



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Site Visit Report

American Recovery and Reinvestment Act Site Visit of Sanitary Sewer System Improvements, Ingenio Community, Toa Baja, Puerto Rico

Report No. 11-R-0233

May 24, 2011



Report Contributors:

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Abbreviations

DBA	Davis-Bacon Act
EPA	U.S. Environmental Protection Agency
OIG	Office of Inspector General
PRASA	Puerto Rico Aqueduct and Sewer Authority

Cover photo: Sanitary sewer system improvements vacuum pump station site, Ingenio Community, Toa Baja, Puerto Rico. (EPA OIG photo)

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At a Glance

Catalyst for Improving the Environment

Why We Did This Review

The U.S. Environmental Protection Agency (EPA), Office of Inspector General, conducts site visits of American Recovery and Reinvestment Act of 2009 (Recovery Act) funded clean water and drinking water projects. We selected the project in the Ingenio Community, Toa Baja, Puerto Rico, for review.

Background

The Ingenio Community, Toa Baja, project received \$12,705,360 of Recovery Act funds under the Clean Water State Revolving Fund program—\$910,832 for principal forgiveness and a \$11,794,528 loan. The loan agreement is between the Puerto Rico Infrastructure Finance Authority, acting on behalf of the Commonwealth of Puerto Rico, and the Puerto Rico Aqueduct and Sewer Authority (PRASA).

For further information, contact our Office of Congressional, Public Affairs and Management at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2011/20110524-11-R-0233.pdf

American Recovery and Reinvestment Act Site Visit of Sanitary Sewer System Improvements, Ingenio Community, Toa Baja, Puerto Rico

What We Found

We conducted an unannounced site visit of the Sanitary Sewer System Improvements Project in the Ingenio Community, Toa Baja, Puerto Rico, in August 2010. We toured the project site and interviewed personnel from PRASA, its project management consultants and subcontracted field inspectors, the Puerto Rico Environmental Quality Board, and the prime contractor and one subcontractor. We reviewed documentation related to Recovery Act requirements. Our site visit found ongoing construction activity in four separate locations, all related to the sanitary sewer system improvement project. The main area of construction activity was located at the vacuum pump station.

During our review, PRASA informed us of a potential Buy American noncompliance and the actions being taken to resolve the matter. Also, we identified two subcontract agreements that did not contain the Recovery Act requirements. The prime contractor submitted a signed amendment for only one of the two subcontracts, stating that the other subcontractor was no longer working on the project. Nonetheless, the prime contractor should obtain that amendment from the second subcontractor.

What We Recommend

We recommend that the Regional Administrator, Region 2, follow up with PRASA on the resolution of the potential Buy American noncompliance issue. We also recommend that the Regional Administrator require PRASA to verify that each of the prime contractor's subcontract agreements include the applicable Recovery Act clauses and ensure the requirements were adhered to. Region 2 and PRASA agreed with the findings and recommendations. The Puerto Rico Environmental Quality Board did not provide any comments on our findings and recommendations.



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

THE INSPECTOR GENERAL

May 24, 2011

MEMORANDUM

SUBJECT: American Recovery and Reinvestment Act
Site Visit of Sanitary Sewer System Improvements,
Ingenio Community, Toa Baja, Puerto Rico
Report No. 11-R-0233

FROM: Arthur A. Elkins, Jr.
Inspector General

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

TO: Judith A. 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 (EPA). The report summarizes the results of our site visit of the Sanitary Sewer System Improvements Project in the Ingenio Community, Toa Baja, Puerto Rico, funded under the American Recovery and Reinvestment Act of 2009 (Recovery Act).

We performed this site visit as part of our responsibility under the Recovery Act. The purpose of our site visit was to determine whether the Puerto Rico Aqueduct and Sewer Authority complied with selected requirements of the Recovery Act pertaining to the Clean Water State Revolving Fund program. The loan agreement is between the Puerto Rico Infrastructure Finance Authority, acting on behalf of the Commonwealth of Puerto Rico, and the Puerto Rico Aqueduct and Sewer Authority. The Ingenio Community project received \$12,705,360 in Recovery Act funds under the Clean Water State Revolving Fund program.

The estimated direct labor and travel costs for this report are \$95,987.

Action Required

In accordance with EPA Manual 2750, you are required to provide a written response to this report within 90 calendar days, or by August 22, 2011. You should include a corrective action plan for agreed-upon actions, including milestone dates. Your response will be posted on the

Office of Inspector General's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal. We have no objection to further release of this report to the public. The report will be available at <http://www.epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact Melissa Heist, Assistant Inspector General for Audit, at (202) 566-0899 or heist.melissa@epa.gov; or Robert Adachi, Director of Forensic Audits, at (415) 947-4537 or adachi.robert@epa.gov.

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Purpose

The purpose of our unannounced site visit was to determine the Puerto Rico Aqueduct and Sewer Authority's (PRASA's) compliance with selected requirements of the American Recovery and Reinvestment Act of 2009 (Recovery Act) pertaining to the Clean Water State Revolving Fund Program.

Background

PRASA received a \$12,705,360 loan from the Puerto Rico Infrastructure Finance Authority. The purpose of the loan was to fund sanitary sewer system improvements for the Ingenio and Villa Calma Communities and Puerto Rico Road 867. The loan agreement includes \$910,832 in principal forgiveness. The balance of the loan has a 20-year maturity with an interest rate of 2 percent per annum.

Scope and Methodology

Due to the time-critical nature of the Recovery Act requirements, we did not perform this site visit in accordance with generally accepted government auditing standards. Specifically, we did not determine whether previous audit work was completed in this area, nor did we assess PRASA's internal controls. 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 conducted our site visit during the weeks of August 9 and August 16, 2010. During our visit, we:

1. Toured the construction project
2. We interviewed personnel from PRASA, its project management consultants and subcontracted field inspectors, the Puerto Rico Environmental Quality Board, and the prime contractor including its employees and managers and one subcontractor.
3. Reviewed documentation maintained by PRASA and the prime contractor on the following matters:
 - a. Buy American requirements under Section 1605 of the Recovery Act
 - b. Wage Rate requirements (Davis-Bacon Act (DBA) under Section 1606 of the Recovery Act)
 - c. Contract procurement
 - d. Limit on funds and reporting requirements under Sections 1604 and 1512 of the Recovery Act.

Results of Site Visit

We were informed of a potential Buy American noncompliance and identified an issue with procurement requirements. We summarize the results of our review below.

Buy American Requirements

We are unable to conclude whether the Buy American requirement for the project has been satisfied. During our visit, PRASA expressed a concern regarding a potential Buy American noncompliance and is working with interested parties to resolve the matter. As a result, we did not complete our planned work in this area.

Wage Rate Requirements

No issues came to our attention that would require further action, although we did identify one instance of noncompliance with DBA requirements regarding the inappropriate use of wage rates. Contractors certify compliance with DBA rates by signing weekly certified payrolls, and we reviewed certified payrolls and verified wages with the applicable DBA rates to determine compliance. We inquired with the contractor and PRASA about the identified noncompliance. The prime contractor acknowledged the noncompliance and corrected the affected employee's pay rate. We audited a total of three payroll periods and performed a cursory review of the certified payrolls for the entire month of July, and found that the identified employee did not have any further instances of DBA noncompliance. Thus, no further action is needed.

Contract Procurement

We did not identify any issues or concerns with contract procurement or unfair bidding practices. The construction contract was competitively awarded based on public advertisement. Nineteen bids were received and, based on the recommendation of its bid board, PRASA awarded the contract to the lowest responsive, responsible bidder. Unsuccessful bidders confirmed their participation in the bidding process.

The prime contract requires that each subcontract include the Recovery Act requirements. We reviewed the prime contractor's two subcontracts and found no applicable Recovery Act requirements or clauses for either. We made PRASA and the prime contractor aware of this issue. We subsequently received one of two signed amendments that included the Recovery Act requirements. However, the prime contractor did not submit a signed amendment for the second subcontract, stating that the subcontractor was no longer working on the project. Nonetheless, the subcontractor was required to comply with Recovery Act requirements for services performed on the project. Therefore, the prime contractor should obtain that amendment from the subcontractor.

Limit on Funds and Reporting Requirements

We did not identify any issues of concern. 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, reviewed the prime contract to verify it contained the appropriate language to comply with Section 1604, and performed a limited review of the prime contractor's general ledger and supporting invoices to ensure compliance with Section 1604 of the act.

We did not identify any issues regarding PRASA's ability to meet Recovery Act financial management and reporting 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 the Puerto Rico Environmental Quality Board and the Puerto Rico Department of Health.

Recommendations

We recommend that the Regional Administrator, Region 2:

1. Follow up with PRASA on the resolution of the potential Buy American noncompliance issue.
2. Require PRASA to verify that each of the prime contractor's subcontract agreements include the applicable Recovery Act clauses and ensure the requirements were adhered to.

Agency, Recipient, and Subrecipient Responses to Draft Report

We issued a discussion draft on March 22, 2011. No formal written comments were received or required. We held an exit conference on March 31, 2011, with PRASA, the Puerto Rico Environmental Quality Board, and the region to obtain their verbal comments on the discussion draft.

The discussion draft report contained two recommendations. PRASA agreed with our findings and informed us of actions it is taking. Regarding the potential Buy American noncompliance issue, PRASA stated the issue remains a potential noncompliance, and PRASA continues to work with interested parties to resolve the matter. PRASA also informed us it is working with the prime contractor on obtaining the signed contract amendment, which would include the appropriate Recovery Act requirements and clauses. At the time of our meeting, PRASA had requested, but not received, the signed amendment.

The Puerto Rico Environmental Quality Board did not comment on our findings or recommendations. However, the board informed us that the loan amount of \$11,794,529 and the principal forgiveness amount of \$910,831 needed to be adjusted. The correct amounts are \$11,794,528 for the loan and \$910,832 for principal forgiveness.

The region did not comment on our findings or recommendations at the exit conference. On April 15, 2011, the region sent an e-mail stating it agreed with our recommendations.

OIG Comment on Responses

We verified the loan and principal forgiveness amounts to the loan and project funding documents. We adjusted the report accordingly.

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
1	3	Follow up with PRASA on the resolution of the potential Buy American noncompliance issue.	O	Regional Administrator, Region 2			
2	3	Require PRASA to verify that each of the prime contractor's subcontract agreements include the applicable Recovery Act clauses and ensure the requirements were adhered to.	O	Regional Administrator, Region 2			

O = recommendation is open with agreed-to corrective actions pending

C = recommendation is closed with all agreed-to actions completed

U = recommendation is undecided with resolution efforts in progress

Distribution

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Chief of Infrastructure Projects, Puerto Rico Environmental Quality Board
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