



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



American Recovery and Reinvestment Act Site Visit of Yauco – La Jurada Community Distribution System, Yauco, Puerto Rico

Report No. 13-R-0413

September 23, 2013



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Report Contributors:

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Abbreviations

DBA	Davis-Bacon Act
DWSRF	Drinking Water State Revolving Fund
EPA	U.S. Environmental Protection Agency
PRASA	Puerto Rico Aqueduct and Sewer Authority
PRDOH	Puerto Rico Department of Health

Cover photo: Pump Station at the Yauco - La Jurada Community Distribution System site in Yauco, Puerto Rico. (EPA OIG photo)

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At a Glance

Why We Did This Review

The U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), conducts site visits of American Recovery and Reinvestment Act of 2009 clean water and drinking water projects. The purpose of this unannounced site visit was to determine whether the recipient of funds complied with selected requirements of the Recovery Act and Drinking Water State Revolving Fund (DWSRF) program.

The Puerto Rico Aqueduct and Sewer Authority (PRASA) received \$19.5 million in Recovery Act funds from the Puerto Rico Infrastructure Finance Authority under the DWSRF program administered by the Puerto Rico Department of Health (PRDOH). The Yauco – La Jurada Community Distribution System project received \$1,385,000 in Recovery Act funds through a DWSRF loan.

This report addresses the following EPA theme:

- *Protecting water: A precious, limited resource.*

For further information, contact our public affairs office at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2013/20130923-13-R-0413.pdf

American Recovery and Reinvestment Act Site Visit of Yauco – La Jurada Community Distribution System, Yauco, Puerto Rico

What We Found

We conducted an unannounced site visit to the Recovery Act-funded project of the Yauco – La Jurada Community Distribution System in Yauco, Puerto Rico, in August 2010. The project consisted of furnishing and installing new water distribution lines, constructing two distribution tanks, and installing house service connections. We toured the project site, interviewed personnel from PRASA and the PRDOH, as well as the prime contractor's manager and employees, and reviewed documentation related to Recovery Act requirements.

Based on our site visit, no issues or concerns came to our attention that would require action from the Commonwealth of Puerto Rico, PRDOH, PRASA or EPA.

The prime contractor did not provide sufficient documentation to confirm payment of wages to its employees. According to PRASA, the prime contractor went out of business before completing the project. The project was ultimately completed by the prime contractor's insurers. PRASA experienced significant delays in acquiring documentation to support the review as a result of the prime contractor's demise.

According to PRASA, having a prime contractor going out of business before it completes a project is a rare and isolated event. With PRASA's assistance, we received adequate documentation to support compliance with the requirements of the Recovery Act.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

September 23, 2013

MEMORANDUM

SUBJECT: American Recovery and Reinvestment Act Site Visit of
Yauco – La Jurada Community Distribution System, Yauco, Puerto Rico
Report No. 13-R-0413

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: Judith Enck, Regional Administrator
Region 2

This is our report on the subject site visit conducted by the Office of Inspector General of the U.S. Environmental Protection Agency. This report summarizes the results of our site visit of the Yauco – La Jurada Community Distribution System in Yauco, Puerto Rico, funded under the American Recovery and Reinvestment Act of 2009.

We performed this site visit as part of our responsibility under the Recovery Act. The purpose of our site visit was to determine the Puerto Rico Aqueduct and Sewer Authority's compliance with select requirements under the Recovery Act pertaining to the Drinking Water State Revolving Loan program. The funding agreement included a loan for \$1,385,000 of Recovery Act funds for the Yauco – La Jurada Community Distribution System.

Because this report contains no recommendations, you are not required to respond to this report. This report will be available at <http://www.epa.gov/oig>.

If you or your staff have any questions about this report, please contact Richard Eyer mann, acting assistant inspector general for the Office of Audit, at (202) 566-0565 or eyermann.richard@epa.gov; or Robert Adachi, product line director, at (415) 947-4537 or adachi.robert@epa.gov.

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Purpose

The purpose of our unannounced site visit to the project of the Yauco – La Jurada Community Distribution System in Yauco, Puerto Rico, funded by the American Recovery and Reinvestment Act of 2009, was to determine whether the Puerto Rico Aqueduct and Sewer Authority (PRASA) complied with selected requirements of the Recovery Act pertaining to the Drinking Water State Revolving Fund (DWSRF) program.

Background

The U.S. Environmental Protection Agency (EPA) awarded Recovery Act funds to the Commonwealth of Puerto Rico under the DWSRF program. PRASA received \$19.5 million in Recovery Act funds from the Puerto Rico Infrastructure Finance Authority under the DWSRF Program administered by the Puerto Rico Department of Health (PRDOH). The Yauco – La Jurada Community Distribution System project received \$1,385,000 in Recovery Act funds through a DWSRF loan. The project consisted of furnishing and installing new water distribution lines, constructing two distribution tanks, and installing house service connections.

Scope and Methodology

We did not perform this engagement in accordance with generally accepted government auditing standards. Specifically, we did not perform certain steps that would allow us to obtain information to assess PRASA's internal controls and any previously reported audit concerns. As a result, we do not express an opinion on the adequacy of PRASA's internal controls or its compliance with all federal, state or local requirements.

We visited the Commonwealth of Puerto Rico during August 2010 and made unannounced onsite visits to various Recovery Act project sites. We visited the Yauco – La Jurada Community Distribution System project site on August 11, 2010.

We limited the scope of our visit to the following steps:

1. Toured the construction project.
2. Interviewed prime contractor employees and the prime contractor manager onsite and personnel from PRASA and PRDOH.
3. Reviewed documentation provided by PRASA and the prime contractor on the following matters:
 - a. Buy American requirements under Section 1605 of the Recovery Act.
 - b. Wage Rate requirement (Davis-Bacon Act, or DBA) under Section 1606 of the Recovery Act.

- c. Limits on funds and reporting requirements under Sections 1604 and 1512 of the Recovery Act.
- d. Contract procurement.

For Section 1606 testing, we judgmentally selected two pay periods (weeks ended July 24, 2010, and August 14, 2010) to determine whether employees were paid the prevailing DBA wages rates and to confirm payment to employees. We selected the week ended August 14, 2010 as it correlated with our site visit and judgmentally selected a week from the month prior to our site visit (week ended July 24, 2010). We requested and verified supporting documentation from the contractor and learned of cash payments made to employees for the payroll week ended August 14, 2010. We expanded the universe to the 46-week period starting February 13, 2010, through December 25, 2010, which included 454 transactions. The contractor did not provide all the documentation needed to determine compliance with the wage rate requirement. We requested, and PRASA provided, assistance in obtaining documentation from the prime contractor and the prime contractor's bank to support payment to employees.

Results of Site Visit

Based on our site visit, no issues or concerns came to our attention that would require action from the Commonwealth of Puerto Rico, PRDOH, PRASA or EPA.

The prime contractor did not provide sufficient documentation to confirm payment of wages to its employees. According to PRASA, the prime contractor went out of business before completing the project. The project was ultimately completed by the prime contractor's insurers. PRASA experienced significant delays in acquiring documentation to support the review as a result of the prime contractor's demise. According to PRASA, having a prime contractor going out of business before it completes a project is a rare and isolated event. With PRASA's assistance, we received adequate documentation to support compliance with the requirements of the Recovery Act. Our specific review results are summarized below

Buy American Requirements

We did not identify any issues regarding the Buy American requirements set out in Section 1605 of the Recovery Act. Section 1605 of the Recovery Act requires that all iron, steel or manufactured goods be produced in the United States, unless certain exceptions apply. Based on interviews conducted and work performed, PRASA and the prime contractor were fully aware of the Buy American requirements. The Buy American requirements were included in the bid documents and the contract between PRASA and its prime contractor. Physical observation of materials onsite and Internet research conducted on the manufacturers and materials used for the project did not disclose any issue or concern with the Buy American requirements.

Contract Procurement

We did not identify any issues with contract procurement or unfair bidding practices. PRASA competitively awarded the construction contract based on public advertisement. PRASA received 27 bids and, based on the recommendation of its bid board, awarded the contract to the lowest responsive bidder. A sample of unsuccessful bidders confirmed their participation in the bidding process. Overall, the bidders contacted were satisfied with the procurement process.

Limits on Funds and Reporting

We did not identify any issues regarding the limits on funds and reporting requirements set out in Section 1604 and 1512 of the Recovery Act. Under Section 1604 of the Recovery Act, no funds can be used for any casino, other gambling establishment, aquarium, zoo, golf course, or swimming pool. We visited the project site and reviewed the prime contract to verify that it contained the appropriate language to comply with Section 1604 of the Recovery Act.

Section 1512 of the Recovery Act requires the recipient to report the number of jobs created and the number of jobs retained by project or activity. We did not identify any issues regarding PRASA's ability to meet the Recovery Act reporting and financial management requirements. We interviewed PRASA personnel to obtain an understanding of the reporting process and reviewed an example of the tables that include the Section 1512 reporting information submitted by PRASA to PRDOH.

Wage Rate Requirements

The prime contractor complied with the requirements set out in Section 1606 of the Recovery Act. Section 1606 requires all mechanics and laborers employed on projects funded directly by—or assisted in whole or in part with—Recovery Act funds to be paid wages at rates no less than the locally prevailing rate, as determined by the U.S. Department of Labor.

We performed tests to determine whether employees were paid DBA wages rates and to confirm payment to employees. Specifically, we compared the wages paid on the certified payroll reports to the DBA Wage Determinations to determine whether employees were paid wages equal to or above the required wage rate specified by the U.S. Department of Labor.

We determined that the prime contractor was aware of the Recovery Act Section 1606 requirements, and demonstrated its knowledge by preparing the certified payroll reports and reviewing the payroll transactions for compliance with the requirements. For example, from February 2010 through May 2010 there were 89 instances where employees were not paid the minimum wages as required by the DBA. The contractor noted the errors and made the corrections in June 2010, prior to our review. We noted no additional instances.

We reviewed the payment of wages to employees and determined cash payments were made to employees for the week ended August 14, 2010. Since cash payments can be an indicator of fraud, we expanded our universe of Section 1606 compliance testing for the 46-week period February 13, 2010, through December 25, 2010. We found cash payments to employees for 10 payroll periods (period ending August 14, 2010, through the period ending October 16, 2010). Our universe included 454 transactions, of which 316 were non-cash payroll transactions and 138 were cash payments.

We made multiple requests to the contractor for documentation to support the payment of wages to employees. In September 2011, we obtained Office of Inspector (OIG) General Office of Counsel services, submitted a formal request to PRASA, and requested employee affidavits for the 138 cash payments and supporting documentation for 191 of the 316 non-cash payroll transactions.

With PRASA's assistance, we received documentation to support 95 percent of the payroll transactions examined (432 of 454 payroll transactions). We received canceled checks, affidavits from the prime contractor and its employees, or bank printouts to support payments to the employee. We verified all cash payments using the information provided.

PRASA, dealing directly with the prime contractor's bank, was unable to provide canceled checks for 22 of the requested transactions due to inaccurate check numbers provided by the prime contractor. Due to the cost to PRASA associated with obtaining additional canceled checks from the bank, we did not make any further requests to obtain the outstanding checks. Based on the volume of canceled checks provided, we concluded there was limited risk in this area.

Agency and Recipient Comments and OIG Evaluation

We discussed our site visit results at an exit conference with representatives of PRDOH, PRASA and Region 2 on August 8, 2013. Originally, we recommended that PRDOH require PRASA to review potential contractors' internal controls associated with the payment of payroll transactions prior to awarding any future contracts involving federal funds to reduce the risk associated with cash payments.

Based on additional information provided both during and after the exit conference, PRASA was able to document that its standard procedures include a review of internal controls prior to awarding any contracts, and those procedures were followed. As a result, we removed this recommendation from our final report, and this report no longer contains any recommendations.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
No recommendations							

¹ O = Recommendation is open with agreed-to corrective actions pending.
 C = Recommendation is closed with all agreed-to actions completed.
 U = Recommendation is unresolved with resolution efforts in progress.

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