



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Site Visit Report

American Recovery and Reinvestment Act Site Visit of Wastewater Treatment Plant—Phase II Improvements Project, City of Ottawa, Illinois

Report No. 11-R-0700

September 23, 2011



Report Contributors:

Michael Rickey
Larry Brannon
Patrick McIntyre

Abbreviations

CFR Code of Federal Regulations
EPA U.S. Environmental Protection Agency

Cover photo: New rotary press system at the Ottawa, Illinois, wastewater treatment plant construction site. (EPA OIG photo)

Hotline

To report fraud, waste, or abuse, contact us through one of the following methods:

e-mail: OIG_Hotline@epa.gov
phone: 1-888-546-8740
fax: 703-347-8330
online: <http://www.epa.gov/oig/hotline.htm>

write: EPA Inspector General Hotline
1200 Pennsylvania Avenue NW
Mailcode 8431P (Room N-4330)
Washington, DC 20460



At a Glance

Catalyst for Improving the Environment

Why We Did This Review

The U.S. Environmental Protection Agency, Office of Inspector General, conducts site visits of American Recovery and Reinvestment Act of 2009 (Recovery Act) clean water and drinking water projects. The purpose of the visits is to confirm compliance with selected Recovery Act requirements. We selected the wastewater treatment plant project in the City of Ottawa, Illinois, for review.

Background

The city received a \$7,720,293 loan from the State of Illinois under the Water Pollution Control Loan Program. The loan included \$3,860,147 in Recovery Act funds. The city will use these funds to rehabilitate and improve the city's wastewater treatment plant.

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/2011/20110923-11-R-0700.pdf

American Recovery and Reinvestment Act Site Visit of Wastewater Treatment Plant—Phase II Improvements Project, City of Ottawa, Illinois

What We Found

We conducted an unannounced site visit of the wastewater treatment plant project in the City of Ottawa, Illinois. As part of our site visit, we toured the project, interviewed city representatives and engineering and contractor personnel, and reviewed documentation related to Recovery Act requirements.

The city could not provide sufficient documentation to support that some manufactured goods used on the project met the Buy American requirements of Section 1605 of the Recovery Act. In these instances, the documentation did not demonstrate clearly that items were either manufactured in the United States or substantially transformed in the United States. As a result, the state's use of over \$3.8 million of Recovery Act funds on the Ottawa project is prohibited by Section 1605 of the Recovery Act, unless a regulatory option is exercised.

What We Recommend

We recommend the Regional Administrator, Region 5, employ the procedures set out in Title 2 of the Code of Federal Regulations (CFR) to resolve the noncompliance on the Ottawa project. In the event that the region decides to retain foreign-manufactured goods in the Ottawa project under 2 CFR §176.130 (c)(3), the region should either “reduce the amount of the award by the cost of the steel, iron, or manufactured goods that are used in the project or . . . take enforcement or termination action in accordance with the agency's grants management regulations.”

Neither the region nor the city agreed with our conclusion that the documentation was not sufficient to support Buy American compliance for some items. Based on additional documentation provided by the city, we agree that some items are now sufficiently supported, and we have revised the report accordingly. However, documentation is still insufficient in four instances.



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

THE INSPECTOR GENERAL

September 23, 2011

MEMORANDUM

SUBJECT: American Recovery and Reinvestment Act Site Visit of
Wastewater Treatment Plant—Phase II Improvements Project,
City of Ottawa, Illinois
Report No. 11-R-0700

FROM: Arthur A. Elkins,
Inspector General

A handwritten signature in black ink, appearing to read "Arthur A. Elkins".

TO: Susan Hedman
Regional Administrator, Region 5
U.S. Environmental Protection Agency

This is our report on the subject site visit conducted by the Office of Inspector General of the U.S. Environmental Protection Agency (EPA). The report summarizes the results of our site visit to the Wastewater Treatment Plant—Phase II Improvements Project, City of Ottawa, Illinois.

We performed this site visit as part of our responsibility under the American Recovery and Reinvestment Act of 2009 (Recovery Act). The purpose of our site visit was to determine the city's compliance with selected requirements of the Recovery Act pertaining to the Clean Water State Revolving Fund Program. The Illinois Environmental Protection Agency approved the city's project. The city received a \$7,720,293 loan, including \$3,860,147 in Recovery Act funds.

The estimated direct labor and travel costs for this report are \$170,910.

Action Required

The Agency disagreed with our recommendation, and the recommendation is considered unresolved with resolution efforts in progress. In accordance with EPA Manual 2750, Chapter 3, Section 6(f), you are required to provide us your proposed management decision for resolution of the findings contained in this report before you formally complete resolution with the recipient. As part of the audit resolution process, your proposed decision is due in 120 days, or on January 20, 2012. To expedite the resolution process, please e-mail an electronic version of your proposed management decision to adachi.robert@epa.gov.

Your response will be posted on the Office of Inspector General's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal. We have no objection 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 Melissa Heist, Assistant Inspector General for Audit, at (202) 566-0899 or heist.melissa@epa.gov; or Robert Adachi, Product Line Director, at (415) 947-4537 or adachi.robert@epa.gov.

Table of Contents

Purpose	1
Background	1
Scope and Methodology	1
Results of Site Visit	2
Buy American Requirements.....	2
Wage Rates	11
Limits on Use of Funds and Reporting Requirements.....	11
Contract Procurement	12
Recommendation	12
City, Region 5, and State Responses	12
Office of Inspector General Comment	13
Status of Recommendations and Potential Monetary Benefits	15

Appendices

A City of Ottawa Response to Draft Report	16
B Agency Response to Draft Report	22
C Illinois EPA Response to Draft Report	38
D Distribution	39

Purpose

The purpose of our unannounced site visit was to determine whether the City of Ottawa, Illinois, complied with selected requirements of the American Recovery and Reinvestment Act of 2009 (Recovery Act), P.L. 111-5, pertaining to the wastewater treatment plant project jointly funded by the Recovery Act and the Illinois Water Pollution Control Loan Program.

Background

In May 2009, the U.S. Environmental Protection Agency (EPA) awarded over \$177 million of Recovery Act funds to the State of Illinois to capitalize its revolving loan fund, which provides financing for construction of wastewater treatment facilities and other authorized uses. In addition to the regulatory requirements at Title 40 Code of Federal Regulations (CFR), Chapter 1, Subchapter B, the assistance award was subject to 2 CFR Part 176, “Requirements for Implementing Sections 1512, 1605, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards.”

In January 2010, the city accepted a \$7,720,293 loan from the Illinois Environmental Protection Agency. The terms of the loan were based on an annual fixed loan rate of zero percent on a 20-year note. The loan included \$3,860,147 in Recovery Act funds, of which half is to be repaid to the state. The loan balance was funded by the state’s Water Pollution Control Loan Program. The city used these funds to rehabilitate and improve the city’s wastewater treatment plant.

Scope and Methodology

Due to the time-critical nature of Recovery Act requirements, we did not perform this assignment in accordance with generally accepted government auditing standards. Specifically, we did not perform certain steps that would allow us to obtain information to assess the city’s internal controls and any previously reported audit concerns. As a result, we do not express an opinion on the adequacy of the city’s internal controls or compliance with all federal, state, or local requirements.

We made our unannounced site visit on October 5–8, 2010. On November 18–19, 2010, and again on April 4–5, 2011, we visited the city to perform additional work related to Buy American compliance. During our visits, we:

1. Toured the project
2. Interviewed city, engineering, and contractor personnel
3. Reviewed documentation maintained by the city, its engineer, and contractors on the following matters:
 - a. Buy American requirements under Section 1605 of the Recovery Act

- b. Wage rate requirements under Section 1606 of the Recovery Act
- c. Limits on funds and reporting requirements under Sections 1604 and 1512 of the Recovery Act
- d. Contract procurement

Results of Site Visit

The city could not provide sufficient documentation in four instances to assure compliance with the Buy American requirements of the Recovery Act. Unless the city can comply with Buy American requirements or obtain a waiver from EPA, the city's project to rehabilitate its wastewater treatment plant would not be eligible for Recovery Act funds. We did not identify any other Recovery Act issues. We summarize specific results below.

Buy American Requirements

Ottawa did not provide sufficient documentation to show that some manufactured goods used in the project, funded in part by the Recovery Act, were produced or manufactured in the

United States. In two instances, we identified materials on site as foreign made. The federal grant to capitalize Illinois's revolving loan fund with Recovery Act funds required that all projects use manufactured goods produced in



Foreign-made steel pipe for the Ottawa project. (EPA OIG photo)

the United States, unless certain exceptions apply as provided for in 2 CFR §176.60. The state included the Buy American requirements in the loan agreement with Ottawa. However, we do not believe that the city fully understood the procedures necessary to determine and document compliance. Further, the state had not visited the project site.

Because the city cannot show that it complied with the Buy American requirements and has not obtained a waiver from EPA, the treatment plant's rehabilitation project presently is not eligible for Recovery Act funding. As a result, the state's use of over \$3.8 million of Recovery Act funds on the Ottawa project is prohibited by Section 1605 of the Recovery Act, unless a regulatory option is exercised.

Title 2 CFR §176.60 states that Section 1605 of the Recovery Act prohibits the use of Recovery Act funds for a project unless all of the iron, steel, and manufactured goods used in the project are produced in the United States. The regulation requires that this prohibition be consistent with U.S. obligations under international agreements, and provides for a waiver under three circumstances.

Title 2 CFR §176.140(a)(1) defines a manufactured good as a good brought to the construction site for incorporation that has been processed into a specific form and shape, or combined with raw materials to create a material that has different properties than the properties of the individual raw materials. There is no requirement with regard to the origin of components in manufactured goods, as long as the manufacture of the goods occurs in the United States.¹ In the case of a manufactured good that consists in whole or in part of materials from another country, a domestically manufactured good is one that has been substantially transformed in the United States into a new and different manufactured good distinct from the materials from which it was transformed.²

To assist recipients of Recovery Act funds, EPA developed several guidance documents and Internet-based training modules explaining the concept of substantial transformation and the types of documentation needed to support a substantial transformation determination. Key documents include:

- *Determining Whether “Substantial Transformation” of Components Into a “Manufactured Good” Has Occurred in the U.S.: Analysis, Roles, and Responsibilities*, dated October 22, 2009 (Determining Substantial Transformation)
- *Buy American Provisions of ARRA Section 1605 Questions and Answers—Part 1*, revised September 22, 2009 (Buy American Q&A Part 1)
- *Buy American Provisions of ARRA Section 1605 Questions and Answers—Part 2*, dated November 16, 2009 (Buy American Q&A Part 2)

These guidance documents provide:

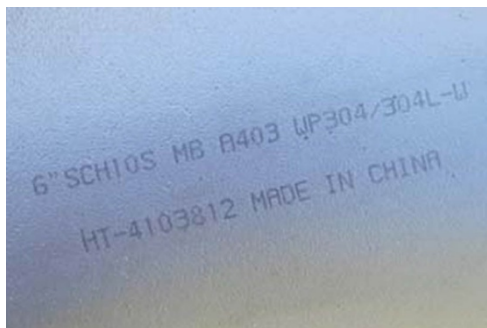
- An explanation of substantial transformation
- A matrix of questions for determining whether substantial transformation has occurred in the United States
- The requirements for the type of documentation needed to support substantial transformation
- The need to retain the documentation to support compliance with Section 1605 of the Recovery Act

During our initial site visit, we noted that stainless steel drop pipes had manufacturing markings from Malaysia, China, and Taiwan. We also noted that

¹ Title 2 CFR §176.70(a)(2)(ii) and Title 2 CFR §176.160(a), “Domestic iron, steel, and/or manufactured good.”

² Title 2 CFR §176.160(a), “Domestic iron, steel, and/or manufactured good.”

some of the electrical panels were made in Mexico. To explore this issue further, we reviewed supporting documentation to confirm Buy American compliance for 57 items listed in various sections of the Bidding, Contract, and Specifications document for the Ottawa project. The supporting documentation for 53 items was sufficient to confirm compliance with the Buy American requirements.



Pipe at the Ottawa project site labeled as made in Malaysia (*left*) and China. (EPA OIG photo)

The documentation provided for the equipment items in table 1 did not provide meaningful and specific technical descriptions of the manufacturing process to determine whether the items were manufactured or substantially transformed in the United States.

Table 1: Equipment for which supporting documentation was not sufficient to support Buy American compliance

Equipment	Model	No. units	Company
Submersible pumps	Flygt NP3085-183	2	ITT Water and Wastewater U.S.A.
Submersible chopper pump	Flygt FP3127.390	1	ITT Water and Wastewater U.S.A.
Positive displacement blowers	Kaeser EB 420C	2	Kaiser Compressors, Inc.
Centrifugal blowers	KTurbo TB 100-0.6S	3	KTurbo USA

Source: OIG analysis.

There was no clear support that the equipment had been substantially transformed into a “new and different manufactured good distinct from the materials from which it was transformed,” as defined in 2 CFR 176.160. In all four instances, the equipment items were assembled in the United States by companies with foreign affiliations. The supporting documentation did not provide clear and persuasive evidence that the assembly processes completed in the United States were sufficiently complex or meaningful to qualify as substantial transformation.

Recipients of Recovery Act funds must have adequate, project-specific documentation to support compliance with Buy American requirements. Without such documentation, compliance cannot be credibly and meaningfully

demonstrated.³ For items substantially transformed in the United States, the documentation must be meaningful, informative, and contain specific technical descriptions of the activities in the actual transformation process. The documentation cannot simply assert a conclusion or describe an end state.⁴ Substantial transformation determinations are always made on a case-by-case basis and cannot occur by undergoing a simple combining or packaging operation.⁵ Assembly operations that are minimal or simple, as opposed to complex or meaningful, generally will not result in a substantial transformation.⁶ Design, planning, procurement, component production, or any other step prior to the process of physically working on and bringing together components to form an item incorporated into the project cannot constitute or be a part of substantial transformation. Activities that occur at the project site are generally considered construction, not manufacturing.⁷

Flygt Pumps

ITT Water and Wastewater U.S.A. provided two letters to Ottawa to support that the submersible pumps it supplied complied with Buy American requirements. The first letter, dated February 24, 2010, made general statements about Buy American requirements and EPA guidance, and asserted, “With the strength of ITT’s nearly 10 pump factories located in more than five states, ITT WWW will comply fully with this requirement by assembling Flygt brand model **NP3085 and FP3127** submersible pumps listed on quote **2009-CHI-1810** in a facility located in the United States. . . .”

The statement is both prospective and too general to draw any conclusion regarding the actual manufacturing process. EPA’s Buy American Q&A Part 2 states that documentation should include meaningful, informative, and specific technical descriptions of the activities in the actual process and not simply assert a conclusion or describe an end state.

On June 1, 2011, a business development manager for ITT Water and Wastewater U.S.A. certified that the Flygt model NP3085-183 submersible pumps and the FP3127.390 submersible chopper pump were substantially transformed based on processes performed in the United States that were complex and meaningful. According to the certification, the processes took a substantial amount of time, were costly, were completed by highly skilled labor, required a number of different processes, and added substantial value. To support this claim, the

³ *Buy American Provisions of ARRA Section 1605 Questions and Answerers—Part 2*, dated November 16, 2009, question 5, p. 4.

⁴ *Determining Whether “Substantial Transformation” of Components Into a “Manufactured Good” Has Occurred in the U.S.: Analysis, Roles, and Responsibilities*, dated October 22, 2009, p. 6.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*, pp. 7 and 8.

manufacturer provided additional detail and pictures of its Pewaukee, Wisconsin, facility in a letter, also dated June 1, 2011.

The June 1, 2011, letter stated that prior to the manufacturing process, significant design, facility development, engineering, logistics, scheduling, and training was accomplished in addition to sales company activities, which included defining, sizing, and selecting proper equipment and ordering materials, which took an average of 48 minutes per pump unit. Materials handling, which included receipt of individual components, inventorying of materials, material picking, cable cutting, and data plate printing, took an average of 82 minutes per pump unit.

This information is irrelevant when determining whether goods are manufactured in the United States. EPA guidance, *Determining Substantial Transformation*, states that design, planning, procurement, component production, or any other step prior to the process of physically working on or bringing together the components to form an item incorporated into the project cannot constitute or be a part of substantial transformation.

EPA's *Determining Substantial Transformation* also states that no good "satisfies the substantial transformation test by . . . having merely undergone '[a] simple combining or packaging operation.'"⁸ Secondly, "[a]ssembly operations which are minimal or simple, as opposed to complex or meaningful, will generally not result in a substantial transformation."⁹ The guidance also states:

An oversimplified summary of substantial transformation analysis is to ask whether the activities in the U.S. substantially transformed the components that go into the completed item. . . . Because assembly is in most cases further down the spectrum towards non-transformative work, a more demanding standard is appropriate. . . .

According to the Flygt USA Internet site (<http://www.flygtus.com>), ITT Water and Wastewater is an international company headquartered in Sweden. Manufacturing facilities are in Sweden (main plant), China, and South America. The company has a corporate office, which supports sales and services, and branch offices in the United States. The Internet site lists no manufacturing facilities in the United States. For an international company with manufacturing facilities throughout the world, it is important to clearly understand the roles of related companies, including detailed descriptions and cost information of materials and components

⁸ *Determining Whether "Substantial Transformation" of Components Into a "Manufactured Good" Has Occurred in the U.S.: Analysis, Roles, and Responsibilities*, dated October 22, 2009, p. 6.

⁹ *Ibid.*

that are used in the manufacturing processes performed by related companies. EPA's Buy American Q&A Part 1 states that if all the pieces are shipped by one company with the intent of providing all components necessary to be assembled in a functional good, then substantial transformation would not occur and the product would not be a U.S.-made good.

We do not believe that the manufacturer's letters adequately support its claim of substantial transformation by complex or meaningful assembly. We find no evidence that components were transformed. The company did not provide information about the manufacturing processes completed outside the United States by related companies. The company did not support its claim that the processes were costly and tripled the value of the components with any type of cost breakdown or detail. The company did not provide a description as to the type of skills and certifications needed by the labor force to assemble and test the pumps. Without detailed descriptions of the entire manufacturing process and supporting documentation, we cannot determine whether the Flygt pumps met the Buy American requirements.

Kaeser Blower

Kaeser Compressors, Inc., provided a letter to Ottawa dated October 29, 2010, to support substantial transformation. The letter stated that for Recovery Act-funded projects, the company purchases a base chassis of



Kaeser blower. (EPA OIG photo)

proprietary designed components from the parent company, Kaeser Kompressoren, GmbH, located in Germany. This chassis consists of components such as the blower block, silencer base, and enclosure. The items added in the United States include the electric motor, pulleys, belts, relief valves, and expansion joints. The letter described the building process as mounting and aligning the motor and v-belt pulley drive, adjusting and installing the pressure relief valve(s), and assembling and installing of check valves, fan motors, gauges, and switches. Depending on the size and complexity of the specification, additional wiring and setting of ancillary devices may be required. Each unit requires 16 to 20 hours to build. The assembly procedures, combined with the U.S.-sourced items, account for 35 to 50 percent of the package's total value.

The October 29 letter does not provide a meaningful and specific technical description of the assembly process in the United States that would enable us to determine whether the Ottawa blowers were manufactured or substantially transformed in the United States.



Kaeser blower label, indicating product was made in Germany. (EPA OIG photo)

Product literature and physical inspection of the equipment at the construction site showed that the chassis manufactured in Germany was essentially a blower without a drive system. The documentation did not explain how the addition of the drive system (motor, pulley, and belts) substantially changed or transformed the character and use of the blower chassis manufactured in Germany and imported into the United States. The number of assembly hours in the United States and the added value are not meaningful without some context, i.e., a demonstration of the relationship of the assembly time in the United States to the number of hours and operations spent to manufacture the chassis obtained from the parent company in Germany. Finally, the letter is too general and does not specifically address the assembly of the blowers incorporated into the Ottawa project. Without additional documentation, there is no evidence that blowers have been substantially transformed into a “new and different manufactured good distinct from the materials from which it was transformed,” as described in 2 CFR 176.160. This documentation should provide details about the entire manufacturing and assembly process to determine that the assembly process in the United States was complex or meaningful as required to qualify as substantial transformation.

KTurbo Blower

The sole support for three KTurbo TB-100-0.6S multistage centrifugal blowers was a May 31, 2010, signed statement by the sales manager that “all iron, steel an (sic) Manufactured Goods provided by the manufacturer above is made in the United States in full conformance with requirements of ARRA Section 1605 Buy American requirements.” However, catalog literature showed that KTurbo’s manufacturing facility, head office, and research and development center were located in the Republic of Korea. KTurbo had an assembly and testing facility in Batavia, Illinois, near

Chicago. In catalog photographs, the Batavia assembly and testing facility resembled a warehouse and training facility. Information on the website <http://www.industrydirect.com> stated that KTurbo's facility in Batavia was less than 2,000 square feet in size, was subcategorized as a warehouse, and employed one to four staff.

In October 2009, Region 5, along with a contractor, visited KTurbo's Batavia facility. At that time, no manufacturing was taking place. KTurbo representatives described its intended assembly/manufacturing process. Region 5 and the contractor were told that part of the blower assembly would be imported, and part of the assembly would be done in Batavia.



KTurbo blower parts at the Batavia facility.
(photo courtesy City of Ottawa)



Chassis assembled in Batavia from parts shipped from Korea. (photo courtesy City of Ottawa)

Both the contractor's report and the region's site visit summary included detail about the number or percentage of components that would be sourced from the United States. However, 2 CFR §176.70(a)(2)(ii) states, "there is no requirement with regard to the origin of components or subcomponents . . . as long as the manufacturing takes place in the United States." Therefore, the source of components cannot be part of the substantial

transformation determination. Further, EPA's Buy American Q&A Part 1 states that all substantial transformation cases are matters of degree; however, the transformation or change to imported materials brought about by manufacturing or other processes in the United States must be substantial. Simple assembly or stand-alone testing is not sufficient to support substantial transformation of manufactured goods in the United States.

Both Region 5 and Office of Water staff believe that substantial transformation could occur at the Batavia, Illinois, facility. We have not been provided sufficient documentation to determine that substantial transformation can or will occur at Batavia. We cannot determine whether the assembly taking place in Batavia is complex or meaningful, or simple assembly. Further, because the blower parts are manufactured in a related foreign facility and sent to the United States for final assembly, we need detailed descriptions of the manufacturing process

and supporting documentation to determine whether the KTurbo blowers meet Buy American requirements. As previously noted, Buy American Q&A Part 1 states that if all the pieces are shipped by one company with the intent of providing all components necessary to be assembled in a functional good, then substantial transformation would not occur and the product would not be a U.S.-made good.

On April 19, 2011, KTurbo USA, Inc., in Batavia, Illinois; KTurbo, Inc., located in Chungbuk, Korea; and certain principals were placed on the federal government's Excluded Parties List System for an indefinite period. The companies and principals were suspended from receiving federal funds based on an indictment or other adequate evidence to suspect the commission of an offense that is a cause for debarment. The company provided certifications to multiple municipalities containing allegedly fraudulent statements that KTurbo blowers were manufactured in the United States and were in conformance with the Buy American provisions in the Recovery Act.

We do not believe that the city initially understood the process and documentation necessary to comply with Buy American requirements prior to our visit. The city relied on its contractor and its resident engineer to assure compliance. The city included the Buy American requirement in the construction contract, but did not include any specific Buy American compliance responsibilities in the engineering agreement. About 8 months after the initiation of construction, the city assigned the resident engineer to document Buy American compliance. The contractor obtained the manufacturer documentation and submitted the information to the resident engineer. We found no evidence that the city was directly involved in reviewing Buy American documentation.

The contractor relied on the resident engineer, as the representative of the city, to determine the adequacy of the Buy American certifications and supporting documentation submitted by the supplier. The engineer reviewed the documentation as part of the shop drawing review. At the time of our review, the resident engineer stated that the contractor and the city, not the engineering firm, were responsible for ensuring Buy American compliance. The resident engineer noted that the engineering firm had neither received any training to understand whether Buy American certifications were adequate or legitimate, nor received any additional methods to research this information. In cases where the contractor submitted shop drawing information without Buy American documentation, the resident engineer returned the submission to the contractor for appropriate followup. On October 29, 2010, during a weekly status meeting, the city assigned additional responsibility to the resident engineer to document Buy American compliance based on information provided by the contractor.

The city also told us that the state had not visited the project. We spoke with a state project manager familiar with the Ottawa project. He stated that the state had

done little on-site monitoring of municipal Recovery Act projects because of the large number of projects and the state's limited resources. The project manager also said that he was not aware that the city had contacted the state to request guidance related to areas of uncertainty specific to federal requirements when using Recovery Act funds for its project.

The city, its engineering firm, and contractors used information we provided during the site visits to enhance their understanding of Buy American requirements, which assisted them in making Buy American determinations for the remainder of the project. The engineering firm used EPA guidance to reject inadequate Buy American documentation. The foreign-made steel pipes and electrical panels identified during our site visit were replaced with American-made goods. The prime contractor rejected questionable equipment and asked vendors to provide goods that were better supported as being manufactured or substantially transformed in the United States.

However, based on our review of supporting documentation for four items, the city did not comply with Buy American requirements. The Recovery Act does not permit the use of Recovery Act funds unless the requirements of Section 1605 are met. Consequently, the state's use of Recovery Act funds on the Ottawa project is not permitted.

Wage Rates

The construction contractor and subcontractor complied with Section 1606 of the Recovery Act. We interviewed all general contractor and subcontractor employees at the construction site on October 5, 2010, to obtain information about their job duties, training, qualifications, and compensation. We compared the pay rates to those specified by the U.S. Department of Labor for workers in La Salle County, Illinois, where Ottawa is located. All employees were paid union wages equal to or above the required wage rate specified by the U.S. Department of Labor.

Limits on Use of Funds and Reporting Requirements

Ottawa complied with Recovery Act Sections 1604 and 1512(c). Based on our review of the loan document and a visual inspection of the construction site, Ottawa has not used Recovery Act funds for any prohibited facilities as described in Section 1604 of the Recovery Act. We also reviewed quarterly reports and supporting documentation prepared by the city's project engineer and submitted to the state to verify that Ottawa complied with the reporting requirements in Section 1512(c) of the Recovery Act.

Contract Procurement

We did not identify any issues of concern related to contract procurement. Ottawa publicly advertised for sealed bids and received 10 bids. Based on the engineer's recommendation, the city awarded the contract to the lowest bidder. We reviewed the bid tabulation and also contacted several of the unsuccessful bidders to obtain their viewpoint on the bidding process. We did not identify any inappropriate or unfair bidding practices.

Recommendation

We recommend that the Regional Administrator, Region 5:

1. Employ the procedures set out in 2 CFR §176.130 to resolve the noncompliance on the Ottawa project. In the event that the region makes a determination to retain foreign-manufactured goods in the Ottawa project under 2 CFR§176.130 (c)(3), the region should either “reduce the amount of the award by the cost steel, iron, or manufactured goods that are used in the project or . . . take enforcement or termination action in accordance with the agency’s grants management regulations.”

City, Region 5, and State Responses

The OIG received comments on the draft report from the City of Ottawa, Region 5, and the Illinois Environmental Protection Agency. The City of Ottawa also provided supplemental documentation to support its comments.

The city disagreed with our conclusion that the documentation for several items did not support compliance with Buy American requirements. The city stated that it had worked diligently to comply and noted that the contract documents did not require the general contractor to provide Buy American documentation until the iron, steel, or manufactured goods were ready to be incorporated into the project. The city stated that the final assessment of Buy American compliance could not be determined until the projected construction completion date of October 15, 2011. The city stated that it had provided sufficient documentation for all but one item identified in the draft report, the KTurbo blowers, which the city believed would be substantially transformed in the company's Batavia, Illinois, facility. The city planned to send additional documentation in the near future. The city also stated that it believed that the Kaeser blowers were acceptable based on the company's October 29, 2010, letter and an understanding that similar blowers were found acceptable to EPA on another project. The full text of the city's comments and the OIG's detailed response are included in appendix A.

Region 5 did not agree with the conclusions in the draft report. The region provided an initial response on June 23, 2011, and stated that it would review the Buy American documentation for compliance by July 29. In its second response,

the region concluded that the documentation was sufficient to support Buy American compliance for all the items questioned in the draft report except for the KTurbo blowers, which were still being built. The region stated that it would monitor the process and take corrective action if it subsequently found that the item did not meet the test of substantial transformation. The region stated that it would not reduce the amount of Recovery Act funds applied to this project at this time. The region's second response is in appendix B.

Illinois EPA agreed with our recommendation. A copy of the state's response is in appendix C.

Office of Inspector General Comment

Our recommendation remains unchanged. We modified our report based on the comments and additional documentation. However, we do not agree with the city and the region that all items except the KTurbo blowers comply with Buy American requirements. We believe that supporting documentation is not sufficient to support Buy American compliance in four instances. Except for the June 21, 2011, letter from KTurbo USA, neither the city nor the region identified any new documentation that we had not already evaluated during the course of our review.

The documentation provided for the questioned equipment items did not provide sufficiently meaningful and specific technical descriptions of the manufacturing process to enable us to determine whether the items were manufactured or substantially transformed in the United States. The companies did not provide clear support that the equipment had been substantially transformed into a "new and different manufactured good distinct from the materials from which it was transformed," as defined in 2 CFR 176.160. In all four instances, the equipment items were assembled in the United States by companies with foreign affiliations. The supporting documentation did not provide clear and persuasive evidence that the assembly processes completed in the United States were complex or meaningful to support that substantial transformation occurred.

With regard to the Kaeser blowers, the region stated that EPA Office of Water staff engineers provided "anticipatory" oversight to address the issue of substantial transformation to determine whether the products were actually manufactured in the United States. Office of Water staff engineers opined that substantial transformation is occurring at Kaeser's Fredericksburg, Virginia, facility, and that the products are therefore made in the United States. An Office of Water e-mail message to Kaeser, dated November 1, 2010, documents this opinion. During our review, we discussed the November 1, 2010, e-mail with Office of Water staff. We were not made aware that the Office of Water had any additional information beyond Kaeser's October 29, 2010, letter, which we determined to be insufficient in this report. EPA's Buy American Q&A Part 2 states, "Substantial transformation determinations are made by assistance

recipients . . . EPA does not and will not make determinations as to substantial transformations . . . EPA's role under §1605 is to review waiver requests. . . .” Office of Water staff providing an opinion on substantial transformation to Kaeser is inconsistent with EPA's guidance and its role under Section 1605 of the Recovery Act.

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
1	12	Employ the procedures set out in 2 CFR §176.130 to resolve the noncompliance on the Ottawa project. In the event that the region makes a determination to retain foreign-manufactured goods in the Ottawa project under 2 CFR§176.130 (c)(3), the region should either "reduce the amount of the award by the cost of the steel, iron, or manufactured goods that are used in the project or . . . take enforcement or termination action in accordance with the agency's grants management regulations."	U	Regional Administrator, Region 5		\$3,860	

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

City of Ottawa Response to Draft Report

City Commissioners

Daniel Aussem
Accounts & Finance

Wayne A. Eichelkraut, Jr.
Public Property

Dale F. Baxter
Streets & Public Improvements

Edward V. Whitney
Public Health & Safety

CITY OF OTTAWA

ROBERT M. ESCHBACH
MAYOR

301 W. MADISON STREET, OTTAWA, ILLINOIS 61350



Pool, Leigh & Kopko
Corporation Counsel

Donald J. Harris
City Treasurer

David A. Noble
City Engineer

Shelly L. Munks
City Clerk

Phone: 815-433-0161
Fax: 815-433-2270
www.cityofottawa.org

June 22, 2011

Robert Adachi
Director of Forensic Audits
USEPA
Office of Inspector General
Washington, DC 20460

Re: Draft Report:
American Recovery and Reinvestment Act Site Visit of
Wastewater Treatment Plant-Phase II Improvements Project
City of Ottawa, Illinois
Project No. OA-FY11-A-0001

This is the City of Ottawa response to the Draft Report.

In February 2009, the ARRA program was passed in an effort to put Americans back to work. The program was designed to support projects that were “shovel ready.” The plans and specifications for the project at issue here, the City of Ottawa Wastewater Treatment Plant, were substantially complete at the time ARRA was passed. It was the perfect “shovel ready” project. Being one of the first projects funded under ARRA has brought many challenges. First, the construction documents had to be modified to comply with ARRA requirements. Second, and more importantly, both the City of Ottawa and the enforcing agencies have had to struggle with the interpretation and application of ARRA’s requirements. It has become clear that all the parties—the City, the USEPA and the Inspector General—have been working their way through the requirements of the ARRA and trying to give life and “teeth” to those requirements. It is unfair to suggest that the City alone has been uninformed and ill-prepared when the

representatives of other government agencies have expressed similar confusion over some of the ARRA's requirements. As the federal agencies made determinations that affected the City's obligations, the City worked diligently to comply with those determinations and to gather the information necessary to satisfy USEPA and the OIG.

OIG Response 1: We recognize that the Recovery Act's Buy American requirements were new, and that projects were required to be under contract or construction 12 months after the Recovery Act was signed. The city accepted funds from the State of Illinois through the Water Pollution Control Loan Program. The loan agreement between the city and the Illinois Environmental Protection Agency stated that acceptance of the loaned funds required the city to "comply with any future reporting and/or accountability requirements that may result as a condition for receiving ARRA funds." Further, paragraph 16 of the loan agreement's standard conditions required Buy American compliance and incorporated by reference a notice on the Illinois Environmental Protection Agency's Internet site that provided guidance on Buy American compliance. If the city was unclear about the procedures necessary to fulfill its responsibilities under the loan agreement, the city should have sought guidance from the state. In addition, EPA published several training and guidance documents on its public Internet site to assist recipients in meeting Recovery Act requirements.

Initially, the City would note that the contract documents for the project require the general contractor to provide and document that "all iron, steel and manufactured goods used in the project are produced in the United States" as defined in Section 1605 of ARRA. However, the contract documents also provide that such documentation is not required until the iron, steel or manufactured goods are ready to be incorporated into the project. The work is currently only 93% complete with an expected completion date of October 15, 2011. Consequently, there are products for which the required documentation has not yet been provided to the City. Only when the project is complete and all the documentation has been provided can a final assessment of the City's compliance with ARRA be reached.

OIG Response 2: The city's procedure to wait until iron, steel, or manufactured goods were ready to be incorporated into the project before confirming compliance with Buy American requirements was risky and not fully consistent with regulations. For example, both 2 CFR 176.100, "Timely determination concerning the inapplicability of section 1605 of the Recovery Act," and 2 CFR 176.150, "Notice of Required Use of American Iron, Steel, and Manufactured Goods - Section 1605 of the American Recovery and Reinvestment Act of 2009," suggest a waiver process that takes place before funds are obligated. Further, 2 CFR 176.120, "Determinations on late requests," provides specific procedures for instances in which a recipient requests a determination regarding the inapplicability of Section 1605 after obligating Recovery Act funds. The award official may deny the request. If an exception determination is made after funds are obligated for a project, the award official must amend the award to allow the use of foreign iron, steel, and/or relevant manufactured goods. In certain circumstances, the award official must adjust the award amount, redistribute budgeted funds, and/or take other appropriate actions to cover the costs associated with acquiring or using the foreign iron, steel, or manufactured goods. By waiting until iron, steel, or manufactured goods were ready to be incorporated or already installed to confirm compliance with Buy American requirements, the

city limited its ability to substitute foreign products with domestic products and increased its risk of losing federal assistance. The city should have determined compliance before products and materials were ordered.

Documentation for the 18 Items

Since the OIG report was received, the documentation for 17 of the 18 items listed as not having “meaningful, informative, and specific technical descriptions of activities to determine if the items were manufactured or substantially transformed in the United States” has been sent to OIG. The City believes the documentation for these 17 items now shows they were manufactured or substantially transformed in the U.S. and ask for OIG to review the documentation. The documents are not included with this response since they have been transmitted to OIG with acknowledgment of receipt and because of the large volume of the files. If additional copies are required, they will be provided upon request.

OIG Response 3: We reviewed the additional documentation and concluded that supporting documentation in four instances did not provide sufficiently meaningful, informative, and specific technical descriptions to determine whether the items were manufactured or substantially transformed in the United States. We revised our report to identify the questioned items and the documentation deficiency.

The remaining undocumented item is the K-Turbo blowers. The equipment representative, the Contractor, the consulting engineer and the Asst. City Engineer are working with K-Turbo and we feel the blowers that are being made in Batavia, IL will be found “substantially transformed” based on our visit to the fabrication facility and additional communication. See the attached memo, dated June 21, 2011, from K-Turbo USA, Inc. USEPA and their consultants have visited K-Turbo in Batavia and have told us that they feel K-Turbo has the capability to meet the substantial transformation guidelines. The City is making every effort to assure this is achieved. The Substantial Transformation checklist is being completed at this time and will be forwarded to OIG in the near future.

OIG Response 4: Regarding the KTurbo blower, we cannot make a determination on Section 1605 compliance without the documentation supporting the actual manufacturing process of the equipment used in the Ottawa project. To date, all information has been prospective. Because the company has been suspended indefinitely from receiving any new federal funds, we need to clearly understand KTurbo’s manufacturing process. Supporting documentation should include: (1) a detailed list of all parts and components and their sources, supported by bills of lading and invoices; (2) a detailed description of the manufacturing and/or assembly steps completed in Batavia; (3) a detailed list of manufacturing and/or assembly steps completed by KTurbo in Korea or any other related or formerly related company in a foreign country; (4) a detailed description of the specialized labor and tools used in the Batavia facility; and (5) a detailed description of material and labor costs incurred for the blowers built for the Ottawa project.

The Kaeser blowers are considered to be acceptable based on the submittal letter to the blower supplier, Peter Lynch, LAI, Ltd. of October 29, 2010 describing substantial transformation. The letter is similar to a letter regarding similar blowers for a project in Fredricksburg, VA which we understand was acceptable to USEPA.

OIG Response 5: We reviewed the referenced October 29, 2010, letter during our field work and discussed our conclusion in the Kaeser example beginning on page 7 of this report. Also, we were aware of the e-mail sent by an employee from EPA’s Office of Water. We find no authority in Section 1605 of the Recovery Act or the relevant regulations at 2 CFR Part 176, “Requirements for Implementing Sections 1512, 1605, and 1606 of the American Recovery and Reinvestment Act of 2009 for Financial Assistance Awards,” that would authorize EPA to make a determination of substantial transformation. In fact, EPA’s Determining Substantial Transformation clearly states that “EPA does not and will not make determinations as to substantial transformation or the U.S. or foreign origin of manufactured goods.” Since Kaeser Compressors, Inc., is an affiliate of Kaeser Kompressoren, GmbH, and “the base chassis of proprietary designed components” was obtained from the parent, we need to clearly understand the precise steps and costs completed in the United States versus the process and steps completed in Germany for the actual blowers used in the Ottawa project. Because we did not receive any new documentation, we did not change our position in the report.

De minimis waiver items

The Contractor has tabulated the cost of all materials in the project, \$3,709,957 (see attached memo). The 5% allowable for non-domestic goods is \$185,500 according to the *de minimis* waiver, ARRA Section 1605 (b)(1). The identified non-domestic item on the OIG list is number 39, Specification 15915 – Electric and Electronic Control. This is the thermostat for hydronic heating system in the sludge dewatering building. Cost = \$248.

Two other items not on the OIG List that are not American made are:

1. Specification Section 16905: computer and monitor for the SCADA system in the operations building. Cost = \$1,201
2. Specification Section 16496 Enclosed Transfer Switch: Cost = \$4,863

The total cost of these three items is \$6,312. This is 0.17% of the material cost. Therefore it is accepted within the guidelines of the *de minimus* waiver.

OIG Response 6: We agree and have revised the report accordingly.

Consulting engineer as Agent for the City

The City hired the consulting firm of McClure Engineering Associates, Inc. for the Construction Phase services as defined in paragraph A.1.05 of the Agreement between the Owner and Engineer for Professional Services dated 2/3/2010. The addition of services for review of the ARRA compliance documentation was authorized in the weekly project progress review meetings when the need and magnitude of the effort became apparent. The authorization is recorded in the meeting notes. It is best to review the ARRA documentation along with the Shop Drawing review since the system is already in place for review, receiving transmittal from the Contractor, systematic filing

and communication with the City on items needing specific involvement of the City staff or Commissioners. It is normal for the City of Ottawa to rely on the consulting engineer for such detailed reviews.

OIG Response 7: We agree with the city’s comments. Based on our review of the meeting notes, which state that the engineering firm received additional responsibilities regarding the review of Recovery Act Buy American documentation, we have revised the report accordingly.

Project Funding Status

The current financial status of the project cost and the funding are as follows:

The current Construction Contract	\$8,233,169.93
Design Engineering	\$ 435,000.00
Construction Engrg	\$ 487,857.86
Total eligible cost	\$9,155,027.79
Funding:	
SRF Loan	\$7,720,293.00
Illinois Clean Energy	\$ 250,000.00
City Bonding	\$1,184,734.79

Excluded items which still comply with ARRA requirements

IEPA has previously eliminated the following items from the project funding as ineligible cost items:

<u>OIG List No.</u>	<u>Spec. Section</u>	<u>Item</u>	<u>Cost</u>
11	11304	RAS Pumps	\$ 65,200
15	11315	Floating Mixers Equipmt	\$ 40,000
18	11336	Grit Removal Equipment	\$118,100
19	11337	Rotary Press System	\$901,500
Engineering services associated with the above items			\$202,063
Other construction items			\$ 57,000
Total ineligible costs per award letter			\$1,419,317

This is to show that the above four items, though they have met the ARRA Buy American provision are not being covered by the ARRA funding.

OIG Response 8: We agree with the city’s comments. The supporting documentation for the ineligible items sufficiently demonstrated compliance with Buy American requirements.

On June 2, 2011, Andrew Bielanski, USEPA Region 5 and Mike Grimm, Cadmus Group, consultant to USEPA, conducted a site visit to review the City’s documentation of compliance with the terms of the SRF/ARRA loan/grant. Although we have not received a report from their evaluation, they indicated that our compliance appeared to be in order.

OIG Response 9: The region’s response to the draft report is in appendix B. We have not changed our position as a result of the region’s comments.

We appreciate the funding provided for our project and have made every effort to understand the requirements. We feel we have met the requirements up to this date and will continue to by the time the project is completed later this year. We stand ready to answer any questions or clarifications need to fully comply. I am available by phone, 815-433-0161 ext 41 or e-mail engineer@cityofottawa.org.

Sincerely,

Robert M. Eschbach
Mayor

cc: John Trefry, via e-mail
Michael Rickey, via e-mail
Larry Brannon, via e-mail
Dave Hall, McClure Engineering

Attachments: *de minimus* tabulation
K-Turbo memo, June 21, 2011

Agency Response to Draft Report

MEMORANDUM

SUBJECT: Final Comments on Draft Report
American Recovery and Reinvestment Act Site Visit of Wastewater Treatment Plant – Phase II Improvements Project, City of Ottawa, Illinois
Project No. OA-FY11-A-000

FROM: Susan Hedman /signed July 29, 2011/
Regional Administrator, Region 5
U.S. Environmental Protection Agency

TO: Robert Adachi
Director of Forensic Audits

We have completed the actions outlined in our memorandum dated June 23, 2011, and are providing final comments on the draft report, *American Recovery and Reinvestment Act Site Visit of Wastewater Treatment Plant – Phase II Improvements Projects, City of Ottawa, Illinois*. The attached table summarizes our concurrence or non-concurrence with the 18 findings of Recovery Act non-compliance, the basis and rationale for our determination, and a description of any corrective actions taken or planned.

We obtained documentation from the City of Ottawa for the 18 questioned items (which was also provided to the OIG in response to the draft report). We coordinated our review with the Office of Water to ensure a consistent and fair application of EPA's Buy American guidance. Our engineers evaluated product documentation to ensure that the items were either manufactured or substantially transformed in the United States as required under the Buy American provision. We also applied EPA's *de minimis* waiver for incidental and low-cost items as appropriate.

We conclude that 17 of the 18 items complied with Buy American requirements. One item (K-Turbo blower) is currently being manufactured, and the city is closely monitoring this process to ensure that substantial transformation is taking place in the U.S., making the item eligible for Recovery Act funding. We will monitor this process and take corrective action if we find that the item did not meet the test of substantial transformation. We will not reduce the amount of Recovery Act funds applied to this project at this time. If you have any questions, please contact Debbie Baltazar at 312-886-3205.

Attachment

cc: Geoff Andres, Manager, Infrastructure Financial Assistance Section, Illinois EPA
Arnold Bandstra, Assistant City Engineer, City of Ottawa, Illinois
Arthur A. Elkins, Jr., Inspector General
Melissa Heist, Assistant Inspector General for Audit
John Manibusan, EPA OIG Office of Congressional, Public Affairs and Management

bcc: Eric Levy, Audit Follow-up Coordinator, Region 5
Tinka Hyde, Director, Water Division, Region 5
Debbie Baltazar, Chief, State and Tribal Programs Branch, Region 5

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
8	08520	Aluminum Windows	Kawneer	Non-concur	<p>We find the documentation sufficient to support Buy American compliance. Alternatively, the City of Ottawa would be reasonably justified in claiming these items under EPA’s “de minimis” waiver.</p> <ul style="list-style-type: none"> • Kawneer Buy American certification indicates that all Kawneer products are manufactured in 13 locations across the United States. These domestic construction materials are in compliance with Buy American requirements. • Certification clearly references the Ottawa project. • Bill of Lading lists Kawneer’s facility in Itasca, Illinois as the place of origin for the shipment. The Itasca facility was listed on Kawneer’s Buy American certification. • Bill of Lading indicates two boxes containing window and door frames totaling 141 pounds were shipped. Due to the very limited quantities of this item, the City of Ottawa would be reasonably justified in claiming these items under EPA’s “de minimis” waiver. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
10	11300	Progressive Cavity Sludge Pumps	Moyno	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • Moyno Buy American certification documentation includes two letters dated May 11, 2011, and May 27, 2011. • Letters reference pumps provided in the Ottawa project by section number. • Documentation indicates that the only manufacturing facility of Moyno pumps is located in Springfield, Ohio, and it is the sole supplier of Moyno products destined for the US. • Documentation indicates that the following manufacturing operations are performed at the Springfield facility by highly trained individuals: 1) injection molding; 2) machining; 3) buffing; 4) chrome plating; 5) pump assembly; 6) unit assembly; and 7) painting. • The manufacturing process requires over 100 operations and can take up to 12 weeks of production time for a single pump. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
11	11304	RAS Pumps	WEMCO	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • WEMCO Buy American certification documentation includes two letters dated May 4, 2011, and May 27, 2011. • Letters reference pumps provided in the Ottawa project. • Documentation indicates that the manufacturing facility is located in Salt Lake City, Utah. • Documentation indicates that the following manufacturing operations are performed at the Salt Lake City facility by highly trained individuals such as welders and machinists: 1) machining raw castings and shafts; 2) fabricating base plates and guards; and 3) final assembly involving belts, fasteners, bearings, and gaskets. • The manufacturing process requires a stated minimum of 25 different standard procedures. Production time ranges from several weeks to several months depending on the type of pump. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
12	11310	Submersible Pumps	ITT-Flygt	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • ITT-Flygt Buy American certification documentation includes two letters dated February 24, 2010, and June 1, 2011. • Letters reference pumps provided in the Ottawa project. • Documentation indicates that the manufacturing facility is located in Pewaukee, Wisconsin. • Documentation indicates that the following manufacturing operations are performed at the Pewaukee facility by highly trained individuals: 1) motor stator installation; 2) rotor unit manufacture; 3) mechanical seal assembly; 4) impeller assembly; 5) pump housing assembly; 6) electrical sensor installation and connection; 7) power cable installation; and 8) painting. • Photographs were included with documentation that showed the facility and various manufacturing areas within the facility. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
13	11311	Submersible Chopper Pumps	ITT-Flygt	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • ITT-Flygt Buy American certification documentation includes two letters dated February 24, 2010, and June 1, 2011. • Letters reference pumps provided in the Ottawa project. • Documentation indicates that the manufacturing facility is located in Pewaukee, WI. • Documentation indicates that the following manufacturing operations are performed at the Pewaukee facility by highly trained individuals: 1) motor stator installation; 2) rotor unit manufacture; 3) mechanical seal assembly; 4) impeller assembly; 5) pump housing assembly; 6) electrical sensor installation and connection; 7) power cable installation; and 8) painting. • Photographs were included with documentation that showed the facility and various manufacturing areas within the facility. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
16	11330	Electric Grinder	Moyno	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • Moyno Buy American certification documentation includes two letters dated May 11, 2011, and May 27, 2011. • Letters reference pumps provided in the Ottawa project by section number. • Documentation indicates that the only manufacturing facility of Moyno pumps is located in Springfield, Ohio, and it is the sole supplier of Moyno products destined for the US. • Documentation indicates that the following manufacturing operations are performed at the Springfield facility by highly trained individuals: 1) injection molding; 2) machining; 3) buffing; 4) chrome plating; 5) pump assembly; 6) unit assembly; and 7) painting. • The manufacturing process requires over 100 operations and can take up to 12 weeks of production time for a single pump. 	N/A
21	11338	Chemical Feed Equipment	Periflo	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • Periflo Buy American certification identifies items provided in the Ottawa project, and states that they were manufactured at Periflo's manufacturing plant in Loveland, Ohio. • Documentation detailed the amount of hours (40 hours) required to manufacture the product, the percentage of the final product cost coming for direct labor (45%), level of skilled employees such as machinists and mechanics needed to perform the various operations, and the operations performed. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
22	11370	Positive Displacement Blower	Kaeser	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • Kaeser Buy American certification documentation includes letter dated October 29, 2010 to sales representative who sold the positive displacement blowers supplied to the Ottawa project. Additional documentation was also included involving correspondence between Kaeser and EPA Headquarters Office of Water (OW) staff engineers regarding whether the items are “substantially transformed” and actually made/manufactured in the USA. • Documentation indicates that the items are manufactured in at the Kaeser facility in Fredericksburg, Virginia. • Documentation focused on the issue of substantial transformation since questions arose as to whether the products we actually made/manufactured in the USA. Narrative responses from Kaeser provided affirmation to Question #3 of EPA’s Substantial Transformation Checklist (“Was the process performed in the USA complex and meaningful?”). • The manufacturing process requires an estimated 16 to 20 hours of labor. The added labor comprises 30 to 50 percent of the product’s value. • EPA Headquarters OW staff engineers provided “anticipatory” oversight to address the issue of substantial transformation in order to determine if the products were actually made/manufactured in the USA. • EPA OW staff engineers opined that substantial transformation is occurring at Kaeser’s Fredericksburg, Virginia facility, and that the products are therefore made in the USA. An e-mail message dated November 1, 2010 documents this opinion. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
23	11375	Centrifugal Blower	K-Turbo /Aerzyn	Neither Concur or Non-concur	<p>We cannot yet make a determination as to Buy American compliance, as the centrifugal blowers for the Ottawa project have not yet completed fabrication/manufacture at the K-Turbo facility in Batavia, IL.</p> <ul style="list-style-type: none"> • Representatives from Ottawa have been monitoring and documenting the fabrication and manufacture processes while applying the standard of substantial transformation to verify the blowers are American made. • EPA Headquarters OW provided “anticipatory” oversight to address the issue of substantial transformation in order to determine if the products were actually made or manufactured at the Batavia, IL facility. An EPA contractor (an engineer) and EPA Region 5 staff engineer were sent to view the fabrication and manufacturing processes at the K-Turbo Batavia facility in October 2009. • Both the EPA OW staff engineers opined that substantial transformation could occur at K-Turbo’s Batavia, Illinois facility based upon the processes described to them during the visit. The Batavia facility was not operational as the fit-up of the facility was not yet fully complete. 	Provide follow-up review of the substantial transformation documentation and progress reports submitted by Ottawa.

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
24	11376	Activated Sludge Aeration System	SSI Aeration	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • SSI Aeration Buy American certification identifies all items provided in the Ottawa project. • Documentation indicated that the aeration systems are comprised of stainless steel piping and fittings, PVC piping and fittings, fine and course bubble diffusers, and stainless steel support stands. Manufacturing locations were specified for all components, and all are made in the USA. • Mill certifications showing USA origin were provided for the stainless steel piping and fittings. 	N/A
25	11378	WAS Aeration System	SSI Aeration	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • SSI Aeration Buy American certification identifies all items provided in the Ottawa, IL project. • Documentation indicated that the aeration systems are comprised of stainless steel piping and fittings, PVC piping and fittings, fine and course bubble diffusers, and stainless steel support stands. Manufacturing locations were specified for all components, and all are made in the USA. • Mill certifications showing USA origin were provided for the stainless steel piping and fittings. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
8	13424	Dissolved Oxygen Monitor	ITT-Royce	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • ITT-Royce Buy American certification indicates that the products listed on the certification are manufactured in Charlotte, North Carolina. • Model/part numbers are listed for the items provided for the Ottawa project including quantities. • The ITT-Royce Buy American certification is simple but sufficient. 	N/A
31	15260	Plant Pipe and Pipe Fittings	Clow Water Systems	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • Clow Water Systems Buy American certification states that all manufacturing of their 6 inch to 36 inch diameter ductile iron pipe and fittings is done at their Coshocton, Ohio facility with exception of 3 inch and 4 inch diameter pipe which are outsourced and produced by other domestic producers such as Atlantic States Pipe, McWane Pipe, or Griffin Pipe. • All mechanical joint fittings and flanges are stamped "Made in the USA." • Clow Water Systems website provides additional Buy American information on their website at http://www.clowwatersystems.com. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
33	15410	Plumbing Fixtures	Amtrol, Inc.	Non-concur	<p>We find the documentation sufficient to support Buy American compliance. Alternatively, the City of Ottawa would be reasonably justified in claiming these items under EPA’s “de minimis” waiver.</p> <ul style="list-style-type: none"> • Amtrol, Inc. Buy American certification indicates that Amtrol products are manufactured in two locations in the United States – Paducah, Kentucky and West Warwick, Rhode Island. • The Amtrol, Inc. certification is simple but sufficient. • Amtrol, Inc. provided a thermal expansion tank of approximately one gallon in size for the water supply plumbing to a water heater. Due to the single quantity and low cost of this item the City of Ottawa would be reasonably justified in claiming the item under EPA’s “de minimis” waiver. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
38	15832	Power Ventilators	Greenheck	Non-concur	<p>We find the documentation sufficient to support Buy American compliance.</p> <ul style="list-style-type: none"> • Greenheck Buy American certification documentation includes three documents dated November 17, 2010; January 19, 2011; and April 20, 2011. • Documentation clearly references the Ottawa project via order number/project name, and the two earlier documents also list Greenheck model numbers. • Documentation indicates that items supplied for the Ottawa project were manufactured at Greenheck facilities in Schofield, Wisconsin; Mosinee, Wisconsin; and Frankfort, Kentucky. • The estimated production time for the items supplied for the Ottawa project is 60 hours. • Documentation indicates that approximately 540 steps were involved in completing the items supplied for the Ottawa project. The manufacturing processes utilized roll formers, stamping machines and fixturing equipment to allow for consistent and quality construction of products. 	N/A
39	15915	Electric and Electronic Control	Tekmar	Non-concur	<p>This item qualifies under EPA's "de minimis" waiver.</p> <ul style="list-style-type: none"> • Information from the City of Ottawa indicates this is a low cost (approximately \$250) item that can be claimed under EPA's "de minimis" waiver. The City of Ottawa did claim this item under EPA's "de minimis" waiver. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
42	16130	Boxes	Cooper B-Line	Non-concur	<p>We find the documentation sufficient to support Buy American compliance. Alternatively, the City of Ottawa would be reasonably justified in claiming these items under EPA's "de minimis" waiver.</p> <ul style="list-style-type: none"> • Cooper B-Line Buy American certification documentation includes documentation dated December 16, 2010 and June 2, 2011. • Documentation clearly references the Ottawa, IL project via order number, and the earlier documentation also lists Cooper B-Line part/product numbers. • Documentation indicates that items supplied for the Ottawa project were manufactured at the Cooper B-Line Highland, Illinois facility. • The Cooper B-Line Buy American certification is simple but sufficient. • Cooper B-Line provided rigid conduit of various pipe diameters (3/4", 1", 1 1/2", 2", 3", and 4") plus galvanized strut channel. Since these products could be considered incidental to the construction of the project the City of Ottawa would be reasonably justified in claiming the items under EPA's "de minimis" waiver. 	N/A

Item Number	Section Number	Equipment Description	Manufacturer	Concur or Non-concur	Basis & Rationale for Determination	Planned Corrective Action
53	16620	Packaged Engine Generator System	Kohler	Non-concur	<p>We find the documentation sufficient to support Buy American compliance</p> <ul style="list-style-type: none"> • Kohler Buy American certification documentation includes documentation dated November 17, 2010 and June 2, 2011. • Documentation clearly references the Ottawa project. • Documentation indicates that the manufacturing was performed at Kohler’s facility in Sheboygan, Wisconsin. • Documentation indicates that the following manufacturing operations are performed at the Sheboygan facility: 1) metal fabrication, including manufacturing skids, support brackets, controller boxes, panels, and enclosures; 2) electrical manufacturing, including circuit boards, controllers, and battery chargers; and 3) generator set final assembly processes, including mounting the engine and wiring, installing the cooling system for the motor, and installing the exhaust system. • The manufacturing process required over 200 hours of labor for the generator provided for the Ottawa project. 	N/A

Illinois EPA Response to Draft Report

217/782-2027

June 24, 2011

Mr. Larry Brannon
EPA-OIG
77 W. Jackson Boulevard, Mail Code IA-13J
Chicago, IL 60604

Re: Draft Report: American Recovery and Reinvestment Act Site Visit of Wastewater Treatment Plant – Phase II Improvements Project, City of Ottawa, Illinois

Dear Mr. Brannon:

The State of Illinois is in concurrence with the recommendation that the Region 5 Regional Administrator employ the procedures in 2 CFR 176.130 to resolve the issues of noncompliance on the Ottawa project.

The City of Ottawa has invested a considerable amount of time and resources in a cooperative effort with the USEPA in an effort to resolve these issues. It is our opinion that the City did not intentionally disregard the Buy American requirements of the Recovery Act, and that there was no malfeasance on the part of City officials. The Illinois EPA urges the continued cooperation of the parties involved.

If you need further information regarding this response, or regarding the City of Ottawa project that is the subject of the draft report, please feel to contact Geoff Andres of my staff at 217/782-2027. Thank you.

Sincerely,

Lisa Bonnett
Interim Director

Cc: Robert Adachi, EPA-OIG
Susan Hedman, USEPA Administrator, Region 5
Robert M. Esbach, Mayor, City of Ottawa, Illinois

Distribution

Office of the Administrator
Regional Administrator, Region 5
Assistant Administrator for Water
Agency Followup Official (the CFO)
Agency Followup Coordinator
General Counsel
Associate Administrator for Congressional and Intergovernmental Relations
Associate Administrator for External Affairs and Environmental Education
Director, Grants and Interagency Agreements Management Division,
Office of Administration and Resources Management
Audit Followup Coordinator, Region 5
Public Affairs Officer, Region 5
Director, Water Division, Region 5
Chief, State and Tribal Programs Branch, Region 5
Interim Director, Illinois Environmental Protection Agency
Mayor, City of Ottawa, Illinois
Assistant City Engineer, City of Ottawa, Illinois