



United States Department of State
and the Broadcasting Board of Governors

Office of Inspector General

JUL 29 2011

The Honorable Edward Drusina, U.S. Commissioner
International Boundary and Water Commission
United States and Mexico, U.S. Section
4171 North Mesa Street, Suite C-100
El Paso, TX 79902-1441

Dear Commissioner Drusina:

Enclosed for your review and action is a copy of the report *Audit of International Boundary and Water Commission Construction Contract With Lakeshore Engineering Services, Inc., Using Funds Provided by the American Recovery and Reinvestment Act* (AUD/CG-11-20). As the action office for Recommendations 1–6, please provide your response to the report and information on actions taken or planned for the six recommendations within 30 days of the date of this letter. Actions taken or planned are subject to followup and reporting in accordance with the enclosed compliance response information.

The Office of Inspector General (OIG) incorporated your comments as appropriate within the body of the report and included them in their entirety as Appendix B.

OIG appreciates the cooperation and assistance provided by your staff during this audit. If you have any questions, please contact Evelyn R. Klemstine, Assistant Inspector General for Audits, at (202) 663-0372 or Richard Astor, Director, Division of Contracts and Grants, at (703) 284-2601 or by email at astorr@state.gov.

Sincerely,

Harold W. Geisel
Deputy Inspector General

Enclosures: As stated.

cc: IBWC – (b) (6)
IBWC – (b) (6)
WHA/MEX – (b) (6)
A/LM/AQM – (b) (6)
RM/BP – (b) (6)



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**United States Department of State
and the Broadcasting Board of Governors
Office of Inspector General**

Office of Audits

**Audit of
International Boundary and
Water Commission Construction Contract
With Lakeshore Engineering Services, Inc.,
Using Funds Provided by the
American Recovery and Reinvestment Act**

Report Number AUD/CG-11-20, July 2011

~~Important Notice~~

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Office of Inspector General

PREFACE

This report is being transmitted pursuant to the Inspector General Act of 1978, as amended, and Section 209 of the Foreign Service Act of 1980, as amended. It is one of a series of audit, inspection, investigative, and special reports prepared as part of the Office of Inspector General's (OIG) responsibility to promote effective management, accountability, and positive change in the Department of State and the Broadcasting Board of Governors.

This report addresses the International Boundary and Water Commission's (IBWC) compliance with Federal, Department, and American Recovery and Reinvestment Act (Recovery Act) acquisition management practices. The report is based on interviews with employees and officials of relevant agencies and institutions, direct observation, and a review of applicable documents.

OIG contracted with the independent public accountant, Cotton & Company, LLP, to perform this audit. The contract required that Cotton perform its audit in accordance with guidance contained in the *Government Auditing Standards*, issued by the Comptroller General of the United States. Cotton's report is included.

Cotton identified three areas in which improvements could be made: complying with all relevant Federal laws and regulations, including those of the Recovery Act; having adequate processes and systems in place to collect information required to be reported by the Recovery Act; and providing complete and accurate information as required by the Recovery Act.

OIG evaluated the nature, extent, and timing of Cotton's work; monitored progress throughout the audit; reviewed Cotton's supporting documentation; evaluated key judgments; and performed other procedures as appropriate. OIG concurs with Cotton's findings, and the recommendations contained in the report were developed on the basis of the best knowledge available and were discussed in draft form with those individuals responsible for implementation. OIG's analysis of management's response to the recommendations has been incorporated into the report. OIG trusts that this report will result in more effective, efficient, and/or economical operations.

I express my appreciation to all of the individuals who contributed to the preparation of this report.

A handwritten signature in black ink, appearing to read "H. W. Geisel", written in a cursive style.

Harold W. Geisel
Deputy Inspector General

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Audit of International Boundary and Water Commission Construction Contract With
Lakeshore Engineering Services, Inc., Using Funds Provided by the American Recovery and
Reinvestment Act

Office of Inspector General
U.S. Department of State
Washington, D.C.

Cotton & Company, LLP (referred to as “we” in this letter), has performed an audit of the International Boundary and Water Commission’s (IBWC) construction contract with Lakeshore Engineering Services, Inc., using funds provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act). We evaluated Lakeshore’s compliance with relevant Federal laws and regulations, including those of the Recovery Act; adequacy of processes and systems in place to collect information required to be reported by the Recovery Act; and accuracy and completeness of required report submissions. This performance audit, performed under Contract No. S-AQM-PD-04-D0035, was designed to meet the objective identified in the report section titled “Objective” and further defined in Appendix A, “Scope and Methodology.”

We conducted this performance audit in accordance with *Government Auditing Standards*, issued by the Comptroller General of the United States. We communicated the results of our performance audit and related findings and recommendations to the Department of State Office of Inspector General.

We appreciate the cooperation provided by personnel in Department offices during the audit.

Cotton & Company, LLP

A handwritten signature in black ink, appearing to read "Michael W. Gillespie".

Michael W. Gillespie, CPA, CFE
Partner

Alexandria, Virginia
July 2011

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ACRONYMS

Department	Department of State
FAR	Federal Acquisition Regulation
FTE	full-time-equivalent
IBWC	International Boundary and Water Commission
OIG	Office of Inspector General
Recovery Act	Recovery and Reinvestment Act of 2009

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Executive Summary

The Department of State (Department), Office of Inspector General (OIG), Office of Audits, engaged Cotton & Company, LLP (referred to as “we” in this report), to conduct performance audits of contractors that received funding provided by the American Recovery and Reinvestment Act of 2009 (Recovery Act) from the International Boundary and Water Commission (IBWC). The audit objective was to determine whether contractors that received Recovery Act funds from IBWC complied with relevant Federal laws and regulations, including those of the Recovery Act; had adequate processes and systems in place to collect information required to be reported by the Recovery Act; and submitted required reports that are accurate and complete. One contractor selected for review was Lakeshore Engineering Services, Inc.

Lakeshore was awarded a contract on December 30, 2009, to furnish all labor, materials, and equipment for construction of improvements on the Upper Rio Grande Flood Control Project, which includes the Rehabilitation for the Rio Grande Canalization Protective Levee System, Mesilla Levee Segment, in Dona Ana County, New Mexico, in the amount of \$26,129,127.97. Lakeshore invoiced and was paid \$3,808,941.16 for work performed through June 30, 2010.

Lakeshore did not have adequate processes and systems in place to ensure that subcontractors were aware of and in compliance with certain relevant Federal laws and regulations, including those of the Recovery Act and the Davis-Bacon Act. Also, Lakeshore did not accurately report job figures in quarterly reports as required by the Recovery Act. We recommended that the IBWC contracting officer require Lakeshore to comply with Recovery Act requirements.

In its response (see Appendix B), IBWC complied with the report’s six recommendations, which we consider resolved, pending further action.

Background

IBWC is an international body composed of the United States Section and the Mexican Section. Each section is administered independently of the other. The United States Section is a Federal Government agency and has its headquarters in El Paso, Texas. IBWC operates under the foreign policy guidance of the Department of State. The mission of IBWC is to apply the rights and obligations that the Governments of the United States and Mexico assume under the numerous boundary and water treaties and related agreements. IBWC’s obligations include construction, operation, and maintenance of levees and floodway projects along the Rio Grande River.

The Recovery Act provided \$220 million to IBWC for the Rio Grande Flood Control Project to evaluate needed repairs and/or rehabilitation of deficient portions of the flood control systems, with all funds required to be obligated by September 30, 2010. Repairs and rehabilitation entail raising levee segments to original design levels and reconstructing segments where the integrity of the structures has been compromised. The project consists of two primary

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phases: the Preconstruction Phase, which involves geotechnical investigations, environmental documentation, and design, and the Construction Phase, which involves project construction. IBWC projects can continue to expend Recovery Act funds for contracts as long as those funds were obligated by September 30, 2010.

IBWC awarded Contract No. IBM10C0004 for \$26,129,127.97 to Lakeshore Engineering Services, Inc., on December 30, 2009, to furnish all labor, materials, and equipment for the construction of improvements on the Upper Rio Grande Flood Control Project, which includes the Rehabilitation for the Rio Grande Canalization Protective Levee System, Mesilla Levee Segment, located in Dona Ana County, New Mexico. Lakeshore invoiced and was paid \$3,808,941.16 for work performed through June 30, 2010. The contract had two modifications: one that added new work and adjusted the current contract value upward by \$37,955.79, to a total of \$26,167,083.76, and the other a no-cost 65-calendar-day extension. The Notice to Proceed for this modification was issued on January 25, 2010, with a performance period of 430 calendar days.

Objective

The audit objective was to determine whether contractors that received Recovery Act funds from IBWC complied with relevant Federal laws and regulations, including those of the Recovery Act; had adequate processes and systems in place to collect information required to be reported by the Recovery Act; and submitted required reports that are accurate and complete.

Results of Audit

Lakeshore had controls in place to comply with requirements of the Davis-Bacon, Copeland, and Buy American Acts. It had functioning business ethics, equal opportunity, and affirmative action programs. It did not, however, have adequate processes and systems in place to ensure that subcontractors were aware of and in compliance with certain relevant Federal laws and regulations, including those of the Recovery Act and the Davis-Bacon Act. Also, Lakeshore did not accurately report job figures in quarterly reports as required by the Recovery Act.

Finding A. Contractor Did Not Comply With All Contract Terms and Conditions

The contractor Lakeshore and its subcontractors did not comply with all terms and conditions of Lakeshore's Recovery Act construction contract. Specifically, Lakeshore did not have controls in place to ensure that subcontractors were paying their employees in accordance with the Davis-Bacon Act and that subcontractors used E-Verify in accordance with the contractual requirements. The Davis-Bacon Act, as outlined in the *Federal Acquisition Regulation (FAR)*,¹ requires that laborers be paid "the full amount of wages and bona fide fringe benefits (or cash equivalents thereof) due at time of payment computed at rates not less than

¹ FAR 52.222-6(b)(1), "Davis-Bacon Act." (July 2005)

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those contained in the wage determination of the Secretary of Labor.” One of Lakeshore’s subcontractors, Construction Surveying Services, paid all laborers at wage rates lower than those required in the Labor Rate Schedule.

Also, the FAR² requires Federal contractors and subcontractors to enroll “as a Federal Contractor in the E-Verify program within 30 calendar days” of contract award. However, two subcontractors, Guzman Construction and Construction Surveying Services, did not use E-Verify as required to validate employee eligibility in accordance with these requirements.

E-Verify is an Internet-based free program run by the U.S. Government that compares information about an employee’s employment eligibility from Form I-9, Employment Eligibility Verification, with data from U.S. Government records. If the information matches, that employee is eligible to work in the United States. If there is a mismatch, E-Verify alerts the employer, and the employee is allowed to work while he or she resolves the dispute within 8 days. The program is operated by the Department of Homeland Security in partnership with the Social Security Administration.

Lakeshore representatives stated that they relied on the subcontractors to follow requirements outlined in their subcontract agreements without additional monitoring on their part. However, subcontractor personnel receiving Recovery Act funds were not paying their employees adequate wages for work performed and may be employing personnel who are not eligible to work in the United States.

In addition, one of Lakeshore’s subcontractors, Guzman Construction, did not provide evidence that it had a code of business ethics and conduct, as required by the FAR.³ Specifically, a subcontractor with a subcontract valued in excess of \$5 million and a period of performance of more than 120 days is required to have, “within 30 days after contract award,” a “written code of business ethics and conduct” and to make the code available to every employee working on the contract. The FAR⁴ also requires the subcontractor to “exercise due diligence to prevent and detect criminal conduct” and to “otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.”

Without adequate policies in place and proper adherence to those policies, the risk of improper conduct in connection with Federally funded contracts increases.

Two of five Lakeshore subcontractors, Guzman Construction and Archana Engineering, did not provide evidence that they had written affirmative action policies in accordance with the FAR.⁵ The FAR requires contractors and subcontractors to take “affirmative action to ensure equal employment opportunity” and further requires the contractor’s compliance to be “based upon its effort to achieve maximum results from its actions.” The FAR further requires the

² FAR 52.222-54(b)(1)(i) and (e), “Employment Eligibility Verification.” (January 2009)

³ FAR 52.203-13(b)(1)(i)-(b)(1)(ii) and (d), “Contractor Code of Business Ethics and Conduct.” (December 2008)

⁴ FAR 52.203-13(b)(2)(i) and (ii) and FAR 52.203-13(d).

⁵ FAR 52.222-27(b) and (g), “Affirmative Action Compliance Requirements for Construction.” (February 1999)

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efforts to be “fully documented” and “affirmative action steps” to be implemented. Both subcontractors did not respond to multiple requests made by Lakeshore for this information. Without adequate controls in place, Lakeshore has no assurance that its subcontractors are able to take action to ensure affirmative action and equal employment opportunity for minorities and women.

Recommendation 1. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 require the contractor Lakeshore Engineering Services, Inc., to implement procedures to ensure that its subcontractors comply with requirements of the *Federal Acquisition Regulation* as they pertain to paying employees proper rates, ensuring employment eligibility, and maintaining appropriate code of conduct and affirmative action programs.

IBWC Response: IBWC concurred with the recommendation, stating that the contracting officer “will issue a Deficiency and Omission report . . . identifying its failure to implement the flow-down clauses with its subcontractors and require a plan of action.”

OIG Analysis: Based on IBWC’s response, OIG considers the recommendation resolved. The recommendation can be closed pending OIG’s review and acceptance of documentation showing that IBWC has issued the report and received a plan of action.

Recommendation 2. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 ensure that Lakeshore Engineering Services, Inc.’s subcontractor Construction Surveying Services adjusts the rate of pay for its laborers to be in compliance and pay the amounts owed.

IBWC Response: IBWC concurred with the recommendation, stating that the contracting officer “will issue a notice” to Lakeshore “identifying a potential Department of Labor violation” and “requiring evidence of action” to be taken.

OIG Analysis: Based on the response, OIG considers the recommendation resolved. The recommendation can be closed pending OIG’s review and acceptance of documentation showing IBWC’s requirement for evidence of action.

Finding B. Required Subcontractor Certifications Were Not Obtained

The contractor Lakeshore did not obtain certification from its subcontractors that at the time of award “the subcontractor, or its principals, is or is not debarred, suspended, or proposed for debarment by the Federal Government” in accordance with the FAR.⁶ Lakeshore representatives stated that they did not obtain the certifications because they work with the subcontractors on a regular basis and did not believe the certifications were necessary.

⁶FAR 52.209-6(b), “Protecting the Government’s Interest When Subcontracting with Contractors Debarred, Suspended, or Proposed for Debarment.” (April 2010)

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The failure to obtain required certifications could result in subcontracts being awarded to companies that have been debarred, suspended, or proposed for debarment. We were, however, able to verify that the subcontractors were not included in the Excluded Parties List System (EPLS), which is an electronic Web-based system that identifies those parties excluded from receiving Federal contracts.

Recommendation 3. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 ensure that the contractor Lakeshore Engineering Services, Inc., requires its current subcontractors to retroactively submit certifications stating that they or their principals are not debarred, suspended, or proposed for debarment.

IBWC Response: IBWC concurred with the recommendation, stating that the contracting officer “will issue a notice” to Lakeshore requiring evidence of certifications pertaining to principals debarred, suspended, or proposed for debarment.

OIG Analysis: Based on IBWC’s response, OIG considers the recommendation resolved. The recommendation can be closed pending OIG’s review and acceptance of documentation showing that IBWC obtained certifications from Lakeshore’s subcontractors stating they or their principals are not debarred, suspended, or proposed for debarment.

Recommendation 4. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 ensure that the contractor Lakeshore Engineering Services, Inc., establishes procedures to obtain certifications stating that its subcontractors are not debarred, suspended, or proposed for debarment before it awards additional subcontracts.

IBWC Response: IBWC concurred with the recommendation, stating that the contracting officer “will issue a notice” to Lakeshore requiring certification that by June 30, 2011, Lakeshore has established procedures to obtain certifications [stating] that its subcontractors are not debarred, suspended, or proposed for debarment before it awards additional subcontracts.”

OIG Analysis: Based on IBWC’s response, OIG considers the recommendation resolved. The recommendation can be closed pending OIG’s review and acceptance of documentation showing that IBWC obtained Lakeshore’s certifications stating that its subcontractors are not debarred, suspended, or proposed for debarment before it awards additional subcontracts.

Finding C. Subcontracts Did Not Include Required Recovery Act Clauses

The contractor Lakeshore’s subcontract agreements did not include two required Recovery Act clauses. Specifically, four of five subcontracts reviewed did not include FAR clauses 52.203-15, “Whistleblower Protections Under the American Recovery and Reinvestment

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Act of 2009,” and 52.232-27, “Prompt Payment for Construction Contracts.” The FAR⁷ requires whistleblower protection clauses to be included in all subcontracts. Additionally, the FAR⁸ states that the Prompt Payment clause is to be included in each subcontract for property or services because the clause serves to outline contractor responsibility to pay in a timely manner or pay interest. Additionally, the subcontractor also must include and abide by the clause in lower-tier subcontracts.

Lakeshore representatives stated that the required information was provided but was not maintained in the subcontracting files. Without this information, subcontractors may not be aware of their whistleblower protections or prompt payment rights and responsibilities on subcontracts with Lakeshore.

Recommendation 5. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 require the contractor Lakeshore Engineering Services, Inc., to ensure that all relevant clauses in the *Federal Acquisition Regulation* are formally included in Lakeshore’s subcontracts.

IBWC Response: IBWC concurred with the recommendation, stating that the contracting officer will require the prime contractor to require a certification from Lakeshore to be submitted by June 30, 2011, stating that Lakeshore has ensured that all relevant clauses in the FAR are formally included in Lakeshore’s subcontracts.

OIG Analysis: Based on the response, OIG considers the recommendation resolved. The recommendation can be closed pending OIG’s review and acceptance of documentation showing that IBWC obtained a certification by June 30, 2011, from Lakeshore stating that Lakeshore has ensured that all relevant clauses in the FAR have been formally included in its subcontracts.

Finding D. Recovery Act Labor Reporting Was Inaccurate and Incomplete

The contractor Lakeshore incorrectly calculated and reported the number of jobs created and retained. Specifically, it calculated jobs by using average jobs per quarter based on the number of people reported on the daily reports rather than by using the full-time-equivalent (FTE) method required by the FAR. The FAR⁹ explains that jobs created and jobs retained “shall be expressed as ‘full time equivalents’ (FTE), calculated cumulatively as all hours worked divided by the total number of hours in a full-time schedule.” The Web site FederalReporting.gov Frequently Asked Questions for Federal Contractors provides specific examples of the calculation. The jobs created and retained were understated in the first quarter of 2010 reporting by three FTEs and overstated by 15 FTEs in the second quarter of 2010 reporting. Lakeshore officials stated that they did not realize that more specific information was available to provide methodology for calculating the number of jobs.

⁷ FAR 52.203-15(b), “Whistleblower Protections Under the American Recovery and Reinvestment Act of 2009.” (March 2009)

⁸ FAR 52.232-27(c), “Prompt Payment for Construction Contracts.” (Oct.2008)

⁹ FAR 52.204-11(a), “American Recovery and Reinvestment Act, Reporting Requirements.” (March 2009)

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Recommendation 6. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 require the contractor Lakeshore Engineering Services, Inc., to ensure that its personnel are aware of the reporting requirements of FederalReporting.gov, specifically, how to calculate the number of jobs created and retained under IBWC's Recovery Act construction contract, and to ensure that required reports are accurate.

IBWC Response: IBWC concurred with the recommendation, agreeing that online training "may be underutilized by the prime and subcontractors alike." IBWC further stated that it will require Recovery Act recipients to certify that their Recovery Act reporting specialists have taken seven "webinars [Web-based seminars]" within 60 days of the response to the audit.

OIG Analysis: Based on the response, OIG considers the recommendation resolved. The recommendation can be closed pending OIG's review and acceptance of documentation showing that the Recovery Act reporting specialists have taken the seven webinars within 60 days of IBWC's response to the audit report.

List of Recommendations

Recommendation 1. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 require the contractor Lakeshore Engineering Services, Inc., to implement procedures to ensure that its subcontractors comply with requirements of the *Federal Acquisition Regulation* as they pertain to paying employees proper rates, ensuring employment eligibility, and maintaining appropriate code of conduct and affirmative action programs.

Recommendation 2. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 ensure that Lakeshore Engineering Services, Inc.'s subcontractor Construction Surveying Services adjusts the rate of pay for its laborers to be in compliance and pay the amounts owed.

Recommendation 3. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 ensure that the contractor Lakeshore Engineering Services, Inc., requires its current subcontractors to retroactively submit certifications stating that they or their principals are not debarred, suspended, or proposed for debarment.

Recommendation 4. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 ensure that the contractor Lakeshore Engineering Services, Inc., establishes procedures to obtain certifications that its subcontractors are not debarred, suspended, or proposed for debarment before it awards additional subcontracts.

Recommendation 5. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 require the contractor Lakeshore Engineering Services, Inc., to ensure that all relevant clauses in the *Federal Acquisition Regulation* are formally included in Lakeshore's subcontracts.

Recommendation 6. We recommend that the International Boundary and Water Commission (IBWC) contracting officer for IBWC Contract No. IBM10C0004 require the contractor Lakeshore Engineering Services, Inc., to ensure that its personnel are aware of the reporting requirements of FederalReporting.gov, specifically, how to calculate the number of jobs created and retained under IBWC's Recovery Act construction contract, and to ensure that required reports are accurate.

Scope and Methodology

The Department of State, Office of Inspector General, Office of Audits, engaged Cotton & Company, LLP (referred to as “we” in this appendix), to conduct performance audits of contractors that received American Recovery and Reinvestment Act (Recovery Act) funds from the International Boundary and Water Commission (IBWC). One contractor selected for review was Lakeshore Engineering Services, Inc. The audit included Recovery Act funds expended through September 30, 2010, with fieldwork conducted in November 2010. Fieldwork was conducted in September 2010 at the headquarters office of Lakeshore Engineering Services, Inc., in Detroit, Michigan.

We conducted this performance audit in accordance with 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 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 the audit objective.

To meet our audit objective, we used the following methodology:

- Reviewed documentation available on the Internet for Lakeshore and its subcontractors to evaluate their eligibility to perform on Government contracts and validate the entity status of the companies.
- Selected and tested a sample of Recovery Act reports on the Web site FederalReporting.gov to determine whether the information reported was accurate and supported.
- Determined whether Lakeshore had processes that were established and functioning to ensure compliance with Buy American Act requirements.
- Selected and tested a sample of Lakeshore- and subcontractor-certified payrolls to verify compliance with Davis-Bacon Act¹ and Copeland Act² requirements and to verify that processes were in place to validate employment eligibility of those individuals performing on the contract.
- Reviewed and evaluated subcontracts executed by Lakeshore to ensure inclusion of proper clauses, receipt of debarment certifications, notification made to IBWC of active subcontracts, and timely payments.

¹ The Davis-Bacon Act requires Federal contractors to pay prevailing wages, as defined by the Wage and Hour Division of the U.S. Department of Labor, on Federally funded or assisted construction projects.

² The Copeland “Anti-Kickback” Act prohibits Federal contractors or subcontractors engaged in building construction or repair from inducing an employee to give up compensation

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- Evaluated whether Lakeshore and its subcontractors had proper programs in place to ensure compliance with code of business ethics, equal opportunity, and affirmative action requirements.

We discussed tentative results of this audit with Lakeshore officials during fieldwork and with IBWC officials on January 12, 2011.

Review of Internal Controls

We reviewed the contractor Lakeshore's controls to ensure its own and subcontractor compliance with contractual and regulatory requirements. We determined that Lakeshore did not have appropriate controls established to ensure compliance with contractual and regulatory requirements. Specifically, Lakeshore did not have controls established to ensure that its subcontractors complied with requirements of the *Federal Acquisition Regulation* as they pertained to paying employees correct rates, ensuring employment eligibility, and maintaining appropriate code of conduct and affirmative action programs. Additionally, Lakeshore did not have a process in place to ensure that required subcontractor forms and debarment certifications were received at the commencement of the subcontracts. It also did not have appropriate controls established to submit accurate Recovery Act reports, specifically, regarding the number of jobs retained and created.

Implementing recommendations contained in the report will improve controls over ensuring compliance with required laws and regulations and accurately reporting Recovery Act spending to the public.

Use of Computer-Processed Data

We used payroll files, job cost data, and other financial reports from the contractor Lakeshore's systems to test the accuracy of its reporting of information on the Web site FederalReporting.gov. We also validated expenditures listed in IBWC's budgetary and billing systems to ensure the accuracy of its reporting on FederalReporting.gov. We found no unexplained discrepancies in the expenditure data reported. Although we found inaccuracies in the data reported on FederalReporting.gov, these inaccuracies resulted from Lakeshore's misunderstanding of reporting requirements and were not caused by automated data system issues.

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Appendix B

INTERNATIONAL BOUNDARY AND WATER COMMISSION
UNITED STATES AND MEXICO

June 8, 2011



United States Department of State and the Broadcasting Board of Governors
Office of Inspector General
Attn: Evelyn R. Klemstine, Assistant Inspector General for Audits
2201 C. Street, N.W.
Washington, D.C. 20520-0308

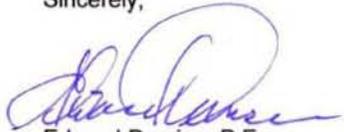
Subject: OIG Audit of International Boundary and Water Commission Construction Contract with Lakeshore Engineering Services, Inc.

Dear Ms. Klemstine:

We are pleased to provide you the attached responses to the findings and recommendations shown in the draft audit report entitled Audit of International Boundary and Water Commission Construction Contract with Lakeshore Engineering Services, Inc., using Funds provided by the American Recovery and Reinvestment Act Draft Report dated May 31, 2011.

We note that improvements have already been made in the USIBWC Acquisition Division in response to the recommendations provided in the audit report, and specific responses to each finding and recommendation are provided.

Sincerely,



Edward Drusina, P.E.
Commissioner

Attachment as Stated

cc:
D. Forti, C. Parker

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Thank you for the copy of your report dated May 2011, we greatly appreciate the opportunity to respond to the report.

The USIBWC generally agrees with all of the OIG recommendations, and each recommendation and suggestion that was noted in the report is addressed below:

OIG recommendations and USIBWC response:

1. Recommendation 1: We recommend that the USIBWC contracting officer for IBWC Contract no. IBM10C0004 require the contractor Lakeshore Engineering Services, Inc. to implement procedures to ensure that its subcontractors comply with requirements of the Federal Acquisition Regulation as they pertain to paying employees proper rates, ensuring employment eligibility, and maintaining appropriate code of conduct and affirmative action programs.

Response: The Contracting Officer will issue a Deficiency and Omission Report to Lakeshore Engineering Services, Inc. identifying its failure to implement the flow-down clauses with its subcontractors and require a plan of action for implementation.

2. Recommendation 2: We recommend that the USIBWC contracting officer for IBWC Contract no. IBM10C0004 ensure that Lakeshore Engineering Services, Inc.'s subcontractor Construction Surveying Services adjusts the rate of pay for its laborers to be in compliance and pay the amounts owed.

Response: The Contracting Officer will issue a notice to Lakeshore Engineering identifying a potential DOL violation with Construction Surveying Services and requiring evidence of action taken to resolve the matter on or before Jun 30, 2011.

3. Recommendation 3: We recommend that the USIBWC contracting officer for IBWC Contract no. IBM10C0004 ensure that the contractor Lakeshore Engineering Services, Inc., require its current subcontractors to retroactively submit certifications stating that they or their principals are not debarred, suspended, or proposed for debarment.

Response: The Contracting Officer will issue notice to Lakeshore Engineering Services, Inc. requiring evidence of certifications as submitted by its subcontractors stating that they or their principals are not debarred, suspended, or proposed for debarment.

4. Recommendation 4: We recommend that the USIBWC contracting officer for IBWC Contract no. IBM10C0004 ensure that the contractor Lakeshore Engineering Services, Inc., establishes procedures to obtain certifications that its subcontractors are not debarred, suspended or proposed for debarment before it awards additional subcontracts.

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Response: The Contracting Officer will issue notice to Lakeshore Engineering Services, Inc. requiring by Jun 30, 2011 certification that it has established procedures to obtain certifications that its subcontractors are not debarred, suspended or proposed for debarment before it awards additional subcontracts.

5. Recommendation 5: We recommend that the USIBWC contracting officer for IBWC Contract no. IBM10C0004 require the prime contractor to ensure that all relevant clauses in the FAR are formally included in Lakeshore's subcontracts.

Response: The Contracting Officer will require a certification from Lakeshore Engineering to be submitted by Jun 30, 2011 stating that is has ensured all relevant clauses have been formally included in Lakeshore's subcontracts.

6. Recommendation 6: We recommend that the USIBWC contracting officer for IBM10C0004 require the prime contractor to ensure that its personnel are aware of FederalReporting.gov reporting requirements under its ARRA construction contract and submit required reports that are complete and accurate.

Response: The FederalReporting.gov website provides online training to contractors which we agree may be underutilized by the prime and subcontractors alike. This office will require ARRA recipients certify that their ARRA reporting specialists have taken the seven (7) webinars this training within 60 days of this response to audit.

Thank you again for the opportunity to respond to this draft report and please advise us of any follow-up questions, comments, or concerns about this response letter.

You may reach Hugo White, Acquisitions Division Chief at 915-832-4711 or Christopher Parker, Internal Audit Program Manager at 915-832-4794 or via email at Hugo.White@ibwc.gov or Christopher.Parker@ibwc.gov.

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