



JACKSON COUNTY

Oregon

Internal Audit Report

**Single Audit – American Recovery and Reinvestment Act of 2009
Gold Ray Dam Removal**

December 23, 2010

**Presented To The
Jackson County Board of Commissioners
By The
Internal Audit Program**

Debbie Taylor, County Auditor



**JACKSON
COUNTY**
Oregon

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To: Board of Commissioners
From: Debbie Taylor, County Auditor *Debbie Taylor*
Subject: Audit of American Recovery and Reinvestment Act - Gold Ray Dam Removal Project
Date: December, 23 2010

The attached audit report provides information concerning an audit of the funds received from the American Recovery and Reinvestment Act of 2009 pertaining to the removal of Gold Ray Dam. The audit was included in the fiscal year 2010-11 Internal Audit Plan and the work was performed in conjunction with the County's annual external financial audit.

The results have been shared with the County's Audit Committee and Roads & Parks Director John Vial. Mr. Vial's response is included at the end of the report.

The Internal Audit Program appreciates the cooperation and assistance it received from Roads & Parks staff throughout the audit process.

c: Audit Committee
John Vial, Roads & Parks Director
Kenneth Kuhns & Co.



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Internal Audit Report
Single Audit
American Recovery and Reinvestment Act of 2009
Gold Ray Dam Removal Project

Audit Authority

Our audit was conducted in accordance with Codified Ordinance 218 pertaining to the County Auditor. The audit was included in the fiscal year 2010-11 Internal Audit Plan as part of the Single Audit work performed annually in conjunction with the County's external audit.

Audit Background

The American Recovery and Reinvestment Act (Recovery Act) was signed into law on February 17, 2009 to help stimulate the economy by creating or preserving jobs, and investing in projects that provide long-term economic benefits. The Recovery Act and related Federal Office of Management and Budget (OMB) guidance have significant implications for audits performed under OMB Circular A-133 - Audits of States, Local Governments and Non-Profit Organizations (Single Audit). The Recovery Act imposes new transparency and accountability requirements on Federal awarding agencies and their recipients. The Single Audit process is a key factor in the achievement of the following accountability objectives in the OMB Guidance: (1) the recipients and uses of all funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately, and in a timely manner; and (2) funds are used for authorized purposes and instances of fraud, waste, error, and abuse are mitigated.¹

The Federal Single Audit Act of 1984, amended in 1996, established requirements for audits of States, Local Governments, and Indian Tribal Governments that administer Federal financial assistance programs. OMB Circular A-133 provides implementing guidance. One objective is to determine whether Federal financial assistance program resources are being managed and controlled appropriately and used in accordance with legal and contractual requirements.

In July 2009, as part of the Recovery Act, a \$5,000,000 National Oceanic & Atmospheric Administration (NOAA) Habitat Conservation grant was awarded to Jackson County for the purpose of removing the Gold Ray Dam. The original Gold Ray Dam was constructed as a 33 foot high wooden timber crib dam in 1904 which was later replaced immediately downstream by a 40 foot high, 394 foot long concrete dam in 1941. The concrete dam spanned the main stem of the Rogue River and like the original timber crib dam, its purpose was to generate hydroelectric power. The dam was operated as a hydroelectric facility until 1972 when it was permanently closed and ownership of the dam and surrounding properties was transferred to Jackson County for the purpose of developing the site as a park and recreation property. Jackson County did not develop the property as a park and recreation property due to a variety of liability and financial reasons. On June 1, 2010 the original award of \$5,000,000 was increased to \$5,507,450 and additional work was added to complete a full restoration and mitigation of the confluence of Bear Creek and the Rogue River as part of the project.

¹ OMB Circular A-133 Compliance Supplement – Appendix VII Other OMB Circular A-133 Advisories

Audit Objectives

The objectives of our audit were to determine if:

- The County maintained internal controls that reasonably ensured compliance with OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations, and the conditions of the NOAA Habitat Conservation grant which included special Recovery Act requirements.
- The County complied with the requirements of OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations compliance requirements which incorporates OMB Circular A-87 Cost Principles for State, Local, and Indian Tribal Governments, and the conditions of the NOAA Habitat Conservation grant which included special Recovery Act requirements.

Audit Scope & Methodology

Our audit examined activities relating to the removal of Gold Ray Dam for the period of County FY 2009-10.

Our audit procedures included:

- Reviewing applicable laws, Federal circulars and other official guidance;
- Reviewing the grant agreement and related Board Orders approving the grant;
- Discussing procedures with the Roads & Parks Director;
- Reviewing bid documents;
- Reviewing revenue and expenditure information; and
- Performing other activities as considered appropriate.

Audit Criteria

Criteria represent the laws, regulations, contracts, grant agreements, standards, measures, expected performance, defined business practices and benchmarks against which performance is compared or evaluated. Criteria identify the required or desired state or expectation with respect to the program or operation. Criteria for our audit consisted of Federal OMB Circular A-133, Audits of States, Local Governments, and Non-Profit Organizations; Federal OMB Circular A-87, Cost Principles for State, Local, and Indian Tribal Governments, the American Recovery and Reinvestment Act of 2009 and related guidance, the grant agreement with the National Oceanic & Atmospheric Administration and related Catalog of Federal Domestic Assistance Program information (CFDA 11.463) pertaining to the Habitat Conservation Program.

OMB Circular A-133 sets forth standards for obtaining consistency and uniformity among Federal agencies for the audit of States, Local Governments, and Non-profit Organizations expending Federal awards. The Circular includes a related Compliance Supplement that identifies fourteen compliance requirements that the Federal Government expects to be considered as part of the required Single Audit work. Additionally, the Supplement suggests audit procedures for determining compliance with applicable requirements. The fourteen compliance requirements are:

- A. Activities Allowed or Unallowed
- B. Allowable Costs/Cost Principles
- C. Cash Management
- D. Davis-Bacon Act
- E. Eligibility
- F. Equipment and Real Property Management
- G. Matching, Level of Effort, Earmarking
- H. Period of Availability of Federal Funds
- I. Procurement and Suspension and Debarment
- J. Program Income
- K. Real Property Acquisition and Relocation Assistance
- L. Reporting
- M. Subrecipient Monitoring
- N. Special Tests and Provisions

OMB Guidance related to the Recovery Act includes: *Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009* (February 18, 2009); *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009* (April 3, 2009); and *Updated Guidance on the American Recovery and Reinvestment Act* (March 22, 2010).

Internal Controls

We gained an understanding of internal controls through communications with the Roads & Parks Director. The Roads & Parks Director was responsible for overseeing the Gold Ray Dam removal project.

Compliance with Government Auditing Standards

We conducted this performance audit in accordance with generally accepted government auditing standards. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Privileged and Confidential Information

We did not withhold any information from this report because it was considered privileged or confidential.

Corrective Actions on Prior Year Audit Findings

This was the first audit of this project. As such, there was no corrective action plan for us to follow up on.

Audit Results

General Findings:

- Our audit found that the County maintained internal controls that reasonably ensured compliance with the OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations, and the conditions of the NOAA Habitat Conservation grant which included special Recovery Act requirements.
- Our audit found that in all material respects, the County complied with the requirements of Federal OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations which incorporates Federal OMB Circular A-87 Cost Principles for State, Local, and Indian Tribal Governments, and the NOAA Habitat Conservation grant which included special Recovery Act requirements.

Detailed Findings:

Adequacy of Internal Controls

Our audit found that the County maintained internal controls that reasonably ensured compliance with OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations and the conditions of the NOAA Habitat Conservation grant which included special Recovery Act requirements.

Entities receiving Federal awards must design and maintain internal controls that reasonably ensure compliance with Federal laws, regulations and program compliance requirements.

The objectives of internal control pertaining to the compliance requirements are as follows:

- (1) Transactions are properly recorded and accounted for to:
 - (i) Permit the preparation of reliable financial statements and Federal reports;
 - (ii) Maintain accountability over assets; and
 - (iii) Demonstrate compliance with laws, regulations and other compliance requirements.
- (2) Transactions are executed in compliance with:
 - (i) Laws, regulations and the provisions of contracts or grant agreements that could have a direct and material effect on a Federal program; and
 - (ii) Any other laws and regulations that are identified in the compliance supplements; and
- (3) Funds, property and other assets are safeguarded against loss from unauthorized use or disposition.

The Roads & Parks Director was the overall project manager for the Gold Ray Dam Removal project. He oversaw the bidding process and subsequent award of a design-build agreement to Slayden Construction Group to conduct all environmental studies, obtain necessary permits, complete engineering dam removal designs, and to ultimately remove the Gold Ray Dam. Once work began, the Roads & Parks Director received and reviewed the monthly payment request from the contractor and signed the request as authorized for payment. The payment request was then forwarded to the County's Construction Manager for review and approval. If everything on a payment request was in order, it was forwarded to the Administrative Assistant who requested a draw from the Federal accounting system, Automated Standard Application for Payment (ASAP). The Federal government processed the draw request and deposited funds into a County account. The County subsequently processed a payment to the contractor.

We believe that the controls listed above reasonably ensured compliance with all federal requirements pertaining to the Gold Ray Dam Removal project. Furthermore, we did not identify any significant internal control weaknesses.

Compliance with Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations

Our audit found that in all material respects, the County complied with the requirements of Federal OMB Circular A-133 Audits of States, Local Governments, and Non-Profit Organizations which incorporates Federal OMB Circular A-87 Cost Principles for State, Local, and Indian Tribal Governments, and the NOAA Habitat Conservation grant which included special Recovery Act requirements.

The following sections provide detail regarding our review of each of the fourteen A-133 compliance requirements, plus the special conditions of the Recovery Act.

- A. *Activities Allowed or Unallowed, and*
- B. *Allowable Costs/Cost Principles*

We did not identify any unallowable activities or costs charged to the NOAA Habitat Conservation Program grant. In addition, we did not note any violations of cost principles.

Criteria

Under the American Recovery and Reinvestment Act of 2009, Habitat Conservation Program (CFDA 11.463) funds can be used by recipients to support a wide variety of habitat restoration, coral reef conservation, construction, management, public education activities, and research for marine and estuarine habitats, especially for species currently under, or proposed for, Federal or inter-jurisdictional management. Restoration includes, but is not limited to, activities that contribute to the return of degraded or altered marine, estuarine, coastal, and freshwater (diadromous fish) habitats to a close approximation of their function prior to disturbance. Habitat restoration activities that produce significant ecological habitat features to create buffers or "green infrastructure" that serve to protect coastal communities from sea level rise, coastal storms and flooding, or that provide adaptation to

climate change are also included. Projects funded under this CFDA number primarily support NOAA's "Ecosystems" mission support goal of "Protect, Restore, and Manage Use of Coastal and Ocean Resources through Ecosystem-Based Management".

More specifically, the Federal Recovery Act funds were to be used for the following tasks relating to the removal of the Gold Ray Dam: 1) Administration, grant management, technical coordination, 2) Public outreach, 3) Sediment coring, analysis and report, 4) Sediment transport analysis, assessment of stream channel, wetland and riparian area impacts, and sediment management plan, 5) Reservoir restoration design and plan, 6) 60% design and final dam removal design and plan, 7) NEPA compliance, environmental assessment, permitting, and ESA consultation, 8) Dam removal, 9) Reservoir restoration (soft), and 10) Monitoring plan development and implementation, including implementation of alternate fish counting plan.

In accepting the Federal funding the County also agreed to comply with OMB Circular A-87 Cost Principles for State, Local, and Indian Tribal Governments. Under Circular A-87, costs including those used in determining indirect costs are allowable if they are:

- Reasonable and necessary
- Allocable to specific awards
- Consistently treated
- Conform to laws, regulations and agreements
- Net of all applicable credits
- Properly documented

In addition to the above, the Recovery Act required the use of American iron, steel, and manufactured goods.

Audit Procedures & Results

We reviewed the NOAA grant award and the County's agreement with Slayden Construction Group, the contractor for the Gold Ray Dam removal design-build project. We noted that the agreement stated that none of the progress payments made by the contractor were to be for iron, steel, and manufactured goods used in the project produced outside of the United States. Also, since the project involved dam removal rather than dam construction, the risk of not complying with the Recovery Act requirement to buy American was minimized. The progress payments we examined did not indicate that expenditures billed by the contractor were for purchases of non-American iron, steel, or manufactured goods.

We reviewed a detailed ledger of all expenditures for the fiscal year. Of the \$1,843,579 expended under the NOAA Habitat Conservation grant, \$1,838,929 was for contracted services and \$4,650 was for inspection services provided by the Roads & Parks Department's Road Program. We examined supporting documents for \$1,300,222 (71%) of the expenses applicable to the NOAA grant. We found

no evidence that funds were spent on unallowed activities or costs, or that costs were in violation of cost principles.

C. Cash Management

As required, expenses were incurred prior to requesting and receiving a transfer of funds from NOAA.

Criteria

OMB Circular A-133 states that when entities are funded on a reimbursement basis, program costs must be paid for by entity funds before reimbursement is requested from the Federal Government. When funds are advanced, recipients must follow procedures to minimize the time elapsing between the transfer of funds from the U.S. Treasury and disbursement.

NOAA has fully implemented NOAA Grants Online and mandates that award payments be made through electronic funds transfers using the U.S. Department of the Treasury's Automated Standard Application for Payments (ASAP) system. Transfers are made after a draw request is submitted by the grant recipient. NOAA Administrative Standard Award Conditions for certain grantees provide for advances or reimbursements as necessary for the financial management of the award.

Audit Procedures & Results

We reviewed detail ledgers of revenue and expenditures, as well as supporting documentation. We verified that draws were requested after expenses were incurred. We did, however, note that the first draw request was made based on an initial progress report rather than an invoice. Subsequent to receiving the first invoice, a second draw was requested to reflect the difference between the initial progress report and the invoiced amount.

We also identified that \$68, 528 for a NOAA Open River Initiatives (ORI) grant inadvertently was posted to the NOAA Habitat Conservation grant revenue account. We communicated this to Roads & Parks staff, who promptly requested a new account number for the ORI grant. A journal entry was then made to transfer the ORI grant revenue to the new account.

D. Davis Bacon Act

Criteria

The Davis-Bacon Act requires that all laborers and mechanics employed by contractors or subcontractors to work on construction contracts in excess of \$2,000, financed by Federal assistance funds must be paid wages not less than those established for the locality of the project (prevailing wage rates) by the DOL (40 USC 3141-3144, 3146, and 3147 (formerly 40 USC 276a to 276a-7)). Non-Federal entities must include in their construction contracts a requirement that the contractor or subcontractor will comply with the requirements of the Davis-Bacon Act. This includes a requirement for the contractor or subcontractor to submit to the non-Federal entity weekly, for each week in which

any contract work is performed, a copy of the payroll and a statement of compliance (certified payrolls) (29CFR sections 5.5 and 5.6).

Audit Procedures & Results

We reviewed the contract between Jackson County and Slayden Construction Group and determined that Slayden Construction Group was responsible for ensuring compliance with prevailing wage rates. Article 4 Wages and Labor of the agreement between Jackson County and Slayden Construction Group includes the following language: “Contractor shall comply fully with the provisions of ORS 279C.800 through 279.870. This Contract is subject to the following Bureau of Labor and Industries (BOLI) and Federal Davis-Bacon Act wage requirements, which are incorporated by reference: *Prevailing Wage Rates for Public Works Contracts in Oregon Subject to Both the State PWR and Federal Davis-Bacon Act*. In accordance with ORS 279C.845, the Contractor and every Subcontractor shall submit written certified statements to the Owner’s Authorized Representative, on the form prescribed by the Commissioner of the Bureau of Labor and Industries, certifying the hourly rate of wage paid each worker which the Contractor or the Subcontractor has employed on the project and further certifying that no worker employed on the project has been paid less than the prevailing rate of wage or less than the minimum hourly rate of wage specified in the Contact, which certificate and statement shall be verified by the oath of the Contractor or the Subcontractor that the Contractor or Subcontractor has read such statement and certificate and knows the contents thereof and that the same is true to the Contractor or Subcontractor’s best knowledge and belief.”

We confirmed with the Roads & Parks Director that certified payrolls had been submitted for each week that work was performed on the project. The certified payrolls were remitted to the Roads & Parks Director by mail and the documents were filed at the Roads & Parks Department. We also reviewed a sample of completed Labor Standards interview forms. These forms were signed by employees signifying hours worked, the work the employee was doing when interviewed, and that they had not been threatened or coerced into giving up any part of their pay.

E. Eligibility

Criteria

The specific requirements for eligibility are unique to each Federal program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the program. Local governments are eligible for NOAA Habitat Conservation funds.

Audit Procedures & Results

We reviewed the OMB Circular A-133 Part 2 – Matrix of Compliance Requirements, which indicates that the eligibility compliance requirement does not apply to Catalog of Federal Domestic Assistance (CFDA) 11.463 NOAA Habitat Conservation. We did, however note that the CFDA program information specifies that local governments are eligible to apply for NOAA Habitat Conservation funds.

F. Equipment & Real Property

Criteria

Equipment Management

Title to equipment acquired by a non-Federal entity with Federal awards vests with the non-Federal entity. Equipment means tangible nonexpendable property, including exempt property, charged directly to the award having a useful life of more than one year and an acquisition cost of \$5,000 or more per unit. Local governments are to follow OMB A-102 Common Rule for equipment acquired under Federal awards received directly from a Federal awarding agency.

Real Property Management

Title to real property acquired by non-Federal entities with Federal awards vests with the non-Federal entity. Real property shall be used for the originally authorized purpose as long as needed for that purpose. The non-Federal entity may not dispose of or encumber the title to real property without the prior consent of the awarding agency.

Audit Procedures & Results

As we noted in the background section of this report, Gold Ray Dam was operated as a hydroelectric facility until 1972 when it was permanently closed and ownership of the dam and surrounding properties was transferred to Jackson County. We did not find any evidence indicating that the dam or related equipment were acquired with Federal funds and we found that no equipment or real property was acquired as part of the project.

G. Matching, Level of Effort, Earmarking

Criteria

Matching requirements are contributions (usually non-Federal) of a specified amount or percentage to match Federal awards. *Level of effort* includes requirements for (a) a specified level of service to be provided from period to period, (b) a specified level of expenditures from non-Federal or Federal sources for specified activities to be maintained from period to period, and (c) Federal funds to supplement and not supplant non-Federal funding of services. *Earmarking* includes requirements that specify the minimum and/or maximum amount or percentage of the program's funding that must/may be used for specified activities, including funds provided to subrecipients. Earmarking may also be specified in relation to the types of participants covered. The specific requirements for matching, level of effort, and earmarking are unique to each Federal program and are found in the laws, regulations, and the provisions of contract or grant agreements pertaining to the program.

Audit Procedures & Results

We reviewed the NOAA Habitat Conservation grant award and determined there was no matching requirement. Any expenditures exceeding the \$5,507,450 grant award were the responsibility of Jackson County.

H. Period of Availability of Federal Funds

Criteria

Federal awards may specify a time period during which the non-Federal entity may use the Federal funds. Where a funding period is specified, a non-Federal entity may charge to the award only costs resulting from obligations incurred during the funding period and any pre-award costs authorized by the Federal awarding agency. The initial award period was from July 1, 2009 through October 31, 2010. The award period was later amended on June 1, 2010 and the work completion period was moved to October 31, 2011.

Audit Procedures & Results

We reviewed the grant award and related documents and verified the award period. We noted that reservoir restoration was to commence during dam removal and was to continue beyond the grant term with outside funding as needed. We reviewed news articles and correspondence from the Roads & Parks Director that confirmed that the dam had been removed prior to the original award period of October 31, 2010.

I. Procurement and Suspension and Debarment

Criteria

Local governments which are not subrecipients of States are to use their own procurement procedures provided that they conform to applicable Federal law and regulations and standards identified in the OMB Circular A-102 Common Rule – Grants and Cooperative Agreements with State and Local Governments (OMB A-102). Non-Federal entities are prohibited from contracting with or making subawards under covered transactions to parties that are suspended or debarred or whose principals are suspended or debarred.

OMB A-102 reiterates that Federal agencies shall not award assistance to applicants that are debarred or suspended, or otherwise excluded from or ineligible for participation in Federal assistance programs under Executive Order 12549. OMB A-102 also requires grantees to specify in any announcement of the awarding of contracts with an aggregate value of \$500,000 or more, the amount of Federal funds that will be used to finance the acquisitions.

In addition to the above requirements, the Recovery Act prohibits, the use of Recovery Act funds for a project for the construction, alteration, maintenance, or repair of a public building or work unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. This requirement was incorporated into the NOAA grant agreement.

Audit Procedures & Results

We reviewed the County's Local Contract Review Board rules which govern procurement processes for County departments, OMB Circular A-102, and the contract with Slayden Construction Group. We did not identify any significant lack of conformity between the County's Local Contract Review Board rules

and applicable Federal law and regulations and standards identified in the OMB Circular A-102, other than the LCRB rules do not contain a requirement that the grantee specify in an announcement of the awarding of contracts with an aggregate value of \$500,000 or more, the amount of Federal funds that will be used to finance the acquisitions. Although the LCRB does not address this issue, the request for proposal for the Gold Ray Dam Removal project included the following wording: “Funding for this project is provided through the American Recovery and Reinvestment Act, and requirements of this Act must be met.” In addition, the Notice of Intent to Award for the Removal of Gold Ray Dam included the following wording: “The project is primarily funded through a \$5 million federal stimulus grant under the American Recovery and Reinvestment Act awarded to Jackson County from the National Oceanic and Atmospheric Administration. “

We checked the State Construction Contractor’s Board website (www.ccb.state.or.us) and the Federal government excluded parties list website (www.epls.gov), and confirmed that Slayden Construction Group was not listed as suspended or debarred or that there were any other noted problems.

J. Program Income

Criteria

Program income is gross income received that is directly generated by the federally funded project during the grant period. NOAA Administrative Special Award Conditions state, program income earned during the award period shall be retained by the Recipient and shall be added to funds committed to the award and used for the purposes under the conditions applicable to the use of the award funds. Program income shall be reported on the Financial Status Report (SF- 269).

Audit Procedures & Results

We reviewed the grant agreement and related documents, and determined that the removal of the Gold Ray Dam did not result in the generation of program income. We also discussed this compliance requirement with the Roads & Parks Director who further confirmed that no program income was associated with the Habitat Conservation grant.

K. Real Property Acquisition & Relocation Assistance

Criteria

Persons displaced by Federally-assisted programs from their homes, businesses, or farms must be treated uniformly and equitably. Property acquired must be appraised by qualified independent appraisers.

Audit Procedures & Results

We reviewed the grant agreement, examined financial records associated with the removal of the Gold Ray Dam, and discussed this compliance requirement with the Roads & Park Director. We confirmed

there was no property acquisition or relocation assistance associated with the Gold Ray Dam removal project.

L. Reporting

Financial Reporting

Each recipient must report program outlays and program income on a cash or accrual basis, as prescribed by the Federal awarding agency. Federal Financial Reports are to be completed in NOAA's Grants Online system. Grants Online notifies the grantee via email when reports are available for completion and submission. The following reports are required:

- Financial Status Report (SF-269) – (final report only)
- Federal Cash Transaction Report (SF-272) – (due semi-annually, no later than 30 days after the semi-annual reporting periods ending March 31 and September 30)
- Request for Advance or Reimbursement (SF-270) Designated High Risk Grantees Only

Performance/Progress Reports

Performance/progress reports also are to be completed in NOAA's Grants Online System. The Grants Online System notifies the grantee through email when reports are available for completion and submission. Performance reports are due on a semi-annual basis, unless otherwise specified in an award condition, no later than 30 days following the end of each six month period required. The final report, which summarizes activities conducted during the entire award must be submitted within 90 days following the end date of the project.

American Recovery and Reinvestment Act Reporting

Section 1512 of the Recovery Act includes reporting requirements applicable to awards received as a prime recipient. Section 1512 of the Recovery Act requires reporting on the use of Recovery Act funding by recipients no later than the 10th day after the end of each calendar quarter (beginning the quarter ending September 30, 2009). Aimed at providing transparency into the use of these funds, the recipient reports are required to include the following detailed information:

- Total amount of funds received; and of that the amount spent on projects and activities;
- A list of those projects and activities funded by name to include:
 - Description
 - Completion status
 - Estimates on jobs created or retained
 - Details on sub-awards and other payments.

Audit Procedures & Results

We reviewed copies of submitted reports and verified that all required reports were completed on time through the NOAA Grants Online System.

M. Subrecipient Monitoring

Criteria

A pass-through entity is responsible for:

- Award Identification – identifying to the subrecipient the Federal award information.
- During-the-Award Monitoring – Monitoring the subrecipient’s use of Federal awards through reporting, site visits, etc.
- Subrecipient Audits – Ensuring that subrecipients expending \$500,000 or more in Federal awards during the subrecipient’s fiscal year have met the audit requirements of OMB Circular A-133.
- Pass-Through Entity Impact – Evaluating the impact of subrecipient activities on the pass-through entity’s ability to comply with applicable Federal regulations.

Audit Procedures & Results

We reviewed the detail ledger of expenditures and further verified with the Roads & Parks Director that there was one subrecipient of NOAA funds. The recipient, Rogue Valley Council of Governments (RVCOG) received \$77,510.58 for environmental coordination and public outreach activities as defined in the agreement between the County and the RVCOG. In addition, the Roads & Parks Director conveyed that there was almost daily contact between the two entities during the course of the grant project. Accordingly, we believe that the County complied with the subrecipient monitoring requirement.

N. Special Tests and Provisions

Criteria

The NOAA Habitat Conservation grant was subject to the provisions of the Recovery Act. As a result, both the U.S. Department of Commerce and NOAA required grant recipients to comply with special conditions.

U.S. Department of Commerce special requirements Part A -Award Terms Required Pursuant to 2 CFR Part 176 included:

- Reporting and Registration Requirements (ARRA Section 1512)

- Use of American Iron, Steel, and Manufactured Good (ARRA Section 1605)
- Wage Rate Requirements (ARRA Section 1606)
- Single Audit Requirements: Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards; Recipient Responsibilities for informing Subrecipients.

U.S. Department of Commerce special requirements Part B - Additional Recovery Act Award Terms included:

- Limitation on Expenditures Relating to Certain Activities
- Use of the American Recovery and Reinvestment Act Logo on Construction Signs.
- SEC. 1511 Certification
- Quick Start Activities
- SEC.1515 Access of Offices of Inspector General to Certain Records and Employees
- First Tier Subrecipients' Planning Activities
- Referral of False Claims to Department of Commerce Inspector General
- Recovery Act One-Time Funding

NOAA's special award conditions included:

- Cooperative Agreement/Substantial Involvement Statement
- Performance Monitoring*
- Adherence to Applicable Federal, State, and Local Laws
- Verification of Receipt of Permits and Consultations
- Written Safety Plan
- Outreach and Communications
- Signage and Acknowledgements*
- Invasive Species Control
- Technical Monitor
- Project Milestones
- New Award SAC
- Subcontracts
- ARRA Special Award Condition for Reporting Requirements*

Audit Procedures & Results

U.S. Department of Commerce special requirements Part A -Award Terms Required Pursuant to 2 CFR Part 176

Except for the *Recovery Act Transactions listed in Schedule of Expenditures of Federal Awards*, we incorporated audit procedures and results relating to the Part A special requirements into preceding sections of this report. For the Schedule of Expenditures of Federal Awards requirement, we reviewed

the Schedule of Federal Awards that was prepared by the County Finance Department and verified that it properly identified the NOAA grant as Recovery Act assistance.

U.S. Department of Commerce special requirements Part B - Additional Recovery Act Award Terms

Limitation on Expenditures Relating to Certain Activities

We noted that Recovery Act funds cannot be used for expenses relating to any casino or other gambling establishments, aquariums, zoos, golf courses, or swimming pools. Our review of expenses did not identify any payments relating to these activities.

Use of the American Recovery and Reinvestment Act Logo on Construction Signs

We noted that all projects which are funded by the Recovery Act are to display signage that features the Primary Emblem throughout the construction phase. The signage is to be displayed in a prominent location on site. Some exclusions may apply.

We discussed the signage requirement with the Roads & Parks Director and found that NOAA gave approval to not install Recovery Act signage on the project. The exception was granted because there were only two places to install a sign. One of them was located in an area that was believed to be subject to vandalism and the second location was in an area that could not be seen by the public.

SEC. 1511 Certification

We noted that with respect to infrastructure investments, the chief executive shall certify that the infrastructure investment received the full review and vetting required by law and that the chief executive accepted responsibility that the infrastructure investment was an appropriate use of tax payer dollars. Related information was to be posted on a website and linked to the website established by section 1526.

We reviewed the grant agreement which was signed by the County Administrator on July 23, 2009 and Board Order 80-10 which was signed by the Board of Commissioners on May 5, 2010. The Board Order approved removal of the dam and authorized the County Administrator to execute any and all future amendments, addendums, contracts, agreements or termination agreements of any kind related to the Gold Ray Dam Removal project. We also reviewed a related Board Letter which included the following descriptive sections: Synopsis and Benefit to Jackson County (Dam History, Removal History, Studies and Permits), Benefit to Citizens of Jackson County, Financial Impact, and Recommendation.

We noted that Board agendas and links to Board meeting videos are posted on the County's website. In addition, the Rogue Valley Council of Governments' website contains extensive information about the Gold Ray Dam Removal project as part of its outreach efforts. We did not, however, find a direct link to the www.recovery.gov website from either the County's or the RVCOG's websites.

To further confirm compliance, we discussed the SEC. 1511 Certification requirement with the Roads & Parks Director. Based on our review of the grant agreement, the Board Order and related Board Letter, and discussion with the Roads & Parks Director, we believe the County substantially complied with the SEC. 1511 Certification requirement.

Quick Start Activities

We noted that recipients were to give preference to activities that could be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that could be initiated not later than 120 days after the date of the award of funds. We discussed this requirement with the Road & Parks Director and reviewed related documentation. We learned that removal of the dam was being considered prior to passage of the Recovery Act. As such, the project could be initiated in an expeditious manner. Nevertheless, the Roads & Parks Director noted that the goal of using at least 50 percent of the funds not later than 120 days after the date of the award was unrealistic and in fact impossible due to the requirements of the National Environmental Policy Act (NEPA) and the timeframes for obtaining required permits. According to the Roads & Parks Director, it took about nine months to complete the Environmental Assessment (for compliance with NEPA) and to secure the permits and only about one and a half months to remove the dam. The NOAA grants manager was actively involved with the completion of the Environmental Assessment and permit procurement and was aware that quick starting dam removal was not possible. Therefore, we believe that the County satisfactorily complied with the Quick Start Activity requirement.

SEC.1515 Access of Offices of Inspector General in Certain Records and Employees

We noted that this condition required any representative of an appropriate inspector general to examine any records of the contractor or grantee, as well as subcontractors and grantees, and to interview any officer or employee of the contractor, grantee, subgrantee, or agency regarding such transactions. We noted that the County granted permission for access when it accepted the NOAA grant award. We also found that the County's contract with Slayden Construction Group (the contractor), and RVCOG (the subrecipient) contained general language that would provide for appropriate inspector general access to records and employees through County representatives. However, this language did not specifically grant access to appropriate inspector generals or to duly authorized representatives of Jackson County.

First Tier Subrecipients' Planning Activities

We noted that recipients were to require their first tier subrecipients to obtain a DUNS number or to update their existing DUNS record and to register with the Central Contractor Registration (CCR) no later than October 10, 2009. We reviewed grant application documents that noted that the Rogue Valley Council of Governments had registered with the CCR and had secured a DUNS number.

Referral of False Claims to Department of Commerce Inspector General

We noted that recipients of Recovery Act funds are to promptly refer to the Department of Commerce Inspector General any credible evidence that a false claim has been submitted, or a criminal or civil violation of laws pertaining to fraud or similar misconduct has been committed. We discussed this requirement with the Roads & Parks Director who verified that nothing had come to his attention that a false claim or other violation of law had been committed.² In addition, appropriate personnel

² Opponents to the dam removal made claims that there were violations of law. These claims were discussed at length with NOAA representatives, but were not reported to the Department of Commerce Inspector General. A review of the regulatory agencies rulings by several Hearing Officers, Land Use Board of Appeals (LUBA), and Federal Court found that the County was not in violation of any law.

received and reviewed a power point presentation from the U.S. Department of Commerce on fraud prevention.

Recovery Act One-Time Funding

We noted that the award of funds made available under the Recovery Act was intended to provide a one-time injection of funds for purposes of stimulating the American economy. We discussed this requirement with the Roads & Parks Director who confirmed his understanding that the NOAA grant was a one-time award.

NOAA Additional Special Award Conditions

As already noted, in addition to the U.S. Department of Commerce special requirements, there were separate NOAA special award conditions for the Habitat Conservation grant. Some of the NOAA special award conditions duplicate requirements of the U.S. Department of Commerce or OMB A-133 compliance requirements. The following NOAA special conditions have been discussed in preceding sections of this report: *Performance Monitoring, Signage and Acknowledgements, and ARRA Special Award Condition for Reporting Requirements.*

Cooperative Agreement/Substantial Involvement Statement

We noted that this requirement relates to actions that should be taken by the NOAA technical monitor (grant administrator) throughout the course of the grant project. Activities include, but are not limited to: providing assistance with technical aspects of the grant project, monitoring plans and tracking progress, participating in meetings, attending/speaking at public events, and providing input on interpretive signage or outreach materials. We reviewed this special award condition with the Roads & Parks Director. He verified that the NOAA technical monitor had taken an active role in the above named activities and that there had been constant contact between the County and the NOAA technical monitor throughout the course of the grant project. Additionally, we reviewed correspondence between the NOAA technical monitor and the County. We believe the Cooperative Agreement/Substantial Involvement Statement requirement was met.

Adherence to Applicable Federal, State, and Local Laws

We noted that the grantee is to ensure that implementation of the grant project meets all Federal, State, and Local Laws and Regulations by obtaining all applicable permits and consultations prior to expenditure of Federal funds or award match for those activities requiring permits. We confirmed that that the grant agreement required Jackson County to comply with applicable Federal, State, and County laws. In addition we verified that the written agreements with Slayden Construction Group and Rogue Valley Council of Governments included a requirement to adhere to applicable Federal, State, and Local Laws. We verified that no matching awards were required under the Habitat Conservation grant. We also confirmed that except for one technical malfunction, which was deemed by NOAA and the regulatory agency involved to not be considered an exception, all permits were obtained prior to work being performed.

Verification of Receipt of Permits and Consultations

We noted that grantees are to provide the NOAA technical monitor with a list of required permits prior to receipt, including estimated dates of completion, to assist with the NEPA evaluation process. The grantee is to notify the NOAA technical monitor via email with date that each required Federal and State permit or compliance document is obtained or approved, and present verification that the permit or other requirement has been satisfied. We discussed this requirement with the Roads & Parks Director. We confirmed that this requirement was satisfactorily met.

Written Safety Plan

We discussed this requirement with the Roads & Parks Director. He noted that his staff verified that Slayden Construction had an acceptable safety plan in place and that staff also attended weekly safety meetings to assure that the safety plan was abided by.

Outreach and Communications

We noted that the Outreach and Communications required the County to coordinate with NOAA on outreach plans, events, products, and media coverage associated with the project. We determined that the County contracted with the Rogue Valley Council of Governments to manage, coordinate, and oversee the public outreach and communication efforts relating to the NOAA grant. We further discussed this requirement with the Roads & Parks Director who noted that there was continuous communications with NOAA officials regarding outreach efforts throughout the course of the grant project. We also reviewed the RVCOG's website which includes comprehensive coverage of the Gold Ray Dam Removal project to further confirm compliance with the Outreach and Communications requirement.

Invasive Species Control

We discussed this requirement with the Roads & Parks Director. Regarding the Invasive Species Control requirement, the Roads & Parks Director noted that site restoration and mitigation plans included a mixture of native plants and grasses to help prevent an attack of invasive species. In addition, the planting schemes were reviewed and approved by all appropriate regulatory agencies

Technical Monitor

We noted that the *Technical Monitor* condition was informational in nature and required no action on the County's part. It provided contact information for NOAA's technical monitor/grant administrator.

Project Milestones

We discussed this requirement with the Roads & Parks Director. He noted that project milestones were continuously addressed by the County and the NOAA technical monitor throughout the grant project.

New Award SAC

We noted that the *New Award SAC* condition was informational in nature and required no action on the County's part. It listed the grant award number, project name, and inception date.

Subcontracts

We noted that the Subcontracts special condition required the County to submit to the Grants Officer copies of budgets for the project within 30 days after the contractors were chose. The County was also required to indicate the type of bidding process that was used. We discussed this special requirement with the Roads & Parks Director who confirmed compliance with this requirement. We also reviewed bid documents that were submitted to the County by five different contractors for the Gold Ray Dam Removal project.

Audit Recommendations

1. To enhance compliance with the SEC. 1515 Access of Offices of Inspector General to Certain Records and Employees, ensure that agreements with contractors and subrecipients include language that the County *and its duly authorized representatives have access to all records and employees.*
2. To fully ensure compliance with the Recovery Act's Section 1526 requirement that the website established to foster greater accountability and transparency over Recovery Act funded projects be a portal or gateway to key information relating to the Recovery Act, add a link to www.recovery.gov on both the County's and the Rogue Valley Council of Governments' websites.

Management Response

Roads & Parks Director, John Vial responded by memorandum that he agreed with the audit recommendations. His response is attached.



MEMO
INTER - OFFICE

Roads & Parks

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To: Debbie Taylor
From: John Vial
Subject: Gold Ray Dam Removal Audit
Date: December 13, 2010

Thank you for the chance to review the Gold Ray Dam Removal project which was funded through the American Recovery and Reinvestment Act of 2009.

The Roads and Parks Department agrees with the findings, conclusions and recommendations of the audit. This project was a very challenging project to deliver and manage and the requirements of the ARRA funding added a significant level of challenge to the project. I'm grateful the audit found that overall the management and compliance of the project was in order.

We thank the Audit Division for your thorough review and assistance in the management of these funds.