

# Department of Homeland Security **Office of Inspector General**

Costs Claimed by the Port Authority of New York  
and New Jersey Under Transit Security  
Grant No. 2009-RA-R1-0105



American Recovery and Reinvestment Act of 2009

OIG-13-03

October 2012



**OFFICE OF INSPECTOR GENERAL**  
Department of Homeland Security

Washington, DC 20528 / [www.oig.dhs.gov](http://www.oig.dhs.gov)

OCT 23 2012

MEMORANDUM FOR: Elizabeth Harman  
Assistant Administrator  
Grant Programs Directorate  
Federal Emergency Management Agency

FROM: Anne L. Richards   
Assistant Inspector General for Audits

SUBJECT: *Costs Claimed by the Port Authority of New York and New Jersey Under Transit Security Grant No. 2009-RA-R1-0105*

Attached for your information is our final letter report, *Costs Claimed by the Port Authority of New York and New Jersey Under Transit Security Grant No. 2009-RA-R1-0105*. Since the report contains no recommendations to Federal Emergency Management Agency management, we did not solicit formal comments.

Consistent with our responsibility under the *Inspector General Act*, we are providing copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. We will post the report on our website for public dissemination.

Major contributors to this report are Roger LaRouche, Audit Director; Karl Gallagher, Audit Manager; and Kevin Donahue, Report Referencer.

Please call me with any questions, or your staff may contact John E. McCoy II, Deputy Assistant Inspector General for Audits, at 202-254-4100.

Attachment



## Background

The *American Recovery and Reinvestment Act of 2009*, as amended (Recovery Act), appropriated \$610 million to the Federal Emergency Management Agency (FEMA). Of that amount, the Recovery Act allocated \$150 million for Public Transportation Security Assistance and Railroad Security Assistance (hereinafter referred to as Transit Security Grants) under sections 1406 and 1513 of the Implementing Recommendations of the 9/11 Commission Act of 2007, as amended.

On September 29, 2009, FEMA awarded a Transit Security Grant of \$48,286,592 (number 2009-RA-RI-0105) to the Port Authority of New York and New Jersey (Port). The purpose of the grant is to fund exterior and interior mitigation measures to strengthen the PATH<sup>1</sup> rail tunnels connecting cities in northern New Jersey to Manhattan. Reimbursement for eligible project costs is based on the grant agreement; Office of Management and Budget (OMB) Circular A-87, *Cost Principles for State, Local and Indian Tribal Governments*, Revised; and FEMA guidance.<sup>2</sup> As of March 31, 2012, the Port had claimed project costs totaling \$42,020,112. The costs covered the period from September 1, 2009, through March 31, 2012.

The FEMA grant agreement also requires the Port to comply with Recovery Act provisions to submit quarterly recipient reports to the Federal Government; pay prevailing wages as determined by the Secretary of Labor; and use American-made iron, steel, and manufactured goods.

The objective of this audit was to determine whether costs claimed by the Port were allowable, allocable, and reasonable according to the funding agreement and applicable Federal requirements.

---

<sup>1</sup> PATH is a wholly owned subsidiary corporation of the Port. PATH provides rail transit service between New Jersey and New York operating 24 hours a day, 7 days a week, on four major service routes: Newark/World Trade Center (WTC), Journal Square/33rd Street, Hoboken/WTC, and Hoboken/33rd Street.

<sup>2</sup> FEMA guidance for the Transit Security Grants is contained in the *Fiscal Year 2009, American Recovery and Reinvestment Act of 2009, Transit Security Grant Program, Guidance and Application Kit*, May 2009.



## Results of Audit

We determined that claimed costs of \$42,020,112 for the interior and exterior tunnels mitigation were allowable, allocable, and reasonable. The majority of the \$42 million consists of payments made under competitively awarded construction contracts for strengthening the PATH tunnels. We also determined that the Port fulfilled the requirements for submitting quarterly reports, paying prevailing wages, and complying with the requirement for buying goods manufactured in America. However, the Port did not follow OMB guidance in calculating the number of jobs presented in its quarterly recipient reports to the Federal Government.

The quarterly reports submitted for fiscal years 2010, 2011, and 2012 showed the creation of jobs ranging from 34 to 134 each quarter. OMB Memorandum M-10-08 requires grantees to estimate the number of Recovery Act jobs created based on (1) work performed by the grantees only in the quarter being reported (not cumulative), (2) work performed by subrecipients, and (3) a calculation that divides the total actual hours worked in funded jobs by the number of hours representing a full work schedule for the kind of job being estimated.<sup>3</sup> This calculation converts part-time and temporary jobs into full-time equivalent positions. The Port did not follow the guidance. For the quarterly report tested, the Port based its reported jobs created on an estimate of the number of construction workers on the job for periods of up to 1 month. The Port also included an estimate of the office/administrative labor provided by its contractors. We are not recommending any corrective action regarding this matter because OMB Memorandum M-10-34 states that “Changes to prior reports [quarterly recipient reports] may not be initiated for the ‘Number of Jobs’ field.”<sup>4</sup>

---

<sup>3</sup> *Updated Guidance on the American Recovery and Reinvestment Act – Data Quality, Non-Reporting Recipients, and Reporting of Job Estimates*, December 18, 2009.

<sup>4</sup> *Updated Guidance on the American Recovery and Reinvestment Act*, September 24, 2010.



## **Appendix A**

### **Objectives, Scope, and Methodology**

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audit, inspection, and special reports prepared as part of our oversight responsibilities to promote economy, efficiency, and effectiveness within the Department.

The objective of this audit was to determine whether costs claimed by the Port were allowable, allocable, and reasonable according to the funding agreement and applicable Federal requirements. Our audit covered claimed costs of \$42,020,112 for the period September 1, 2009, through March 31, 2012.

Our tests and procedures included—

- Reviewing FEMA project files, the grant and grant modification, the Recovery Act, and FEMA and OMB guidelines;
- Interviewing FEMA officials to gain an understanding of the project and project management;
- Examining the Port accounting records supporting amounts invoiced;
- Interviewing Port officials to obtain an understanding of project management, accounting, procurement, and invoicing;
- Inspecting the project; and
- Reviewing the audit working papers of the certified public accounting firm that performed the Single Audits of the Port for the fiscal years ending December 31, 2010, and December 31, 2011.

The Single Audits of the Port were performed by Deloitte and Touche LLP and included Recovery Act–funded project costs totaling \$40,246,084 (or 96 percent of invoiced costs). The Single Audit reports classified the Recovery Act Transit Security Grant as a major program. The Single Audit reports did not identify any questionable costs or compliance issues related to the grant, or any material weaknesses in internal controls that would affect the grant.



## OFFICE OF INSPECTOR GENERAL

Department of Homeland Security

---

We also tested Port records supporting costs invoiced to determine compliance with OMB Circular A-87, Revised, and with other terms and conditions of the agreement. We considered Port internal controls over the administration of FEMA funds in determining our audit procedures.

We conducted this performance audit between June and September 2012, pursuant to the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based upon our audit objectives.

Our audit was conducted without the benefit of a technical evaluation by FEMA; therefore, our conclusions are qualified to the extent that a technical evaluation may affect the allowability of invoiced costs.



## **Appendix B**

### **Report Distribution**

#### **Department of Homeland Security**

Secretary  
Deputy Secretary  
Chief of Staff  
Deputy Chief of Staff  
General Counsel  
Executive Secretary  
Director, GAO/OIG Liaison Office  
Assistant Secretary for Office of Policy  
Assistant Secretary for Office of Public Affairs  
Assistant Secretary for Office of Legislative Affairs  
Acting Chief Privacy Officer  
Departmental Recovery Act Coordinator

#### **Federal Emergency Management Agency**

Branch Chief, Transportation Infrastructure Security  
Chief, Audit Branch, Grants Program Directorate

#### **Office of Management and Budget**

Chief, Homeland Security Branch  
DHS OIG Budget Examiner

#### **Congress**

Congressional Oversight and Appropriations Committees, as appropriate

## ADDITIONAL INFORMATION AND COPIES

To obtain additional copies of this document, please call us at (202) 254-4100, fax your request to (202) 254-4305, or e-mail your request to our Office of Inspector General (OIG) Office of Public Affairs at: [DHS-OIG.OfficePublicAffairs@oig.dhs.gov](mailto:DHS-OIG.OfficePublicAffairs@oig.dhs.gov).

For additional information, visit our website at: [www.oig.dhs.gov](http://www.oig.dhs.gov), or follow us on Twitter at: [@dhsoig](https://twitter.com/dhsoig).

## OIG HOTLINE

To expedite the reporting of alleged fraud, waste, abuse or mismanagement, or any other kinds of criminal or noncriminal misconduct relative to Department of Homeland Security (DHS) programs and operations, please visit our website at [www.oig.dhs.gov](http://www.oig.dhs.gov) and click on the red tab titled "Hotline" to report. You will be directed to complete and submit an automated DHS OIG Investigative Referral Submission Form. Submission through our website ensures that your complaint will be promptly received and reviewed by DHS OIG.

Should you be unable to access our website, you may submit your complaint in writing to: DHS Office of Inspector General, Attention: Office of Investigations Hotline, 245 Murray Drive, SW, Building 410/Mail Stop 2600, Washington, DC, 20528; or you may call 1 (800) 323-8603; or fax it directly to us at (202) 254-4297.

The OIG seeks to protect the identity of each writer and caller.