



OFFICE OF INSPECTOR GENERAL



DEPARTMENT OF THE INTERIOR

RECOVERY OVERSIGHT ADVISORY

A Critical Point Evaluation Product



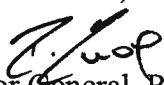


RECOVERY OVERSIGHT OFFICE

Washington, DC 20240

JUN 17 2009

To: James McCaffery
Chief, Division of Contracting & Facilities Management and
Bureau Procurement Chief, U.S. Fish and Wildlife Service

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

Subject: Recovery Oversight Advisory – Concerns About Grants.gov Announcement
FWSP106 (ROO-ROA-FWS-S001-2009)

Congress provided us with funding to oversee and ensure accountability of the \$3 billion appropriated to the Department of the Interior (Department or DOI) in the American Recovery and Reinvestment Act of 2009 (Recovery Act or Act). To help safeguard these taxpayer dollars, we are focused on: preventing fraud, waste, and abuse of recovery and reinvestment dollars; early detection to reduce the impact of misuse when it does occur; and ensuring transparency in our oversight efforts. In a spirit of collaboration with the Department as it implements the massive programs envisioned under the Act, this advisory informs you of concerns we have concerning an announcement for the U.S. Fish and Wildlife Service (FWS), Kauai Conservation Partnerships Program Support, Grant Opportunity Number FWSP106 (referred to in this advisory as “announcement”).

The announcement was posted on www.grants.gov and was identified in the course of our Recovery Act oversight efforts. Although the transaction in this announcement is not being made with Recovery Act funds, our findings indicate a lack of compliance with federal laws and Department policy on the proper choice of award vehicle for obtaining space for government employees. If this problem is not addressed, we are concerned that such non-compliance could also occur for awards made with Recovery Act funds by this or other offices.

We provided a draft advisory to you on June 2, 2009, to which you responded on June 4, 2009. We describe below details on our concerns and your response to our draft advisory. Please provide, within 30 days of receipt of this advisory, a written response detailing the corrective actions the FWS plans to take to implement the recommendations, targeted completion dates, and title(s) of officials responsible for implementation.

Background and Finding

The announcement specifies that \$23,000 in funding is available for a public- or state-controlled institution to provide 200 square feet of office space and parking for the FWS’s Kauai Conservation Partnerships Program. The Conservation Partnerships Program provides biological expertise and technical assistance to landowners, nonprofit organizations, and community groups to conserve protect and enhance fish, wildlife and plants and their habitats.

On May 27, 2009, we coordinated with a staff member in FWS engaged in this effort to obtain more information on the announcement. He told us that FWS needed the space for government personnel for approximately 2 years, and that the bureau was seeking the office space from the University of Hawaii. He stated that the supporting contracting office approved the use of financial assistance funds before the announcement was posted on www.grants.gov.

Financial assistance funds may not be used to lease space for government personnel. Using financial funds in this manner would violate the Federal Grant and Cooperative Agreement Act of 1977, and DOI Departmental Manual 505 Part 2, Chapter 2.9(a). These regulations specify that *procurement contracts* must be used when the primary purpose of the instrument, as in the case of the FWS grant announcement, is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the federal government.

We also note that the General Services Administration (GSA) issued a new bulletin (Federal Management Regulation (FMR) Bulletin 2008-B1) in November 2007 on delegated leases that tightened existing regulations. The regulation restricts federal agencies' ability to lease space without going through GSA and increases reporting requirements on leases executed by individual agencies. We reported in 2008 problems the Department must address to comply with the requirements in this regulation.¹

We did not conduct any analysis in our review to determine the conditions that led to the posting of this announcement to use grant funds for a lease. However, we are concerned that staff may not be adequately trained on appropriate processes and procedures for obtaining leased space.

Recommendations

We recommend that:

- 1) this financial assistance opportunity be reviewed to ensure it complies with all regulations and policy and that, if it does not, any required space be obtained using appropriate processes and instruments in accordance with applicable laws, regulations, and manuals; and
- 2) FWS identify the conditions that led to the posting and ensure that action is taken to address them to prevent future occurrences of using improper awarding vehicles to obtain leased space.

FWS Response

You responded to our draft advisory and recommendation one that the Region 1 Acquisitions Office also caught the error and cancelled the announcement. You also indicated that the procurement for lease space is now being handled by the Region 1 space coordinator and is following the appropriate space/leasing procurement channels. We are encouraged to hear that

¹ *Absent Immediate Action the Department of the Interior Faces Looming Leasing Crisis*. July 2008. Y-EV-MOA-0003-2008.

your office took immediate action, and look forward to details on and documentation of the actions taken. We remain concerned, however, over the circumstances that led to the posting of the announcement. We look forward to FWS' analysis of conditions that led to this posting and the actions taken to address them.

We will post this advisory on our website (www.doioig.gov/recovery) and Recovery.gov. Information contained in this advisory may also be included in our semi-annual reports to Congress. If you have any questions, or would like a more detailed briefing, please do not hesitate to contact me.

cc: Acting Assistant Secretary – Policy, Management and Budget
 Director, Office of Acquisition and Property Management
 Director, Office of Financial Management
 FWS Project Lead
 Acting FWS Audit Liaison
 Departmental GAO/OIG Audit Liaison
 Audit Liaison, Office of the Secretary

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