recommendations Table

Management	Recommendations Requiring Comment	No Additional Comments Required
Chief, Contracting Division, U.S. Army Corps of Engineers, Los Angeles District		B.1, B.2.a, B.2.b, B.3

Table of Contents

Introduction	1
Audit Objective	1
Recovery Act Background	1
USACE Los Angeles Needs Better Guidance on Contracting Officer Responsibilities	4
Finding A. Contractor Performance and Reporting Controls Were Generally Effective	5
Contracting Personnel Effectively Managed Contractor Performance and Reporting Controls	5
Contracting Personnel Confirmed Contractor’s Small Business Status	9
Conclusion	9
Finding B. Contracting Officers Needed Stronger Controls When Delegating Contract Administration Responsibilities	10
ACOs and CORs Generally Fulfilled Contract Administration Responsibilities	10
Contracting Officers Did Not Properly Delegate or Monitor ACO and COR Responsibilities	11
Higher Priority Needed for Training, Delegation Letter Preparation, and Followup	16
Recommendations, Management Comments, and Our Response	16
Appendices	
A. Scope and Methodology	19
Use of Computer-Processed Data	20
Use of Technical Assistance	20
Prior Coverage of Recovery Act Audits	20
B. Recovery Act Criteria and Guidance	22
C. Recovery Act Contract Actions Reviewed at USACE Los Angeles	24
Management Comments	
United States Army Corps of Engineers, Los Angeles	25

Introduction

Audit Objective

The objective of this audit was to determine whether DoD and its Components were implementing Public Law 111-5, “American Recovery and Reinvestment Act of 2009” (Recovery Act). Specifically, we evaluated the effectiveness of Government controls at the U.S. Army Corps of Engineers Los Angeles District (USACE Los Angeles) over contractor performance and reporting on selected contract actions, including contracts awarded to qualified small businesses. See Appendix A for a discussion of our scope and methodology as well as prior audit coverage of the Recovery Act.

Recovery Act Background

The President signed the Recovery Act into law on February 17, 2009.

The purposes of this Act include the following:

- (1) To preserve and create jobs and promote economic recovery.
- (2) To assist those most impacted by the recession.
- (3) To provide investments needed to increase economic efficiency by spurring technological advances in science and health.
- (4) To invest in transportation, environmental protection, and other infrastructure that will provide long-term economic benefits.
- (5) To stabilize State and local government budgets, in order to minimize and avoid reductions in essential services and counterproductive state and local tax increases.

The heads of Federal departments and agencies shall manage and expend the funds made available in this Act so as to achieve the purposes specified ... including commencing expenditures and activities as quickly as possible consistent with prudent management.

Office of Management and Budget, Federal Acquisition Regulation, and DoD Recovery Act Guidance

Criteria for planning and implementing the Recovery Act changed during 2009 through 2011 as the Office of Management and Budget (OMB) issued memoranda to address the implementation of the Recovery Act. Additional implementing guidance was issued in the Federal Acquisition Regulation (FAR) and by DoD and its Components. See Appendix B for a list of Federal Government Recovery Act criteria and guidance.

DoD Recovery Act Program Plans

Under the Recovery Act, Congress appropriated approximately \$12 billion to DoD for the following programs: Energy Conservation Investment; Facilities Sustainment,

Restoration, and Modernization (FSRM);¹ Homeowners Assistance; Military Construction; Near Term Energy-Efficient Technologies; and U.S. Army Corps of Engineers–Civil Works. The Recovery Act divides the approximately \$12 billion among 32 DoD and USACE line items of appropriation. The values of the six Recovery Act programs are shown in Table 1.

Table 1. DoD Agency-Wide and Program-Specific Recovery Act Programs

Program	Amount (in millions)
Energy Conservation Investment	\$120
Facilities Sustainment, Restoration, and Modernization	4,260*
Homeowners Assistance	555
Military Construction	2,185
Near Term Energy-Efficient Technologies	300
U.S. Army Corps of Engineers–Civil Works	4,600
Total	\$12,020*

*On August 10, 2010, Public Law 111-226, Title III, “Rescissions,” rescinded \$260.5 million of funds from DoD Operation and Maintenance Accounts supporting the Recovery Act. This reduced the DoD Recovery Act FSRM amount to approximately \$4 billion, and total DoD agency-wide and program-specific Recovery Act funding to approximately \$11.76 billion.

USACE Mission

USACE is comprised of two major programs: the Civil Works Program and Military Programs. The mission of USACE–Civil Works is to (1) contribute to the national welfare and serve the nation with quality, responsive development and management of the nation’s water resources; (2) protect, restore, and manage the environment; (3) respond to disasters and aid in recovery; and (4) provide engineering and technical services. The USACE Military Programs mission is to provide premier engineering and construction, real estate, stability operations, and environmental management products and services for the Army, Air Force, other assigned U.S. Government agencies, and foreign governments. This report discusses Recovery Act projects at USACE Los Angeles.

Recovery Act Projects at USACE Los Angeles

USACE Los Angeles, one of the largest Civil Works districts in the United States, covers 226,000 square miles across California, Nevada, Utah, and Arizona. Its mission is to perform civil works, military construction, real estate operations, regulatory actions, and

¹ The DoD FSRM Program helps to ensure that Department facilities are maintained; meet national security standards; and provide, operate, and sustain suitable housing, medical, and base facilities for warfighters and their families in a cost-effective manner.

support for other agencies. We reviewed 10 contract actions² for the following four projects at USACE Los Angeles in California and Arizona.

- **Edwards Air Force Base Projects.** Edwards Air Force Base (AFB) in California supports the research, development, test, and evaluation of aerospace systems to ensure that current and future airmen have proven equipment when flying into harm's way. We reviewed two Recovery Act projects at Edwards AFB. Three contractors in the Small Business Development 8(a) Program performed both projects.

- The first project, Energy and Monitoring Control System/Supervisory Control and Data Acquisition, reduces energy and maintenance costs in buildings across the base through the installation of sensors and controllers to more efficiently control water, heating, and other environmental systems. Total funding for the project is \$4.7 million.

- The second project, Repair Taxiway Cable/Transformer, is for the repair of taxiway cables and the replacement of taxiway blue light-emitting diode light bulbs on multiple taxiways across the base. The contract has total funding of \$3.5 million.



- **San Diego River and Mission Bay Project.**

The San Diego River and Mission Bay project consisted of repairing the middle jetty³ at the entrance of the channel to Mission Bay and dredging sections of Mission Bay Harbor in San Diego County, California. Wave action from storms had damaged about 220 feet of the jetty, making navigation near it hazardous and requiring about 17,000 tons of rock, positioned using barge and crane, to repair it.

- USACE Los Angeles contracting personnel awarded a prime contract to transport stones by barge from a nearby quarry and position them to rebuild the jetty.
- They awarded a second prime contract for the dredging of sediment that had filled the Mission Bay Channel since its last dredging in 1984. To support the dredging, contracting personnel awarded two task orders for mapping the location of protected plant species and for analyzing the sediment to determine its suitability for placement on Mission Beach. The project's total funding is \$7.9 million.

² A contract action consists of fixed-price contracts as well as task orders or modifications to an existing contract. See Appendix C for a complete list of contract actions we reviewed.

³ A jetty is a structure extended into a sea, lake, or river to influence the current or tide or to protect a harbor.

Figure 2. Tres Rios Wetlands (Left) With Wildlife (Right)



- **Tres Rios Project.** The Tres Rios project consisted of designing and constructing a pump station and adjacent wetlands at a wastewater treatment plant operated by the City of Phoenix, Arizona.
 - USACE Los Angeles contracting personnel awarded a prime contract for the construction of approximately 400 acres of wetlands that can receive and help further clean the highly treated effluent⁴ from the treatment plant.
 - They awarded a second prime contract for the construction of an effluent pump station at the wastewater treatment plant that can provide up to 460 million gallons a day of effluent from the treatment plant to the constructed wetlands.
 - They awarded a third contract for the design of both the wetlands and pump station.

These three contracts have total Recovery Act funding of \$40.5 million.

USACE Los Angeles Needs Better Guidance on Contracting Officer Responsibilities

DoD Instruction 5010.40, “Managers’ Internal Control Program (MICP) Procedures,” July 29, 2010, 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 identified one internal control weakness for the delegation of contract administration responsibilities at USACE Los Angeles. Specifically, the contracting officers did not obtain documentation showing that the personnel to whom they delegated responsibilities were adequately trained. In addition, contracting officers did not prepare and issue all delegation letters correctly, and they did not ensure that all personnel performing contract administration responsibilities were properly delegated. We will provide a copy of the report to the senior official in charge of internal controls at USACE Los Angeles.

⁴ Effluent is sewage that has been treated in a septic tank or sewage treatment plant.

Finding A. Contractor Performance and Reporting Controls Were Generally Effective

The USACE Los Angeles contractor performance and reporting controls were generally effective for 10 contract actions valued at \$56.6 million. Specifically, contracting personnel:

- effectively managed quality controls over contractor performance for the 10 contract actions;
- ensured that Recovery Act funds were available and used to meet contract requirements, including timely and proper payments to contractors;
- monitored the 10 contract actions to ensure that contract requirements were met; and
- validated that recipients reported their use of Recovery Act funds in a clear and understandable manner.

In addition, USACE Los Angeles contracting personnel effectively validated contractor's small business status. As a result, the Government accepted the contracted goods and services without unnecessary delays and cost overruns for eight completed contract actions and the work completed as of May 2011 on two ongoing contract actions.

Contracting Personnel Effectively Managed Contractor Performance and Reporting Controls

Generally, the USACE Los Angeles contracting personnel properly executed Recovery Act projects, including managing contractor performance, administering contract funding, monitoring delivery of intended outcomes, and reporting the use of Recovery Act funds.⁵ We non-statistically selected 4 of 81 projects at USACE Los Angeles based on project funding in excess of \$1 million, ongoing or completed contracts, and contracts awarded to 8(a) small businesses. The 4 projects we selected had 10 contract actions valued at \$56.6 million.

For the 10 contract actions, USACE contracting personnel prepared inspection reports and other supporting documentation that detailed the work performed by the contractor. They also obtained and reviewed pay estimates, pay requests, invoices, and other payment supporting documentation from the contractors before processing payments. They performed these reviews to ensure that the amounts paid were appropriate. In addition, USACE contracting personnel reviewed submissions to www.FederalReporting.gov to validate that the contractors complied with the Recovery Act recipient reporting requirements.

⁵ Although administrative contracting officers and contracting officer's representatives at USACE Los Angeles generally fulfilled their contract administration responsibilities, contracting officers needed stronger controls when delegating individuals as administrative contracting officers and contracting officer's representatives. See Finding B for more information on this issue.

Contracting Personnel Effectively Managed Quality Controls Over Contractor Performance

USACE Los Angeles personnel effectively managed quality controls over contractor performance for the 10 contract actions we audited.

Federal Acquisition Regulation (FAR) 46.2, “Contract Quality Requirements,” states that the contracting officer should include in the solicitation and contract the appropriate quality requirements. The type and extent of contract quality requirements needed depends on the particular acquisition and may range from the inspection of goods and services at the time of acceptance to a requirement for the

Each contract action reviewed had a Contractor Quality Control Plan or similar quality assurance plan in place to ensure that all requirements of the contract would be met.

contractor’s implementation of a comprehensive program for controlling quality. Each contract action reviewed had a Contractor Quality Control Plan or similar quality assurance plan in place to ensure that all requirements of the contract would be met.

The Contractor Quality Control Plan identifies the personnel, procedures, controls, instructions, tests, records, and forms the contractor is to use, and it establishes the contractor’s responsibilities for maintaining an effective quality control system. FAR 46.202-3, “Standard Inspection Requirements,” requires the contractor to provide and maintain an inspection system and requires the contractor to keep complete, and make available to the Government, records of its inspection work. It also gives the Government the right to make inspections and tests while work is in process. The Government performs inspections to ensure contractor compliance with specifications and regulations. Inspection activities must also include monitoring of subcontractor performance, inventory control, and procurement actions.

The 10 contract actions included the Contractor Quality Control Plan or similar quality assurance plan within either the contract, statement of work, or contract administration plan. USACE Los Angeles inspectors documented inspection results daily in the Quality Assurance Reports. The inspection reports for the 10 contract actions showed that USACE inspectors documented the date, location, description of work performed, and if applicable, deficiencies found during their inspection. When they found deficiencies, they notified the contractor so it could take corrective action.

For example, at the Phoenix project site, we reviewed the Deficiency Items report, which described the deficiencies found, the location at the project site where the deficiencies were observed, the status of the deficiencies, and the date the deficiency notices were issued. The deficiencies were well documented, and the reports showed that the USACE quality assurance personnel agreed with the corrective measures the contractor took to eliminate the deficiencies.

In addition, USACE Los Angeles personnel provided documentation to support that the 10 contract actions included the contractor requirements in the Contractor Quality

Control Plan or similar quality assurance plan. USACE Los Angeles contracting personnel effectively managed contractor quality controls.

Recovery Act Funds Were Available for Contract Requirements and Contractor Payments

Contracting personnel administered Recovery Act funds to meet contract requirements, including timely and proper payments to contractors. In order to fund Recovery Act projects, USACE Headquarters used funding authorization documents⁶ to transfer money to USACE Los Angeles. For Civil Works projects, USACE Headquarters also prepared work allowance letters⁷ authorizing the use of Recovery Act funds on individual projects. USACE Military Programs used the funding authorization and funding distribution documents, which showed that money was transferred from the district to the individual projects.

Our review of 25 pay estimates, pay requests, and supporting invoices, valued at approximately \$16.4 million, showed that the pay the contractors requested matched the payments USACE approved. We compared the pay requests and pay estimates to the funding data within the Resident Management System.

Our review of 25 pay estimates, pay requests, and supporting invoices, valued at approximately \$16.4 million, showed that the pay the contractors requested matched the payments USACE approved.

The progress payment history in the Resident Management System showed the payment due date, date the payment was paid, and the amount paid. We verified the due date and amount paid in the progress payment history to the pay estimate.

We also compared the pay requests and pay estimates to the funding data within the Corps of Engineers Financial Management System (CEFMS). The “Obligation Line Item Status” showed the amount that was obligated and the amount paid in CEFMS for each line item. The “Pay Estimate View Screen” in CEFMS showed the amount approved for payment to the contractor for the monthly invoice. The dollar amounts and invoice numbers in the contractor-supplied pay requests and USACE pay estimates matched the USACE-prepared progress schedules and data in CEFMS “Obligation Line Item Status” and “Pay Estimate View Screens.”

In addition, USACE contracting personnel ensured that contractor payments were approved in a timely manner. FAR 52.232-26, “Prompt Payment for Fixed-Price Architect-Engineer Contracts,” states that the due date for making invoice payments is the 30th day after the designated billing office receives a proper invoice from the contractor or the 30th day after Government acceptance of the work or services completed by the contractor. FAR 52.232-27, “Prompt Payment for Construction Contracts,” also

⁶ The funding authorization document, prepared by USACE Headquarters Resource Management personnel, allows money to transfer from USACE Headquarters to the district.

⁷ The work allowance letter provides instructions from USACE Headquarters for the allocation of the funds available under the funding authorization document and allows money to transfer from the district to the individual projects.

states that the due date for making payments for construction contracts is 14 days after the designated billing office receives a proper payment request. USACE contracting personnel paid contractors no more than the amount requested, and they made payments within the 14- or 30-day time frame for 24 of the 25 pay requests we reviewed.

USACE Los Angeles Contracting Personnel Implemented and Monitored Recovery Act Projects

USACE Los Angeles contracting personnel monitored the 10 contract actions to ensure that contract requirements were met. Specifically, the 10 contract actions provided for improvements to indoor environmental systems and taxiways, channel dredging, jetty repair, and additional wetlands. Contracting personnel used appropriate quality assurance plans, daily quality assurance reports, and contractor daily quality control reports to evaluate the quality and timeliness of work performed.

As of May 2011, USACE Los Angeles contracting personnel monitored eight completed and two ongoing contract actions valued at \$45.5 million. For the eight completed contract actions, contracting personnel conducted the final inspections when required and noted deficiencies that needed corrective action before final acceptance. FAR 4.804-4, “Physically Completed Contracts,” states that a contract is complete when the contractor has performed all services and the Government has accepted these services, or the contract period has expired. For the two ongoing contract actions, the quality assurance reports documented the inspectors’ daily results and any issues they determined the contractors needed to address. The reports also documented weather-related issues that delayed the contractor’s schedule. For instance, on November 3, 2009, the contractor’s report showed that the weather caused a critical delay because waves reached 11.5 feet high and posed a danger to those working near the ocean.

Contracting personnel conducted the final inspections when required and noted deficiencies that needed corrective action before final acceptance.

USACE inspectors properly monitored and documented the contractor’s performance and communicated any issues to the contractor for corrective action. We noted no contractor-induced delays or significant quality control issues.

Recipients Adequately Reported the Use of Recovery Act Funds

Contracting officers complied with Recovery Act oversight requirements to ensure that recipients reported their use of Recovery Act funds in a clear and understandable manner. FAR 4.15, “American Recovery and Reinvestment Act—Reporting Requirements,” requires contractors receiving Recovery Act funds to report on the use of those funds quarterly. In addition, FAR 4.15 states that contractors that receive awards or modifications to awards funded by the Recovery Act must report information, including but not limited to:

- the dollar amount of contractor invoices;
- the supplies delivered and services performed;

- an assessment of the completion status of the work;
- an estimate of the number of jobs created and the number of jobs retained as a result of the Recovery Act funds;
- names and total compensation of each of the five most highly compensated officers for the calendar year in which the contract is awarded; and
- specific information on first-tier subcontractors.

USACE Los Angeles contracting personnel accessed www.FederalReporting.gov to verify that the contractors reported the required information and that the reports were clear, understandable, and complete. For example, each report contained the general purpose of the award as well as the nature of the activities being performed, location of the recipients, cost and status of the contracts, project outcomes, scope of the projects, number of jobs created and retained, and information about the subcontractors. The contractor included the required information in the reports and complied with the Recovery Act requirements to adequately report the use of Recovery Act funds.

Contracting Personnel Confirmed Contractor's Small Business Status

Contracting personnel effectively validated the contractor's small business status. FAR 19.804-3, "Small Business Administration Acceptance," states that the Small Business Administration (SBA) will determine whether to accept the contractor's requirement for the 8(a) Program. The Small Business Specialist at USACE Los Angeles contacts SBA to confirm the contractor's 8(a) Program status. SBA provides a letter to USACE Los Angeles, certifying that a business is eligible.

Contracting personnel effectively validated the contractor's small business status before awarding the contracts.

We reviewed three contracts designated for disadvantaged small business set-asides. The three contract files contained the Small Business Coordination Record showing that contracting personnel verified the contractor's 8(a) Program acceptance with SBA and the contractor's 8(a) acceptance letter from SBA. Therefore, contracting personnel

effectively validated the contractor's small business status before awarding the contracts.

Conclusion

USACE Los Angeles contracting personnel effectively managed quality controls over the 10 contract actions, valued at \$56.6 million, to ensure that an adequate contractor quality control system was in place and the contractor delivered the intended outcomes for the projects. Contracting personnel ensured that Recovery Act funds met contract requirements and that projects were fully funded. Contracting personnel also effectively validated the contractors' small business status and ensured that contractors reported their use of Recovery Act funds. As a result, the Government accepted the contracted goods and services without unnecessary delays and cost overruns for eight completed contract actions and the work completed as of May 2011 on two ongoing contract actions.

Finding B. Contracting Officers Needed Stronger Controls When Delegating Contract Administration Responsibilities

Administrative contracting officers (ACOs) and contracting officer's representatives (CORs) at USACE Los Angeles generally fulfilled their contract administration responsibilities; however, contracting officers did not:

- verify that 8 of the 11 personnel with delegated responsibilities were adequately trained,
- prepare and issue 26 of the 40 delegation letters⁸ correctly, and
- execute a delegation letter for one project engineer performing contract administration responsibilities.

This occurred because contracting officers did not have adequate guidance and did not place a high priority on verifying that personnel had completed all required training when assisting with contract administration and on preparing and issuing delegation letters correctly. Also, contracting officers did not confirm that personnel selected to perform delegated responsibilities were actually performing them. As a result, USACE Los Angeles could experience increased financial risks if contracting officers do not effectively delegate contract administration responsibilities before contract award and monitor selected personnel to ensure that they perform those responsibilities.

ACOs and CORs Generally Fulfilled Contract Administration Responsibilities

ACOs and CORs at USACE Los Angeles generally fulfilled their contract administration responsibilities. Contracting officers delegated those responsibilities to ACOs and CORs for each contract action for the four sample projects we audited.

To deal with the day-to-day management of contracts at remote locations, ACOs are generally delegated authority to:

- execute unilateral administrative modifications;
- modify construction contracts within the scope of the contract;
- modify construction contract performance periods if the delay is not the fault of the contractor; and

⁸We collected 18 delegation letters issued to ACOs and 22 letters issued to CORs. Seven USACE individuals served as ACOs and 12 served as CORs (1 has retired). In several cases, the same individual served as either an ACO or COR for more than one contract action. In general, employee turnover and delegation of alternate ACOs with additional authority increased the number of ACOs and CORs assigned to the contract actions we audited.

- perform any of the contract administration functions in FAR 42.302, “Contract Administration Functions.”

CORs are delegated limited functions, such as the following:

- verify that the contractor performs the technical requirements of the contract;
- perform, or have performed, inspections necessary to verify that the contractor has corrected all deficiencies;
- perform acceptance for the Government of services performed under the contract;
- maintain liaison and direct communication with the contractor;
- monitor the contractor’s performance;
- coordinate site entry for contractor personnel; and
- withhold contract funds for the Davis-Bacon Act⁹ violations, if any, by the contractor.

Contracting officers delegate contract administration responsibilities to ACOs and CORs using a standard format, or template, to prepare either an ACO or COR delegation letter. A copy of the delegation letter signed by the contracting officer is mailed to the delegated individual and the contractor. The delegated individual and contractor are required to acknowledge receipt of the letter on one of the two copies provided, return that copy to the contracting officer for placement in the official contract files, and retain the remaining copy for their records.

Contracting Officers Did Not Properly Delegate or Monitor ACO and COR Responsibilities

USACE Los Angeles contracting officers did not always ensure that ACOs and CORs received proper training to administer contracts. In addition, contracting officers did not properly prepare and issue delegation letters to all personnel executing contract administration responsibilities. Furthermore, contracting officers did not monitor work performed by ACOs and CORs to ensure that delegated responsibilities were fulfilled.

Contracting officers did not monitor work performed by ACOs and CORs.

CORs Need to Meet Refresher Training Requirements

Contracting officers at USACE Los Angeles did not always verify that personnel delegated to perform contract administration responsibilities had met their training requirements. The Defense Federal Acquisition Regulation Supplement (DFARS) 201.602-2, “Responsibilities,” states that CORs must have appropriate training and experience equal to their delegated responsibilities in accordance with DoD guidelines.

⁹ The Davis-Bacon Act applies to contracts exceeding \$2,000 for the construction, alteration, or repair of public buildings or public works and requires contractors to pay no less than the locally prevailing wages and fringe benefits for corresponding work on similar projects in the area.

On July 2, 2008, the Director, USACE National Contracting Organization, issued Procurement Instruction Letter 2008-10-1, “Contracting Officer’s Representative Training Requirements,” to implement a standardized training policy for the appointment of individuals who will represent the contracting officer as a COR for construction, supply, service, and architect-engineer contracts. The letter requires that CORs complete the following every 3 years as a part of their COR refresher training:

- Defense Acquisition University Continuous Learning Module 106, “Contracting Officer Representative with a Mission Focus” (8 hours)
- Defense Acquisition University Continuous Learning Module 003, “Ethics Training for Acquisition Technology and Logistics” (2 hours)
- Technical area training (6 hours)

We requested that officials at USACE Los Angeles provide certificates of completion for the courses taken to meet the above training requirements by each of the 11 CORs currently employed by USACE and assigned to our sample projects. USACE officials provided no documentation for two CORs and only partial documentation for six CORs. Only 3 of 11 CORs assigned to the projects in our sample provided documentation to show they met their COR refresher training requirements. When asked to explain the reason for the lack of training documentation, USACE officials stated that they were updating and consolidating their COR files in order to readily locate and track all completed COR training. Contracting officers, however, should select individuals with documentation of their completion of COR refresher training requirements before delegating contracting administration responsibilities to them.

Only 3 of 11 CORs assigned to the projects in our sample provided documentation to show they met their COR refresher training requirements.

Delegation Letters Were Not Always Prepared and Issued Correctly

Contracting officers did not always comply with the requirements of the FAR and its supplements when preparing and issuing delegation letters. We reviewed 18 ACO and 22 COR delegation letters and found that 26 letters were not prepared and issued correctly.

FAR 42.202(a) (1), “Assignment of Contract Administration,” states that the delegation of authority for both ACOs and CORs should include the name and address of the contract administration office of the ACO or COR designated to perform the contract administration responsibilities. USACE contracting officers did not always prepare delegation letters that included the complete address of the contract administration office. Specifically, 4 of the 18 ACO delegation letters did not contain complete address information.

DFARS 201.602-2 requires, in part, that a COR delegation letter identify the limitations on the COR’s authority, state that the authority is not redelegable, and state that the COR

may be personally liable for unauthorized acts. USACE contracting officers, however, prepared and issued 4 of 22 COR delegation letters that omitted these three requirements. In addition, the Army Federal Acquisition Regulation Supplement (AFARS) 5101.602-2, “Responsibilities,” states that a properly trained COR must be designated in writing before contract award. However, USACE contracting officers did not always designate a COR before contract award. Specifically, 18 of the 22 COR delegation letters¹⁰ were issued on or after the contract award date. Table 2 summarizes the DFARS and AFARS deficiencies for each of the 22 COR delegation letters.

**Table 2. Deficiencies in 22 COR Delegation Letters
Per DFARS and AFARS Requirements**

Deficiency	Edwards AFB	San Diego	Phoenix	Total
Limits to Authority Not Addressed	0	3	1	4
Redelegation Not Addressed	0	3	1	4
Personal Liability for Unauthorized Acts Not Addressed	0	3	1	4
Designated On or After Contract Award	7	5	6	18
Total	7	14	9	30

Contracting officers did not correctly prepare and issue 4 of the 18 ACO delegation letters and 22 of the 22 COR delegation letters. Further, as shown in Table 2, contracting officers’ failure to follow DFARS and AFARS requirements resulted in a total of 30 deficiencies among the 22 COR delegation letters.

Contracting officers at USACE Los Angeles use a standard template when preparing a COR delegation letter. This template generally includes the same requirements and content as found in AFARS 5153.9001, “Sample Contracting Officer’s Representative (COR) Designation.” The template, however, does not include the AFARS requirement for a COR to maintain adequate records to sufficiently describe the performance of duties as a COR during the life of the contract and to dispose of such records as directed by the contracting officer. AFARS 5153.9001 requires that a COR’s file contain specific documentation, including:

- a copy of the letter of appointment from the contracting officer, any changes to that letter, and any termination letter;
- a copy of the contract or the appropriate part of the contract and all contract modifications;
- a copy of the applicable quality assurance surveillance plan;
- a record of inspections performed and the results;

¹⁰ We could not determine when the remaining four COR delegation letters were issued relative to the award date because the delegation letter, contract, or both, did not have the required dates.

- records relating to the contractor's quality control system and plan and the results of the quality control effort; and
- documentation pertaining to acceptance of performance of services, including reports and other data.

In addition to noncompliance with the FAR and its supplements, contracting officers did not give adequate attention to prevent numerous administrative errors when preparing and issuing delegation letters. We examined the delegation letters collected during the audit to determine whether each letter was free of significant administrative errors and acknowledged on a timely basis by either the ACO or COR and contractor. Table 3 shows our results for each project site visited.

Table 3. Administrative Errors in ACO and COR Delegation Letters by Project Site Visited

Administrative Error	Edwards AFB	San Diego	Phoenix	Total
Delegation Letter Had No Date	1	2	2	5
Delegation Was Not Acknowledged by ACO/COR	7	6	0	13
Contractor Did Not Acknowledge Delegation	3	13	3	19
Total Delegation Letters Reviewed*	15	14	11	40

* Total delegation letters reviewed does not equal total administrative errors because each letter may have multiple errors.

Each of the three types of administrative errors in Table 3 prevents the contracting officer, ACO, COR, and contractor from understanding the delegated responsibilities clearly before contract award. For example, the second row of Table 3 shows that a total of 13 delegations to ACOs or CORs at Edwards AFB and San Diego were never acknowledged by the ACO or COR.

A total of 13 delegations to ACOs or CORs at Edwards AFB and San Diego were never acknowledged by the ACO or COR.

In addition, acknowledgments of delegated responsibilities at Edwards AFB occurred well into the contract's period of performance; the acknowledgment by one ACO took 47 days, and the acknowledgment by one COR took 74 days. Although not included in the errors in the table, one Phoenix COR delegation letter was not signed by the contracting officer, yet it was acknowledged by the COR. All of these administrative errors prevent the effective delegation of contract administration responsibilities, including timely acknowledgments by contracting officers, ACOs, CORs, and contractors.

Project Engineer Acted as COR Without Delegation Letter

At Edwards AFB, we identified a USACE project engineer who performed contract administration responsibilities as a COR without any delegation from the contracting officer. DFARS 201.602-2 requires that contracting officers designate a COR in writing.

Without written designation as a COR, the project engineer did not have authority to act on behalf of the contracting officer to protect the interests of the Government through oversight of contractors during contract performance.

Contract W912PL-09-D-0029 provided for the replacement of taxiway lights and the repair of taxiway cables. Throughout the performance of the contract, the project engineer believed he was the COR, served as the COR, and signed various documents (with the COR designation next to his signature) to record his contractor oversight activities, including:

- issuing the notice to proceed, allowing the contractor to begin work;
- approving nine contractor progress payment requests totaling \$3,458,560;
- conducting the final inspection of completed taxiway repair work; and
- grading the contractor's overall performance.

We identified a second USACE project engineer at Edwards AFB who was delegated, in writing, as the COR for contract W912PL-09-D-0029 and had acknowledged this delegation. However, this project engineer did not perform any delegated contract administration responsibilities for the contract and did not provide an explanation for why he did not do so.

We discussed this situation with the contracting officer at USACE Los Angeles and both project engineers at Edwards AFB. The contracting officer was not aware of this

The contracting officer believed she had properly delegated the second project engineer to serve as the COR She admitted, however, performing no followup.

situation and could not explain how it occurred. The contracting officer believed she had properly delegated the second project engineer to serve as the COR because she had received his acknowledgment. She admitted, however, performing no followup to confirm that the correct project engineer actually

served as the COR for contract W912PL-09-D-0029.

Both project engineers were also unaware of the circumstances regarding the delegation of COR responsibilities for the taxiway project. The project engineers had previously stated to us that they did not always receive every delegation letter issued by USACE Los Angeles contracting officers. Contracting officers should reduce the risk of having CORs performing contract administration responsibilities without proper delegation by ensuring that only selected personnel, designated in writing, perform delegated responsibilities. Therefore, contracting officers, ACOs, and CORs should be provided training to improve their understanding and adherence to effective procedures for the delegation and monitoring of contract administration responsibilities.

Higher Priority Needed for Training, Delegation Letter Preparation, and Followup

Guidance available to contracting officers for delegating contract administration responsibilities did not always ensure that personnel had sufficient training, delegation letters were prepared and issued correctly, and only selected personnel performed the delegated responsibilities. Contracting officers cited the Contract Administration Manual as their primary source of guidance to use when delegating contract administration responsibilities to ACOs and CORs. However, the manual only provides a description of the general responsibilities of an ACO and COR. It does not

- describe the delegation process,
- require that only adequately trained staff be delegated contract administration responsibilities,
- require that delegations be properly made and acknowledged before contract performance, or
- provide ACO and COR templates that comply with the FAR and its supplements.

Contracting officers must have a complete understanding of the delegation process and its importance to ensure that the personnel they need to assist them are aware of their contract administration responsibilities and are prepared to fulfill them before contract performance.

Contracting officers emphasized during our interviews that they relied on ACOs and CORs for day-to-day management of their contracts. The contracting officers became involved only if there was a problem. They did not see a need to perform followup of their delegated responsibilities following issuance of the delegation letter. Our observations at Edwards AFB, however, demonstrated what can occur when contracting officers end their involvement in the delegation process after placing their signed delegation letter in the mail. USACE Los Angeles should update the guidance in the Contract Administration Manual to include procedures for effective delegation of contract administration responsibilities before contract performance.

Contracting officers...did not see a need to perform followup of their delegated responsibilities.

Recommendations, Management Comments, and Our Response

B. We recommend that the Chief of the Contracting Division, U.S. Army Corps of Engineers, Los Angeles District:

1. Require that all contracting officers, administrative contracting officers, and contracting officer's representatives assigned to the Los Angeles District be provided training to improve their understanding and adherence to effective procedures for the delegation and monitoring of contract administration responsibilities.

Commander, USACE Los Angeles Comments

The Chief, Contracting Division, responded for the Commander, USACE Los Angeles, agreed with the recommendation, and stated that USACE would provide mandatory training to ensure regulatory compliance. Further, he stated that training would be conducted and documented in the 3rd quarter of FY 2012.

2. Update the guidance in the Contract Administration Manual and reissue the guidance to all contracting officers, administrative contracting officers, and contracting officer's representatives to reinforce the procedures for effective delegation of contract administration responsibilities before contract performance. Specifically, the updated guidance should contain controls that require contracting officers to:

a. Verify that personnel delegated to perform contract administration responsibilities have completed their training requirements.

b. Prepare and issue delegation letters that comply with the Federal Acquisition Regulation and its supplements to all personnel performing delegated responsibilities.

Commander, USACE Los Angeles Comments

The Chief, Contracting Division, agreed with Recommendations B.2.a and B.2.b, stating that his Division would coordinate with the Contract Administration Branch to update the Contract Administration Manual to include the appropriate procedures.

For Recommendation B.2.a, he stated that USACE established procedures that track and monitor the training requirements for all CORs and allow contracting officers to verify authority before issuing delegation letters. The tracking system also alerts CORs to the training deadlines.

For Recommendation B.2.b, he stated that USACE revised the delegation letters to comply with regulatory guidance and was revising its processes to properly track and note the execution of all delegation letters.

3. Examine a sample of delegation letters regularly to determine whether they comply with the Federal Acquisition Regulation and its supplements and whether contracting officers have eliminated administrative errors. Additionally, verify that contracting officers are following up with administrative contracting officers and contracting officer's representatives to ensure that they are performing their delegated responsibilities.

Commander, USACE Los Angeles Comments

The Chief, Contracting Division, agreed with the recommendation and stated that their review of the pre/post award review process has been modified to include reviewing a sample of delegation letters. Further, he stated that a contract file review will be conducted during periodic command visits this fiscal year.

Our Response

The comments of the Chief, Contracting Division, were responsive, and no further comments are required.

Appendix A. Scope and Methodology

We conducted this performance audit from January 2011 through January 2012 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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We non-statistically selected four projects at three locations for our review of the USACE Los Angeles District's implementation of the Recovery Act. From these four projects, we reviewed 10 contract actions, including contracts, tasks orders, and contract modifications valued at \$56.6 million, to determine whether USACE Los Angeles complied with Recovery Act requirements and OMB, FAR, and DoD implementing guidance. Specifically, we reviewed seven contract actions from two Civil Works projects, the Tres Rios Project and the San Diego River and Mission Bay project, valued at \$48.5 million. We also reviewed three contract actions from two Military Program projects at Edwards AFB, valued at \$8.1 million. We interviewed and obtained documentation from operations, contracting, and financial personnel at USACE Los Angeles as well as each of the project offices.

Recipient Reporting: We reviewed selected recipient reports filed by contractors on the www.federalreporting.gov Web site. We reviewed the most current recipient reports to verify that the general purpose of the award was reported as well as the nature of the activities being performed, location of the recipients, cost and status of the contracts, project outcomes, scope of the projects, and number of jobs created and retained. Although we determined that the contractor complied with FAR 52.204-11, "American Recovery and Reinvestment Act-Reporting Requirements," and controls over the oversight of recipient reporting, we did not validate the number of jobs created that the contractor reported to the www.federalreporting.gov Web site.

Project Execution: We evaluated the contract administration process and the adequacy of quality assurance controls to ensure project outcomes were achieved. We reviewed the Contractor Quality Control Plan, which was included in either the contract, statement of work, or contract administration plan. The inspection reports we reviewed showed that USACE inspectors documented the date, location, and description of work performed, and if applicable, deficiencies found during their inspection. We reviewed funding authorization documents and work allowance letters for consistency to determine whether funds were transferred from USACE Headquarters to the district and distributed from the district to the individual projects. Additionally, we visited each project location and took pictures to illustrate the progress of the work performed at the project sites.

Small Business Oversight: We reviewed three contract actions that involved disadvantaged small business set-asides. We reviewed the contract files to determine whether contracting officials reviewed each small business status by obtaining and reviewing both the Small Business Coordination Record showing that contracting

personnel verified contractor 8(a) Program acceptance with SBA and the contractor 8(a) acceptance letter from SBA. We also held discussions with contracting officials to determine their procedures for validating contractor 8(a) business status.

Use of Computer-Processed Data

We used computer-processed data to perform this audit. Specifically, we used the Federal Procurement Data System–Next Generation; Corps of Engineers Financial Management System; Resident Management System; and the www.fbo.gov (Federal Business Opportunities), www.recovery.gov, and www.federalreporting.gov Web sites in meeting our audit objective. We also relied on Excel spreadsheets created by USACE contracting personnel.

We compared data generated by each system with the appropriate Civil Status of Funds reports, funding authorization documents, or project and contracting documentation to assess the reliability of the computer-processed data. Our audit focused on the project execution and recipient reporting of 10 contract actions supporting four projects. From these procedures, we concluded that the data were sufficiently reliable for our audit purposes.

Use of Technical Assistance

We 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 we used provided a basis for logical coverage not only of Recovery Act dollars being expended but also of types of projects and types of locations of public works projects managed by USACE.

Prior Coverage of Recovery Act Audits

The Government Accountability Office (GAO), the DoD Inspector General (DoD IG), and the Military Departments have issued reports and memoranda discussing DoD projects funded by the Recovery Act. You can access unrestricted reports at www.recovery.gov/accountability.

Furthermore, GAO and the DoD IG have issued three reports specifically discussing Recovery Act issues pertaining to this report. Unrestricted GAO reports can be accessed at www.gao.gov. Unrestricted DoD IG reports can be accessed at www.dodig.mil/audit/reports.

GAO

GAO Report No. GAO-10-581, “Increasing the Public’s Understanding of What Funds Are Being Spent On and What Outcomes Are Expected,” May 27, 2010

DoD IG

DoD IG Report No. D-2011-055, “American Recovery and Reinvestment Act–U.S. Army Corps of Engineers’ Data Quality Review Processes of Civil Works Funding for the Period Ending December 31, 2009, Were Not Effective,” March 25, 2011

DoD IG Report No. D-2011-052, “American Recovery and Reinvestment Act–DoD Data Quality Review Processes for the Period Ending December 31, 2009, Were Not Fully Implemented,” March 23, 2011

Appendix B. Recovery Act Criteria and Guidance

The following list includes the primary Recovery Act criteria documents:

- Public Law 111-5, “American Recovery and Reinvestment Act of 2009,” February 17, 2009
- OMB Memorandum M-09-10, “Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” February 18, 2009
- OMB Memorandum M-09-15, “Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009,” April 3, 2009
- OMB Memorandum M-09-21, “Implementing Guidance for the Reports on Use of Funds Pursuant to the American Recovery and Reinvestment Act of 2009,” June 22, 2009
- OMB Memorandum M-09-30, “Improving Recovery Act Recipient Reporting,” September 11, 2009
- OMB Memorandum M-10-05, “Improving Compliance in Recovery Act Recipient Reporting,” November 30, 2009
- OMB Memorandum M-10-08, “Updated Guidance on the American Recovery and Reinvestment Act–Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates,” December 18, 2009
- OMB Memorandum M-10-14, “Updated Guidance on the American Recovery and Reinvestment Act,” March 24, 2010
- OMB Memorandum M-10-17, “Holding Recipients Accountable for Reporting Compliance under the American Recovery and Reinvestment Act,” May 4, 2010
- OMB Memorandum M-10-34, “Updated Guidance on the American Recovery Act,” September 4, 2010
- Office of Federal Procurement Policy, “Interim Guidance on Reviewing Contractor Reports on the Use of Recovery Act Funds in Accordance with FAR Clause 52.204-11,” September 30, 2009
- Under Secretary of Defense (Comptroller) Memorandum, “Project Cost Variations During Execution of ARRA Expenditure Plans for Infrastructure Investments,” May 7, 2009

- FAR and DFARS Procedures, Guidance, and Information:
 - o FAR 52.203-15, “Whistleblower Protection Under the American Recovery and Reinvestment Act of 2009”
 - o FAR 52.204-11, “American Recovery and Reinvestment Act–Reporting Requirements”
 - o FAR 52.212-4, “Contract Terms and Conditions–Commercial Items”
 - o FAR 52.212-5, “Contract Terms and Conditions Required to Implement Statutes or Executive Orders–Commercial Items,” which is supplemented by DFARS 252.212-7001, “Contract Terms and Conditions Required to Implement Statutes or Executive Orders Applicable to Defense Acquisitions of Commercial Items”
 - o FAR 52.213-4, “Terms and Conditions–Simplified Acquisitions (Other than Commercial Items)”
 - o FAR 52.214-26, “Audit and Records–Sealed Bidding”
 - o FAR 52.215-2, “Audit and Records–Negotiation”
 - o FAR 52.225-21, “Required Use of American Iron, Steel, and Manufactured Goods–Buy American Act–Construction Materials”
 - o FAR 52.225-22, “Notice of Required Use of American Iron, Steel, and Manufactured Goods–Buy American Act–Construction Materials”
 - o FAR 52.225-23, “Required Use of American Iron, Steel, and Manufactured Goods–Buy American Act–Construction Materials Under Trade Agreements”
 - o FAR 52.225-24, “Notice of Required Use of American Iron, Steel, and Manufactured Goods–Buy American Act–Construction Materials Under Trade Agreements”
 - o FAR 52.244-6, “Subcontracts for Commercial Items”

Appendix C. Recovery Act Contract Actions Reviewed at USACE Los Angeles

Locations and Contract Action	Purpose	Dollar Value	Contract Type	Percent Complete as of May 2011
Edwards AFB, CA W912PL-09-D-0019	Energy and Monitoring Control System/Supervisory Control and Data Acquisition, Phase I	\$3,174,439	Fixed-Price	100%
Edwards AFB, CA W912PL-08-D-0049	Energy and Monitoring Control System/Supervisory Control and Data Acquisition, Phase II	1,525,399	Fixed-Price	93
Edwards AFB, CA W912PL-09-D-0029	Replacement of Taxiway Lights/Repair of Taxiway Cables, Phase I	3,458,560	Fixed-Price	100
San Diego River and Mission Bay, CA W912PL-09-D-0002 Task Order 2	Field Investigation, Laboratory Testing (Core Sampling and Sediment Chemistry), and Report Preparation for Mission Bay Harbor Maintenance Dredging Project	197,763	Fixed-Price	100
San Diego River and Mission Bay, CA W912PL-09-D-0002 Task Order 9	Field Investigation (Eelgrass Surveys) and Reports for Mission Bay Harbor Maintenance Project	99,608	Fixed-Price	100
San Diego River and Mission Bay, CA W912PL-09-C-0029	Repair of Mission Bay Middle Jetty and Replacement of Navigation Aid	2,250,500	Fixed-Price	100
San Diego River and Mission Bay, CA W912PL-10-C-0008	Maintenance Dredging of Mission Bay Entrance and Main Channel	5,308,000	Fixed-Price	100
Tres Rios Environmental Restoration Project, AZ W912PL-04-C-0008	Design of In-Plant Secondary Effluent Pump Station and Regulating and Overbank Wetlands for Tres Rios Environmental Restoration Project	799,953	Fixed-Price	100
Tres Rios Environmental Restoration Project, AZ W912PL-08-C-0011	Construction Services for Flow Regulating and Overbank Wetlands adjacent to the Wastewater Treatment Plant	17,672,822	Fixed-Price	100
Tres Rios Environmental Restoration Project, AZ W912PL-10-C-0028	Construction of In-Plant Secondary Effluent Pump Station within the Wastewater Treatment Plant	22,146,751	Fixed-Price	50
Total		\$56,633,795		

United States Army Corps of Engineers, Los Angeles Comments



DEPARTMENT OF THE ARMY
U.S. ARMY CORPS OF ENGINEERS
WASHINGTON, D.C. 20314-1000

CEIR

24 February 2012

MEMORANDUM FOR Department of Defense Inspector General, 4800 Mark Center Drive, Alexandria, VA

SUBJECT: OIG Draft Report American Recovery and Reinvestment Act-US Army Corps of Engineers Los Angeles District Contractor Performance and Reporting Controls Were Generally Effective (Project D2011-D000FH-0146.001)

1. Reference Draft Report, 30 January 2012, SAB. DODIG requested the USACE Los Angeles District provide comments on Recommendations B.1, B.2a, B.2b, and B.3 as addressed in the subject report.
2. Comments from the USACE Los Angeles District, endorsed by the PARC Dallas are enclosed.
3. If you have further questions regarding this matter, please contact the undersigned at [REDACTED] or via email at [REDACTED]

Encl


BRENDA L. MAYES
Deputy Chief,
HQs USACE Internal Review Office



DEPARTMENT OF THE ARMY
LOS ANGELES DISTRICT, CORPS OF ENGINEERS
P.O. BOX 532711
LOS ANGELES, CALIFORNIA 90053-2325

REPLY TO
APPROPRIATE OFFICE

CESPL-CT

23 February 2012

MEMORANDUM THRU *MSGOR 24 Feb 12* Principal Assistant Responsible for Contracting (CECT-DAL),
1100 Commerce Street, Suite 840, Dallas, TX 75242-0216

FOR Commander, HQUSACE, Attn: CEIR/Brenda Mayes, 441 G Street, NW, Washington DC
20314-1000

SUBJECT: Draft Report on American Recovery and Reinvestment Act - U.S. Army Corps of
Engineers, Los Angeles District Contractor Performance and Reporting Controls (Project No.
D2011-D000FH-0146.001)

1. Purpose. This memorandum contains the response to the recommendations noted in subject report. We take the findings of the report very seriously and appreciate the efforts of the audit team in providing the recommendations.

2. Recommendation 1.

a. In response to the recommendation listed under B.1., requiring that all contracting officers, administrative contracting officers, and contracting officer's representative assigned to the Los Angeles District be provided training to improve their understanding and adherence to effective procedures for delegation and monitoring of contract administration responsibilities, we concur. We will accomplish this recommendation by providing "mandatory" training to cover the specific areas noted in the audit report to ensure regulatory compliance. This will be accomplished in the 3rd Quarter of Fiscal Year 2012 and documented.

3. Recommendation 2.

a. In response to the recommendation listed under B.2, regarding the updating of the Contract Administration Manual and reissuance of guidance to all contracting officers, administrative contracting officers, and contracting officer's representatives to reinforce the effective delegation of contract administration responsibilities before contract performance, we concur. We will coordinate with our Contract Administration Branch in Construction Division in updating the manual to include the appropriate procedures.

CESPL-CT

SUBJECT: Draft Report on American Recovery and Reinvestment Act- U.S. Army Corps of Engineers Los Angeles District Contractor Performance and Reporting Controls (Project No. D2011-D000FH-0146.001)

4. Recommendation 3.

a. In response to recommendation listed under B.2.a., requiring the verification that personnel delegated to perform contract administration responsibilities have completed their training, we concur. We currently have procedures set in place to track and monitor the training requirements for all contracting officer representatives in accordance with P/L 2008-10-1. Trained, delegated administrative contracting officer and contracting officer representatives are posted and available to all contracting officers to verify authority prior to issuance of delegation. This same tracking system is utilized to monitor and alert contracting officer representatives of required training deadlines.

b. In response to recommendations listed under B.2.b., that delegation letters be prepared and issued to comply with the Federal Acquisition regulations and its supplements to all personnel performing delegated responsibilities, we concur. We have revised our administrative contracting officer and contracting officer representative letters to comply with all regulatory guidance noted in the report. Further, we are revising our processes to properly track and note the execution of these delegation letters to include acknowledgement by all parties.

5. Recommendation 4.

a. In response to the recommendation listed under B.3., regarding review of sample delegation regularly to determine compliance with the Federal Acquisition regulation and its supplements and whether contracting officers have eliminated administrative errors, we concur, and have incorporated this review as part of our pre/post award review process. Additionally, we will review for compliance of duties of administrative contracting officer and contracting officer representatives as noted. We are scheduled to include contract file review for administrative contracting officer and administrative contracting representative during our periodic command visits this fiscal year. Contracting officers will be reminded during the training noted above regarding their responsibilities to communicate with all Administrative Contracting Officers and Contracting officer representative during contract administration.

6. The Corps of Engineers, Los Angeles District awards an average of 1500 contract actions each fiscal year with a small staff of acquisition personnel. We recently increased acquisition staff and are working diligently to ensure proper training, delegation and oversight of the numerous contract actions we manage. We have and will improve our internal procedures and incorporate the audit recommendations to further strengthen our processes.

CESPL-CT

SUBJECT: Draft Report on American Recovery and Reinvestment Act- U.S. Army Corps of Engineers Los Angeles District Contractor Performance and Reporting Controls (Project No. D2011-D000FH-0146.001)

7. Point of Contact. If you have any questions concerning the responses provided, please contact [REDACTED] at [REDACTED] or [REDACTED]

FOR THE COMMANDER


DANIEL M. CARRASCO
Chief, Contracting Division



Inspector General Department of Defense

