



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Audit Report

EPA Region 3 Reduced Unliquidated Obligations Under Water Program Assistance Agreements

Report No. 11-P-0170

March 15, 2011

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Abbreviations

DC WASA	District of Columbia Water and Sewer Authority
EPA	U.S. Environmental Protection Agency
OIG	Office of Inspector General
ORBIT	Office of the Chief Financial Officer's Reporting and Business Intelligence Tool



At a Glance

Catalyst for Improving the Environment

Why We Did This Review

The U.S. Environmental Protection Agency (EPA) oversees water program assistance agreements as part of its efforts to protect human health and the environment. Our objectives were to determine whether EPA has adequate controls in place to identify and deobligate unneeded funds for water program assistance agreements, and to determine the amount of unliquidated obligations for selected states that could potentially be deobligated.

Background

To achieve clean and safe water goals, EPA provides funds through assistance agreements to states, local governments, and tribes under the water program. Timely review and deobligation of unneeded funds allows these funds to be used on other environmental projects.

For further information, contact our Office of Congressional, Public Affairs and Management at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2011/20110315-11-P-0170.pdf

EPA Region 3 Reduced Unliquidated Obligations Under Water Program Assistance Agreements

What We Found

We identified \$6,130,166 of unneeded funds for three assistance agreements awarded by EPA Region 3 to the District of Columbia, and the region deobligated those funds during the course of the audit. An EPA official said the unneeded funds could not be deobligated sooner because of a construction dispute, nonperformance issues, technical issues, or equipment problems. Further, an EPA project officer and a District of Columbia Water and Sewer Authority official stated that they had not deobligated the unneeded funds because they directed most of their resources to projects related to the American Recovery and Reinvestment Act of 2009. As the funds on these three grants were not needed, they could have been deobligated earlier and awarded to the District of Columbia for other environmental projects.

Because Region 3 deobligated funds remaining on the assistance agreements during the course of our audit, we have no recommendations.

During our audit, we determined that Region 3's escalation process for addressing project delays should be considered a best practice. While EPA has policies for baseline monitoring of assistance agreements, Region 3 accelerates the award or dispute resolution process, and directly contacts the recipient expressing concerns about lack of progress and requests they perform specific tasks to move the project. For example, Region 3 sent a letter informing the recipient of its concern regarding the lack of work progress under the assistance agreement and required the recipient to take specific actions. The letter also informed the recipient that EPA would terminate the assistance agreement if the recipient did not take the required actions. As a result, the recipient took actions to resolve the issues and the project proceeded to construction.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

March 15, 2011

MEMORANDUM

SUBJECT: EPA Region 3 Reduced Unliquidated Obligations Under
Water Program Assistance Agreements
Report No. 11-P-0170

FROM: Arthur A. Elkins, Jr.
Inspector General

A handwritten signature in black ink, appearing to read "Arthur A. Elkins, Jr.", is written over the printed name.

TO: Shawn Garvin
Regional Administrator, Region 3

This is a report on unliquidated obligations under water program assistance agreements conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determination on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The estimated direct labor and travel costs for this report are \$88,708.

Action Required

We made no recommendations; therefore, no action is required. We will close out the report in our tracking system upon issuance. We have no objections to the further release of this report to the public. This report will be available at <http://www.epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact Paul Curtis at (202) 566-2523 or curtis.paul@epa.gov, or Meg Hiatt at (513) 487-2366 or hiatt.margaret@epa.gov.

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Purpose

The purpose of this audit was to determine whether the U.S. Environmental Protection Agency (EPA) has adequately monitored obligations on water program assistance agreements. Our objectives were to determine whether EPA has adequate controls in place to identify and deobligate unneeded funds, and to determine the amount of unliquidated obligations for selected states that could potentially be deobligated.

Background

EPA established a goal to achieve clean and safe water. The goal is to ensure safe drinking water; restore and maintain oceans, watersheds, and their aquatic ecosystems to protect human health; support economic and recreational activities; and provide healthy habitat for fish, plants, and wildlife. EPA achieves this goal by providing funds through assistance agreements to states, local governments, and tribes under the water program. Several EPA offices are involved in the administration and financial management of the assistance agreements. Project officers within EPA program offices are responsible for:

- Completing programmatic baseline monitoring for all active awards and assigned programmatic advanced monitoring activities
- Completing technical closeout of awards and certifying that all programmatic terms and conditions are met
- Assisting and responding to the Grants Management Office, grant specialists, and the finance center in requests for assistance in monitoring, closeout, and overall grants management
- Forwarding any administrative or financial reports and requests to the appropriate office and maintaining appropriate file documentation

The following are also involved in managing assistance agreements:

- Grants Management Offices in headquarters and regional units are principally responsible for all business management aspects associated with negotiating applications and awarding and administering funded projects.
- EPA grant specialists are responsible for completing administrative baseline monitoring for all active awards. They assist and respond to the project officers, program office, and finance center in requests for assistance in monitoring, closing out, and overseeing overall grants management.
- The Las Vegas Finance Center is responsible for grant payments and financial closeout of these agreements.
- The Office of Grants and Debarment serves as the national program manager for administrative grants management and is responsible for

assistance regulations, policy, and guidance; and for assistance-related training.

- The Grants and Interagency Agreements Management Division within the Office of Grants and Debarment is the Grants Management Office responsible for administrative management.

EPA's Policy on Compliance, Review, and Monitoring of Grants and Cooperative Agreements establishes Agency standards for the oversight, monitoring, and closeout of assistance agreements. The policy states that EPA officials are responsible for monitoring programmatic and administrative components of the agreements, including determining whether expended and remaining funds are reasonable.

Noteworthy Achievements

As we conducted our work, we determined that Region 3's escalation process for addressing project delays should be considered a noteworthy achievement. While EPA has policies for baseline monitoring of assistance agreements, Region 3 accelerates the award or dispute resolution process, and directly contacts the recipient expressing concerns about lack of progress and requests they perform specific tasks to move the project. For example, Region 3 sent a letter informing the recipient of its concern regarding the lack of work progress under the assistance agreement and required the recipient to take specific actions. The letter also informed the recipient that EPA would terminate the assistance agreement if the recipient did not take the required actions. As a result, the recipient took actions to resolve the issues and the project proceeded to construction. The escalation process helped resolve the issues sooner so that the project could proceed to achieve environmental outputs described in workplans.

Scope and Methodology

We conducted our audit from January 21, 2010, to February 10, 2011, in accordance with generally accepted government auditing. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis of our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objectives.

We selected three programs for review: (1) Increase System Meeting Health Based Requirements, (2) Reduce Keypoint Source Loadings by 28%, and (3) Wastewater Treatment Construction. For these three programs, the population of the unliquidated obligations totaled \$257 million. For sample testing, we selected the District of Columbia and the states of Montana, New Jersey, New York, and West Virginia, based upon the largest unliquidated amounts prior to fiscal year 2005. The sample included assistance agreements with \$74 million of unliquidated obligations as of December 7, 2009. We interviewed recipient

officials and EPA program officials from the water programs in Regions 2, 3, and 8. We reviewed project files obtained from EPA program officials.

Appendix A contains further details on our scope and methodology.

Results of Review

We identified \$6,130,166 of unneeded funds that should have been deobligated for three assistance agreements awarded by EPA Region 3 to the District of Columbia. Region 3 has since deobligated the unneeded funds. Had Region 3 deobligated these funds timely, such funds would have been available sooner for the District of Columbia Water and Sewer Authority (DC WASA) for other environmental projects.

We did not identify funds to be deobligated in Montana, New Jersey, New York, or West Virginia.

EPA Order 5700.6A2, *Policy on Compliance, Review and Monitoring*, establishes Agency standards for the oversight, monitoring, and closeout of EPA assistance agreements, and implements requirements for the review of compliance with applicable grants management policy and regulations. The order states, “In programmatic baseline monitoring, areas to be reviewed may include: receipt of progress reports, identifying areas of concern cited in the progress reports, whether expended and remaining funds are reasonable....”

Based on our review of water program assistance agreements, we determined that Region 3 had up to \$6,130,166 of unliquidated obligations that should have been deobligated. That amount consisted of three assistance agreements awarded to the DC WASA. Table 1 provides a summary of the three sampled agreements with the unneeded funds available for deobligation.

Table 1: Sampled water program assistance agreements for DC WASA with unneeded funds for deobligation

Assistance agreement number	Obligation amount ^a	Unliquidated obligation amount as of 12/07/2009 ^b	Amounts identified for deobligation
FS99381601	\$18,352,503	\$1,462,103	\$341,514
0011002730	22,868,812	5,976,412	5,523,348
C11002734	8,328,608	784,508	265,304
Total	\$49,549,923	\$8,223,023	\$6,130,166

Source: OIG analysis.

^a Each total obligation amount represents the total funds obligated on the agreement.

^b Unliquidated obligation amounts represent the unused funds on the agreement.

An EPA program official stated that the unneeded funds on these assistance agreements could not be deobligated sooner because of a construction dispute, nonperformance issues, technical issues, or equipment problems found following the completion of the projects. Further, an EPA project officer and a DC WASA official stated that they had not deobligated the unneeded funds because they directed most of their resources to projects related to the American Recovery and Reinvestment Act of 2009. As the funds on these three grants were not needed, they could have been deobligated earlier and awarded to DC WASA for other environmental projects.

Region 3 deobligated \$606,818 on two assistance agreements (FS99381601 and C11002734) in March and April 2010, and the agreements were financially closed. The unneeded funds of \$5,523,348 on agreement 11002730 were deobligated, and the agreement was financially closed, in July 2010.

Agency Response and OIG Comment

Because Region 3 deobligated the amounts remaining on the assistance agreements we identified during our review, we have no recommendations.

Region 3 agreed with our findings and the amounts to be deobligated, and took timely action. Region 3 said it takes seriously its fiduciary responsibility to ensure timely and prudent use of funds made available by Congress for award as grants. Region 3 also stated that deobligated funds are returned to DC WASA for additional projects. No further action is required. Region 3's full response is in appendix B.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed To Amount
No recommendations							
<p>NOTE: Region 3 deobligated \$6.1 million during our audit.</p>						\$6,130	

¹ O = recommendation is open with agreed-to corrective actions pending
 C = recommendation is closed with all agreed-to actions completed
 U = recommendation is undecided with resolution efforts in progress

Details on Scope and Methodology

We reviewed laws and regulations pertaining to assistance agreements, such as the Safe Drinking Water Act and Title 40 Code of Federal Regulations Part 31, *Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments*. We reviewed EPA policies and guidance, such as EPA Order 5700.6A2, *Policy on Compliance Review and Monitoring*, and Policy Announcement 96-04, *Review of Unliquidated Obligations*. We also reviewed assistance agreement guidance posted on the “Grants” intranet website, such as the Project Officer Manual.

We obtained a universe of assistance agreements from the Office of the Chief Financial Officer’s Reporting and Business Intelligence Tool (ORBIT) using transaction codes CG (construction assistance agreements) and GO (all other assistance agreements). The universe consisted of \$12,300,716,837 of unliquidated obligations and \$18,712,711,433 of total obligations as of December 7, 2009. From the universe, we excluded programs related to Alaska native villages, Brownfields, U.S.–Mexico border protection, the American Recovery and Reinvestment Act of 2009, and State Revolving Funds/State and Tribal Assistance Grants, because of ongoing or completed OIG audits in these areas. The remaining population consisted of \$1,742,972,628 of unliquidated obligations and \$4,079,149,390 of total obligations.

From the population, we selected states and programs with the largest unliquidated amounts outstanding for obligations made prior to fiscal year 2005 for review. As discussed earlier, we selected three programs for review: (1) Increase System Meeting Health Based Requirements, (2) Reduce Keypoint Source Loadings by 28%, and (3) Wastewater Treatment Construction. Details on our sample are in table A-1.

Table A-1: Sampled water program assistance agreements

Program results code	Recipient	Number of agreements	Unliquidated obligations as of 12/07/2009	Total obligations as of 12/07/2009
Increase Systems Meeting Health Based Requirements	District of Columbia	1	\$1,462,103	\$2,924,403
Increase Systems Meeting Health Based Requirements	Montana	1	799,990	1,200,700
Increase Systems Meeting Health Based Requirements	New Jersey	7	9,334,769	95,795,580
Increase Systems Meeting Health Based Requirements	New York	5	9,154,134	22,970,100
Increase Systems Meeting Health Based Requirements	West Virginia	1	1,052,629	1,437,900
Reduce Keypoint Source Loadings by 28%	District of Columbia	4	8,974,954	38,148,400
Reduce Keypoint Source Loadings by 28%	Montana	4	7,168,067	8,949,500
Reduce Keypoint Source Loadings by 28%	New Jersey	9	16,678,492	223,240,480
Reduce Keypoint Source Loadings by 28%	New York	5	3,143,831	5,465,300
Reduce Keypoint Source Loadings by 28%	West Virginia	3	8,513,913	11,164,727
Wastewater Treatment Construction	New York	5	7,993,456	75,727,688
TOTAL		45	\$74,276,338	\$487,024,778

Source: OIG analysis.

We developed questionnaires to use in contacting EPA project officers and recipient officials. The objectives of our questionnaires were to determine the process for monitoring the assistance agreements, the status of obligations under the assistance agreements, and the amounts that could potentially be deobligated and applied to other environmental projects. We conducted interviews with the grants management officers from the Grants Management Office, and EPA program officials from the water programs in Regions 2, 3, and 8. We reviewed project files obtained from EPA program officials. We also interviewed officials at Brooke County Public Service District; Berkeley County Public Service Sewer District; West Virginia Division of Environmental Protection; DC WASA; the U.S. Army Corps of Engineers; and other grantees in Montana, New Jersey, and New York.

Prior Reviews

We researched prior EPA OIG and Government Accountability Office reports related to the assistance agreements. We noted five pertinent EPA OIG reports, as listed in Table A-2.

Table A-2: Prior EPA OIG reports related to assistance agreements

Report No.	Title	Date
2007-2-00003	Information Concerning Superfund Cooperative Agreements with New York and New Jersey	October 30, 2006
08-2-0099	Followup on Information Concerning Superfund Cooperative Agreements with New York and New Jersey	March 4, 2008
2008-08-P-0265	EPA Should Continue Efforts to Reduce Unliquidated Obligations in Brownfields Pilot Grants	September 16, 2008
09-N-0150	EPA's Unliquidated Obligations for Grants	May 1, 2009
10-P-0081	EPA Needs Procedures to Address Delayed Earmark Projects	March 22, 2010

Source: OIG analysis.

Internal Control Structure

In planning and performing our audit, we reviewed management controls related to our audit objectives. We examined EPA's fiscal year 2009 Federal Managers' Financial Integrity Act Annual Assurance Letters issued by the regional administrators and assistant administrators for the various EPA program offices to identify any weaknesses pertaining to the unliquidated obligations under assistance agreements. In addition, we examined EPA's Office of Management and Budget Circular A-123 Appendix A reviews of internal controls to identify any weaknesses related to unliquidated obligations under assistance agreements. EPA identified no material weaknesses in its Circular A-123 reviews related to assistance agreements. We did not review the internal controls over EPA's Integrated Financial Management System, Financial Data Warehouse, or ORBIT from which we obtained information, but relied on the review conducted during the audit of EPA's fiscal year 2009 financial statements.

Agency Response to Draft Report

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

February 18, 2011

SUBJECT: Comments on Office of Inspector General Report
*EPA Region 3 Reduced Unliquidated Obligations Under
Water Program Assistance Agreements*
Assignment No. OA-FY10-0080

FROM: James W. Newsom, Assistant Regional Administrator for
Office of Policy and Management, Region 3
/s/ John Armstead for James W. Newsom

TO: Melissa Heist
Assistant Inspector General for Audits

Recognition of the Region's grants oversight and escalation process designed to prompt action and reduce unliquidated and unobligated balances is very much appreciated. The Region takes seriously its fiduciary responsibility to ensure timely and prudent use of funds made available by Congress for award as grants.

It is accurate as stated in the draft audit report, "*EPA Region 3 Reduced Unliquidated Obligations Under Water Program Assistance Agreements*," that the referenced District of Columbia grant projects experienced construction disputes, nonperformance issues, technical issues or equipment problems. For each of the projects in questions, a one (1) year performance period was required to ensure that the projects function properly prior to grant close out. Due to the referenced problems and the required performance review period, the Region was unable to deobligate funds sooner than was actually accomplished. Specifically:

C-110027-34, District of Columbia Water and Sewer Authority

- This grant was awarded under authority of Clean Water Act Title II. Such grants have a one-year project performance period following completion of construction. After completion of the performance period, the recipient's architect/engineer must certify that the project has been completed satisfactorily and operates as intended. As a result, there is at least a one-year gap between the last grant payment for construction activity and the

final grant payment. The gap can be longer if technical issues are identified during the one-year performance period (e.g., operational and performance issues, warranty issues, or contractor disputes). This project had all three.

- Construction was completed and the performance period began in mid-2008. During the performance period (which ended in mid-2009) several equipment nonperformance issues were identified that required correction. The contractor also filed a construction claim and 12 Change Orders extended the construction project period.
- An additional year was required to resolve the nonperformance issues and the construction dispute. In March of 2010 the recipient certified operation and satisfactory performance. Also, in March 2010, the Corps of Engineers completed its oversight of the recipient's final claim for grant payment. A final grant payment of over \$0.5 million was approved on March 18, 2010. The unpaid grant balance of \$265,304 was deobligated March 19, 2010.

C-110027-30, District of Columbia Water and Sewer Authority

- This was a very large and complex construction project involving a major upgrade and expansion of the sludge handling facilities at Blue Plains wastewater treatment plant, a 370 million gallon per day facility. Although EPA grant funding is \$22 million, the entire project is close to \$90 million.
- Similar to the above, this grant was awarded under authority of Clean Water Act Title II. Such grants have a one-year project performance period following completion of construction. After completion of the performance period, the recipient's architect/engineer must certify that the project has been completed satisfactorily and operates as intended. As a result there is at least a one-year gap between the last grant payment for construction activity and the final grant payment. The gap can be longer if technical issues are identified during the one-year performance period.
- Completion of project construction was delayed due to a series of technical issues, many of which were related to modifications of existing equipment. Hundreds of change orders were approved for work not anticipated at the beginning of the contract.
- Construction was completed and the Corps of Engineers conducted a final project inspection in September of 2008. During the performance period (which ended mid-2009), it was determined that additional work was needed to separate chemical drain lines from the acid and caustic stages to prevent a chemical reaction. This new work was essential for proper operation of the funded project. The new work extended the duration of the project.
- The grant was extended to the end of July 2010. The recipient requested a final grant payment in June 2010 and the grant was closed in July 2010

FS-99381601

- This was a safe drinking water grant awarded under authority of section 1452 of the Safe Drinking Water Act.
- The grant was \$18 million. At an 80% federal share, the eligible cost was \$22 million.
- The final inspection was conducted September 2007.

- There were two grant extensions due to punch list items needing completion and also one contract needing settlement.
- The first extension was to April 30, 2008 and the second to January 31, 2010.
- The Final Payment Recommendation was issued by the Corps of Engineers in February 2010.
- The grant was decreased by \$341,513.87 on April 6, 2010 and financially closed out.
- A closeout letter was issued June 9, 2010.

Grant completion and fund deobligation was influenced entirely by successful completion of the construction projects and demonstration that the facilities were functioning as intended.

Finally, the “Results of Review” section of the draft report states that the deobligated funds could have been available sooner for other environmental projects. It should be clarified that deobligated funds are returned to DC WASA for additional projects.

Distribution

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