



OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Audit Report

Improvements Needed to Ensure Grant Funds for U.S.-Mexico Border Water Infrastructure Program Are Spent More Timely

Report No. 08-P-0121

March 31, 2008



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Abbreviations

BECC	Border Environment Cooperation Commission
BEIF	Border Environment Infrastructure Fund
CWPPRA	Coastal Wetlands Planning, Protection and Restoration Act
EPA	U.S. Environmental Protection Agency
FMFIA	Federal Managers' Financial Integrity Act
FY	Fiscal Year
IFMS	Integrated Financial Management System
NADBank	North American Development Bank
NAFTA	North American Free Trade Agreement
OCFO	Office of the Chief Financial Officer
OIG	Office of Inspector General
OMB	U.S. Office of Management and Budget

Cover photo: This 2007 photo shows construction of two 120-foot diameter clarifiers (settling basins) at the Nogales International Wastewater Treatment Plant in Rio Rico, Arizona. This \$62 million border project, funded in part with EPA grant dollars, will upgrade the facility to meet certain permit limits for discharges into the Santa Cruz River. (EPA photo)



At a Glance

Catalyst for Improving the Environment

Why We Did This Review

The U.S. Environmental Protection Agency's (EPA's) Office of the Chief Financial Officer and some members of Congress expressed concerns related to unliquidated balances in the U.S.-Mexico Border Program (Border Program). Our audit objective was to answer the question: Does EPA's U.S.-Mexico Border Program have adequate controls for obligating and using water infrastructure grant funds?

Background

EPA provided \$626 million in assistance agreements (grants) for water infrastructure improvements (both drinking water and wastewater) along the U.S.-Mexico border for projects starting between Fiscal Years 1997 and 2007. EPA coordinates and works with the Border Environment Cooperation Commission and the North American Development Bank to ensure border projects are designed and constructed to achieve environmental results.

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

To view the full report, click on the following link:
www.epa.gov/oig/reports/2008/20080331-08-P-0121.pdf

Improvements Needed to Ensure Grant Funds for U.S.-Mexico Border Water Infrastructure Program Are Spent More Timely

What We Found

From 2005 to 2007, EPA took actions to implement timeframes for Border Program projects, reduce the scope of projects, and reduce unliquidated obligations of projects. However, EPA needs to make additional changes to the process it uses to manage the funds Congress appropriates for water infrastructure improvements along the U.S.-Mexico Border. In Fiscal Years 2005 and 2006, EPA awarded \$35.1 million to the North American Development Bank to construct Border Program projects that could not be built until they were planned and designed, which takes about 2 years. Since 1998, the Bank has accumulated an unliquidated balance of \$233 million because EPA awarded grants to construct projects before design was complete. EPA managers told us they provided grant funds in advance to ensure funds were available to build projects once planning was completed. EPA staff also said they felt pressured to obligate the money to avoid a reduction in program funding. If this process continues, between \$34 and \$57 million of the funds Congress appropriated for the program in Fiscal Years 2007 and 2008 will not be needed until Fiscal Year 2010 or beyond.

Region 6 Border Program grant work plans did not include specific projects, measures, milestones, or costs associated with projects. The work plan for EPA Region 9's Fiscal Year 2006 grant included total cost of projects, but did not include sufficient detail about how much the grant funded for the projects. EPA requires that all grant work plans contain objectives, specific tasks, a schedule or milestones, project measures, and detailed budgets. When EPA awards grants with work plans that do not fulfill all requirements, there is an overall reduction in accountability for the projects and funding.

What We Recommend

We recommend that EPA:

- Require project planning and design be completed before awarding grant funds for construction,
- Develop a plan to fund other projects with the unobligated funds, and
- Prepare work plans that contain required project information.

With one exception, EPA generally concurred with our recommendations. However, EPA expressed reservations about being able to make changes to the program without all stakeholders agreeing on how projects should be funded.



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

OFFICE OF
INSPECTOR GENERAL

March 31, 2008

MEMORANDUM

SUBJECT: Improvements Needed to Ensure Grant Funds for U.S.-Mexico Border Water Infrastructure Program Are Spent More Timely
Report No. 08-P-0121

FROM: Melissa M. Heist *Melissa M. Heist*
Assistant Inspector General for Audit

TO: Benjamin H. Grumbles
Assistant Administrator, Office of Water

Richard Greene
Regional Administrator, Region 6

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Regional Administrator, Region 9

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Chief Financial Officer

This is the final report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This audit report contains findings that describe problems the OIG has identified and corrective actions that the OIG recommends. This audit report represents the opinion of the OIG and the findings contained in this report do not necessarily represent the final EPA position. Final determinations on matters in this audit report will be made by EPA managers in accordance with established audit resolution procedures. We would like to acknowledge the cooperation and assistance provided by your staff during the course of the audit.

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 \$417,493.

Action Required

In accordance with EPA Manual 2750, you are required to provide a written response to the findings and recommendations in this report within 90 days of the report date. We request that

the Office of Water submit one consolidated response. Office of Water should include a corrective action plan for agreed-upon actions, including milestones and dates. This report will be available at <http://www.epa.gov/oig>.

If you or your staff has any questions regarding this report, please contact me at 202-566-0899 or heist.melissa@epa.gov; or Janet Kasper, Director, Assistance Agreement Audits, at 312-886-3059 or kasper.janet@epa.gov.

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Chapter 1

Introduction

Purpose

The U.S. Environmental Protection Agency (EPA) provided \$626 million in assistance agreements (grants) to the Border Environment Cooperation Commission (BECC) and the North American Development Bank (NADBank) for projects starting between Fiscal Years (FYs) 1997 and 2007. The grants were for water infrastructure improvements (both drinking water and wastewater) along the U.S.-Mexico border. EPA's Office of the Chief Financial Officer (OCFO) and some members of Congress have expressed concerns related to unliquidated balances in the U.S.-Mexico Border Program (Border Program). The EPA Office of Inspector General (OIG) has audited EPA's controls for obligating and using the Border Program's funds. Our audit objective was to answer the question: Does EPA's U.S.-Mexico Border Program have adequate controls for obligating and using water infrastructure grant funds?

Background

The U.S.-Mexico border region extends more than 2,000 miles from the Gulf of Mexico to the Pacific Ocean, and over 60 miles on each side of the international boundary line. Many heavily populated unincorporated areas along the U.S.-Mexico border lack adequate sanitation and drinking water services. Outhouses



A map of the U.S.-Mexico border region (EPA map).

are often the only available means of sewage disposal. Pollutants from both countries contaminate shared waters due to inadequate sewage treatment. In rural areas, agricultural runoff and chemical waste pollute drinking water. EPA's Border Program has two main areas of focus in developing water infrastructure: delivering safe drinking water and treating wastewater.

For over 20 years, the United States and Mexico have collaborated in joint efforts to protect the environment and public health along the U.S.-Mexico border. Program partners – including EPA and the States of California, Arizona, New Mexico, and Texas – have made progress on addressing critical environmental problems. According to the *U.S. - Mexico Environmental Program: Border 2012 – Implementation and Mid-Term Report: 2007*, the millions of dollars the United States and Mexico have invested to build adequate water and wastewater infrastructure are impacting over 6.7 million border residents. The improvements not only improved water quality but preserved shared waterways, prevented beach closures, provided safe drinking water, and protected human health. EPA uses several key measures, as detailed in Table 1.1, to track yearly progress in the U.S.-Mexico Border Program.

Table 1.1: U.S-Mexico Border Program Key Measures (unaudited)

Measure	2006 Target	2006 Actual	2007 Target	2007 Actual
Provide safe drinking water in the Mexico Border area that lacked access to safe drinking water, as measured in additional homes.	2,500	22,450	1,200	1,276
Provide sewer service in the Mexico Border area that lacked access to wastewater sanitation, as measured in additional homes	15,000	30,200	70,750	73,475
Border Environment Infrastructure Fund (BEIF) Funding - Increase use of existing funds - disbursement rate to increase the pace of environmental protection. (Baseline – 44 percent)	51 percent	51 percent		
BEIF Disbursements - Increase use of existing funds to increase the pace of environmental protection. ¹			\$56 million	\$65 million

Source: EPA Quarterly Management Reports

Additional examples of program accomplishments are included in Appendix A.

Commission and Bank Involved in Program

EPA provided \$626 million in grants to BECC and NADBank for water infrastructure improvements from FYs 1997 through 2007.

- **BECC:** This is an international organization created by the governments of the United States and Mexico under side agreements to the North American Free Trade Agreement (NAFTA). The purpose of BECC is to

¹ EPA revised one of the key measures for the Border Program in 2007 to focus on actual disbursements instead of the disbursement rate.

help conserve, protect, and enhance the environment in the U.S.-Mexico border region by developing and certifying environmental infrastructure projects that incorporate innovative sustainability and public participation concepts. As of December 31, 2007, BECC had received \$43 million for planning border projects.

- **NADBank:** EPA provides funds to NADBank to ensure projects are constructed. NADBank awards and manages sub-agreements and oversees project construction and closeout. NADBank, also created under NAFTA, is a bi-national financial institution capitalized and governed equally by the United States and Mexico for the purpose of financing environmental projects certified by BECC. As of December 31, 2007, EPA had awarded NADBank \$583 million for constructing border projects. EPA awarded grants to NADBank at an average of \$66.8 million in each of FYs 2004, 2005, and 2006.

In FY 2006, Congress appropriated \$50 million for the Border Program. Of this amount, EPA provided \$1.5 million (3 percent) to BECC and \$39.9 million (80 percent) to NADBank. EPA used the remaining \$8.6 million (17 percent) for a variety of efforts, including tribal grants along the border and special appropriation projects Congress identified.

Recent Changes to Program

In FY 2005, EPA established a new project selection process for Border Program grants. At the start of the process, project sponsors, usually municipalities and local governments, submit proposals for construction projects. EPA and BECC review each proposal and prioritize projects for funding. EPA finalizes the prioritized list of projects to be designed and constructed. The prioritization list generally includes many more projects than EPA has the resources to fund. For example, the FYs 2005/2006 list included 161 projects, of which 26 were funded.

Once EPA finalizes the prioritization list, it provides grant funding to BECC for the planning and design of water infrastructure projects. After the award, BECC begins the 2-year process of planning the projects, completing the designs, and finding funding sources to support the projects. As part of the final process leading up to certification of a project, EPA issues its approval letter on the project's financial structure and final BEIF amount. When BECC has completed project planning and design and found adequate funding sources, it certifies each project as ready for construction.

NADBank cannot construct projects until the joint BECC/NADBank Board certifies them. NADBank issues sub-grants and ensures the non-EPA financing for projects is in place. NADBank then oversees construction of the projects and ensures that they are completed according to the final design. In 2005, EPA set a goal that NADBank would ensure that sub-grant recipients complete construction of new projects within 3½ years.

EPA has finalized a new prioritization list of Border Program projects and plans to award additional grants to BECC for planning and design and to NADBank for constructing them. Based on the established process, the projects on the list will not typically be certified until about 2 years after the list is finalized. Additional details on program changes are included in Appendix A.

Noteworthy Achievements

EPA has taken action to improve the timeliness of border projects. Prior to 2005, EPA did not have a specific timeline for completing Border Program projects, and several took over 10 years to complete. EPA implemented a new project selection process in 2005 and established a 5½-year timeline to plan and construct projects. EPA generally expects that it will take 2 years to plan and design a project and another 3½ years for the project to be constructed.

In August 2007, OCFO issued *Policy for the U.S.-Mexico Border Program*. The goals of the policy are to address funds administration and provide guidance on appropriate monitoring targets to: (a) optimize project completion rates, (b) reduce stalled balances of funds, and (c) clarify program oversight. The policy focuses on ensuring successful completion of ongoing projects, and requires all projects that exceed specific milestones to be subject to a corrective action plan. The policy also calls for cancelling those projects that appear unlikely to be completed.

The 2005 and 2007 changes to the process for awarding and managing grant funds in the Border Program are designed to improve the timeliness of constructing projects and disbursing funds. As of July 2007, many of the projects that would be subject to these new policies were still in the planning and design phase. The Agency believes that the increase in BEIF disbursements in FY 2007 provides a strong demonstration of the effectiveness of program changes. However, we were not able to evaluate the effectiveness of the changes EPA made. This report identifies additional controls that we believe are necessary to effectively manage the program.

Scope and Methodology

To answer our objective, we reviewed EPA's Border Program grants to NADBank and reviewed the funding amounts paid to NADBank for grant expenses. We interviewed EPA Regions 6 and 9 project officers and program personnel for those grants. EPA Region 6 administers U.S.-Mexico border grants along the Texas and New Mexico border; Region 9 administers U.S.-Mexico border grants along the Arizona and California border. We also interviewed EPA Headquarters officials regarding Border Program policies and funding. We visited NADBank's offices in San Antonio, Texas, and interviewed personnel. We performed our work in accordance with generally accepted government auditing standards, issued by the Comptroller General of the United States. We conducted our field work from April to September 2007. For additional details on scope and methodology, see Appendix B.

Chapter 2

Award Process Needs to be Changed to Maximize Use of Funds

From 2005 to 2007, EPA took actions to implement timeframes for Border program projects, reduce the scope of projects, and reduce unliquidated obligations of projects. However, EPA needs to make additional changes to the process it uses to manage the funds Congress appropriates for water infrastructure improvements along the U.S.-Mexico Border. In FYs 2005 and 2006, EPA awarded \$35.1 million to NADBank to construct Border Program projects that could not be built until they were planned and designed, which takes about 2 years. Since 1998, NADBank has accumulated an unliquidated balance of \$233 million because EPA awarded grants to construct border projects before design was complete. EPA managers told us they provided grant funds in advance to ensure funds were available to build projects once planning was completed. EPA staff also said they felt pressured to obligate the money to avoid a reduction in program funding. By following this process, millions of dollars are not spent for years and, thus, are not addressing environmental and human health needs. If this process continues, between \$34 and \$57 million of the funds Congress appropriated for the program in FYs 2007 and 2008 will not be needed until FY 2010 or beyond.

Grant Funding Was Awarded but Not Used

EPA set up the Border Program so that EPA awards funds for construction to NADBank before projects are certified to be constructed. In FYs 2005/2006, EPA awarded two grants totaling \$68.3 million, of which \$35.1 million² went to NADBank to build Border Program projects on the prioritization list. At the time of award, BECC was beginning the 2-year process to certify the projects for construction. NADBank could not use the \$35.1 million EPA awarded until BECC certified the projects. According to NADBank's June 30, 2007, quarterly financial report, the recipient had still not incurred any expenses for the projects these grants funded.

The guidelines EPA established for the Border Program allow 2 years for BECC to certify projects, but in many cases it takes longer. For example, in July 2005, EPA approved 22 projects on the FYs 2005/2006 prioritization list. Of the

² The \$35.1 million is the sum of \$8.7 million from Region 6 and \$26.4 million from Region 9. While EPA Region 6 awarded a grant for \$41.9 million in July 2005, only \$8.7 million was to construct Border Program projects from the FYs 2005/2006 prioritization list. The other \$33.2 million was for water and wastewater projects that were certified before the prioritization process began. EPA increased construction funding for four ongoing projects and provided initial funding for two others that EPA previously approved. EPA Region 9 awarded a grant for \$26.4 million in August 2006 to construct Border Program projects from the FYs 2005/2006 prioritization list.

22 projects, BECC did not certify nearly half within the 2-year timeframe, and EPA cancelled 3 projects. The status of all 22 projects is detailed in Table 2.1.

Table 2.1: Status of 2005/2006 Priority Projects

Project Status	Region 6 FY 2005	Region 9 FY 2005	Totals
Certified Projects	6	2	8
On Schedule to be Certified Within 2 Years	0	1	1
Delayed Beyond the 2-Year Timeframe	4	6	10
Cancelled	3	0	3
Total Projects	13	9	22

Source: OIG analysis of EPA Border Program project status.

When BECC is unable to certify projects within the 2-year timeframe, or EPA cancels a project, it further delays when the funds EPA awards for construction can be used. Allowing funds to remain on the EPA grant to NADBank for project construction while these projects are designed and certified increases the recipient's unliquidated balance. An unliquidated balance is an amount of grant funds awarded to a recipient that has not been spent. Since 1998, EPA has awarded \$583 million to NADBank to construct Border Program water infrastructure projects. As of September 30, 2007, NADBank had an unliquidated balance of \$233 million (see Appendix C for details).

While EPA may obligate funds in the same year they are authorized, the obligations are made knowing that the funds will not likely be needed for several years. By awarding funds prior to construction need, EPA has a process where funds are idle for years. This is inefficient and does not comply with the Federal Managers' Financial Integrity Act (FMFIA) of 1982. Under FMFIA Section 2(d)(1)(A)(ii), agencies must have controls that assure obligations and costs comply with laws and that funds are safeguarded against waste, loss, unauthorized use, or misappropriation.

NADBank's unliquidated balance has caused concerns with some members of Congress and EPA's OCFO regarding the Border Program's use of funds. The Senate included this language in the FY 2008 appropriation bill:

...the Committee is very concerned that EPA's Mexico border program is carrying forward nearly \$300,000,000 in unliquidated or unobligated balances for priority projects. Therefore, the Committee has agreed with the President's request to reduce funding for the program for this fiscal year and cannot consider further increases until progress is made in reducing these unspent balances.

In 2007, OCFO conducted a study and issued *Policy for the U.S.-Mexico Border Program* to improve the program's fiscal practices and oversight. To optimize project completion rates for individual projects, the policy proposes that EPA redirect funds from stalled construction projects to new, high priority projects. To address issues related to the balance of unliquidated obligations, the policy sets a "threshold of concern" of \$140 million. However, the policy does not state what actions EPA will take if this threshold is exceeded, and it needs to do so to ensure that the program monitors and reduces the unliquidated obligation balance. As of September 30, 2007, NADBank had an unliquidated balance of \$233 million.

Staff Said Pressure Felt to Award Grant Funds

According to EPA's Office of International Affairs and Region 6 Border Program staff, there is pressure to show a financial commitment to projects. They said this pressure resulted in EPA staff believing it is necessary to award grants for construction when a project is first selected. EPA staff also felt pressure to obligate money to avoid a reduction in program funding.

- EPA awards grants to NADBank as projects enter the planning and design phase to ensure funds are available up front to construct projects. Border Program staff said that if BECC certifies a project but the Agency does not have funding available for construction, the funds used for planning and design would be wasted.
- EPA implements the Border Program in partnership with other Federal agencies, States, tribes, and the Mexican government. Other funding sources work in concert with EPA to ensure projects have adequate resources. EPA provides only about a third of project costs. According to the April 2005 *Border Environment Infrastructure Fund Guideline*, EPA grant funds are intended to supplement funding from other sources and EPA officials have stated that EPA grant funds are considered to be the "funding of last resort." The National Coordinator for the Border 2012 Program within EPA's Office of International Affairs noted relationships with other funding sources, including the Mexican government, are important to the program. EPA staff expressed concern that the program's relationships with funding partners could be harmed if the Agency cannot follow through and fund construction. According to EPA staff, the Mexican government makes a verbal commitment at the beginning of the planning process to fund the entire project through its life cycle. However, when the Mexican government provides funding for a project, its funds must be allocated and disbursed in the same year.
- EPA Order 5703.1 1A, *Policy and Procedures for Funding Assistance Agreements*, states the Agency's policy is to award grants that are legal, administratively correct, and complement the Agency's mission as quickly as possible after funds become available. EPA staff indicated that

delaying grant awards to construct projects could adversely impact the program's funding provided by Congress. Program funding that is not obligated could be taken away, which would set a precedent for future appropriations.

Plan to Timely Use Funds Needed

EPA's award process reduces the amount of funds available to achieve EPA's mission. At any given time, EPA will have awarded funding for projects where construction may not begin for 2 years or more. According to EPA staff, the Agency budgeted about \$48 million of the FY 2007 appropriation for Border Program projects, but the funding had not been awarded as of September 2007. Congress provided an additional \$14.8 million for FY 2008.³ If the Border Program's process remains unchanged, between \$34 and \$57 million in grant funding Congress appropriated in FYs 2007 and 2008 will not be needed for projects until at least FY 2010.

EPA needs to identify other water/wastewater activities in the Border Program for which the funds can be used more expeditiously. Through the budget process, Congress has specifically identified funding for the Border Program. As a result, EPA cannot use the funds for other programs without new congressional authority. Therefore, EPA needs to identify opportunities within the Border Program for using funding on current projects as opposed to projects where construction will not begin for several years. EPA also needs to take into consideration the funds it has not obligated in requesting additional funding from Congress. If EPA does not take these actions, Federal funds will continue to be unspent for several years rather than addressing immediate needs.

Other Federal Construction Programs' Funding Processes Compared

To further explore how phased grant funding can be managed and unliquidated obligations reduced, we researched other Federal construction grant programs. We found a comparable program at EPA as well as four other Federal programs. Summaries on each are in Appendix D. Of the five programs, EPA's Construction Grants program, the multi-agency Coastal Wetlands Planning, Protection and Restoration Act (CWPPRA) program, and the Department of Transportation Federal Highway Administration's program are the most similar to the Border Program. These programs are similar because they also fund construction, are grant-based, and are managed by outside entities (such as States or a multi-agency task force). Multiple sources fund all of these programs, and almost all of the programs award funding for construction after planning and design are complete, thus reducing unliquidated balances. According to a

³ The President's budget lists FY 2008 funding for the U.S.-Mexico Border at \$20 million. After accounting for a 1.56 percent Federal program cut, the adjusted President's budget was \$19.688 million. Congress identified \$5 million (reduced to \$4.92 million with the 1.56 percent rescission) in the budget for specific projects along the border. As a result, \$14.8 million is available for the Border Program.

Region 6 EPA staff member participating in the CWPPRA program, CWPPRA projects prior to 1999 were fully-funded at the beginning of the planning and design phase. However, to decrease unliquidated obligations, projects from 1999 forward did not receive construction funding until planning and design were complete.

Conclusion

EPA's Border Program must make additional improvements to its processes for obligating and using water infrastructure grant funds. The process, as designed, ensures a recurring delay in the use of funds. EPA's ability to achieve its mission is hindered when the Border Program does not use funds because the funds are sitting idle for several years instead of being used for other priority projects. If this process continues, EPA could award between \$34 and \$57 million in grant funding for the 2007/2008 project prioritization list that might not be needed until FY 2010 or beyond.

Recommendations

We recommend that the:

- 2-1 Chief Financial Officer clarify its August 2007 policy for the U.S.-Mexico Border Program to specify the actions EPA will take when the fund balance reaches the \$140 million threshold of concern.
- 2-2 Regional Administrators for Regions 6 and 9 require the U.S.-Mexico Border Program to complete planning and design of projects before EPA awards any grant funds to NADBank for construction of the projects.
- 2-3 Assistant Administrator for the Office of Water, in conjunction with Regions 6 and 9, prepare a plan to expeditiously use U.S.-Mexico Border Program funding for immediate needs other than funding construction of projects that have not completed planning and design.
- 2-4 Chief Financial Officer and Assistant Administrator for the Office of Water adjust future budget requests for the U.S.-Mexico Border Program to reflect funds that have not been obligated in prior years.

Agency Response and OIG Comment

In responding to the draft report, EPA commented on the recommendations and provided additional information to clarify certain sections of the report. The response to the recommendations is listed below and we have clarified certain sections of the report as discussed with EPA at the exit conference on March 26, 2008. The full text of the Agency response is in Appendix E.

EPA did not agree with our recommendation to clarify its financial policy to describe what actions would be taken once the unliquidated balance exceeds \$140 million. OCFO, Office of Water, and Regions 6 and 9 held numerous lengthy discussions during an 8-month period that resulted in the August 2007 policy for the U.S.-Mexico Border Program. The offices did not support reopening discussions concerning the policy at this time and disagreed that clarification is needed regarding the \$140 million dollar threshold of concern. The OIG believes EPA should have a plan in place that specifies what actions EPA will take when the fund balance exceeds the established \$140 million threshold of concern. While EPA may obligate funds in the same year the funds are authorized, the obligations are made knowing that the funds will not likely be needed for several years. Policy clarification is needed to ensure that the program does not continue to retain a large, unliquidated balance.

EPA agreed with our second recommendation pending coordination with program partners. The U.S.-Mexico Border Water Infrastructure Program is considering moving to a phased approach that would build up a portfolio of developed projects ready to begin construction as funding becomes available. Before doing so, EPA said it must first coordinate with the Mexican Government, States, United States Department of Agriculture, and other key program partners. We are encouraged by EPA's agreement with the recommendation since it should result in funds being used more quickly. In January 2008, EPA awarded \$48.3 million to BECC and NADBank. We understand that EPA needed to award these grants because the prioritization lists were completed and it had made commitments to the various agencies involved in the Border program prior to the OIG recommending changes. However, EPA needs to implement this recommendation before awarding more grants to BECC and NADBank.

EPA agreed that the Border Program needs to prepare a plan to phase in the expeditious use of funding, which was the third recommendation. This plan would explain in more detail how EPA intends to implement the second recommendation.

EPA agreed with the fourth recommendation with the understanding that EPA's budget formulation process considers all aspects of EPA programs, including the construction needs of projects in planning and design. EPA suggested that the recommendation be revised to state "Adjust future budget requests for the U.S.-Mexico Border Program to reflect funds that have not been obligated in prior years as well as the construction needs of projects in planning and design." We recognize that the budget request should include construction needs. However, these needs should be narrowly defined to address "immediate" construction needs and not include those that will occur in several years. We did not revise the recommendation.

In responding to the final report, EPA needs to provide a corrective action plan, with milestones and dates, for implementing the recommendations.

Chapter 3

Grant Work Plans Reduced Accountability for Projects

EPA Region 6 Border Program grant work plans did not include specific projects, measures, milestones, or costs associated with projects. The work plan for EPA Region 9's FY 2006 grant included total cost of projects, but did not include sufficient detail about how much the grant funded for the projects. EPA requires that all grant work plans contain objectives, specific tasks, a schedule or milestones, project measures, and detailed budgets. Without these elements, the grantee's accountability for using funds appropriately and completing tasks is reduced.

Regional Work Plans Need Improvement

Both Regions 6 and 9 need to work with NADBank to improve the U.S.-Mexico Border Program construction grant work plans. EPA's project officer manual states assistance agreement work plans must justify proposed financial and resource needs. The narrative work plan must describe the program objectives, the method to accomplish the objectives, and milestones for completion. The budget is also an integral part of any grant work plan submitted to the Agency.

In FYs 2002 through 2005, Region 6 awarded six grants to NADBank totaling \$213 million. The work plans for these grants did not contain specific projects, costs, and budgets of those projects, measures, milestones, and environmental outputs and outcomes. Region 6 stated it was unable to include this information because the grants for construction were awarded before BECC had completed designing the projects.

Region 9 awarded a \$118 million grant to NADBank in FY 2006, but the grant work plan identified project costs totaling \$276.4 million. The work plan included total costs for the projects, even though construction was in process or completed for 24 of 35 projects. According to EPA, the projects were included because one or more the following activities were still pending:

- Other portions of the project not funded by EPA grants were not completed,
- Project close-out evaluations and certifications had not been completed, and
- Transition assistance was still being disbursed.

While EPA stated that the \$118 million grant budget reflected the portion of the projects still to be completed under the grant, the information was not included in the work plan.

Recommendation

We recommend that the Regional Administrators for Regions 6 and 9:

- 3-1 Prepare grant work plans that include specific projects, measures, milestones, and detailed budgets to be achieved with grant funds.

Agency Response and OIG Comment

EPA agreed with the recommendation. EPA stated that, while most of the NADBank grant work plans in the past did not include detailed project budgets, measures, and milestones, the most recent work plans for grant awards to BECC and NADBank do. We reviewed the work plans for grants Regions 6 and 9 awarded in January 2008. The work plans did include additional information to address the recommendation. EPA's actions addressed the recommendation. The full text of the Agency response is in Appendix E.

We revised the finding to address the comments EPA provided in response to the draft report.

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	9	Clarify its August 2007 policy for the U.S.-Mexico Border Program to specify the actions EPA will take when the fund balance reaches the \$140 million threshold of concern.	O	Chief Financial Officer			
2-2	9	Require the U.S.-Mexico Border Program to complete planning and design of projects before EPA awards any grant funds to NADBank for construction for the projects.	O	Regional Administrators, Regions 6 and 9			
2-3	9	In conjunction with Regions 6 and 9, prepare a plan to expeditiously use U.S.-Mexico Border Program funding for immediate needs other than funding construction of projects that have not completed planning and design.	O	Assistant Administrator for Office of Water			
2-4	9	Adjust future budget requests for the U.S.-Mexico Border Program to reflect funds that have not been obligated in prior years.	O	Chief Financial Officer and Assistant Administrator for Office of Water			
3-1	12	Prepare grant work plans that include specific projects, measures, milestones, and detailed budgets to be achieved with grant funds.	C	Regional Administrators, Regions 6 and 9			

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

Program Changes and Accomplishments

To improve performance, EPA conducted or participated in management reviews in 2004 and 2005. In 2004, the Office of Management and Budget (OMB) conducted a Program Assessment Rating Tool evaluation of the program and the program participated in a business process review. In 2005, EPA developed long-term and efficiency measures and instituted a prioritization process for reviewing projects. In 2007, EPA implemented new policies to address how funds are managed and provide guidance on appropriately monitoring targets.

In evaluating the program in 2004, OMB gave the program a rating of adequate. OMB concluded that the program addressed a serious health or environmental need, but lacked adequate program performance information. Since OMB performed the review, EPA has developed long-term measures, including baseline data for measuring progress and targets to be achieved in future years (see Table A-1).

Table A-1: Long-Term Measures, Baselines, and Targets

Measure	Baseline	2012 Target
Percentage of water quality standards met in shared and transboundary surface waters in 2002.	17	50 percent
By 2012, provide safe drinking water to 25% of homes in the U.S.-Mexico border area that lacked access to safe drinking water in 2003.	98,515	24,629
By 2012, provide adequate wastewater sanitation to 25% of homes in the U.S.-Mexico border area that lacked access to wastewater sanitation in 2003.	690,723	172,681

Source: Program Assessment Rating Tool; www.expectmore.gov

In 2005, EPA began prioritizing which projects it would select for funding. Every 2 years, EPA ranks projects based on risk, cost-effectiveness, institutional efficiency, and sustainability to target limited funding towards those projects with the highest benefit. The process provides both a list of projects available for funding and an assessment of existing needs along the border. While the applications do not capture all needs, they do capture the needs of communities where project sponsors are committed to taking out loans to access the EPA grant funds. The 2005/2006 prioritization process showed construction needs for 135 eligible projects valued at \$894 million. According to EPA, the 26 projects selected will benefit 474,705 people, and leverage construction project costs of \$162 million. During the 2007/2008 prioritization process, EPA received 150 eligible applications with total construction needs of about \$600 million. EPA finalized the list of projects to be funded in December 2007.

EPA used the lessons it had learned from projects selected prior to 2005 to implement additional management controls.

- In August 2005, EPA issued the Project Schedule and Bypass Provisions Policy. The policy established time limits for project development and construction phases, and

provided for the withdrawal or bypass of a project from funding if the project sponsor was unable to meet time limits.

- EPA established a requirement that NADBank begin disbursing funds within 2 years of the sub-grant award. EPA also required that all project funds be committed to construction contracts prior to the end of the second year of construction.
- EPA scaled down the scope of projects. For the 2007/2008 prioritization process, EPA required that projects be no more than \$30 million, and grant assistance was limited to \$8 million.

EPA conducts quarterly meetings with program partners to review project progress to ensure compliance with these policies.

In August 2007, EPA implemented its *Policy for the U.S.-Mexico Border Program*. The policy was the result of collaboration among several EPA offices and was jointly issued by the Deputy Administrator, Office of Water, Office of International Affairs, OCFO, and EPA Regions 6 and 9. The goals of this policy are to optimize project completion rates, to reduce unliquidated obligations associated with stalled projects, and to clarify program oversight. According to EPA, older, stalled projects now have construction and disbursement schedules to enhance management of these projects to completion. New projects have construction and disbursement schedules prior to approval of construction funds. According to EPA, as of December 2007, they had observed improvements in project completions and reductions in unliquidated grant balances due to the new policy.

Program Accomplishments

The Border Program and its projects affect millions of people. According to EPA, the 33 completed projects have benefited more than 4 million people by providing improved drinking water and wastewater sanitation. The total cost of the projects was \$610 million, with \$193 million from Border Program grants. For example, the Mexicali II “Las Arenitas” wastewater treatment plant, completed in 2007, is treating an estimated 15 million gallons per day of sewage that once flowed untreated into the New River and into the United States. In addition to providing first-time wastewater treatment service to about 300,000 people, water quality improvements to the New River have been realized.

According to EPA, the program has brought transparency and financial sustainability to the way projects are funded. The program has incorporated environmental and technical competencies in the planning and development of projects, and improved managerial, operational, and financial capabilities of public utilities. This fiscal-minded approach is achieving results in communities along the U.S.-Mexico border. For example, the Tijuana, Tecate, and Mexicali Water Utilities have received acclaim as being counted in the top ten most efficient (production and commercial efficiencies) public utilities in Mexico, with Tijuana rated #1 in the country. When this program was initiated, billing and collection rates were low and did not receive utility attention.

Details on Scope and Methodology

We performed our work in accordance with generally accepted government auditing standards, issued by the Comptroller General of the United States. These standards required that we obtain an understanding of the program to be audited. We obtained an understanding of the program through analysis of the laws, regulations, and guidance pertaining to grants awarded to BECC and NADBank and an evaluation of internal controls over the grants.

We performed audit field work from July to September 2007. There were no relevant OIG or Government Accountability Office reports related to the report topic. We reviewed internal controls related to the processes for planning, organizing, directing, and controlling program operations. We also reviewed controls for measuring, reporting, and monitoring program performance. We did not, however, review the controls over the reliability of the data from these processes. We gained an understanding of internal controls through the performance of the procedures outlined below.

- We interviewed personnel at EPA Region 6 in Dallas, Texas; EPA Region 9 in San Francisco, California; and the NADBank office in San Antonio, Texas. We interviewed EPA Headquarters staff in the Office of Water, Office of International Affairs, and OCFO.
- We examined EPA's grant prioritization lists to determine what projects were selected, the status of those projects, and associated project costs. We reviewed the work plans for grants EPA awarded in FYs 2005 and 2006 to construct those projects. EPA issued additional grants in January 2008, after we had completed our field work. We reviewed the 2008 grant work plans only to the extent needed to evaluate the Agency's response to the draft report. Statistical information, such as number and value of grants awarded to BECC and NADBank, was not updated to include the January 2008 grants.
- We researched the funds available for these grants through EPA's Integrated Grants Management System, Integrated Financial Management System, and various grant award documents. We reviewed NADBank's quarterly financial reports and the expenses associated with specific projects.
- We reviewed the FYs 2004, 2005, and 2006 appropriations to determine the Border Program funding levels, and reviewed the FY 2007 continuing resolution. We also reviewed the proposed FY 2008 U.S. House of Representatives and Senate appropriation bills to determine the proposed Border Program funding for FY 2008, as well as the FY 2008 President's Budget.
- At EPA Office of Water's request, we looked at aspects of other Federal programs that could improve the Border Program's process. We found an EPA program and four programs managed by other Federal agencies that conduct construction. We researched

the Internet for information. We interviewed staff from EPA, the U.S. Department of Agriculture, the U.S. Department of Transportation, and the U.S. Department of Housing and Urban Development, to determine the processes these programs use to award funds and any constraints placed on those funds.

NADBank's Unliquidated Balance

EPA provided NADBank 10 grants totaling \$583 million for projects starting since 1997. The project period represents the amount of time EPA expects the recipient will need to complete the projects. The term “draw down” represents the money EPA has paid NADBank for actual expenses under the grants. The unliquidated balance is the money EPA awarded to NADBank but NADBank had not spent as of September 30, 2007 (that is, the difference between the award amount and the draw downs).

Grant Number	Project Period	Award Amount	Draw downs (as of 09/30/2007)	Unliquidated Balance (as of 09/30/2007)
99673901	04/04/1997 – 03/30/2005	\$ 170,000,000	\$ 170,000,000	\$ 0
98630101	08/01/1999 – 07/31/2007	\$ 41,000,000	\$ 41,000,000	\$ 0
98656401	07/15/2000 – 07/15/2008	\$ 41,000,000	\$ 41,000,000	\$ 0
98686601	09/15/2001 – 09/30/2010	\$ 84,000,000	\$ 54,895,562	\$ 29,104,438
97634901	05/01/2003 – 09/30/2013	\$ 24,693,132	\$ 0	\$ 24,693,132
97660201	02/13/2004 – 09/30/2013	\$ 21,624,623	\$ 4,791,123	\$ 16,833,500
97668401	10/01/2004 – 05/15/2014	\$ 39,815,869	\$ 0	\$ 39,815,869
97697001	07/13/2005 – 06/03/2015	\$ 41,914,100	\$ 16,262,237	\$ 25,651,863
96615601	12/29/2005 – 12/19/2006	\$ 1,000,000	\$ 1,000,000	\$ 0
96971301	08/01/2006 – 07/31/2016	\$ 117,870,712	\$ 20,541,903	\$ 97,328,809
Totals		\$ 582,918,436	\$ 349,490,825	\$ 233,427,611

Source: OIG analysis of EPA's Integrated Grants Management System and Integrated Financial Management System

Award Process Comparison to Other Programs

Agency	Program	Focus	Funding	Program Structure	Timeline / Lifecycle
EPA	Construction Grants	Publicly-owned wastewater treatment plants	During 1970s and 1980s, more than \$60 billion (program not funded since 1990)	Project sponsors have to apply for funding for up to three different phases (planning, design, and construction).	Money not obligated for construction until after planning, design, and National Environmental Policy Act assessment have concluded (could be years after appropriation). Once money obligated, disbursements must begin in 18 months. Sponsor must adhere to construction schedule developed during the design phase.
U.S. Department of Housing and Urban Development	Community Development Block Grants	Public facility construction and improvements, homeownership assistance, and activities related to neighborhood revitalization	FY 2007 enacted: \$3.772 billion	Certain grants go directly to metropolitan areas (pop. 50,000+) while other grants go to States (to be used in population centers smaller than 50,000). Various projects can draw down from same grant.	Maximum of 12 months between appropriation and obligation; 7 years is the maximum amount of time a grant can be open. Contracts cannot be open longer than 4 years; 3 years of inactivity in grant will result in warning letter to grantee regarding disbursement rate. U.S. Department of Housing and Urban Development uses annual consolidated plans as primary tool for grant management.
U.S. Department of Agriculture	Rural Development	Loan support for water and sewer systems	FY 2007: \$150 million	Supervised credit agency that must approve all development and planning documents prior to releasing funds (i.e., borrowers have to prepare own designs). Most projects have 6-month to 2-year construction schedules.	Funds are obligated after preliminary design is complete but disbursements cannot begin until after final designs are complete. Timeframes for completion are 2 years after obligation, although extensions are common. If money has not been spent in 5 years, U.S. Department of Agriculture can deobligate funds.
U.S. Department of Transportation	Federal Highway Administration	Road and highway construction	\$38 billion annual budget (funding stable for last several years)	Each State has a State-wide plan that contains 1- to 4-year plans (called "programs"). States receive formula grants (these complex formulas are based on factors such as population).	No longer than 12 months between appropriation and obligation. Depending on size and complexity of project, the Federal Highway Administration may elect to fund design and construction at the same time (single appropriation) or in phases (multiple appropriations). The Federal Highway Administration may fund entire project or only portions of the project. If no disbursements for 1 year, the Federal Highway Administration may rescind funds.
Multi-Agency Task Force	Coastal Wetlands Planning, Protection and Restoration Act	Restoring and preventing loss to U.S. coastal wetlands	Federal funding averages \$50-60 million per year; over life of program (1990-2019), estimated Federal and non-federal funding is \$2 billion	U.S. Army Corps of Engineers serves as accounting lead and chairs most work groups. Focus is on bottom-up project development. Costs shared 85 percent Federal, 15 percent non-federal. The CWPPRA Task Force can roll out projects in less than 5 years in response to critical, local needs, and fills gaps left by the Water Resource Development Board.	Three-phase project lifecycle: Phase Zero (Planning/Outreach) – 1 year and limited to \$5 million; Phase One (Feasibility/Plans and Specifications) - 2 to 3 years; Phase Two (Construction, Monitoring, and Operations and Maintenance) - construction period is variable, while Operations and Maintenance is 20 years. Federal sponsors review funds quarterly within projects and determine whether funds may be returned. Agencies review all projects annually for Phase One or Two funding to identify excess and make a recommendation to the task force how much funding to return. Returned funds are available for reprogramming. Funds for Phase One and Two are obligated after Phase Zero is completed.

Source: OIG analysis based on discussion with officials and staff from EPA and other Federal agencies

Agency Response

MEMORANDUM

SUBJECT: Draft Audit Report (1/15/2008):
Improvements Needed to Ensure Grants Funds for US-Mexico Border Water
Infrastructure are Spent More Timely
Assignment No. 2007-0641

FROM: Benjamin H. Grumbles
Assistant Administrator
Office of Water

Richard Greene
Regional Administrator
Region 6

Wayne Natri
Regional Administrator
Region 9

Lyons Gray
Chief Financial Officer
Officer of the Chief Financial Officer

TO: Janet Kasper
Director of Assistance Agreement Audits
Office of the Inspector General

Thank you for providing the opportunity to comment on the OIG's Draft Audit Report: Improvements Needed to Ensure Grant Funds for US-Mexico Border Water Infrastructure Program Are Spent More Timely (111512008). Also, we appreciate the OIG's acknowledgement of program accomplishments in the draft audit report. Find attached a consolidated response prepared by the Office of Water, Region 6, Region 9 and OCFO, comprised of two parts. Part I responds directly to the draft audit report recommendations. Part II responds to the request for factual errors and omissions.

Should you have any questions regarding these comments, please contact Judy Davis, Deputy Director of the Office of Wastewater Management at 202-564-0748, or have your staff contact Lynn Stabenfeldt at 202-564-0602.

Attachment

Joint Comments Prepared by OW, Regions 6 and 9, and OCFO

OIG Audit Report: Improvements Needed to Ensure Grant Funds to US-Mexico Border Water Infrastructure Program Are Spent More Timely January 15, 2008

Proposed OIG Recommendations:

- 2-1:** Clarify its August 2007 policy for the US-Mexico Border Program to specify the actions EPA will take when the fund balance reaches the \$140-million threshold of concern.

Action Official: Chief Financial Officer

Response: Do not concur. We do not agree with this recommendation. OCFO, OW and the Regions held numerous lengthy discussions during an 8-month period that resulted in the August 2007 policy for the US-Mexico Border Program. We do not support reopening discussions concerning the policy at this time and disagree that clarification is needed regarding the \$140-million dollar threshold of concern.

- 2-2:** Require the US-Mexico Border Program to complete planning and design of projects before EPA awards any grant funds to NADBank for construction for the projects.

Action Official: Regional Administrators, Regions 6 and 9

Response: Concur pending coordination with program partners. The US-Mexico Border Water Infrastructure Program is considering moving to a phased approach that would build up a portfolio of developed projects, which would be ready to begin construction as funding becomes available. Before doing so, we must first coordinate with the Mexican Government, US States, USDA and other key program partners.

Additional comment: Implementation of this recommendation would result in funds being used more quickly, not result in a cost savings to EPA. The claimed monetary benefit of \$62.8M is, therefore, misleading. Should construction funding not be available in a timely fashion for developed project needs, updated projects costs and designs may be required prior to awarding construction funds, resulting in additional development time and costs. See further comment on this point in the factual errors/omissions attachment (comment #2).

- 2-3:** In conjunction with Regions 6 and 9, prepare a plan to expeditiously use US-Mexico Border Program funding for immediate needs other than funding construction of projects that have not completed planning and design.

Action Official: AA Office of Water

Response: Concur. The US-Mexico Border Water Infrastructure Program agrees to prepare a plan to phase in the expeditious use US-Mexico Border Program funding. This plan would explain in more detail how the program intends to implement recommendation 2-2 above.

2-4: Adjust future budget requests for the US-Mexico Border Program to reflect funds that have not been obligated in prior years.

Action Official: Chief Financial Officer, AA Office of Water

Response: Concur with the understanding that EPA’s current budget formulation process considers all aspects of EPA programs which will include, but will not be limited to the construction needs of projects in planning and design. Further, we would like the OIG Final Audit Report recommendation to state the following: *Adjust future budget requests for the US-Mexico Border Program to reflect funds that have not been obligated in prior years as well as the construction needs of projects in planning and design.*

3-1: Prepare grant work plans that include specific projects, measures, milestones, and detailed budgets to be achieved with grant funds.

Action Official: Regional Administrators, Regions 6 and 9

Response: Concur with clarification. Previously, most of the NADB grant work plans did not include detailed project budgets. Currently, the new grant awards for BECC and NADB include work plans that identify specific projects, measures, milestones and budgets for the activities to be achieved with grant funds. The grant work plans include detailed administrative budgets, and overall project costs with specific goals and tasks to be accomplished. Detailed project budgets reflecting the BEIF component are based on the affordability analyses, which are not available at the time that the grants are awarded; therefore, specific BEIF amounts may not be included or shown only as estimates in the work plans. A grant condition is included in the NADB award which clarifies that project budgets are based on the affordability analyses once planning, development and final designs are completed per EPA's policy for the U.S.-Mexico Border Water Infrastructure Program. The affordability analyses which recommend specific BEIF project budgets are prepared by the NADB and reviewed and approved by the EPA Regions 6 and 9 prior to project certification.

Factual Errors and Omissions

AT A GLANCE

1. Why we did this review. *The U.S. Environmental Protection Agency’s (EPA’s) Office of the Chief Financial officer and Congress expressed concerns related to unliquidated balances in the U.S.-Mexico Border program (Border Program).*

Comment: The statement above implies that every member of Congress expressed concern related to the unliquidated balances in this program. In fact, several members of Congress requested that EPA significantly increase the funding level for the U.S.-Mexico Border Program. A similar statement is also made in the section “Grant Funding Was Awarded But Not Used,” see paragraph 3 on page 6. We request the report include a more balanced representation of the input EPA received from Congressional members; some supporting and requesting an increased budget **and** some expressing concern regarding the program’s unliquidated balances.

- 2. Background.** *From Fiscal Year 1993 through 2007, EPA awarded assistance agreements (grants) totaling more than \$1.2 billion to various recipients for water infrastructure improvements (both drinking water and wastewater) along the US-Mexico Border. EPA coordinates with the BECC and NADBank to ensure border projects are designed and constructed to achieve environmental results.*

Comment: The total award amount of \$1.2B is misleading as it includes a wide array of border funding, well beyond the funding that is the focus of this report. The uninformed could easily conclude that the BECC and NADBank have received a combined \$1.2B in funding, when the two organizations have received through FY07 \$675M. BECC and NADBank first received Border Facilities Construction Funds in FY98, from funds appropriated in FY96 and FY97. Prior year funding (FY93-FY95) preceded the formation of BECC and NADBank. The body of the draft report focuses only on BEIF and PDAP funding, so should the “Background” information. Further, the table provided in Appendix C focuses solely on BEIF.

- The total award amount should be changed to reflect awards made to BEIF/PDAP only. This should also be corrected in Chapter 1, page 1, first sentence under Purpose.
- Reference only fiscal year funding that was made available to BECC and NADBank. Revise “Background” section and Chapter 1, Purpose (Page 1) and “Commission and Bank Involved in Program” (Page 2).

- 3. What We Found, 1st paragraph.** *Since 1998, the NADBank has accumulated an unliquidated balance of \$233 million because EPA awarded grants to construct projects before design was complete.*

Comment: The NADBank unliquidated balance as of September 2007 was \$231 million. Please revise.

- 4. What We Found, 1st paragraph.** *If this process continues, EPA will potentially award up to \$62.8 million in Fiscal Year 2008 that will not be needed until Fiscal Year 2010 or beyond.....*

Comment: The above statement is misleading. It should be clarified that the total includes an estimated amount of unappropriated funds. It should also be noted that of the \$48 million appropriated in FY07 for this program, approximately \$6 million will be used for planning and design of projects immediately. In FY 2008, four of those projects will complete development and will use \$6.5 million in construction funds, an additional \$16 million for 2 projects will be put to use in early FY 2009, with the balance before the end of FY 2009. The statement is made repeatedly throughout the document and should be revised – see Chapter 2, page 5, last sentence of 1st paragraph; Chapter 2, page 8, last sentence of 1st paragraph under Plan to Timely Use Funds; Chapter 2, page 9, last sentence of Conclusion.

5. **What We Found, 2nd paragraph.** *Region 9 workplans did not identify specific costs associated with new projects and overstated costs for ongoing projects.*

Comment: The above statement is not entirely accurate. The costs of ongoing projects were not overstated but were the actual BEIF costs contained in EPA's deal sheet approval letters.

CHAPTER 1: Introduction

1. **Background, 1st paragraph.** *In rural areas, agricultural runoff and chemical waste pollute drinking water.*

Comment: Chemical waste should be deleted from the above statement because drinking water contamination is more commonly attributable to naturally-occurring compounds such as arsenic and fluoride, or those associated with inadequate waste treatment (fecal coliform, bacteria, nitrates, etc.) in addition to agricultural runoff. Referencing chemical waste as a source of drinking water contamination may convey an unintended message.

2. **Background, 2nd paragraph.** *For over 20 years, the US and Mexico have collaborated....*

Comment: Collaboration with Mexico through the Border Facilities Construction Program more closely approaches about 15 years.

3. **Background, Table 1.1 (page 2)**

Comment: Associate footnote 1 with the text of the 3rd and 4th measures, rather than with the table title. Revise footnote text as follows: EPA revised ~~the key~~ one of the measures for the Border...

4. **Recent Changes to Program, paragraph 3 (see page 3).** *NADBank cannot construct projects until the joint BECC/NADBank Board certifies them.*

Comment: Add following sentence immediately after above sentence: As part of the final steps leading up to certification, EPA issues its letter of approval of the project financial structure and final BEIF amount for the subgrant. *NADBank issues....*

5. **Noteworthy Achievements, paragraph 3 (see page 4).** *As a result we were not able to evaluate the effectiveness of the changes necessary to effectively manage the program.*

Comment: The increase in BEIF disbursements in FY07 provides a strong demonstration of the effectiveness of program changes. This increase in disbursements is also a reflection of accelerated on-the-ground construction progress since disbursements are made on a reimburseable basis following completion of construction works. This increase in annual BEIF disbursed is a result of the OCFO program review and policy direction.

CHAPTER 2: Award Process Needs to be Changed to Maximize Use of Funds

1. Grant Funding Was Awarded But Not Used, Page 5

Comment: Revise Footnote 2 as follows: The other \$33.2 million was for water and wastewater projects **to complete funding for projects that were certified prior to prioritization** ~~identified in the grant terms and conditions that were not on the prioritization list.~~ EPA increased funding for four ongoing projects that only received partial awards previously.

2. Table 2.1: Status of 2005/2006 Priority Projects (page 6)

Comment: The table should be replaced with the following:

Project Status	Region 6 FY 2005	Region 9 FY 2005	Total
Certified Projects	6	3	9
On Schedule to be Certified Within Two Years	2	1	3
Delayed Beyond the Two Year Timeframe	4	4	8
Cancelled	3	3	6
Total Projects	15	11	26

(This table represents certification status as of 7/15/07)

3. Grant Funding Was Awarded But Not Used, 2nd full par. page 6. *By awarding funds prior to construction need, EPA has a process where funds are idle for years, which is inefficient and does not comply with the FMFIA of 1982.*

Comment: As the program has safeguarded its funds against waste, loss, unauthorized use and misappropriation, please cite the specific part(s) of FMFIA with which the program is not complying.

4. Grant Funding Was Awarded But Not Used, Page 7

Comment: The statement that *the policy proposes that EPA redirect funds from stalled construction projects to the next projects on the priority list* is not entirely accurate. This statement should be struck from the report or revised to clarify that the policy proposes that EPA withdraw funds from projects with 4 years of cumulative BEIF disbursements at or below 5%. Withdrawn funds would be redirected to new projects.

5. Plan to Timely Use Funds Needed, Page 8

Comment: The statement that *at any given time EPA will have awarded funding that cannot be used for 2 years or more* is not accurate. Policies implemented in 2005 provide for up to two years for project development. Projects are in various stages of development when selected for funding and therefore may or may not need the full two-

year development period to reach certification. Projects may initiate and some have initiated construction before the end of the two-year development period.

CHAPTER 3: Grant Work Plans Reduced Accountability for Projects

1. Regional Work Plans Need Improvement, paragraph 3 (see page 10)

Region 9 awarded a \$118 million grant to NADBank, but the grant workplan identified project costs totaling \$276.4 million. The work plans did not identify what portion of the total costs EPA would fund. In addition, the grant plan included funding amounts for projects that were completed. Therefore, the grant budget did not reflect the actual work that would be performed and funded under the grant. The project officer is responsible for reviewing the proposed budget against the work plan to determine whether the budget is reasonable from a programmatic perspective. In this case, the proposed budget was not reasonable for the activities described in the work plan.

Comment: The grant workplans identified all the projects the NADBank would support during the budget period. The workplans show that the total costs of these projects amounted to \$551.91 million, only a portion of which is funded with BEIF assistance. The workplan for the FY05/06 prioritized projects did not include specific BEIF amounts because the projects had not completed development including the financial affordability analysis needed to determine the appropriate BEIF amount. A second workplan for the previously certified projects included the approved BEIF amounts (totaling \$211.03 million) in their entirety in order to be consistent with other BEIF summaries and approval documents.

It is the actual grant budget, not the workplans, that identified the portion of the BEIF funds to be applied to projects, \$111,475,710. This amount was determined by (1) estimating the BEIF share of FY05/06 prioritized projects by calculating a percentage of the project cost, and (2) quantifying the balance of undisbursed BEIF funds remaining in the previously certified on-going R9 construction projects, which were being transferred from Region 6 to the Region 9 grant. This proposed budget, which relied on the combination of the two workplans, BEIF accounting summaries, and prioritization estimates, is reasonable and appropriate from both the programmatic and financial perspectives.

The grant workplans only included projects that were active at the time of grant award. While the workplans identified some projects as having completed construction of the BEIF components, projects were still active (i.e., requiring NADB support) as one or more of the following activities were still pending:

- (1) entire project (not just the BEIF component) had not completed construction;
- (2) project close-out evaluations and certifications had not been completed;
- (3) transition assistance was still being disbursed.

Appendix A, Program Changes and Accomplishments

1. Table A-1. Program Changes and Accomplishments

Comment: The table incorrectly notes that the baseline for the measure *percentage of water quality standards met in shared and transboundary surface waters* is under development when in 2006, the baseline for year 2002 was set at 17. See Completed Program Improvement Plans at the following link:

<http://www.whitehouse.gov/omb/expectmore/detail/10002282.2004.html#completedImprovementPlans>

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