



OFFICE OF
INSPECTOR GENERAL
U.S. DEPARTMENT OF THE INTERIOR

RECOVERY

RECOVERY OVERSIGHT ADVISORY

Blue Ridge Stone Guard Wall

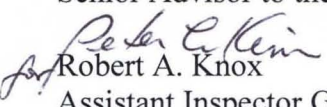


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MAY 04 2011

Memorandum

To: Chris Henderson
Senior Advisor to the Secretary for Economic Recovery and Stimulus

From:  Robert A. Knox
Assistant Inspector General for Recovery Oversight

Subject: Recovery Oversight Advisory – Blue Ridge Stone Guard Wall
Report No. RO-F-NPS-036-2011

This advisory, which addresses concerns regarding the Blue Ridge Parkway Stone Guard Wall project within the National Park Service (NPS), is part of our ongoing effort to oversee and ensure the accountability of funding appropriated to the U.S. Department of the Interior (DOI) in the American Recovery and Reinvestment Act of 2009 (Recovery Act).

Background

On February 1, 2011, we conducted a site visit and tour of the Blue Ridge Parkway Stone Guard Wall project located in Laurel Springs, NC. The project was awarded on April 26, 2010, for the reconstruction of an historic stone guard wall. The contract value is \$8,789,829. The contractor invoiced \$668,917 through December 31, 2010. The Construction Management Representative for NPS noted that the contract was running smoothly, was on schedule, and indicated the contractor was responsive, especially with safety and environmental issues. We discussed our site visit questionnaire and supplemental questions raised by our review of the contract documents. We also appreciate the fact that the parties involved posted project information on a SharePoint® Web site available to both NPS and the construction management representative.

Findings

Location of the Project

Our review indicated the Recovery.gov Web site incorrectly located the project in Fairfax, VA. The contractor's business address is in Fairfax, VA, but the project location is actually in North Carolina, near the city of Laurel Springs. The contractor supplied the incorrect project location to FederalReporting.gov. When the contractor was informed about this error, he responded that he plans to change the project address on the next quarterly report.

Federal Acquisition Regulation Clause 52.236-1 Performance of Work by the Contractor

The contract includes Federal Acquisition Regulation (FAR) clause 52.236-1, Performance of Work by the Contractor. This clause states:

The Contractor shall perform on the site, and with its own organization, work equivalent to at least ____ [*insert the appropriate number in words followed by numerals in parentheses*] percent of the total amount of work to be performed under the contract. This percentage may be reduced by a supplemental agreement to this contract if, during performing the work, the Contractor requests a reduction and the Contracting Officer determines that the reduction would be to the advantage of the Government.

The percentage of work to be performed by the contractor was not specified in the clause as instructed. NPS personnel indicated that it was an oversight, and the contract will be modified to require that 15 percent of the contract be performed by the contractor. Subcontractors are expected to perform hauling, backhoe removal of stones, and paving services.

Davis-Bacon and Related Acts (DBRA) Compliance

The construction management representative also mentioned that a backhoe and trucks were on site in November 2010. The backhoe was owner-operated. The drivers of the trucks were employees of the backhoe owner-operator and worked on the site for several days. During the site visit, we observed the contractor owner operating a crane. None of these individuals appeared on the certified payroll. The Field Operations Handbook from the Department of Labor states:

As a matter of administrative policy, the provisions of DBRA/CWHSSA (Contract Work Hours and Safety Standards Act) are not applied to bona fide owner-operators of trucks who are independent contractors. For purposes of these Acts [the Davis-Bacon Act], the certified payrolls including the names of such owner-operators need not show hours worked nor rates paid, but only the notation "Owner-operator." This position does not pertain to owner-operators of other equipment such as bulldozers, scrapers, backhoes, cranes, drilling rigs, welding machines, and the like. Moreover, employees hired by owner-operators are subject to DBRA in the usual manner.

The employees mentioned above should have appeared on the certified payrolls. There were also several categories (e.g., foreman, superintendent, and administrative assistant) that did not appear on the wage determination in the contract. The contract Management Representative stated that the workers in the above labor categories were also employed as laborers. The certified payrolls did not distinguish between the roles performed. FAR 22.402(a)(1)(i) states that Davis Bacon applies "only to construction work that is performed by laborers and mechanics at the site of the work." In general, foreman, superintendents', and administrative assistants' time should not be recorded on

the certified payroll. The certified payrolls need to be reflective of time worked on the site as laborers or mechanics.

Recommendations

We recommend that NPS:

1. Confirm that the information on the Recovery.gov Web site is properly updated by the contractor;
2. Execute a modification to the Performance of Work by the Contractor Clause to identify 15 percent as the minimum percentage of work the contractor must perform; and
3. Review the certified payrolls to ensure compliance with the Department of Labor regulations and guidance.

Please provide a written response to this advisory within 30 days of receipt detailing the corrective actions to be implemented to meet our recommendations, as well as targeted completion dates and the title(s) of the official(s) responsible for implementation. We will post this advisory on our Web site (www.doioig.gov/recovery/) and Recovery.gov. Information contained in this advisory may also be included in our semiannual reports to Congress. We performed our work in accordance with the Quality Standards for Inspection and Evaluation adopted by the Council of the Inspectors General on Integrity and Efficiency. Please contact me if you have any questions.

cc: Deputy Secretary, U.S. Department of the Interior
Director, Office of Executive Secretariat and Regulatory Affairs
Director, National Park Service
Assistant Secretary for Policy, Management and Budget
Acting Director, Office of Financial Management
Director, Office of Acquisition and Property Management
Recovery Coordinator, National Park Service
Departmental GAO/ OIG Audit Liaison
Audit Liaison, Office of the Secretary
Audit Liaison, National Park Service

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