



OFFICE OF INSPECTOR GENERAL



DEPARTMENT OF THE INTERIOR

RECOVERY OVERSIGHT ADVISORY

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RECOVERY OVERSIGHT OFFICE

Washington, DC 20240

OCT 06 2009

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

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

Subject: Recovery Oversight Advisory – Use of Recovery Act Funds for Aquariums
(ROO-ROA-MOA-1017-2009)

Congress provided us with funding to oversee and ensure accountability of the \$3 billion appropriated to the Department of the Interior (Department) in the American Recovery and Reinvestment Act of 2009 (Recovery Act). To help safeguard these taxpayer dollars, we are focused on: preventing fraud, waste, and mismanagement 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 Recovery Act, this advisory discusses concerns with the use of Recovery Act funds for aquariums or aquarium-related projects.

As part of our review of Recovery Act project activities posted on FedBizOpps.gov, we found two listings for the U.S. Fish and Wildlife Service (FWS) projects at the Mammoth Spring and the Edenton National Fish Hatcheries that involve or support aquarium displays. Use of Recovery Act funds directly or to support aquariums is proscribed by the Recovery Act and other guidance. While applying this directive to decisions on specific projects may leave some room for interpretation, we believe taking a conservative approach can help the Department to ensure it complies with Congressional intent. We make recommendations which, if implemented, we believe will help the Department to maintain the integrity of its Recovery Act implementation.

Please provide, within 30 days of receipt of this advisory, a written response detailing the corrective actions that the Department and FWS plan to take to implement the recommendations, including targeted completion dates.

We will post this advisory on our website (www.doi.oig.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, please do not hesitate to contact me.

Background and Finding

The Recovery Act (Section 1604 “*General Provisions-This Act*”) states, “None of the funds appropriated or otherwise made available in this Act may be used by any State or local government, or any private entity, for any casino or other gambling establishment, aquarium, zoo, golf course, or swimming pool.” On March 20, 2009, the White House issued a Presidential memorandum to the heads of executive departments and agencies titled “*Ensuring Responsible Spending of Recovery Act Funds*.” Section 2 of that memorandum stresses the importance of avoiding the funding of imprudent projects. The section states, in part, “Funds under the Recovery Act shall not be committed, obligated, or expended by any executive department or agency, and shall not be used by any State or local governmental or private grantee or awardee, to support projects of the type described in section 1604 of Division A of the Recovery Act.” This memorandum thus extends the prohibition on use of Recovery Act funds for aquariums to executive departments and agencies.

We identified two projects posted on fedbizopps.gov that may violate the prohibition on the use of Recovery Act funds for aquariums. The first project was “RECOVERY- Mammoth Spring Aquarium Administration and Environmental Facility Phase II.” We verified that this project was listed on the FWS Recovery and Act project list as “Construct visitor center at Mammoth Spring National Fish Hatchery.” We contacted the contracting officer, who stated that the project involves the construction of a visitor center/environmental education facility. The posting notes, “The Mammoth Spring Aquarium/Visitor Center will be approximately 3,600 SF for Phase I and 3,354SF for Phase II for a total of 6,954 SF. The Aquarium/Visitor Center will include a [*sic*] aquarium, book store, exhibit space, environmental education classrooms, as well as other attractions.” The contracting officer stated that the costs of the aquariums are projected to be a small part of the overall project costs.

The second project was “Recovery Act Award Solicitation No. 40181RQ021HVAC Residence, Edenton & A/C Aquarium, Edenton.” The posting notes, “This RFQ [request for quote] also includes the Aquarium HVAC Replacement at Edenton National Fish Hatchery, Edenton, NC.” We verified that this project was included on the FWS Recovery Act project list¹ as “Replace HVAC system at Edenton National Fish Hatchery.” We contacted the contracting officer for this project, who provided a more detailed description of the project. She noted that the “main purpose of this building is to provide educational space and materials for aquatic education and natural resource programs held by the hatchery to meet the Services' Connecting Kids With Nature program as well as supporting the SE [Southeast] Regions' Biologist -in- Training program .” She also noted that “the aquarium [*sic*] is housed in this building as well; it also supports other functions as well and is not a direct expenditure of the aquarium [*sic*] itself.”

We realize that the neither of these projects has the main purpose of constructing or supporting aquariums. We understand that neither the Recovery Act nor the Presidential memorandum clearly define “aquarium” and do not distinguish between a building used primarily as an aquarium for public use and a building housing fish tanks (aquariums) as a part of other displays or exhibits. Because of this ambiguity, we think the most conservative

¹ Each bureau that received Recovery Act funding prepared a list of projects it intends to fund with Recovery Act monies.

approach is for FWS to eliminate any direct spending for aquariums and to seek clarification of the issue to ensure the integrity of Interior Recovery Act implementation.

Recommendations

We recommend that the Department and FWS:

1. Ensure no Recovery Act funds are used to purchase aquariums.
2. Seek written clarification from the Office of Management and Budget (OMB) regarding the use of Recovery Act funds for projects that include aquariums, even when the funds will not be used to purchase aquariums directly.

cc: Assistant Secretary – Policy, Management and Budget
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Director, Office of Financial Management
Director, U.S. Fish and Wildlife Service
Recovery Coordinator, U.S. Fish and Wildlife Service
Project Lead, U.S. Fish and Wildlife Service
Acting FWS Audit Liaison
Departmental GAO/OIG Audit Liaison
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