U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Audit Report

EPA Needs Procedures to Address Delayed Earmark Projects

Report No. 10-P-0081

March 22, 2010



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Abbreviations

EPA	U.S. Environmental Protection Agency
FY	Fiscal Year
IFMS	Integrated Financial Management System
IGMS	Integrated Grants Management System
NEPA	National Environmental Policy Act
OCFO	Office of the Chief Financial Officer
OIG	Office of Inspector General
ORBIT	Office of the Chief Financial Officer's Reporting and Business Intelligence Tool
OW	Office of Water
SAAP	Special Appropriation Act Project

Cover photo: Aeration tank at a large wastewater facility. (EPA OIG photo)

U.S. Environmental Protection Agency
Office of Inspector General

10-P-0081
March 22, 2010

At a Glance

Catalyst for Improving the Environment

Why We Did This Review

We performed this audit to quantify unused Special Appropriation Act Project (SAAP) funds and to determine whether the U.S. Environmental Protection Agency (EPA) awarded funds and grantees used the funds in a timely manner. This report corrects some information contained in a previously issued report (Report No. 10-P-0041).

Background

EPA has estimated that up to $1 trillion will be needed over the next 20 years to repair, replace, or upgrade aging drinking water and wastewater facilities; accommodate a growing population; and meet new water quality standards. A congressional earmark is part of an appropriation designated by Congress to be spent on a particular project. Congress appropriates SAAP grant funds in the form of earmarks for water infrastructure projects. Recipients generally must provide at least 45 percent of the total cost of the project to qualify for the grants.

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

To view the full report, click on the following link:
www.epa.gov.oig.reports/2010/20100322-10-P-0081.pdf

EPA Needs Procedures to Address Delayed Earmark Projects

What We Found

Some SAAP funds were still unobligated 5 years after Congress appropriated them. Frequently, earmark recipients either could not obtain the matching funds required to obtain the grants, or the projects were complex and required extensive planning. As of April 2009, there were 84 earmarks that Congress appropriated before Fiscal Year 2004 totaling over $28 million that still had funds that had not been obligated.

Additionally, as of April 2009, there were 119 SAAP grants that EPA awarded prior to Fiscal Year 2004 that had total funds remaining of over $122 million. In many cases, funds were not completely spent because the recipient had to make changes to the work plan, or the recipient was required to comply with various State and local regulations, thereby delaying the project.

EPA established the goal of completing SAAP projects within 5 years of grant award. However, EPA does not believe it has the authority to take action or require corrective action for delayed SAAP earmarks or grants. EPA has no defined process for its regions to contact sponsoring Members of Congress about reallocating unused SAAP funds. EPA needs a policy that specifies time limits and procedures for addressing earmarks that remain unobligated. It should also address steps to be taken when projects are delayed. Currently, unless Congress initiates a rescission, millions of dollars are available for projects that may never get started, while other projects that could improve the environment are not funded.

What We Recommend

We recommend that the Office of Water establish a national policy that creates a response framework for dealing with unobligated earmarks. The framework should include criteria for when to escalate the handling of unobligated earmarks. We also recommend that the policy address actions to be taken when projects are delayed, and include an exception reporting procedure to focus management attention on delayed projects. EPA agreed with our recommendations and agreed to draft policies and reporting procedures within 6 months and finalize and implement those procedures within 1 year of our report being issued. These corrective actions, when implemented, should adequately address the findings.

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

OFFICE OF
INSPECTOR GENERAL

March 22, 2010

MEMORANDUM

SUBJECT: EPA Needs Procedures to Address Delayed Earmark Projects
Report No. 10-P-0081

FROM: Melissa M. Heist
Assistant Inspector General for Audit

TO: Peter Silva
Assistant Administrator
Office of Water

This is a reissuance of our report on the U.S. Environmental Protection Agency's (EPA's) management of earmark projects. The original report was issued on December 8, 2009 (Report No.10-P-0041). This report corrects some of the information in the original report. As with the original report, the revised report contains findings that describe the problems the Office of Inspector General (OIG) has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The estimated cost of this report – calculated by multiplying the project's staff days by the applicable daily full cost billing rates in effect at the time – is $403,981.

Action Required

In accordance with EPA Manual 2750, we are closing this report on issuance in our tracking system. The agreed-to milestones for each recommendation are required to be tracked in the Management Audit Tracking System until the corrective actions are complete. While a formal response to the final report is not required, we request that you provide us with documentation of the policies and procedures that you prepare and issue in response to this report. We have no objections to the further release of this report to the public. This report will be available at http://www.epa.gov/oig.

If you or your staff have any questions, please contact Janet Kasper, Director, Contracts and Assistance Agreement Audits, at 312-886-3059 or kasper.janet@epa.gov.

Table of Contents

Chapters

1 Introduction 1

Purpose 1
Background 1
Noteworthy Achievements 1
Scope and Methodology 2

2 Some Earmarks Remain Unobligated 5 Years after Appropriation 3

SAAP Funds Remain Unobligated from Appropriations prior to FY 2004 3
EPA Does Not Have a Policy for Taking Action on Unobligated Earmarks 4
Recommendation 5
Agency Comments and OIG Evaluation 5

3 Some SAAP Grants Not Spent in a Timely Manner 7

Grant Funds Are Unspent 5 Years after Award 7
EPA Does Not Have a Policy to Reallocate Funds on Delayed Projects 8
Recommendations 9
Agency Comments and OIG Evaluation 9

4 SAAP Database Limitations 10

Status of Recommendations and Potential Monetary Benefits 11

Appendices

A Details on Scope and Methodology 12

B Unobligated Earmarks Reviewed 14

C SAAP Grants with More than Half of Funds Remaining Reviewed 16

D Agency Response 18

E Distribution 20

Chapter 1
Introduction

Purpose

Water and wastewater infrastructure is one of the U.S. Environmental Protection Agency's (EPA's) top management challenges because drinking water and wastewater treatment systems are wearing out, and huge investments are needed to replace, repair, and construct facilities. When available infrastructure appropriations remain unused, water and wastewater infrastructure needs are not addressed. During this audit, our objective was to determine whether Special Appropriation Act Project (SAAP) funds were awarded and used in a timely manner.

Background

A congressional earmark is part of an appropriation designated by Congress to be spent on a particular project. Congress has typically appropriated SAAP grant funds in the form of earmarks each year to fund drinking water and wastewater infrastructure projects to benefit specific communities. SAAP funds have no time limit for when they can be spent. SAAP is shown in the Catalog of Federal Domestic Assistance as Congressionally Mandated Projects. Communities are required to provide matching funds for these federal grants. Recipients must generally provide 45 percent of the total cost of the project to qualify for the grants. The matching requirement can be waived for two reasons: if specific language in the Conference Report or Appropriations Act specifies a different matching requirement or if there are financial capability issues.

EPA's Office of Water (OW) issues annual SAAP guidance for prospective grantees. OW delegates the authority to regions to manage SAAP grants. EPA project officers work with congressionally designated entities, such as cities and towns, to help them develop and submit SAAP grant applications. EPA's June 10, 1997, strategy document established the goal of completing SAAP projects within 5 years of the award date and closing out the grants within 7 years of award.

Noteworthy Achievements

Regions implemented some effective procedures to manage SAAP earmarks:

- Region 4 oversees eight States and has more SAAP earmarks to manage than any other region. It awards grants on a first-come, first-served basis, based on geographical location within designated priority watersheds and

greatest benefit to public health. Region 4 has hosted annual training conferences for all designated SAAP earmark recipients to help them understand the environmental review requirements and the grants process. These conferences inform the recipients about how to complete grant applications and encourage them to start project planning.

- Region 9 assigns the duties of managing SAAP grants to many project officers. To ensure that grants are awarded, managed, and monitored correctly, Region 9 developed a comprehensive set of pre-award and post-award guidelines that all of its project officers can follow. The guidelines can help to ensure that SAAP grants are handled consistently within the Region. For example, guidelines propose that project officers use reimbursement request checklists, review all earmark grant invoices, and approve payment requests.

- For SAAP grants awarded from Fiscal Year (FY) 1992 through FY 2008, regions closed more than 90 percent of them within 7 years of the award date.

Scope and Methodology

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

We conducted our audit work from November 2008 to September 2009. We focused on earmarks appropriated through 2006 that had funds remaining to be obligated as of April 2009, and SAAP grants EPA awarded prior to FY 2004 that still had funds remaining as of April 2009. We selected random samples of 22 unawarded earmarks and 20 SAAP grants with more than 50 percent of funds remaining, as reflected in EPA systems as of February 2009. Nine regions were represented in our random sample. We interviewed regional staff about the selected earmarks and grants and reviewed supporting documentation. We also interviewed Headquarters staff from EPA's OW and the Office of the Chief Financial Officer (OCFO).

We quantified earmarks not obligated as of April 2009 using commitment data from the Integrated Financial Management System (IFMS), which was checked against the Integrated Grants Management System (IGMS) and the appropriations acts. We also quantified unliquidated obligations using data from the OCFO's Reporting and Business Intelligence Tool (ORBIT), which pulls data from IFMS and IGMS. See Appendix A for further details on our scope and methodology.

Chapter 2
Some Earmarks Remain Unobligated 5 Years after Appropriation

As of April 2009, over $28 million in SAAP funds from congressional appropriations prior to FY 2004 were not obligated. Frequently, earmark recipients either could not provide the matching funds required for the grant, or the projects were complex and required extensive planning. SAAP funds have no time limit for when they can be spent, and regions rarely take steps to notify the sponsoring Member of Congress that designated recipients are not applying for or are unable to meet funding requirements. As a result, millions of dollars are appropriated for projects that may never get started.

SAAP Funds Remain Unobligated from Appropriations prior to FY 2004

As of April 2009, there were 84 SAAP earmarks with unobligated funds of $28,820,068 that were appropriated prior to FY 2004.[1] The unobligated funds included:

- Funds never awarded to the designated projects,
- Funds remaining after a portion of the funds earmarked for a project were awarded, and
- Funds deobligated from completed projects.[2]

The following table shows unobligated earmarks through FY 2006.

Table 2-1: Unobligated SAAP Funds

Appropriation Year	Number of Earmarks	Never Awarded	Partial Award	Deobligated Funds
Prior to FY 2004	84	$24,677,366	$3,249,108	$ 893,594
2004	98	35,293,000	9,109,765	9,631
2005	175	52,341,472	3,454,740	100
2006	84	53,596,700	3,827,311	486,080
Total	**441**	**$165,908,538**	**$19,640,924**	**$1,389,405**

Source: IFMS commitments and Office of Inspector General (OIG) analysis.

In half of the cases we reviewed (11 of 22), recipients were unable to obtain required matching funds or required more time to plan complex projects. For

[1] Obligations represent amounts awarded to a recipient for a grant that may need to be paid in the future. Unobligated funds are funds that have not been identified to a specific grant.
[2] At the end of grant, if there are obligated funds remaining, EPA deobligates the funds from the grant. However, the funds continue to be set aside in EPA's accounting system for the community based on the original appropriation language pending congressional direction to do otherwise.

example, a Pennsylvania township with less than 2,000 residents could not obtain needed matching funds for its 2001 earmark of $1,935,700. A 2002 Delaware earmark recipient planned a high-profile wastewater project for its $1,940,000 earmark. However, the recipient experienced a series of problems with its plans for spray irrigation, underground injection, and percolation.

In other cases, grants were not awarded for a variety of reasons:

- The designated recipient did not apply because the grant amount was small and there was staff turnover at the town.
- There was a lack of required financial accounting procedures.
- The original work plans changed.
- Environmental requirements were difficult to meet.
- The designated recipient was unaware of the requirement to provide matching funds for the grant.
- A change in political leadership led to a change in the plan for the grant funds.

See Appendix B for details of unobligated earmarks we reviewed.

EPA Does Not Have a Policy for Taking Action on Unobligated Earmarks

EPA does not have a policy that clearly identifies when regions should take actions on unobligated earmarked funds. Some designated recipients are not applying for the funds, and the funds could be considered for other purposes. While regions contact recipients several times a year to remind them that earmarked funds are available and assist recipients with the application process, they rarely take steps to contact the sponsoring Member of Congress. Interviews with EPA managers and staff indicated that they do not think they have the authority to make recommendations to Congress about the use of SAAP funds. According to OW personnel, because Congress specifically directs the amount and purpose of earmarked funds, EPA is prohibited from unilaterally taking any action that would change how the funds were intended to be used. SAAP funds cannot be allocated to another project unless Congress writes a rescission of funds into the law.

Of the 22 unobligated earmarks we reviewed, EPA took steps to put the funds to better use in two cases. In one case, EPA was able to award the funds to another recipient through a technical correction to the appropriation report language that authorized the earmark. In the other case, after it became apparent that the designated recipient was not going to use the funds, the region coordinated with its Congressional Liaison office to find another project within the sponsoring district of the Member of Congress. According to EPA, Congress has not yet designated these funds for another project.

Congress took action in 2006 and 2009 to rescind unobligated SAAP grants. The 2006 Appropriations Act (Public Law 109-54) rescinded $80 million in funds from grants that were no longer available because the original project period expired. The rescission included SAAP funds that were appropriated in FY 2000 or earlier and that had not been obligated on an approved grant by September 1, 2006. Because the rescission included a deadline for grant applications, it encouraged designated recipients to finalize their project plans and apply for the SAAP funds. The 2009 Omnibus Appropriations Act (Public Law 111-8) included instructions that EPA rescind $10,000,000 from three sources:

- Unobligated balances from the Title II Construction Grants program;
- Unobligated prior-year balances from State categorical grant programs; and
- Balances from special project grants appropriated in FY 2002 or earlier which have not been obligated on an approved grant as of July 1, 2009.[3]

If Congress would include a rescission with deadlines and guidance in future appropriations so that earmark recipients understand from the outset that time limits exist for starting projects, they would be compelled to address more quickly those obstacles that impede starting projects or risk losing their funds.

Millions of dollars are appropriated for projects that may never get started. Meanwhile, other projects that could improve the environment go unfunded. Over time, earmark purchasing power declines; the more time that elapses between appropriation and award, the less purchasing power those dollars have. EPA needs a policy outlining what actions EPA staff can take when communities are not able to start their projects in a timely manner.

Recommendation

We recommend that the Assistant Administrator for the Office of Water, in consultation with the Office of the Chief Financial Officer:

2-1 Establish a national policy that creates a response framework for dealing with unobligated earmarks. The framework should include criteria for when to escalate the handling of unobligated earmarks.

Agency Comments and OIG Evaluation

EPA agreed that the issue of unobligated and unliquidated earmarked funds must be addressed. EPA noted that its ability to put unobligated earmarked funds to better use is limited by the appropriations language itself. EPA suggested a revision to our draft report recommendation to allow it some flexibility to deal

[3] Of the unawarded earmarks identified in Table 2-1 on page 3, EPA rescinded three earmarks, valued at $1,017,730.

with workload and resource differences in the regions. For example, during our exit conference, the Director, Municipal Support Division of OW, stated that a region that has a large number of earmarks to manage – like Region 4 – might need to use a different approach to ensure that the earmarks get awarded than a region that receives fewer congressional earmarks to award. A region with a low number of earmarks, for example, could visit each recipient individually, while Region 4 would not be able to do that. We revised our draft report recommendation to address the Agency's perspective.

EPA concurred with the revision to Recommendation 2-1 and stated it will take steps within the next 12 months to address the problems we identified. In providing a corrective action plan and time frame for implementation, EPA has addressed the recommendation. We continue to believe that EPA needs to ensure that regions that receive many earmarks find ways to award them in a timely manner. Regions with fewer earmarks could assist other regions that have to manage many. We encourage EPA, in the response framework that it has agreed to develop, to consider various approaches or options to ensure that all regions award earmarks in a timely manner.

Chapter 3
Some SAAP Grants Not Spent in a Timely Manner

As of April 2009, EPA awarded 119 SAAP grants prior to FY 2004 that had funds remaining on them. The funds remaining on those grants total over $122 million. EPA established the goal of completing SAAP projects within 5 years of grant award. However, regions rarely take steps to reallocate unused funds because managers and staff do not think they have the authority to do so, and EPA has no specific policy requiring them to do so. As a result, millions of dollars of grant funds are not being used because of project delays.

Grant Funds Are Unspent 5 Years after Award

The Office of Wastewater Management annually issues guidance for congressional earmarks appropriated for water infrastructure projects. The guidance provides the regions with information on technical changes, administrative requirements, and the names of the recipients and designated earmark amounts. The guidance references a June 1997 strategy document that established the goal of completing SAAP grants within 5 years of grant award.

There were, as of April 2009, 119 SAAP grants that EPA awarded prior to FY 2004 that had funds remaining on them totaling $122,663,696. For 50 of those grants (42 percent), more than half of the funds still remained after 5 years.[4] Of the 20 such grants we reviewed having at least half of the funds remaining, the following factors contributed to the delays in the projects and therefore the lack of timely funds expenditure:

- **Changes to the original work plans.** For example, EPA awarded a storm water grant of $1,645,400 on September 14, 2001, to a Florida community. The recipient had to change its project work plan following objections brought up during public meetings because the project involved diverting storm water into a low-income neighborhood.

- **Compliance with non-EPA regulatory requirements.** For example, EPA awarded a $261,000 wastewater grant on July 10, 2001, to a Pennsylvania community. The recipient's project was delayed in part due to discovery of archaeological Civil War artifacts during the environmental assessment.

[4] As of April 2009, reported through ORBIT.

For 8 of the 20 grants we reviewed, no funds had been spent even though EPA awarded the grants more than 5 years ago. Recipient changes to the original work plan were a factor in delays for seven of the grants. For example:

- EPA awarded a grant of $1,451,800 for a water reservoir on July 27, 2001, to a California community. The recipient needed to pursue additional funding and redesign the project after the environmental assessment took 6 years.

- EPA awarded a grant of $867,300 on September 30, 2003, to a New York community. The recipient expanded the scope of work for a wastewater treatment plant based on projected population growth after the State did not approve the original drinking water project.

See Appendix C for details of SAAP grants with unspent funds that we reviewed.

EPA Does Not Have a Policy to Reallocate Funds on Delayed Projects

EPA lacks the control activities needed to provide reasonable assurance that SAAP grant funds will be spent in a timely manner. Control activities are policies, procedures, and other mechanisms that help ensure that program objectives are met.[5] Although the goal to complete projects within 5 years of award date was established in the June 10, 1997, EPA strategy document, many grants have been delayed. Regions have no defined process for identifying delayed projects or taking corrective action.

Regions recognize that communities need the funds for infrastructure projects, even though they may not be able to complete projects within set timeframes. Regions will rarely take steps to reallocate funds because managers and staff do not think they have the authority to do so. However, EPA guidance states that earmarks are to be managed like other grants.

EPA has limited guidance on how to deal with delays in earmark grants. In FY 2007, EPA issued Grants Policy 07-01 to assist the regions with managing earmarks. It stated that EPA Senior Resource Officials should coordinate earmark grant problems with the Office of Congressional and Intergovernmental Relations and the OCFO. However, EPA managers and staff have not been given any guidance on what they can do to improve the timely execution of delayed projects.

[5] Office of Management and Budget Circular A-123.

EPA has issued guidance to improve the timely expenditure of other grants. For example:

- EPA added new timeliness language to the Terms and Conditions for FY 2009 Brownfields clean-up and assessment grants. If entities have not made sufficient progress on the project and started to spend funds within 1.5 years, the grants may be terminated. The terms and conditions also define sufficient progress for grantees so they understand the requirements.

- EPA instituted a Management Controls Policy for the Alaska Village Safe Water Program to define delayed projects and require corrective action plans. Stalled project reviews determine whether projects face unexpected obstacles that may cause significant delays. Then EPA begins to reallocate funding to other priority projects.

Similar guidance is needed for SAAP earmarks. The guidance should address expected timeframes for completing SAAP projects, what action can be taken when projects do not meet the timeframes, and when projects should be elevated to management for specific attention.

Millions of dollars in grant awards are not being used because of project delays. Earmark purchasing power declines over time; the longer the time lapse, the less those dollars are able to accomplish on the proposed projects. In addition, federal funds could remain obligated to a project that might never be completed, which reduces available federal funds for other needs.

Recommendations

We recommend that the Assistant Administrator for the Office of Water, in consultation with the Office of the Chief Financial Officer:

3-1 Establish a national policy that clearly identifies corrective actions for delayed projects.

3-2 Create an exception reporting procedure for delayed projects to focus management attention on such cases.

Agency Comments and OIG Evaluation

EPA agreed with Recommendations 3-1 and 3-2. EPA stated that it plans to draft the necessary policies and procedures to address the recommendations within 6 months of the date of this audit report. EPA plans to finalize and implement those procedures within 12 months of the issuance of this report. The response addresses the recommendations and provides a timeframe for completing the actions.

Chapter 4
SAAP Database Limitations

OW's SAAP database is not a reliable source of information for the status of SAAP earmarks. As of December 1, 2008, the SAAP database contained incorrect status information for 11 percent of all unawarded earmarks (8 of 73) appropriated in FY 2003 and prior years.

- Seven out of the 73 earmarks that were reported as unawarded in the SAAP database were awarded according to IGMS (2 of those grants were actually closed out).

- One of 73 earmarks was recorded in the SAAP database but could not be found in IFMS, so its accuracy could not be confirmed.

EPA Directive 2520, *Administrative Control of Appropriated Funds*, defines internal controls (in part) as a "Plan of organization, methods, and procedures adopted by management to ensure that . . . reliable data are obtained, maintained, and fairly disclosed in reports."

EPA's use of the SAAP database as a management tool is not completely effective because of the potential for incorrect or missing information. As a result, OW cannot be assured that it is fully aware of the extent to which earmarked funding and projects are delayed. However, OW explained that the SAAP database is reliable for OW's use in producing reports twice per year. OW personnel told us that they are aware of the SAAP database deficiencies, and they plan to improve the database if funding becomes available.

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
2-1	5	In consultation with the Office of the Chief Financial Officer, establish a national policy that creates a response framework for dealing with unobligated earmarks. The framework should include criteria for when to escalate the handling of unobligated earmarks.	O	Assistant Administrator for Water	3/23/2011		
3-1	9	In consultation with the Office of the Chief Financial Officer, establish a national policy that clearly identifies corrective actions for delayed projects.	O	Assistant Administrator for Water	3/23/2011		
3-2	9	In consultation with the Office of the Chief Financial Officer, create an exception reporting procedure for delayed projects to focus management attention on such cases.	O	Assistant Administrator for Water	3/23/2011		

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

Appendix A

Details on Scope and Methodology

To identify the appropriated funds that were not obligated, as identified in Chapter 2, we analyzed data from IFMS and IGMS. The data we obtained from IFMS was as of April 1, 2009. We also provided the information to EPA before issuing the report.

We reviewed 22 unawarded SAAP earmarks totaling just over $15 million. The unobligated earmarks were identified using information from the SAAP database as of February 2009.[6] The 22 unawarded earmarks consisted of a nonstatistical random sample of 12 unobligated earmarks appropriated prior to FY 2004, and a second nonstatistical random sample of 10 unawarded earmarks appropriated during FYs 2004 through 2006. We selected grants appropriated prior to FY 2006 based on an estimate of 2 years to award grants. Since the sample was nonstatistical, the results cannot be projected to the universe of unawarded earmarks.

Table A-1: Unobligated SAAP Funds Reviewed

Appropriation Year	Unawarded Grants Reviewed	Unawarded Grant Amount Reviewed
Prior to FY 2004	12	$10,641,200
FY 2004	2	264,563
FY 2005	4	1,241,200
FY 2006	4	2,819,500
Total	**22**	**$14,966,463**

Source: SAAP database.

We identified the universe of unused SAAP funds based on information from IGMS and IFMS using the ORBIT report tool. The report included data as of April 2009.

For our sample selection of unused grant funds, we used data from IGMS and IFMS to identify grants that had been awarded prior to FY 2004 that were not completed as of February 23, 2009. The ORBIT report uses data from IFMS and IGMS. We selected a nonstatistical random sample of 20 SAAP grants awarded prior to FY 2004 with more than 50 percent of their funds remaining. We selected grants awarded prior to FY 2004 based on the EPA criteria that SAAP grant projects be completed within 5 years. Since the sample was nonstatistical, the results cannot be projected to the universe of unawarded earmarks

The grants in our samples covered Regions 1, 2, 3, 4, 5, 6, 8, 9, and 10. For each of the grants in our samples, we interviewed regional staff and reviewed documents to determine:

- Why sampled earmarks were not awarded,
- What efforts the regions made to award the grants,

[6] Although the SAAP database contained errors (as we disclosed in Chapter 4), the reliability of the data was sufficient to select a sample to conduct our audit work.

- Why sampled grants awarded prior to FY 2004 were not fully spent, and
- Whether unspent funds were still needed.

For the unawarded earmarks, we also interviewed four grant recipients to learn why they did not apply for the grants.

During our audit, we interviewed Headquarters and regional staff and reviewed EPA policies to determine what courses of action are available to EPA if SAAP recipients no longer need the funds. We also interviewed OW staff regarding the management of earmark grants.

Our review of management controls was limited to identifying and assessing internal controls in place to track unawarded earmarks and funds remaining on SAAP grants awarded prior to FY 2004. We gained an understanding of internal controls through interviews with Headquarters and regional staff, a review of EPA policies, and an analysis of a sample of unawarded and unused SAAP funds. OIG performed audits of SAAP grants during FYs 2007 and 2008, and we reviewed them during our audit.

Appendix B

Unobligated Earmarks Reviewed [7]

Earmark Sample Number	Designated Earmark Region	Designated Earmark Amount	Appropriation Year	Explanations Given by the Regions
1	Region 1	$14,838	2004	The recipient did not apply because the grant amount was small and there was staff turnover at the town. This earmark was eventually awarded, during our audit, on June 23, 2009.
2	Region 1	$1,146,900	2006	The designated recipient changed the work plan.
3	Region 2	$485,000	2002	The designated recipient did not respond to the Region's attempts to discuss the earmark.
4	Region 2	$485,000	2002	The earmark was awarded May 9, 2006, and closed out July 11, 2006. Including it in the SAAP database as an unawarded earmark was in error.
5	Region 2	$105, 800	2005	The designated recipient lacked the accounting system required to support the grant.
6	Region 3	$1,933,700	2001	The designated recipient could not provide matching funds for the grant. Funds were de-obligated and then awarded to another recipient, during our audit, on March 10, 2009.
7	Region 3	$1,940,000	2002	The designated recipient changed the work plan.
8	Region 3	$461,900	2005	The designated recipient could not provide matching funds for the grant.
9	Region 3	$477,900	2006	The designated recipient had to coordinate additional funding from multiple sources.
10	Region 4	$967,900	2001	The designated recipient did not apply for the grant until January 14, 2009, and it was awarded, during our audit, on April 3, 2009.
11	Region 4	$970,000	2002	Multiple local governments had to work together on the project, which lengthened the planning process. The project included several appropriations, and was eventually awarded, during our audit, on July 1, 2009.
12	Region 4	$563,800	2003	The designated recipient engaged in a lengthy planning process.

[7] We drew our sample on February 5, 2009, for the earmarks in the appendix. Subsequent to that date, and during our audit work, EPA awarded some of these earmarks.

Earmark Sample Number	Designated Earmark Region	Designated Earmark Amount	Appropriation Year	Explanations Given by the Regions
13	Region 4	$867,300	2003	The designated recipient wanted to use an unapproved source, Federal Emergency Management Agency funds, as matching funds for the grant. No engineer was available. The designated recipient changed the work plan.
14	Region 4	$650,500	2003	The Region had received the application and could not explain why it was not awarded.
15	Region 4	$192,400	2005	The designated recipient changed the work plan.
16	Region 4	$477,900	2006	The environmental assessment was approved in March 2008, and the recipient submitted its application on January 9, 2009.
17	Region 4	$716,800	2006	The National Environmental Policy Act (NEPA) review is still ongoing.
18	Region 5	$867,300	2003	The designated recipient wanted to use the funds to pay back a State revolving fund loan, which is against the SAAP grant requirements.
19	Region 5	$482,100	2004	The NEPA review took a long time, but EPA awarded the balance of the grant on February 9, 2009.
20	Region 5	$481,100	2005	At the time of the appropriation, the designated recipient was unaware of the requirement to provide matching funds for the grant. There was a change in political leadership and subsequent change in the plan for the grant funds.
21	Region 6	$433,700	2003	The designated recipient could not provide matching funds for the grant. The grant was awarded, during our audit, on February 20, 2009.
22	Region 10	$477,000	2003	The approved project required a technical change to be written into the appropriations act. The City's financial director was unavailable to start the project. The grant was awarded, during our audit, on February 6, 2009.

Source: Agency databases and OIG analysis.

Appendix C

SAAP Grants with More than Half of Funds Remaining Reviewed

Grant #	Award Date	Grant Amount	Percentage of Funds Remaining [8]	Explanations Given by the Regions
98281701	09/30/2003	$867,300	100	The recipient could not get State approval for the original project. The recipient changed its work plan, and it is now under construction.
98280901	02/27/2003	$1,746,000	88	The recipient could not get State approval for the project. The recipient is trying to determine eligible costs. The recipient is trying to obtain matching funds from the State. The recipient has to meet federal fish and wildlife requirements.
98284601	09/30/2003	$867,300	100	The recipient was trying to determine eligible costs associated with a completed project.
42995901	07/10/2001	$261,000	98	The recipient had to meet other federal, State, or local regulatory requirements before proceeding with construction. Several local government entities disagreed about how the funds should be spent and what project should be funded.
98355901	09/26/2001	$9,872,200	80	Several local government entities disagreed about how the funds should be spent and what project should be funded.
98380301	07/02/2003	$1,746,000	100	The recipient had a shortage of people to start the project.
97401300	09/29/2000	$2,619,550	67	Several local government entities disagreed about how the funds should be spent and what project should be funded. The recipient could not provide matching funds for the grant.
97436201	09/14/2001	$1,645,400	80	The recipient had to meet other federal, State, or local regulatory requirements before proceeding with construction. The recipient changed the work plan.

[8] These percentages are as of the date we selected our sample on February 23, 2009.

Grant #	Award Date	Grant Amount	Percentage of Funds Remaining [8]	Explanations Given by the Regions
97444002	03/05/2003	$500,000	97	The recipient changed the work plan. The recipient's plans were challenged by an environmental group.
97465403	05/28/2003	$873,000	100	Several local government entities disagreed about how the funds should be spent and what project should be funded. The recipient had to meet other federal, State, or local regulatory requirements before proceeding with construction. There was a change in political leadership.
97473503	03/05/2003	$970,000	77	The recipient had labor problems and obtained a new contract for the planned work.
97603401	05/22/2002	$2,000,000	74	The recipient had to meet other federal, State, or local regulatory requirements before proceeding with construction.
97630701	02/07/2003	$1,309,500	89	In addition to providing matching funds, the recipient had to obtain more funding for various aspects of the project.
97607001	09/04/2003	$1,236,200	79	There was a change in political leadership. The NEPA review took a long time.
97653701	09/24/2003	$2,000,000	100	The recipient had to meet other federal, State, or local regulatory requirements before proceeding with construction.
98875401	02/07/2003	$679,000	100	The recipient is awaiting State approval for the project. The recipient changed the work plan. The recipient's plans were challenged by an environmental group. The recipient has not submitted NEPA documents for approval.
98992601	07/27/2001	$1,451,800	100	The recipient changed the work plan. The NEPA review took a long time. In addition to providing matching funds, the recipient had to obtain more funding for various aspects of the project.
97926401	09/30/2002	$571,700	100	The recipient changed the work plan. The NEPA review took a long time.
97925001	09/26/2002	$145,500	80	The recipient changed the work plan.
97951001	08/25/2003	$970,000	74	The recipient had to meet local regulatory requirements before starting construction.

Source: Agency databases and OIG analysis.

Appendix D

Agency Response

November 9, 2009

MEMORANDUM

SUBJECT: Draft Audit Report
EPA Needs Procedures to Address Delayed Earmark Projects
Project Number OA-FY09-0600

FROM: Peter S. Silva
Assistant Administrator

TO: Janet Kasper, Director
Office of Inspector General
Contracts and Assistance Agreement Audits

Thank you for providing the opportunity to comment on the Office of Inspector General's (OIG) *Draft Audit Report: EPA Needs Procedures to Address Delayed Earmark Projects (*9/18/2009). The draft report contains the following recommendations:

1. "Establish a national policy that clearly identifies criteria for when EPA should take action to put unawarded earmarks to better use, and define a process for regions to follow."

2. "Establish a national policy that clearly defines corrective actions for delayed projects."

3. "Create an exception reporting procedure for delayed projects to focus management attention on such cases."

The Office of Water (OW) agrees that the issue of unobligated and unliquidated earmark funds must be addressed. We recommend rewording Recommendation 1 to be "Establish a national policy that creates a response framework for dealing with unawarded earmarks." This will allow us some flexibility for dealing with Regional differences in workload, resources, and established relationships while settting out criteria for escalation of handling unawarded earmarks. This rewording appears reflective of the intent of the original draft recommendations. It is also in line with EPA authorities, as our ability to "put unawarded earmarks to better use" is limited by the appropriations language itself. With that modification, OW concurs with OIG recommendations. Staff from EPA's OW, Office of the Chief Financial Officer (OCFO), and the Office of General Council (OGC) held a meeting on October 15, 2009 to determine the extent of EPA's authority regarding unobligated and unliquidated funds, discuss policy options, and establish the necessary timeframe for the development and implementation of policies and

exception reporting procedures. OW believes that the recommended policies and reporting procedure can be drafted within 6 months from the issuance of the OIG's final report, and finalized and implemented 6 months later.

Should you have any questions regarding these comments, please contact Sheila Frace, Municipal Support Division Director at (202) 564-1153, or Matt King at (202) 564-2871.

Appendix E

Distribution

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