



# Report In Brief

JUNE 1, 2012

## Background

The American Recovery and Reinvestment Act of 2009 (the Recovery Act) appropriated \$360 million to NIST to construct research facilities, including \$180 million in contracts for the construction and renovation of research facilities on NIST's headquarters in Gaithersburg, Maryland, and NIST's campus in Boulder, Colorado.

The construction projects, as initially proposed, included a precision measurement laboratory; maintenance and repair projects to enhance NIST's aging facilities; Center for Neutron Research expansion for a high-efficiency cooling system and supporting infrastructure; and a National Structural Fire Resistance Laboratory, to study how fires start.

## Why We Did This Review

The purpose of our review of the Recovery Act construction contracts was to determine how effectively NIST was monitoring the contracts and using the results of its monitoring to improve the acquisition program. Our audit objectives were to determine whether NIST's (1) policies and procedures were sufficient for evaluation of cost, specifications, and performance results, (2) contract award and administrative practices complied with applicable laws and regulations, including specific Recovery Act requirements, and (3) acquisition staff communicated problems with the projects to NIST management.

## NATIONAL INSTITUTE OF STANDARDS AND TECHNOLOGY

### Oversight Activities of NIST's Recovery Act Construction Contracts Need Improvement

OIG-12-028-A

#### WHAT WE FOUND

We found deficiencies in NIST's operating procedures and oversight practices. With tens of millions of dollars of Recovery Act funds remaining, NIST needs to strengthen its oversight of these construction projects.

*Inadequate controls over contract extensions jeopardized timely completion of projects.* Contracts and task orders were extended after they had passed the end of the performance period specified in the contracts—116 days after expiration in one case. Without accountability, contracts are not on track for completion.

*Lack of adequate oversight allowed noncompliance with the Buy American provision of the Recovery Act.* NIST Boulder management allowed contractors to install products made in Germany and China without waivers. The process of reviewing and approving Buy American exceptions was untimely and inconsistent.

*Lack of adequate oversight resulted in inaccurate/incomplete data posted on government websites.* Five contractors reported zero jobs created/retained after spending \$12.7 million in Recovery Act funds. Also, incorrect contract end dates were posted on government websites.

*Inadequate controls led to deficiencies in award administration.* NIST did not consistently obtain legal reviews before contract issuance or issue timely contracting officer's technical representative (COTR) representation letters. Contractors did not conduct timely fraud training.

#### WHAT WE RECOMMEND

We recommend that the Under Secretary of Commerce for Standards and Technology direct NIST to:

- Establish standard operating procedures (SOPs) for reviewing, monitoring, and approving contracts for extensions. Extend the performance period for six contracts that missed or are at risk of missing their performance end dates and create a management tool for monitoring the progress of construction contracts.
- Update the SOPs for Buy American exception determinations and waiver approvals. Conduct Buy American procedures training for staff.
- Provide training to staff and contractors on Recovery jobs calculation formula and ensure that data are correctly posted on government websites.
- Review the contract award process to correct inconsistencies in obtaining legal reviews, issuing COTR letters, and conducting fraud prevention training.