



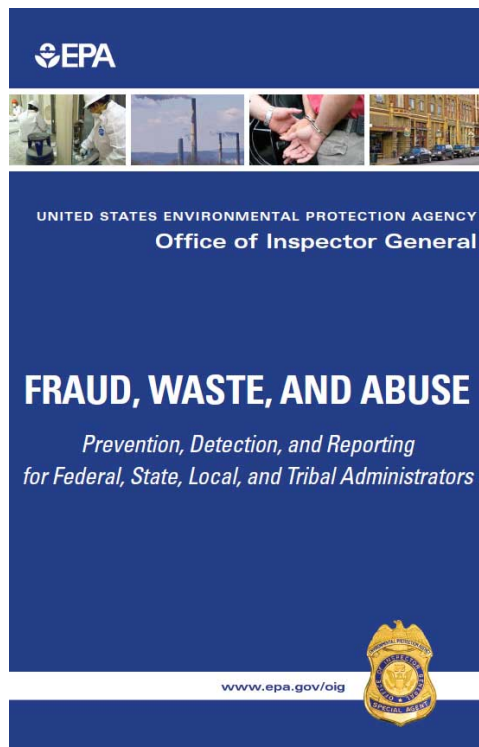
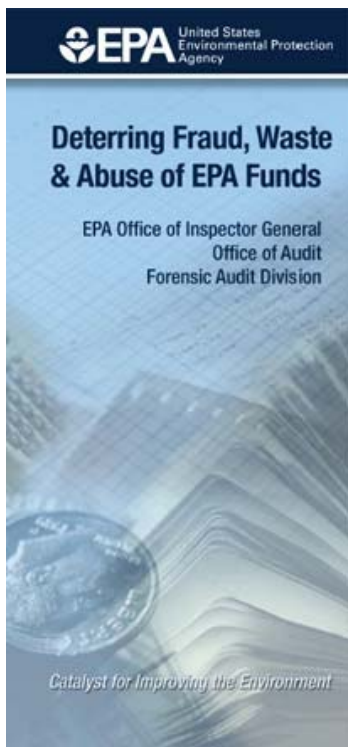
U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

EPA-350-R-10-003
March 2010

Catalyst for Improving the Environment

American Recovery and Reinvestment Act of 2009:

Overview of EPA's Progress After One Year



To find out more about the U.S. Environmental Protection Agency
Office of Inspector General activities related to the
American Recovery and Reinvestment Act of 2009,
visit our Website at:

<http://www.epa.gov/oig/recovery.htm>

Cover illustrations: Two outreach brochures prepared and distributed by the EPA Office of Inspector General, and the logos for the American Recovery and Reinvestment Act of 2009 and EPA.



Printed on 100% recycled paper (minimum 50% postconsumer)

Foreword

February 17, 2010, marked the 1-year anniversary of the enactment of the American Recovery and Reinvestment Act of 2009 (Recovery Act). This report summarizes efforts by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA) in that first year to educate EPA, State, and other personnel on deterring fraud, waste, and abuse, and to review whether the Agency awarded and managed its Recovery Act funds in an efficient and effective manner. Our work indicates that EPA's leadership has demonstrated a strong commitment to using Recovery Act funds appropriately, although some challenges remain.

The Recovery Act provided EPA with \$7.2 billion, and the Agency indicated that as of February 18, 2010, it had made \$7.1 billion available and paid out nearly \$1 billion. The OIG is working to determine whether EPA is using those funds in accordance with the Recovery Act's requirements and is meeting the accountability objectives as defined by the Office of Management and Budget.

Conducting outreach – both with the Agency and those receiving funds from EPA – has been an important part of the OIG's efforts to help deter and detect fraud, waste, and abuse. We have emphasized educating stakeholders and providing resources to help them use funds appropriately. We have conducted nearly 100 awareness briefings, outreach briefings, and training sessions, and have trained more than 3,000 individuals on such areas as fraud prevention.

We have published audit and evaluation reports that provided important information to the Agency and others during the early stages of Recovery Act implementation. These reports looked at such issues as providing guidance for determining the eligibility of green reserve projects, and whether organizations resolved open recommendations from OIG reports prior to receiving Recovery Act funds. Numerous additional audits and evaluations are underway. We also have 11 investigations in progress.

Challenges facing the Agency include managing ongoing programs as EPA places needed emphasis on staffing work related to the Recovery Act. We will continue to dedicate significant effort in the future to ensuring that EPA uses its Recovery Act funds wisely.



Bill A. Roderick
Acting Inspector General

Table of Contents

EPA Provided \$7.2 Billion under the Recovery Act	1
OIG Provided \$20 Million for Oversight and Review.....	2
OIG Notes Its Accomplishments to Date	2
OIG Conducts Outreach to Help Deter Fraud, Improve Efficiency	3
OIG Publishes Reports Assessing EPA Progress	6
Additional OIG Audits and Evaluations Underway	10
OIG Notes EPA Successes.....	12
OIG Also Notes Continuing Challenges for the Agency.....	13

EPA Provided \$7.2 Billion under the Recovery Act

President Obama signed the American Recovery and Reinvestment Act of 2009 (Recovery Act) on February 17, 2009. The Recovery Act's purpose as it applies to the U.S. Environmental Protection Agency (EPA) is to promote economic recovery by creating jobs while also promoting a healthier environment. The Recovery Act provided EPA with \$7.2 billion for six programs. As of February 18, 2010, the Agency reported making \$7.1 billion available and paying out over \$1 billion. Details on EPA's six programs follow.

EPA Programs Receiving Recovery Act Funds

Clean Water State Revolving Fund	
Dollars:	\$4 billion
Purpose:	Provide funds to upgrade wastewater treatment facilities
Drinking Water State Revolving Fund	
Dollars:	\$2 billion
Purpose:	Provide funds to upgrade drinking water infrastructure
Superfund	
Dollars:	\$600 million
Purpose:	Initiate and accelerate clean-up at National Priorities List sites
Diesel Emissions Reductions	
Dollars:	\$300 million
Purpose:	Accelerate emission reductions from diesel engines
Leaking Underground Storage Tanks	
Dollars:	\$200 million
Purpose:	Clean up contamination from underground storage tank petroleum leaks
Brownfields	
Dollars:	\$100 million
Purpose:	Carry out revitalization projects at brownfields sites

Source: EPA Recovery Act Website, <http://www.epa.gov/recovery/basic.html>.

In congressional testimony on February 23, 2010, EPA's Senior Accountable Official for the Recovery Act stated that all State Revolving Funds awarded to States were under contract or construction as of February 18, 2010. Further, in EPA's quarterly Recovery Act performance report (http://www.epa.gov/recovery/pdfs/2010_Q1_Perf_Rpt.pdf) showing cumulative results as of December 31, 2009, the Agency noted that:

- For Superfund sites, 100 percent of Recovery Act funds were awarded and construction was initiated at 33 sites.
- For diesel emission reductions, 2,700 diesel engines had been retrofitted, replaced, or retired.
- For leaking underground storage tanks, 112 site assessments and 46 tank clean-up projects were completed.
- For brownfields, 98 percent of funding was obligated for cooperative agreements and 27 assessments were initiated.

OIG Provided \$20 Million for Oversight and Review

The Office of Inspector General (OIG) is an independent office of EPA that detects and prevents fraud, waste, and abuse to help the Agency protect human health and the environment more efficiently and cost effectively. The Recovery Act provides the OIG \$20 million through September 30, 2012, for oversight and review. The OIG will assess whether EPA is using its \$7.2 billion of Recovery Act funds in accordance with the Act's requirements and is meeting the accountability objectives as defined by the Office of Management and Budget (OMB). Reflecting OMB's Recovery Act guidance, OIG's objectives include ensuring:

- Funds are awarded and distributed in a prompt, fair, and reasonable manner.
- The recipients and uses of all funds are transparent to the public, and the public benefits of these funds are reported clearly, accurately, and in a timely manner.
- Funds are used for authorized purposes and potential for fraud, waste, error, and abuse are mitigated.
- Projects funded under the Act avoid unnecessary delays and cost overruns.
- Program goals are achieved, including specific program outcomes and improved results on broader economic indicators.

OIG Notes Its Accomplishments to Date

Some of the OIG's key accomplishments as of January 31, 2010, are highlighted below.

OIG Accomplishments as January 31, 2010

Accomplishments	Cumulative Results
Total expenditures	\$3,391,406
Total full-time equivalents used	21.4
Awareness briefings, outreach briefings, and training sessions held	95
Individuals trained	3,368
Completed final published audit/evaluation reports	7
Audits/evaluations in process	20
OIG recommendations or risks identified for action, correction, or improvement	12
Environmental and business actions taken, improvements made, or risks reduced in response to or influenced by OIG recommendations	2
Recovery Act complaints received	32
Investigations completed	0
Investigations in process	11
Convictions, indictments, and civil and administrative actions, as well as allegations disproved from OIG investigations	2
Whistleblower reprisal allegations	0

Source: EPA OIG.

OIG Conducts Outreach to Help Deter Fraud, Improve Efficiency

As part of our outreach efforts, the OIG's Forensic Audit Division recently published a brochure, *Deterring Fraud, Waste & Abuse of EPA Funds*, to alert the public to our ongoing efforts in identifying fraud, waste, and abuse. The brochure describes who we are; what we do; what we look for concerning fraud, waste, and abuse; and how we make an impact. To view and download the brochure, go to http://www.epa.gov/oig/reports/2010/OIG_forensics_brochure.pdf.



Brochures prepared by the OIG Forensic Audit Division (top) and Office of Investigations. (EPA OIG)

As EPA prepared to award Recovery Act funds, the OIG took a number of actions to alert Agency managers of risks and to recommend cost-effective controls. The OIG participated in Agency workgroups and committees and commented on the Agency's Recovery Act Risk Mitigation Strategy (Stewardship Plan) to assist it in developing strategies and establishing controls to implement the Recovery Act. Also, the OIG is using EPA financial systems to monitor EPA awards and recipient draws of Recovery Act funding. In some cases, the OIG contacted EPA and/or the recipient to assess the support for the funds requested; the OIG will continue its vigilant monitoring of reimbursement requests. Further, the OIG conducted unannounced site visits of Recovery Act funding subrecipients to determine whether subrecipients are complying with requirements; such visits will continue.

The OIG's Office of Investigations has implemented a three-pronged approach – education, outreach, and investigations – to spread the word about the requirements of the Recovery Act and to deter and detect fraud schemes. A key goal is to educate stakeholders and provide resources to help them use funds appropriately.

We have provided Recovery Act-specific fraud training and presentations to Agency personnel; State, tribal, and local officials; contractors; and grant recipients. As of January 31, 2010, we had provided 95 briefings across the country to over 3,300 personnel who are administering or receiving Recovery Act funding. We have developed new and extensive liaison relationships with State Revolving Fund coordinators; tribal water coordinators; State inspector general offices; and contractor, grant recipient, and engineering personnel.

In addition, we have developed professional fraud awareness and education materials, including pamphlets, postings, briefings, and Webinar broadcasts. We have provided these materials to Agency personnel, State and tribal administrators, contractors, and grant recipients. Where possible, we have

used technology to assist us. We have distributed over 6,000 pamphlets, posters, and Hotline cards to stakeholders throughout the country. Brochures and information on training opportunities are available at http://www.epa.gov/oig/recovery_trng.htm.

In April 2009, in conjunction with EPA's Office of Water, the OIG presented its first fraud awareness Webinar. This Webinar reached 385 key decision makers, including State and local Clean Water and Drinking Water State Revolving Fund coordinators. In early September 2009, the EPA OIG, in conjunction with the Western Regional Inspector General Council and the State of California OIG, conducted three on-site Recovery Act fraud awareness and education briefings for State, county, and municipal employees, as well as grant recipients, in San Diego, Los Angeles, and San Francisco, California. Representatives from the Federal Bureau of Investigation, the U.S. Attorney's Office, and

OIG Tours Recovery Act Recipient's Facility



Above: Construction activity on the water pump station and neutralization and backwash equalization pump stations for the Central Shoshone County Water District project. (EPA photo)

Right: A view of the community's well in its flooded state. (Photo courtesy Idaho Department of Environmental Quality)

As part of the OIG's education and outreach efforts, on September 10, 2009, staff from the EPA OIG toured the first Recovery Act project in EPA Region 10 to begin construction. The Central Shoshone County Water District received a \$12.2-million loan through the Idaho Department of Environmental Quality State Revolving Fund to construct a 5-million-gallon-per-day drinking water facility in Enaville, Idaho, to replace the existing community well which is often flooded. The project, which began construction in May 2009 and will cost an estimated \$20.4 million, also includes installing water meters to all 2,300 connections to allow for a conservation-based rate structure. This allows the project to meet Recovery Act requirements as a green project. The project created about 30 new construction jobs, according to Water District officials. During our tour, we looked at what Idaho is doing with its Recovery Act funds, and we gave a presentation on fraud prevention to the facility's owner and resident engineer as well as State officials.



the Department of Justice Antitrust Division were also involved. The briefings, attended by over 550 participants, covered general and Recovery Act fraud indicators and information on whistleblower protections for State, county, and municipal employees involved in Recovery Act projects. Similar Webinars and briefings are scheduled.

Several western States – Alaska, Arizona, California, Idaho, Nevada, Oregon, and Washington – have expressed concern that smaller Recovery Act fund recipients that had never received federal funds before could be taken advantage of by unscrupulous contractors and engineers. Further, these recipients may not know all the federal requirements for managing and reporting on the use of federal funds. Many of the seven States have either made it a requirement or strongly encouraged any recipient receiving Recovery Act funds to attend our fraud presentation, and we have already made approximately 25 such presentations. The handout for our “American Recovery and Reinvestment Act Fraud Prevention” presentation can be accessed at http://www.epa.gov/oig/ARRA/IG_Community_ARRA_Handout.pdf.

When criminal acts related to Recovery Act funds are reported, the EPA OIG will investigate. To date, we have opened 11 criminal investigations involving Recovery Act-related issues. We will also proactively initiate investigations to determine whether EPA is spending its Recovery Act funds properly and deter instances of fraud, waste, and abuse.

On April 29, 2009, Melissa Heist, Assistant Inspector General for Audit, testified before the House Transportation and Infrastructure Committee during a hearing on progress made to date on implementing the Recovery Act. “EPA will face significant new financial and programmatic challenges as it awards and oversees Recovery Act funding,” Ms. Heist testified. “If EPA does not assign sufficient staff to oversight, the Agency increases the risk of fraud, waste, and abuse of federal funds,” Ms. Heist said. She noted EPA will rely heavily on State agencies as the primary fund recipients to properly manage their subrecipients for most of the Recovery Act funding.

OIG Publishes Reports Assessing EPA Progress

The OIG has published several audit and evaluation reports assessing whether EPA is using its Recovery Act funds in accordance with applicable requirements and is meeting the accountability objectives defined by OMB. The complete reports can be accessed at <http://www.epa.gov/oig/recovery.htm>.

EPA Needs Definitive Guidance for Recovery Act and Future Green Reserve Projects (10 R-0057, issued February 1, 2010)

EPA has not provided States with clear and comprehensive guidance on how to determine the eligibility of green reserve projects awarded through the Clean Water and Drinking Water State Revolving Funds. Consequently, EPA cannot provide a reasonable assurance that such projects will meet the objectives of Congress. The Recovery Act required that 20 percent of the \$6 billion awarded through these funds support green



Vegetated curb extensions used in Portland, Oregon, to decrease stormwater runoff. (EPA photo)

projects (water or energy efficiency, green infrastructure, or environmentally innovative activities). Although EPA had been promoting a green approach for at least a year prior to the enactment of the Recovery Act, it did not develop and issue timely, clear, and comprehensive guidance to meet many of the States' needs. EPA's guidance and subsequent updates have not addressed important aspects of project selection. At the time of this review, EPA had not established water and energy efficiency threshold ranges for many types of green projects, or provided sufficient information to States on developing business case justifications. Moreover, changes in EPA's guidance resulted in EPA regions applying different standards when approving States' proposals.

We recommended that EPA develop and revise green reserve guidance for States and review States' submitted green reserve projects and accompanying business cases. The Agency agreed with our recommendations.

EPA Action Needed to Ensure Drinking Water State Revolving Fund Projects Meet the American Recovery and Reinvestment Act Deadline of February 17, 2010 (10 R-0049, issued December 17, 2009)

Facing numerous challenges, EPA and the States used various approaches to mitigate the risk of Drinking Water State Revolving Fund projects not meeting the Recovery Act reallocation deadline of February 17, 2010. The Recovery Act provided \$2 billion for this fund. As of November 1, 2009, 257 projects, totaling \$323.9 million, were under contract. We noted several concerns regarding EPA's role in ensuring that States meet

the deadline: (a) EPA was unaware of the national universe of projects not under contract, (b) EPA did not establish procedures to assist States with projects not under contract, and (c) EPA's Stewardship Plan did not contain specific actions to identify States at risk of not meeting the deadline. EPA would have to reallocate funding for projects not under contract by February 17, 2010; such a delay would negatively affect job creation and economic recovery.



A drinking water project in North Manchester, Indiana. (EPA OIG)

We recommended in a briefing report that EPA identify and monitor projects not under contract, establish a contingency action plan, and complete its written procedures for reallocating funds not under contract. EPA implemented actions that met the intent of those recommendations by increasing its participation in State efforts to establish contracts for Recovery Act-funded projects by February 17, 2010. We also recommended that EPA specify the actions it will take in its Stewardship Plan. EPA did not implement this recommendation because it believed the States would make sufficient progress. In testimony before the House Committee on Transportation and Infrastructure on February 23, 2010, EPA's Senior Accountable Official for the Recovery Act stated that all State Revolving Funds awarded to States were under contract or construction by the deadline, and no funds would need to be reallocated.

EPA Recovery Act Recipient Reporting and Data Review Process (10 R-0020, issued October 29, 2009)

Although we did not test implementation of EPA's procedures for reviewing quarterly Recovery Act data, we believe the Agency sufficiently designed its internal controls to detect material omissions and significant reporting errors. We conducted this review as part of a government-wide effort to review federal agencies' processes for reviewing Recovery Act data submitted by recipients of federal funds. We reviewed EPA's policies and procedures for reviewing quarterly Recovery Act data and met with the Agency's Recovery Act governing officials responsible for implementing these policies and procedures throughout the Agency. We forwarded our results to the Recovery Accountability and Transparency Board for consolidation in the overall government report sent to Congress.

EPA Should Revise Its Grant Accrual Methodology to Address Impact of Recovery Act Funds (09 X-0217, issued August 19, 2009)

The OIG expressed concern with the impact the Recovery Act will have on EPA's grant accrual calculation for the Fiscal Year 2009 financial statements. Grant accruals in the financial statements represent grantee costs incurred but not billed. We reported that EPA's grant accruals for the Fiscal Year 2009 financial statements might not include adjustments for additional funds received under the Recovery Act. EPA has historically

computed grant accruals based on the results of a grantee billing practice survey. EPA planned to combine Recovery Act grants with traditional grants and use the combined universe as the basis for its grant accrual calculation. However, Recovery Act funds are intended to be used faster than traditional grants. Consequently, the results of the sample would be skewed because the billing practices for Recovery Act grants would be different than those for EPA's traditional grants and will not be representative of all grants, including Recovery Act grants. This difference in billing practices could result in a misstatement of accrued liabilities in the financial statements.

We recommended that the Chief Financial Officer modify the current grant accrual methodology to account for the increase in and nature of grant expenditures due to the Recovery Act. The Agency agreed and made needed modifications.

Assistance Agreement and Contract Recipients with Open Recommendations May Affect Recovery Act Activities (09-X-0196, issued July 14, 2009)

Providing funds to recipients with known weaknesses and open recommendations increases the risks of fraud, waste, abuse, and mismanagement of Recovery Act funds. Open recommendations are those for which EPA or the recipient of an EPA assistance agreement or contract has not completed corrective actions. As of June 30, 2009, we found that 67 OIG reports involving assistance agreement and contract recipients had open recommendations that could affect EPA's Recovery Act activities. OMB guidance requires expediting actions on open recommendations to preclude continuing weaknesses or deficiencies that can affect Recovery Act funding.

We recommended that EPA verify whether assistance agreement and contract recipients have corrected weaknesses identified in OIG reports prior to awarding new funds. EPA took action to ensure that the recipients identified in the report completed corrective action prior to receiving additional funds and put in place procedures to ensure that Agency staff verify the completion of open audit recommendations prior to future awards.

Recommendation to Strengthen Management Integrity Processes Affecting Recovery Act Activities (09-X-0145, issued April 27, 2009)

The OIG recommended that EPA issue additional Fiscal Year 2009 Management Integrity guidance to EPA offices receiving additional funding under the Recovery Act. In December 2008, the EPA had issued its Fiscal Year 2009 Management Integrity guidance, which outlined requirements for conducting internal control reviews and preparing annual assurance statements forwarded to the EPA Administrator. However, with the issuance of the updated implementation guidance for the Recovery Act, we believed it was imperative that EPA update its Management Integrity guidance to address Recovery Act activities.

We recommended the guidance ensure EPA offices (a) emphasize effective design and operation of key business processes that support Recovery Act activities and generate data for reporting purposes, (b) integrate Recovery Act internal control reviews into their multiyear strategies, and (c) certify how well internal controls are working in Fiscal Year 2009 assurance statements to the EPA Administrator. In response to our report, EPA issued additional guidance for regional and program offices implementing Recovery Act processes. This supplemental management integrity guidance provided offices with instructions for including information in their Fiscal Year 2009 Federal Managers' Financial Integrity Act letters and required Assistant and Regional Administrators to provide an additional statement of assurance specific to Recovery Act efforts.

Open Audit Recommendations Affecting Recovery Act Activities (09 X-0136, issued April 9, 2009)

We identified open recommendations from three previously issued OIG reports that could have an effect on Recovery Act funding. These reports were focused on opportunities to improve EPA management. For a 2008 report on the need to provide revised terms and conditions to regions for spending brownfields grant funds in a more timely manner, EPA indicated these terms and conditions would be in place before EPA awarded any Recovery Act grants. Another 2008 report found that EPA had no assurance that use of cost-plus-award-fee contracts facilitates a higher level of performance than other types of contracts, and EPA is revising its guidance regarding the use of such contracts. EPA implemented corrective actions for this report before awarding Recovery Act funds. A 2007 report found that EPA often entered into interagency contracts without conducting cost-reasonableness assessments or identifying alternatives, and we reemphasized the need for EPA to address this issue. We are reviewing EPA's use of interagency agreements for Recovery Act activities in a current assignment.

EPA Office of Inspector General Recommendations on Office of Management and Budget Guidance for Recovery Act Implementation (09 P 0132, issued March 31, 2009)

The EPA OIG reviewed the OMB Updated Implementing Guidance for the Recovery Act and provided several comments to that office for consideration. We found that, overall, the guidance was prescriptive for agencies to make funding available in a transparent, need-driven way on an agency-by-agency basis. However, there did not appear to be a process described for cross-agency coordination of grantee and other fund recipient review to ensure that recipients are not obtaining funds from multiple sources for the same project. We also noted cross-agency checks should be required, beyond the current process, to ensure that a grantee, contractor, or recipient has not been debarred, suspended, or otherwise disqualified from receiving federal funds, and does not have outstanding federal obligations. Further, because States will be primary recipients of

Recovery Act funds, we indicated that the guidance should clarify the reviewing and reporting responsibilities of State auditors.

Additional OIG Audits and Evaluations Underway

The OIG has initiated the following audits and evaluations to determine whether EPA and funding recipients manage projects effectively and meet Recovery Act objectives.

- **EPA's Assessment of Past Performance and Determination of Responsibility for Contractors Awarded Recovery Act Funds:** In 2009, EPA decided to obligate approximately \$211 million in Recovery Act funds to Superfund contractors. OMB Recovery Act guidance requires agencies to actively monitor contracts to ensure that performance, cost, and schedule goals were met. The guidance emphasized the importance of completing timely contractor performance evaluations. Our audit objectives ask whether (a) contractor performance evaluations are completed in a timely manner, and (b) EPA's contractor performance evaluation and responsibility determination processes consider all available sources of information.
- **EPA's Recovery Act Targeting Criteria.** The programs targeted by EPA's portion of Recovery Act dollars address location-specific, community-based public health and environmental needs. According to EPA's Recovery Act Plan, these programs were carefully chosen for both their ability to put people to work now and for their environmental value. Investing in these areas will assure that job creation, economic growth, and environmental benefits accrue at the local level as well as nationwide. We are evaluating the effectiveness of EPA's existing funding processes and organizational structures in meeting Recovery Act goals.
- **EPA's Competition for Recovery Act Grants under the National Clean Diesel Funding Assistance Program:** The Recovery Act provides \$300 million to support EPA's National Diesel Emissions Recovery Act Plan, of which \$155 million was awarded competitively as part of the National Clean Diesel Funding Assistance Program. The program's goal is to accelerate emission reductions from older diesel engines to provide more immediate air quality benefits and improve public health. Our objective is to determine whether (a) EPA promoted competition for the National Clean Diesel Funding Assistance Program to the maximum extent possible, and (b) the competitions meet the goals and requirements of the Recovery Act.
- **Recovery Act Diesel Emission Retrofit Program.** Diesel engines emit large amounts of nitrogen oxides, particulate matter, and air toxics, which contribute to serious public health problems. Diesel emissions come from a variety of on-road

and non-road engines, such as those used for freight, ports, transit, construction, agriculture, and energy production. The Recovery Act provided EPA with \$300 million for grants to reduce diesel emissions in accordance with the 2005 Diesel Emissions Reduction Act, particularly in poor air quality areas, and to promote economic recovery. We are evaluating the effectiveness of Recovery Act grants in funding diesel retrofits and associated emissions reductions.

- **EPA's Use of Interagency Agreements for Recovery Act Activities:** EPA used interagency agreements to assist in managing some Recovery Act funding. EPA entered into interagency agreement with the U.S. Army Corp of Engineers to assist with Superfund site clean-ups and the Indian Health Service to assist with wastewater and drinking water projects on Indian lands. Our audit objectives ask whether (a) Recovery Act interagency agreements identify clear lines of responsibility, and (b) EPA awards Recovery Act interagency agreements based on sound business decisions.
- **EPA's Resource Allocation for Recovery Act Contract and Assistance Agreement Oversight:** The Recovery Act allows EPA to use 3 percent of the funds to manage and oversee the programs funded under the Act. As described in OMB guidance, one of the responsibilities of the Recovery Accountability and Transparency Board is reviewing whether there are sufficient qualified acquisition and grant personnel overseeing covered funds. To answer that question, we are seeking to determine whether EPA has sufficient qualified acquisition and assistance agreement staff to handle Recovery Act and non-Recovery Act work.
- **EPA and State Recovery Act Clean Water State Revolving Fund Projects:** The Recovery Act provided \$4 billion to Clean Water State Revolving Fund programs to assist with upgrading wastewater treatment facilities. The objective of our audit will be to determine how effectively EPA and States ensure Recovery Act Clean Water State Revolving Fund projects achieve intended project and environmental goals. We will focus on how States oversee projects and how EPA oversees States.
- **Implementation of Recovery Act Stewardship Plan for Superfund Remedial Program Contracts:** OMB guidance requires an agency's Senior Management Council to review Recovery Act reporting and performance across the agency, establish and oversee developing and implementing agency guidance to identify and mitigate risk, and ensure correcting weaknesses relating to Recovery Act. EPA developed a Stewardship Plan that summarized the risks and controls that were needed to ensure that Recovery Act funds met their objectives. The OIG is conducting an audit to review (a) the implementation of EPA's Stewardship Plan

for Superfund contracts as it relates to cost controls, and (b) EPA's use of project management principles and techniques in managing Recovery Act Superfund work to avoid unnecessary cost overruns and delays.

- **Financial Reporting for the Recovery Act:** OMB's Updated Guidance for the Recovery Act requires the Agency to submit weekly financial and activity reports to OMB. As part of our oversight of EPA's implementation of the Recovery Act, we will determine whether (a) EPA's financial reports comply with Recovery Act and OMB guidance, (b) amounts EPA reported to OMB reconcile to EPA's financial system, and (c) financial reports were submitted in a timely manner. To answer these objectives, we will review the effectiveness of controls for accurate and timely reporting.
- **Recovery Act Construction Site Visits:** During the Recovery Act's first year, OIG initiated nine site visits to construction sites and municipal and local government subrecipients that were awarded Recovery Act State Revolving Fund assistance. These site visits examine construction progress and compliance with Recovery Act requirements. We are also visiting subrecipients' offices (often local governments or municipalities). The objective of these reviews is to determine whether the recipients of Recovery Act funds complied with the requirements of the Act, State Revolving Fund loan agreements, and federal requirements.

OIG Notes EPA Successes

EPA's leadership has demonstrated a strong commitment to ensuring Recovery Act funds are used for their intended purposes and meet the objectives of the Act. Early on they sought our advice on management and oversight issues, and established several internal committees. These internal committees meet regularly to discuss Agency progress in meeting Recovery Act objectives. The OIG participates in an advisory role on these key committees.

For the State Revolving Fund programs, EPA issued guidance for awarding Recovery Act funding in March 2009. This guidance informed States of their application responsibilities and discussed the unique provisions in the Recovery Act. Under these programs, all 50 States and Puerto Rico maintain revolving loan funds that provide sources of low-cost financing for a wide range of water quality infrastructure projects. The amount of funds available to each State is based on established formulas.

EPA Administrator Lisa Jackson sent letters to State governors expressing her commitment to assisting and partnering with States to achieve Recovery Act goals. EPA's Senior Accountable Official under the Recovery Act called State officials who

appeared to be facing challenges in meeting the February 17, 2010, deadline to reallocate any funds allocated to projects not under contract or construction. This official met with National Governors Association representatives to discuss concerns about the challenges they face in meeting Recovery Act goals. EPA Drinking Water State Revolving Fund staff visited the EPA regions, conducted conference call with the States, and conducted Webcasts on various Recovery Act requirements and reporting. EPA regional staff talked with States weekly or biweekly (in the six regions we reviewed). EPA regional staff and the OIG conducted joint training for recipients, contractors, and vendors on Recovery Act requirements and preventing fraud, waste, and abuse.

During our review of EPA's competition for Diesel Emission Reduction Act grants, we noted some EPA activities that contributed to promoting competition and that may benefit other grant competitions. The Office of Transportation and Air Quality within the Office of Air and Radiation issued a national Request for Applications and guidance for reviewers and selection officials, collected questions and provided answers universally, and conducted and coordinated outreach efforts with EPA partners. The national Request for Applications and guidance helped promote consistency among regional grant selection processes. Once the Request for Applications was issued, Office of Air and Radiation staff in Washington, DC, collected the questions submitted by potential applicants and provided answers that were accessible to all potential applicants, either on-line or via Webinars. Finally, EPA conducted extensive outreach to inform potential applicants of the competition, how to take advantage of existing contacts, and how to establish new ones. Region 6 personnel told us they used the mailing list generated through the Blue Skyways Collaborative to notify potential applicants and conducted a joint Webinar with Region 7. Office of Air and Radiation national office staff told us that they coordinated with tribes, congressional representatives, the Environmental Council of the States, the Diesel Technology Forum, and other stakeholders. These actions increased competition and ensured that the process was fair and impartial.

OIG Also Notes Continuing Challenges for the Agency

During our reviews, we noted that EPA is facing a staffing challenge in implementing the Recovery Act while it continues to manage ongoing programs. In its response to a Recovery Accountability and Transparency Board survey, EPA stated that implementing the Recovery Act was its top priority. However, to accomplish this, the Agency had to reduce its efforts on non-Recovery Act grant and contract work. EPA cited delays in non-Recovery Act awards and close-outs, less frequent post-award monitoring, and extending milestones under its Grants Management Plan. EPA stated that it would continue to assess this reduction in effort to ensure it does not jeopardize EPA's internal controls for effective grants and contracts management. EPA also indicated that Recovery Act funds available for implementation are only available through Fiscal Year 2011. EPA estimates that there will be additional work beyond this timeframe and the

Agency will have to continue to reallocate base program resources (staff) to support these efforts.

Our reviews also identified a concern with EPA's Stewardship Plan. OMB's Implementing Guidance for the Recovery Act required agencies to develop mitigation plans that align with specific risks. Agencies were to identify quantifiable measures of performance, including ranges of acceptable and unacceptable performance. Agencies were to identify a trigger to determine whether it should initiate a contingency plan. In July 2009, EPA's then-Acting Chief Financial Officer stated that the Stewardship Plan was intended to lay out the Agency's strategy to monitor and mitigate risk in implementing the Recovery Act. We noted that EPA's Stewardship Plan did not always contain specific action to be taken to identify risks. Also, in some cases, EPA's Stewardship Plan did not identify a responsible official or an action to be taken in response to an identified risk. Further, we identified instances where the Plan did not describe the actions the Agency will take when monitoring, and control activities indicate there is an increased risk that Recovery Act goals will not be met.

In 2009, the OIG identified EPA's "Management of Stimulus Funds" as an Agency management challenge for EPA's consideration during its Federal Managers' Financial Integrity Act review. In 2010, EPA will continue to face many similar challenges. EPA will continue to be challenged by managing recipients' activities to achieve Recovery Act goals and requirements while commencing expenditures as quickly as possible. Now that EPA has awarded the majority of Recovery Act funds, the Agency's focus will have to shift to oversight and monitoring. As already noted, Agency staff will have to manage the stimulus grants and contracts in addition to their normal workload. Also, EPA will continue to rely heavily on State agencies – the primary fund recipients – to properly manage subrecipients that receive Recovery Act funds. Given the significant economic problems many States face, they may not have the resources to oversee these funds. Lastly, EPA's Superfund program provided Recovery Act funding through contracts (many existing). With the emphasis on awarding funds and getting work started quickly, there is a risk that the contractors will not be ready and able to accept the additional work. These additional activities will strain EPA's current acquisition workforce.

It's your money
It's your environment

Report fraud, waste or abuse

e-mail: OIG_Hotline@epa.gov

write: EPA Inspector General Hotline 2491T
1200 Pennsylvania Avenue NW
Washington DC 20460

fax: 202-566-2549

phone: 1-888-546-8740



www.epa.gov/oig/hotline/how2file.htm