

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION III  
1650 Arch Street  
Philadelphia, Pennsylvania 19103-2029

**SUBJECT:** American Recovery and Reinvestment Act  
Site Visit of the Botanic Garden of Western  
Pennsylvania  
OIG Report No. 12-R-0321

AUG 03 2012

**FROM:** *for Catherine A. Stropew*  
James W. Newsom  
Assistance Regional Administrator  
For Policy and Management  
Region III

**TO:** Arthur A. Elkins, Jr.  
EPA Inspector General  
Office of the Inspector General

This is in response to your memorandum of July 20, 2012 which states that the Office of the Inspector General (OIG) considers the Region's response to the subject final audit report as incomplete until subsequently requested documentation is provided. The Region is troubled by the "incomplete" designation since our July 6, 2012 response was submitted timely and addressed every conclusion and recommendation contained in the final audit report.

Further, the OIG's July 20, 2012 memorandum states that the OIG has 15 days after receipt of the requested items to complete its review of the Region's response to the final audit. The Region was first informed of this 15 day deadline by email on July 12, 2012. The Region informed the OIG on July 13, 2012 that the Office of the Chief Financial Officer instructed that we were to follow the proposed audit resolution process established by the 2750 workgroup. According to the flowchart of this process, within 30 days from receiving the Region's response, the Assistant Inspector General would have a discussion with the Agency Program Manager. Although the Region requested clarification on the process from the OIG, a response was not provided. Since the Region's response was sent July 6, within the 30-day requirement, there seems no reason for the OIG to consider the Region's response as incomplete.

On July 12, 2012, Kevin Collins of the OIG requested, via email, nine items of supplemental information. Six of the items were provided in an email dated July 16, 2012. The July 20, 2012 memorandum listed the below three items as needed for the OIG "to completely analyze and respond to the Region's position:"



**1) All quarterly project status reports sent by PENNVEST to the Region.**

On July 20, 2012, the Region sent to Kevin Collins by email the status updates the Region received from the Pennsylvania Infrastructure Investment Authority (PENNVEST), the Pennsylvania Department of Environmental Protection (PADEP), and the Pittsburgh Botanic Gardens (PBG) since the OIG draft report was issued. The Region's email submission of July 20, 2012 satisfies the request for this item.

**2) A copy of the replacement re-mining/reclamation contract for the Botanic Garden.**

Region III forwarded the OIG's request for this contract to PENNVEST who requested a copy of the contract from PBG. Although this contract is not being funded by either ARRA or base Clean Water State Revolving Fund (CWSRF) funds, PBG has voluntarily provided a copy of the contract to the Region as requested. A copy of this contract is attached. PBG is asserting that the reclamation contract is Confidential Business Information (CBI) under the agency's regulations at 40 CFR Part 2, subpart B. The Region is releasing this information to the OIG in accordance with 40 CFR 2.209(e) which allows us to release information claimed as CBI within EPA to those employees who have a need for the information. Please handle this contract in accordance with regulations regarding the treatment of information claimed as CBI. The Region's submission of this contract satisfies the request for this document.

**3) A copy of the contract for the completion of Phase 2 of the project.**

As explained in the July 16, 2012 email to Mr. Collins, Phase 2 of the project is not yet under contract. Instead, the Region requested and PENNVEST provided the attached letter from PBG dated July 30, 2012 which summarizes the current project schedule. Specifically, PBG expects to issue a design/build Request for Proposal within the next two weeks. PBG expects to receive bids and award the contract in September 2012 with construction to be completed by May 1, 2013. The attached letter from PBG dated July 30, 2012 satisfies the request for this item.

Although the Region satisfied the OIG's request, it is unclear why the OIG needs these two contracts to "analyze and respond to the Region's position" as stated in the OIG's July 20, 2012 memorandum or "to evaluate the applicability of the June 2013 completion date listed in the Region's response" as stated in Mr. Collins' email of July 12, 2012. Neither of these two contracts was referred to in our July 6, 2012 response to the OIG and neither of these contracts is relevant to the OIG's findings and recommendations. The Region's July 6 response stated: "As PENNVEST stated in its response to the draft report, the project is expected to be completed by June 2013." Therefore, the documentation for the Region's assertion was already available to the OIG before the final audit was issued. In addition, Pennsylvania's site inspection report, dated February 28, 2012, stated that: "The PBG has made a commitment to have Phase II completed by May 1, 2013. This inspection report was provided to the OIG on July 16, 2012. In addition, individual contracts and subcontracts for a construction project will not include the overall project schedule, nor should they. Individual contracts will only provide estimates for

construction to be undertaken under that specific contract but not estimates for the overall project. The overall project schedule is developed and maintained by the consulting engineer hired by PBG to manage the overall project.

Should you have any questions regarding this response, please contact Lorraine H. Reynolds, Associate Director of the Office of Infrastructure and Assistance at 215-814-5435.

Attachments

cc: Kathy Sedlak O'Brien, Director (2721A)  
Office of Planning, Analysis and Accountability

