

# U.S. Department of Labor

Office of Inspector General—Office of Audit

**EMPLOYMENT AND TRAINING  
ADMINISTRATION**

**OFFICE OF  
ADMINISTRATION AND  
MANAGEMENT**



**RECOVERY ACT: JOB CORPS COULD NOT  
DEMONSTRATE THAT THE ACQUISITION OF THE  
NEW FACILITY AT THE LOS ANGELES JOB  
CORPS CENTER USING A MULTI-YEAR LEASE  
WAS THE LEAST EXPENSIVE OPTION**

Date Issued: September 30, 2010  
Report Number: 18-10-009-03-370

## BRIEFLY...

Highlights of Report Number **18-10-009-03-370**, to the Assistant Secretary for Employment and Training and the Assistant Secretary for Administration and Management.

### WHY READ THE REPORT

The Recovery Act, signed into law February 17, 2009, provided DOL with \$70.8 billion, including \$250 million for Job Corps. The \$250 million was for construction, operations, and administrative costs. The largest single expenditure of these funds by Job Corps was a 20-year lease totaling \$82 million with the YWCA of Greater Los Angeles (YWCA) for it to construct a new seven-story facility at the Los Angeles Job Corps Center (LAJCC). The LAJCC will occupy the basement through the sixth floor of the new facility, and the YWCA will have the seventh floor for its offices. The lease agreement requires Job Corps to make an advance payment of \$20 million, and incremental lease payments ranging from \$2.8 million to \$3.3 million per annum through 2031. Job Corps also agreed to pay a bargain purchase price of 60 percent of fair market value (FMV) at the end of the lease term if it opts to purchase the facility.

As of May 25, 2010, Job Corps had a total of 48 operating leases. The multi-year lease is the only capital lease that Job Corps currently has for a Job Corps center.

### WHY OIG CONDUCTED THE AUDIT

Our audit objective was to answer the following question:

What is the impact of Job Corps using a multi-year lease to acquire a facility at the Job Corps Center in Los Angeles?

### READ THE FULL REPORT

To view the report, including the scope, methodology, and full agency response, go to: <http://www.oig.dol.gov/public/reports/oa/2010/18-10-009-03-370.pdf>.

September 2010

## RECOVERY ACT: JOB CORPS COULD NOT DEMONSTRATE THAT THE ACQUISITION OF THE NEW FACILITY AT THE LOS ANGELES JOB CORPS CENTER USING A MULTI-YEAR LEASE WAS THE LEAST EXPENSIVE OPTION

### WHAT OIG FOUND

The OIG found that Job Corps could not demonstrate that the multi-year lease with the YWCA was the least expensive option to the Government for purposes of acquiring a new facility at the LAJCC. Through our analysis, we estimate that Government construction of the facility may have cost \$31 million less than the \$82 million multi-year lease. In addition, Job Corps could not demonstrate that the bargain purchase price was the least expensive way to acquire the new facility at the end of the 20-year lease term. OASAM solicited proposals for the new facility and only the YWCA responded. OASAM negotiated the cost of the multi-year lease from a proposed \$105 million to \$82 million. However, Job Corps did not perform a lease-purchase analysis as required by OMB Circular A-94 to demonstrate that the multi-year lease was less expensive than Government ownership or justified as preferable to direct Government purchase and ownership. In fact, there is no evidence that any other options were considered prior to awarding the multi-year lease.

### WHAT OIG RECOMMENDED

We recommended the Assistant Secretary for Employment and Training work with the Assistant Secretary for Administration and Management to demonstrate, in accordance with OMB Circular A-94, that the multi-year lease with the YWCA to acquire a new facility at the LAJCC was the least expensive option to the Government, and if appropriate, renegotiate the multi-year lease agreement. We also recommended Job Corps and the Department update their policies and procedures for facility leasing.

Management partially agreed with our recommendations. ETA and OASAM do not believe that OMB Circular A-94 applied in the LAJCC procurement because its provisions are suggested, not required. However, ETA and OASAM agreed that the policies and procedures for real property leasing will be reviewed and revised accordingly.

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# Table of Contents

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|   |    |
|---|----|
| <b>Assistant Inspector General’s Report</b> .....   | 1  |
| <b>Results in Brief</b> .....   | 2  |
| <b>Objective — What is the impact of Job Corps using a multi-year lease to acquire a facility at the Job Corps Center in Los Angeles?</b> ..... | 4  |
| <i>Job Corps may not have acquired the new Job Corps facility in the least expensive manner.</i> .....  | 4  |
| Finding 1 — Job Corps could not demonstrate that the multi-year lease was the least expensive option. ....                                      | 4  |
| Finding 2 — OASAM could not support the basis for the BPO price. ....   | 6  |
| <b>Recommendations</b> .....  | 7  |
| <b>Exhibit</b>  |    |
| Exhibit Estimate Cost of Government Construction vs. Multi-Year Lease .....   | 11 |
| <b>Appendices</b>   |    |
| Appendix A Background .....   | 15 |
| Appendix B Objective, Scope, Methodology, and Criteria .....  | 17 |
| Appendix C Acronyms and Abbreviations .....   | 21 |
| Appendix D ETA and OASAM Response to Draft Report.....  | 23 |
| Appendix E Acknowledgements .....   | 27 |

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**U.S. Department of Labor**

Office of Inspector General  
Washington, D.C. 20210



September 30, 2010

**Assistant Inspector General's Report**

Jane Oates  
Assistant Secretary  
for Employment and Training  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

T. Michael Kerr  
Assistant Secretary  
for Administration and Management  
U.S. Department of Labor  
200 Constitution Avenue, NW  
Washington, D.C. 20210

The American Recovery and Reinvestment Act (Recovery Act), signed into law February 17, 2009, provided the Office of Job Corps (Job Corps) in the U.S. Department of Labor (DOL) with \$250 million for construction, operations, and administrative costs. The largest single expenditure of these funds was a 20-year lease totaling \$82 million with the YWCA of Greater Los Angeles, Inc. (YWCA) for the YWCA to construct a seven-story facility at the Los Angeles Job Corps Center (LAJCC). The LAJCC will occupy the basement through the sixth floor of the new facility, and the YWCA will have the seventh floor for its offices. The lease agreement requires Job Corps to make an advance payment of \$20 million, and incremental lease payments ranging from \$2.8 million to \$3.3 million per annum through 2031. Job Corps also agreed to pay 60 percent of fair market value (FMV) at the end of the lease term if it opts to purchase the facility. At the time this lease was signed, the Office of the Assistant Secretary for Administration and Management (OASAM) had overall responsibility for Job Corps procurement. However, the Employment and Training Administration (ETA) will be responsible for Job Corps Procurement starting October 21, 2010.

Our audit objective was to answer the following question:

What is the impact of Job Corps using a multi-year lease to acquire a facility at the Job Corps Center in Los Angeles?

The audit covered the multi-year lease — dated May 21, 2009 — between Job Corps and the YWCA to acquire a new facility at LAJCC, and activities related to the lease through August 11, 2010.

To assess the impact of Job Corps using a multi-year lease to acquire a facility at LAJCC, we reviewed the multi-year lease agreement's procurement file for compliance with Office of Management and Budget (OMB) Circular A-94 and internal policies and procedures. We interviewed officials from DOL, other Federal agencies, and the YWCA to gain an understanding of the Government leasing process and the process DOL used to solicit and award the multi-year lease. We conducted audit work at OASAM and Job Corps headquarters in Washington D.C., and at the YWCA in Los Angeles, Calif.

We conducted this performance audit in accordance with generally accepted government auditing standards (GAGAS). 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 objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Our objective, scope, methodology, and criteria are detailed in Appendix B.

## **RESULTS IN BRIEF**

Job Corps could not demonstrate that the multi-year lease with the YWCA was the least expensive option to the Government for purposes of acquiring a new facility at the LAJCC. Through our analysis, we estimate that Government construction of the facility may have cost \$31 million less than the \$82 million multi-year lease. In addition, Job Corps could not demonstrate that the bargain purchase option (BPO) price of 60 percent of FMV is the least expensive way to acquire the new facility at the LAJCC at the end of the 20-year lease term.

OASAM solicited proposals for the new facility by publicizing a Request for Proposal (RFP) on March 3, 2009. To meet the Recovery Act's requirements for using a multi-year lease — specifically, that construction begin within 120 days of the Recovery Act's enactment — the RFP award factors included the ability to commence construction on or before June 16, 2009, and gave offerors 30 days to respond. The RFP closed on April 2, 2009, and only the YWCA submitted an offer.

The proposal from the YWCA was for \$105 million and included a \$20 million advance rental payment. OASAM negotiated the cost of the multi-year lease from a proposed \$105 million to \$82 million and determined that the resultant cost was reasonable based on a market rent study. However, Job Corps did not perform a lease-purchase analysis as required by OMB Circular A-94 to determine the least expensive way to acquire a new facility.

In addition to the \$82 million in leasing costs Job Corps will be paying the YWCA, Job Corps also agreed to pay 60 percent of FMV at the end of the lease term if it opts to purchase the facility. According to OASAM, the purchase price resulted from

negotiations with the YWCA. However, OASAM could not provide documentation to support the basis for the BPO price.

The current departmental policies and procedures related to Job Corps real property leasing were last updated in 1991, which pre-dates OMB Circular A-94 requirements to perform a lease-purchase analysis. As a result of not performing a lease-purchase analysis, Job Corps may have lost the opportunity to put at least \$31 million of Recovery Act funds to better use. In addition, without an adequate basis for the facility's BPO price, Job Corps cannot ensure that it will pay the least expensive price to acquire the facility at the end of the 20-year lease period.

We recommended the Assistant Secretary for Employment and Training work with the Assistant Secretary for Administration and Management to demonstrate, in accordance with OMB Circular A-94, that the multi-year lease with the YWCA to acquire a new facility at the LAJCC was the least expensive option to the Government and if appropriate, renegotiate the multi-year lease agreement to ensure that the total cost of the lease, including the BPO price, is the least expensive option to the Government. We also recommended Job Corps and the Department update their policies and procedures for facility leasing to incorporate the requirements of OMB Circular A-94.

### **ETA and OASAM Response**

In their response, ETA and OASAM stated that the guidelines in OMB Circular A-94 only apply to analyses submitted to OMB as a part of the budget process outlined in OMB Circular A-11. Otherwise, OMB Circular A-94 guidelines are only suggestions for internal planning. Since OMB advised ETA that the completion of an OMB Circular A-11 Exhibit 300 was not necessary for the LAJCC capital lease, ETA did not complete a lease-purchase analysis as described in OMB Circular A-94. If OMB had required an Exhibit 300 for the LAJCC capital lease, ETA and OASAM would have followed A-94 guidelines and performed the required lease-purchase analysis. In addition, ETA and OASAM stated that because the final cost of the multi-year lease was negotiated from \$105 million originally proposed by the YWCA to \$82 million, they netted a cost savings of \$23 million that was available for redeployment to other projects. ETA and OASAM's written response to the draft report is provided in its entirety in Appendix D.

### **OIG Conclusion**

The purpose of OMB Circular A-94 is to promote efficient resource allocation through well-informed decision making by the Federal Government. OMB Circular A-94 applies to any analysis used to support Government decisions to initiate, renew or expand programs or projects, which would result in a series of measurable benefits or costs extending for 3 or more years into the future. An analysis of the decision to lease rather than purchase as described by OMB Circular A-94 was necessary to demonstrate the efficient use of Recovery Act resources through well-informed decision making. Had such an analysis been performed, the results may have shown that Government construction of the facility would have cost significantly less than the \$82 million multi-year lease. Furthermore, although OMB did inform ETA that an



Exhibit 300 was not required for the LAJCC multi-year lease, this occurred in an email dated September 24, 2009, 4 months after the lease with LAJCC was signed.

## RESULTS AND FINDINGS

### **Objective — What is the impact of Job Corps using a multi-year lease to acquire a facility at the Job Corps Center in Los Angeles?**

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*Job Corps may not have acquired the new Job Corps facility in the least expensive manner.*

By using a multi-year lease with the YWCA, Job Corps may not have acquired the new facility at the LAJCC in a way that was least expensive to the Government. Our analysis shows Government construction of the facility may have cost \$31 million less than the \$82 million multi-year lease. In addition, Job Corps could not demonstrate that the BPO price of 60 percent of FMV is the least expensive way to acquire the facility at the end of the 20-year lease term.

### **Finding 1 — Job Corps could not demonstrate that the multi-year lease was the least expensive option.**

Job Corps could not demonstrate that the multi-year lease with the YWCA for a new facility at LAJCC was the least expensive option to the Government. On May 21, 2009, Job Corps signed a multi-year lease with the YWCA for a new facility to be built by the YWCA. The total value of the lease is \$82 million, with \$20 million paid to the YWCA in advance and \$62 million paid over 20 years. Job Corps did not perform a lease-purchase analysis to compare the cost of the lease to Government ownership.

OMB Circular A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs, states:

All leases of capital assets must be justified as preferable to direct government purchase and ownership ... Whenever a Federal agency needs to acquire the use of a capital asset, it should do so in the way that is least expensive for the Government as a whole ... that leases are justified through a lease-purchase analysis.

The Recovery Act included provisions that specifically allowed Job Corps to use the multi-year lease option and advance payments to lease real property as long as construction began within 120 days of the enactment of the Recovery Act (February 17, 2009). OASAM solicited proposals for the new facility by publicizing an RFP on March 3, 2009. To meet the Recovery Act's requirements for using a multi-year lease, one of the RFP award factors included the ability to commence construction on or before June 16, 2009 and gave offerors 30 days to respond. The RFP closed on April 2, 2009 and only the YWCA responded to the RFP.

The proposal from the YWCA was for \$105 million and included a \$20 million advance rental payment. OASAM negotiated the cost of the multi-year lease down from a proposed \$105 million to \$82 million and determined that the cost was acceptable based on a market rent study performed by Lea Associates in March 2009. The lease agreement with the YWCA was signed on May 21, 2009, and construction began by June 16, 2009.

However, Job Corps did not perform a lease-purchase analysis as required by OMB Circular A-94 to demonstrate that the multi-year lease is less expensive than Government ownership or justified as preferable to direct Government purchase and ownership. In fact, there is no evidence that any other options were considered prior to awarding the multi-year lease.

Through consultation with the General Services Administration (GSA) officials, we identified the information that GSA uses in its Automated Prospectus System (TAPS) to perform lease-purchase analyses based on OMB Circular A-94. Using information from TAPS, we performed a lease-purchase analysis — using available data and 2009 dollars — in accordance with OMB Circular A-94, and estimated that Job Corps may have spent approximately \$31 million more by acquiring the facility through the multi-year lease than by Government construction. Taking a present value of the 20-year lease payments, and the \$20 million advance rent payment, we calculated the total cost to Job Corps under the multi-year lease to be \$66.6 million. Conversely, we estimated the total cost of Government construction and operation to be \$35.6 million. (See Exhibit.)

According to Job Corps, the multi-year lease was chosen without performance of a lease-purchase analysis because the multi-year lease proposal from the YWCA was the only option. The Department made “a deliberate and concerted effort” to implement the multi-year provision of the Recovery Act, which requires construction to begin in 120 days, to comply with the intentions of Congress and the purposes of the legislation to provide economic stimulus and create jobs. Job Corps further explained that “... the requirement to perform the tasks necessary for a formal lease-purchase analysis would have precluded the Department from meeting the 120-day requirement provided by the Recovery Act.” However, the Department failed to note that, while the Recovery Act does promote quick commencement of expenditures, it does not waive existing legislative or administrative requirements or prudent management decisions.

Section 3 of the Recovery Act, (b) General Principle Concerning Use of funds, states:

The President and the heads of Federal departments and agencies shall manage and expend the funds made available in this Act so as to achieve the purposes specified in subsection (a), including commencing expenditures and activities as quickly as possible consistent with prudent management.

The Department and Job Corps' lack of up-to-date policies and procedures on Job Corps real property leasing was also a contributing factor in a lease-purchase analysis not being performed. Neither the Federal Acquisition Regulation nor GSA acquisition regulations apply to Job Corps facility leases. The current internal policies and procedures on Job Corps facility leasing were issued by ETA and were last revised in 1991, which pre-dates OMB Circular A-94, issued in 1992. The guidance was limited to stating, "If appropriate, a lease vs. purchase analysis may be performed."

As a result of not performing a lease-purchase analysis, Job Corps did not have the necessary information to make the most informed decision to acquire the new facility, and may have lost the opportunity to put \$31 million in Recovery Act funds to better use for other construction, rehabilitation and acquisition of Job Corps facilities.

**Finding 2 — OASAM could not support the basis for the BPO price.**

In addition to the \$82 million Job Corps will be paying the YWCA, Job Corps also agreed to pay 60 percent of the facility's FMV at the end of the lease term if it opts to purchase the facility. However, OASAM did not have documentation to support how it determined the basis for the agreed-upon BPO price. According to OASAM officials, the BPO price resulted from negotiations with the YWCA but the negotiation to determine BPO is not required to be documented. As a result, Job Corps cannot ensure that it will pay the least expensive price to acquire the facility at the end of the lease term.

The ETA Real Property Acquisition Procedure, which covers Job Corps' acquisition of real property by lease or purchase, requires a complete, detailed record of negotiation that supports the reasonableness of price negotiated. In addition, it requires that any special or non-standard contract provisions be addressed. As this lease agreement with the YWCA is the only Job Corps capital lease, the BPO price should be considered non-standard.

ETA's Real Property Acquisition Procedure states:

A complete, detailed price negotiation memorandum will be prepared prior to award and should include:

- a A summary of the offers received from each offeror (prices, terms, etc.), the Government's objectives and the negotiation results. Included in this summary shall be any revised or adjusted offers.
- b Names and titles of Government and property owner representatives who participated in the negotiations.
- c Any exceptions to the Government's terms and conditions should be addressed as well as any special or non-standard contract provisions.
- d The memorandum should clearly show and support that the price negotiated is reasonable. In the event the price exceeds the Government's negotiation objective, appropriate rationale should be

- included (i.e., additional supporting data presented during negotiations, market conditions, etc.).
- e Conversations with interested parties and offerors should be documented in a Memorandum to the File.

Because of the special-purpose nature of the Job Corps facility, we did not seek to identify comparably aged property in Los Angeles. Consequently, we cannot estimate the FMV of the facility. However, OMB Circular A-11 states that in lieu of current market appraisals to determine FMV, construction cost can be used as a reasonable alternative. The March 5, 2009, market rent study issued by Lea Associates identified the replacement cost of the facility at LAJCC as being \$56.5 million. The replacement cost comprises \$49.1 million to construct a new facility and \$7.4 million for the estimated value of the land. It is not unreasonable to assume that the facility's FMV in 20 years will be significantly higher than the current replacement value. We used the market rent study's \$56.5 million replacement cost as the FMV and calculated an estimated minimum BPO price to be \$34 million (60 percent of \$56.5 million).

According to an OASAM official, the BPO price of 60 percent of FMV resulted from negotiations with the YWCA. However, the Memorandum of Record for those negotiations did not detail how the BPO price was determined. In fact, the Memorandum of Record did not even mention the BPO. In addition, OASAM officials stated that a detailed record of negotiations is not required for leases.

Without an adequate basis for the BPO price, Job Corps cannot ensure that it would pay the least expensive price to acquire the facility. Based on our analysis, should Job Corps choose to acquire the new facility at the end of the lease period, it will have paid a minimum of \$116 million (\$82 Million in lease payments and \$34 Million to exercise the BPO) to do so.

## **RECOMMENDATIONS**

We recommend the Assistant Secretary for Employment and Training work with the Assistant Secretary for Administration and Management to:

1. Demonstrate, in accordance with OMB Circular A-94, that the multi-year lease with the YWCA to acquire a new facility at the LAJCC was the least expensive option to the Government and if appropriate, renegotiate the multi-year lease agreement to ensure that the total cost of the lease including the bargain purchase option is the least expensive option to the Government.
2. Update Departmental and Job Corps policies and procedures for facility leasing to incorporate the requirements of OMB Circular A-94.

We appreciate the cooperation and courtesies that Job Corps and OASAM personnel extended to the Office of Inspector General during this audit. OIG personnel who made major contributions to this report are listed in Appendix F.



Elliot P. Lewis  
Assistant Inspector General  
for Audit

# Exhibit

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## Exhibit

## Estimate Cost of Government Construction vs. Multi-Year Lease

| <b>Estimate Cost of Government Construction vs. Multi-Year Lease</b> |                                    |                              |
|--|------------------------------------|------------------------------|
|  | <b>Government<br/>Construction</b> | <b>Multi-Year Lease</b>      |
| Present Value of Lease<br>Payments                                   |                                    | \$ 46.6 million <sup>1</sup> |
| Advanced Lease Payment   |                                    | 20.0 million <sup>2</sup>    |
| Total Construction cost  | \$ 37.6 million <sup>3</sup>       |                              |
| Land 7.4   | million <sup>4</sup>               |                              |
| Design Costs   | 3.8 million <sup>5</sup>           |                              |
| Management and fees  | 4.5 million <sup>6</sup>           |                              |
| Maintenance and Insurance<br>cost                                    | 7.2 million <sup>7</sup>           |                              |
| Less: Book Value   | (24.9) million <sup>8</sup>        |                              |
| <b>Total</b>   | <b>\$ 35.6 million</b>             | <b>\$ 66.6 million</b>       |

<sup>1</sup> Following instructions found in OMB Circular A-94, the total lease payment of \$62 million was discounted at 4.7% over the 20 years of the lease to arrive at a present value of lease payments of \$46.6 million. The discount factor of 4.7% for 20 year maturity in 2009 was obtained from OMB Circular A-94, Appendix C.

<sup>2</sup> Advance rent paid to YWCA in 2009.

<sup>3</sup> Total Construction cost is the direct material, payroll, insurance, and regulation costs based on estimate prepared by PLC construction in September of 2009. This reflects our estimate of the cost to construct basement and the first six floors. The seventh floor of the facility will not be occupied by Job Corps.

<sup>4</sup> The estimated value of land is reflected in the market rent study conducted by Lea Associates in March, 2009.

<sup>5</sup> 10% of total construction cost was used for design costs. The 10% design cost figure is used in GSA's Automated Prospectus System (TAPS). TAPS performs lease versus purchase analyses based on OMB A-94 guidance.

<sup>6</sup> 12% of total construction cost was used for management and inspection fees. 12% is used in GSA's Automated Prospectus System (TAPS). TAPS performs lease versus purchase analyses based on OMB Circular A-94 guidance.

<sup>7</sup> Expenses related to owning the facility over the 20 years. The market rent study conducted by Lea Associates in March, 2009 estimated these costs at approx. \$473,000 a year. This includes costs such as repair, maintenance, and insurance. The \$473,000 was discounted at 4.7% (See Footnote – 1) over the 20 years of the lease to arrive at a present value of \$7.2 million of future operating expenses over the life of the lease.

<sup>8</sup> The estimated book value comprises the land valued at \$7.4 million and the book value of the building at the end of 20 years, which is calculated using straight line depreciation over 30 years. The book value of the building at the end of 20 years is approx. \$17.5 million. This does not represent the estimated future assessed market value. Any increase in the value may increase the difference between the cost of leasing and the cost of construction.



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# Appendices

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## Appendix A

## Background

The Recovery Act, signed into law February 17, 2009, provided DOL with \$70.8 billion, including \$250 million for Job Corps, as shown below.

**Table 1: Department of Labor Recovery Act Funding, as of August 19, 2010**

| <b>Program</b>   | <b>Amount<sup>a</sup><br/>(millions)</b> | <b>Percent</b> |
|--|--|----------------|
| Unemployment Insurance   | \$65,996                                 | 93.17          |
| Training and Employment Services                               | 3,950                                    | 5.58           |
| State Unemployment Insurance and Employment Service Operations | 400                                      | 0.56           |
| Community Service Employment for Older Americans               | 120                                      | 0.17           |
| National Emergency Grants for Health Insurance Coverage 40     |  | 0.06           |
| Job Corps  | 250                                      | 0.35           |
| Departmental Management  | 80                                       | 0.11           |
| <b>Total \$70,836</b>  | <sup>b</sup>                             | <b>100.00</b>  |

<sup>a</sup> – The amounts other than “Unemployment Insurance and National Emergency Grants for Health Insurance Coverage” were obtained from the Recovery Act dated February 17, 2009. The “Unemployment Insurance amount” was provided by the Office of the Assistant Secretary for Administration and Management, and includes amounts made available for Federal and State Extended Benefits, Extension of Emergency Unemployment Compensation, and Federal Additional Unemployment Compensation programs. The National Emergency Grants for Health Insurance Coverage amounts were adjusted in United States Public Law 111-226 (HR1586).

<sup>b</sup> – The total amount does not include \$6 million provided to the OIG to provide oversight over the Department’s Recovery Act activities.

The \$250 million was for construction, operations and administrative costs. The largest single expenditure of these funds by Job Corps was a 20-year lease totaling \$82 million with the YWCA for it to construct a seven-story facility at LAJCC. Public Law 105-220, Section 189b, otherwise known as the Workforce Investment Act of 1978, authorizes the Secretary of Labor to engage in leasing of real property for Job Corps centers. The LAJCC will occupy the basement through the sixth floor of the new facility, and the YWCA will have the seventh floor for its offices. Job Corps will occupy approximately 110,031 square feet of space in the new facility. The lease agreement requires Job Corps to make an advance payment of \$20 million, and incremental lease payments ranging from \$2.8 million to \$3.3 million per annum through 2031. The advance payment was paid to the YWCA over three installments during October, November, and December of 2009. According to the lease agreement, Job Corps is scheduled to recover the advance through a rent abatement of \$1 million a year over the 20 year lease term. The Recovery Act included provisions that specifically allowed Job Corps to provide advance payments for multi-year leases as long as construction began within 120 days of the enactment of the Recovery Act.

Job Corps and OASAM publicized an RFP on March 3, 2009, with a closing date of April 2, 2009. Only the YWCA responded to the RFP. The YWCA had been proposing a

multi-year lease arrangement for a new facility at LAJCC since as early as 2003. The lease agreement was signed on May 21, 2009, and construction began by June 16, 2009. The YWCA has estimated that it is scheduled to be completed by September 1, 2011. The lease requires the new facility to be available no later than November 1, 2012. The new facility replaces an existing facility currently being leased by Job Corps in which the lease expires in November 2012. At the time this lease was signed, OASAM had overall responsibility for Job Corps procurement. ETA was responsible for Job Corps procurement until 2006, when responsibility was transferred to OASAM. ETA will again be responsible for Job Corps Procurement again starting October 21, 2010.

As of May 25, 2010, Job Corps had a total of 48 operating leases. The multi-year lease is the only capital lease that Job Corps currently has for a Job Corps center. In accordance with Statement of Federal Financial Accounting Standards, since the multi-year lease contains a BPO, it is classified as a capital lease.

**Appendix B****Objective, Scope, Methodology, and Criteria**

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**Objective**

Our audit objective was to answer the following question:

What is the impact of Job Corps using a multi-year lease to acquire a facility at the Job Corps Center in Los Angeles?

**Scope**

The audit covered the multi-year lease — dated May 21, 2009 — between Job Corps and the YWCA to acquire a new facility at LAJCC, and activities related to the lease through August 11, 2010

We conducted this performance audit in accordance with GAGAS. 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 objective. We believed that the evidence obtained provides a reasonable basis for our findings and conclusion based on our audit objective.

**Methodology**

To assess the impact of Job Corps using a multi-year lease to acquire a facility at the Job Corps Center in Los Angeles, we reviewed the multi-year lease agreement's procurement file and other documents for compliance with OMB Circular A-94 and internal policies and procedures. We interviewed OASAM, Job Corps, and YWCA officials to gain an understanding of the process to solicit and award the multi-year lease. We interviewed officials from GSA to gain an understanding of the use of capital leases in the Federal Government. GSA is the nation's largest public real estate organization and provides workspace for more than 1.2 million Federal workers through its Public Buildings Service. In addition, we gained an understanding of GSA's TAPS. TAPS is an automated system that GSA uses to perform lease-purchase analyses based on OMB Circular A-94 guidance. TAPS calculates the present value of lease payments over time and compares that to Government construction and ownership to determine which is less expensive.

We interviewed officials from the United States Department of Agriculture (USDA), as it is the only other Federal agency to operate Job Corps centers. We also interviewed officials from the Government Accountability Office (GAO) to gain an understanding of several reports that GAO has issued related to the Government leasing process. We conducted audit work at OASAM and Job Corps headquarters in Washington D.C., and at the YWCA in Los Angeles, Calif., between May 19, 2010, and August 11, 2010.

We performed a lease-purchase analysis in accordance with OMB Circular A-94 based on available data. We also used GSA's TAPS as additional guidance. The multi-year lease payments were discounted to 2009 dollars using a nominal interest rate of 4.7 percent, the rate prescribed for a 20-year lease in 2009 by OMB Circular A-94, Appendix C. We also used the mid-year discount factors since the lease payments are made monthly throughout the year. The \$20 million in advance rent payment was not discounted since all of it was paid in 2009.

In estimating the cost to construct and operate the facility for 20 years, we used the construction cost estimate prepared by the YWCA construction contractor, PCL Construction Services, Inc. on September 1, 2009. For the cost of the construction, we only calculated the space to be occupied by Job Corps (basement through 6<sup>th</sup> floor). For the cost of the land, we used the land value estimate prepared by Lea Associates on March 5, 2009, as a part of its market rent study. To calculate other costs associated with construction, we used the percentages used by TAPS for estimating design, management and inspection costs. To approximate the operating expenses for 20 years, we used numbers employed by Lea Associates in performing its market rent study. Operating expenses included insurance, repairs and maintenance, management, and administrative costs. Utility expenses were not included in our analysis because Job Corps is responsible for utility expenses whether it leases or owns the facility. The operating expenses, like the lease payments, were discounted to 2009 dollars using the nominal interest rate of 4.7 percent. According to OMB Circular A-94, a residual value should be subtracted from the purchase price in conducting a lease-purchase analysis. Residual value is an estimate of price the facility could be sold for at the end of the lease term. Residual value can be estimated by determining what the similar, comparably aged property is currently selling for in commercial markets. Because of the special-purpose nature of the Job Corps facility, we did not seek to identify the resale value of a comparable aged property. Instead, we used the book value at the end of 20 years. The book value was calculated using straight-line depreciation over a 30-year useful life. For land, we used its estimated value in 2009 since land is not depreciated.

In planning and performing our audit we considered internal controls that were relevant to our audit objective by obtaining an understanding of those controls, and assessing control risk for the purpose of achieving our objective. The objective of our audit was not to provide assurance of the internal controls; therefore, we did not express an opinion on internal controls as a whole. Our consideration of internal controls relevant to our audit objective would not necessarily disclose all matters that might be significant deficiencies. Because of the inherent limitations on internal controls, noncompliance may nevertheless occur and not be detected.

## **Criteria**

American Recovery and Reinvestment Act of 2009

OMB Circular A-94, Guidelines and Discount Rates for Benefit-Cost Analysis of Federal Programs

OMB Circular A-11, Preparation and Submission of Budget Estimates

The ETA Real Property Acquisition Procedure, Revised October 1991

Workforce Investment Act of 1978

GSA's The Automated Prospectus System

Statement of Federal Financial Accounting Standards



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**Appendix C****Acronyms and Abbreviations**

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|              |   |
|--------------|---|
| BPO          | Bargain Purchase Option   |
| DOL          | Department of Labor   |
| ETA          | Employment and Training Administration                              |
| FMV Fair     | Market Value  |
| GAGAS        | General Accepted Government Auditing Standards                      |
| GAO          | Government Accountability Office                                    |
| GSA          | General Service Administration                                      |
| LAJCC        | Los Angeles Job Corps Center  |
| OASAM        | Office of the Assistant Secretary for Administration and Management |
| OIG          | Office of Inspector General   |
| Job Corps    | Office of Job Corps   |
| OMB          | Office of Management and Budget                                     |
| Recovery Act | American Recovery and Reinvestment Act of 2009                      |
| RFP          | Request for Proposal  |
| TAPS         | Automated Prospectus System   |
| USDA         | United States Department of Agriculture                             |
| YWCA         | YWCA of Greater Los Angeles, Inc.                                   |

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ETA and OASAM Response to Draft Report

U.S. Department of Labor

Office of the Assistant Secretary  
for Administration and Management  
Washington, D.C. 20210



SEP 29 2010

MEMORANDUM FOR ELLIOT P. LEWIS  
Assistant Inspector General

FROM: JANE OATES *Jane Oates*  
Assistant Secretary for  
Employment and Training

EDWARD C. HUGLER *Ed Hugler*  
Deputy Assistant Secretary for Operations,  
Senior Accountable Official

SUBJECT: OIG Audit of Job Corps Multi Year Lease  
Draft Report # 18-10-009-03-370

This memorandum responds to the subject draft audit report, dated September 28, 2010, Recovery Act: Job Corps Could Not Demonstrate That The Acquisition Of The New Facility At The Los Angeles Job Corps Center Using A Multi-Year Lease Was The Least Expensive Option. We appreciate the opportunity to provide input to this draft audit report.

Background and Context

The new Los Angeles Job Corps Center (LAJCC) leased facility will address critical issues pertaining to the current LAJCC complex. In 2001, Job Corps identified a seismic deficiency in an LAJCC building which is located at 1106 South Broadway and identified as Building 1. Job Corps hired a structural engineering firm to evaluate seismic safety evaluation and to perform a seismic retrofit study on the building. The Structural Building Evaluation Final Report issued on April 25, 2001, found that seismic retrofit was needed and that it was estimated to cost between \$4.5 million to \$5.5 million, depending on the retrofit scheme selected.

Job Corps currently occupies a number of buildings in downtown Los Angeles, some owned and some leased, for the current LAJCC. One of the leased buildings is for a dormitory complex with a Wellness Center and a cafeteria, located less than two blocks from the administration and educational buildings owned by the Department of Labor (DOL). The lease for this building will expire in November, 2012 and Job Corps cannot renew the lease because the building does not meet the Executive Order relating to seismic codes and the Landlord will not make the necessary renovations to meet the Executive Order.

Further, the LAJCC is currently spread over a wide area across the downtown, with some facilities situated five miles in each direction from the DOL-owned administration and

educational buildings. The typical Job Corps center environment is a consolidated campus where students have access to training, medical, counseling, recreation and residential facilities in close proximity. This approach is considered to be a very valid model for Job Corps centers.

However, in the case of the Los Angeles Job Corps Center, students are currently bussed from two other leased dormitory facilities to their training classes and back each day, often sitting for long periods in freeway traffic. Even the location of the current seismically-deficient dormitory complex/wellness facility/cafeteria, being one-half mile from the central complex, is an issue. The geographical dispersion of the facility has diminished the learning experience, due to transportation and concerns for the safety of the students traversing problem areas. This, in turn, has necessitated additional expenses for a van service and additional security.

The consolidation effort achieved with the new LAJCC building focuses on the dorm/wellness center/cafeteria, another leased dormitory, and some small educational buildings being consolidated into one building. By consolidating the center around the three DOL-owned buildings and the new building, DOL maintains the viability of its owned assets, while centralizing the campus in a more optimal configuration. Moreover, the continued location of the LAJCC in downtown LA will ensure the continuity of services to targeted youth between the ages of 16 and 24. The LAJCC currently serves over 1,000 youth annually. The program will also remain in a familiar location and will be able to continue operations without disruption.

The consolidation will enable Job Corps to eliminate over 170,000 square feet of leased space in four buildings. Consolidation into a single 110,000 square foot space will result in a 35% decrease in leased square footage, as the new building is designed to current design standards and efficiencies.

The new building will also meet current seismic standards and will remove a seismically deficient building from the DOL inventory. Further, the new building will allow two leased facilities with high deferred maintenance costs (Facility Condition Indices (FCI) of 69% and 76%) to be removed from the inventory. Moving functions into the new building will likely result in lower operating costs due to the smaller space and more energy efficient utilities. The need for additional security and transportation costs will likely be eliminated. The new facility will also provide a much improved learning environment for the students.

Our responses to the draft report's recommendations follow:

***OIG Recommendation 1.*** *Demonstrate, in accordance with OMB Circular A-94, that the multi-year lease with the YWCA to acquire a new facility at the LAJCC was the least expensive option to the Government and if appropriate, renegotiate the multi-year lease agreement to ensure that the total cost of the lease including the bargain purchase option is the least expensive option to the Government.*

***Response:*** Management accepts this recommendation, in part.

As outlined in Circular A-94, Paragraph 4, Scope, the provisions of the Circular are “suggested”

for agencies' internal use as delineated below—

“The Circular’s guidelines are *suggested* for use in the internal planning of Executive Branch agencies. The guidelines must be followed in all analyses submitted to OMB in support of legislative and budget-programs in compliance with OMB Circulars No. A-11....” (Emphasis added.)

The use of the Circular is required for analyses submitted to OMB, but that was not the case with the LAJCC lease. There was no such requirement from OMB for the LAJCC lease project. In fact, the Office of Job Corps worked closely with OMB throughout the planning stages leading to this acquisition and were advised by OMB staff that an OMB Circular A-11 Exhibit 300 was not required for the LAJCC capital lease. Had there been an OMB requirement to submit an Exhibit 300, the Department would have followed the guidelines of Circular A-94 in completing its analysis. Management believes that the use of Circular A-94 was not, and is not, required for this project.

The LAJCC lease was acquired through a fully competitive acquisition process. The audit report correctly notes that the Los Angeles YWCA submitted the *only* response to the Request for Proposals (RFP). The lack of other respondents does not negate the fully competitive nature of the process. During the time the RFP was open, the Department received inquiries from other interested parties and potential bidders. Neither the Department nor the YWCA could have known how many proposals would ultimately be received, and it was in the best interest of any offeror—including the YWCA—to submit its most competitive proposal. Nevertheless, in final negotiations the Department succeeded in reducing the YWCA’s proposed \$105 million cost down to \$82 million, a savings of \$23 million in ARRA funds that were available for redeployment to other projects.

Management objects to the audit report’s estimate of potential savings that might have accrued from a direct land or building purchase as speculative. Given that no offeror came forward through the fully competitive acquisition process to offer a suitable building or parcel of land, it is conjecture to assert that direct purchase would have been a less costly option.

Management is open to the possibility of renegotiating the bargain purchase option (BPO) price if that option presents itself. There are many factors that could intercede over the 20-year term of the lease that could make purchase of the building more or less desirable to the Department, including changes in Job Corps program direction or changing demographics of the client base to be served. At this time, with the leased building neither complete nor occupied, the Department’s leverage in negotiating a new BPO price is limited. Given the \$23 million savings already realized through the recent contract negotiations and the funds already committed to the project, management believes it would be imprudent to seek to reopen negotiations at the present time.

***OIG Recommendation 2.*** Update Departmental and Job Corps policies and procedures for facility leasing to incorporate the requirements of OMB Circular A-94.

***Response:*** Management accepts this recommendation in part.

As noted above, the use of Circular A-94 is “suggested” for internal agency use, although it is required for analyses submitted to OMB. Management believes that existing guidance is sufficient—an analysis under Circular A-94 was not conducted in this instance because it was not required, and not due to a deficiency in Departmental policies and procedures.

It should be noted that the policies referenced in the recommendation are those of the Employment and Training Administration (ETA) and were not applicable to Job Corps at the time, since the Office of Job Corps was not located in the ETA. The Job Corps program is transitioning back to the ETA in 2010, and will collaborate with ETA officials to review the current policies and procedures and revise them accordingly.

cc: T. Michael Kerr, ASAM  
Edna Primrose, Job Corps  
Al Stewart, OASAM  
Sandra Foster, OASAM

**Appendix E**

**Acknowledgements**

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Key contributors to this report were Tracy Katz, YC Lee, Rodelito Homoroc, Andrew Loomis, Adams Kondoh and Christine Allen.



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Fax: 202-693-7020

Address: Office of Inspector General  
U.S. Department of Labor  
200 Constitution Avenue, N.W.

Room S-5506  
Washington, D.C. 20210