



Smithsonian Institution

Office of the Chief Financial Officer
Office of Contracting and Personal Property Management

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To A. Sprightley Ryan, Inspector General

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From: Robert Fraga, Director, Office of Contracting and Personal Property Management

Subject: Response to Management Advisory on Oversight Findings and Timeliness and
Transparency of the Smithsonian's Use of Recovery Act Funds, Number A-09-09

The American Reinvestment and Recovery Act ("Recovery Act") provided the Smithsonian Institution with \$25 million for the repair and revitalization of its existing facilities. It was determined that these resources should be concentrated on revitalization projects to improve the safety and security of visitors, staff, and the collections. With this in mind, a detailed procurement plan was developed to select the most suitable projects.

In developing this plan, the Institution was keenly aware of the overall directive in the Recovery Act that all "expenditures and activities [begin] as quickly as possible." This directive, of course, was tempered by the many administrative requirements of the Recovery Act as well as those imposed by federal acquisition law. In addition, the Recovery Act emphasized the use of both competition and, wherever possible, small and small disadvantaged businesses.

In an effort to balance these requirements, the Procurement plan incorporated projects capable of being initiated immediately and set levels of competition, primarily amongst the Institution's Indefinite Delivery/Indefinite Quantity Small Business Contractors. This process allowed for swift and effective competitive procurements and the use of disadvantaged business.

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The Institution competitively awarded and obligated over 73% of its Recovery Act funds within four months of the Act's inception. Moreover, it is anticipated that 85% of the Recovery Act's funds will be obligated this month.

Competitive Award Process for 8(a) Set-Asides Under the Small Business Administration

Under the FAR, competitive set-asides for 8(a) firms are typically reserved for significant procurements. As indicated in the OIG memo of September 1, 2009, a waiver was obtained from the SBA and all necessary procedures to permit the competitive set-asides for the identified projects were adhered to. Thus, the requirements under the FAR were met and the acquisitions timely completed.

Transparency

The Guidance from OMB utilized by OIG to review the selected files was produced on April 3, 2009, and provided all agencies with, among other things, directives on publishing information regarding the contracting procedures.

One of the OIG's primary criticisms was OCON&PPM's lack of uniform file procedures. The OIG cites FAR 4.8 in support of their findings. While FAR 4.8 indicates that Contract files must contain sufficient records to constitute a history of the transaction, it does not mandate a specific list of documents to be contained therein. Moreover, FAR 4.8 is far from definite in outlining a set procedure for organizing procurement files.

That being said, OCON&PPM does not now possess a written policy on file management. It is in the process of formulating such a policy; however, this effort is being conducted within the larger context of OCON&PPM's significantly diminished workforce and resource constraints. Given OCON&PPM's understaffing, all administrative tasks associated with file management are assumed by the contract specialists and attorneys managing the procurement. These efforts in other agencies, particularly filing, are handled generally by administrative staff. This practice is not only efficient but cost effective. The excessive workload of OCON&PPM contracting staff hinders their ability to perform administrative functions timely or uniformly. This problem is magnified by the expediency with which acquisitions are expected.

Overall, the contracting files reviewed may not be optimally organized or consistent; however, given OCON&PPM's staffing problems and the administrative burdens associated with the Recovery Act, this is a problem that is unlikely to be resolved without additional resources. The OCON&PPM leadership deems the Recovery Act files to be adequate for their purpose.

With regard to the timeliness of the release of information, OCON&PPM submits that the financial information, in the vast majority of cases, is posted to FPDS upon execution and release of the contract. The information's release to FPDS coincides with

the release of the Contract document in the Institution's Contract drafting system. This, in normal circumstances, occurs shortly after the obligation of funds (which is handled through a separate system, ERP). Nevertheless, for those actions cited as delayed, OCON&PPM will endeavor to rectify this issue.

Notably, the FPDS posting requirements as outlined in the guidance from OMB have all been met by OCON&PPM.

OCON&PPM will continue to provide effective assistance to the Institution in the implementation of the Recovery Act. Efforts will be made to address the concerns raised by the OIG advisory memo dated September 1, 2009; however, the larger concerns regarding overall file management will not likely be fully resolved without an additional commitment of personnel.