



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Quick Reaction Report

Village of Wellsville, Ohio – Ineligible Costs Claimed Under EPA Grant XP97582801

Report No. 08-2-0204

July 21, 2008



Report Contributors:

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Abbreviations

CFR	Code of Federal Regulations
DDA	Dallis Dawson and Associates
EPA	U.S. Environmental Protection Agency
Grant	EPA Grant XP97582801
Grantee	Village of Wellsville, Ohio
OIG	Office of Inspector General

Cover Photo: The building pictured and its contents were part of wastewater treatment plant improvements funded for the Village of Wellsville under the EPA grant discussed in this report (EPA OIG photo).



At a Glance

Catalyst for Improving the Environment

Why We Did This Review

The U.S. Environmental Protection Agency (EPA) Office of Inspector General conducted reviews of earmarked grants known as Special Appropriation Act Projects issued to local and tribal governments. We selected the Village of Wellsville, Ohio, for one of these reviews.

Background

The Village of Wellsville received an EPA Special Appropriation Act Project grant, XP97582801. The purpose of the grant was to provide federal assistance of \$2,419,665 to improve and upgrade the wastewater treatment plant and the combined sewer collection system. The Village of Wellsville was required to provide local matching funds equal to 45 percent of all eligible project costs.

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/2008/20080721-08-2-0204.pdf

Village of Wellsville, Ohio – Ineligible Costs Claimed Under EPA Grant XP97582801

What We Found

The Village of Wellsville (grantee) did not meet the Title 40 Code of Federal Regulations Part 31 requirements for financial management. In particular, the grantee did not have support for required matching costs and received grant funds it never expended. As a result, EPA will need to recover \$1,241,591 under Grant XP97582801. The grantee also made two improper procurements for engineering services, and did not maintain acceptable procurement or contract administration systems. Further, the grantee did not conform to the terms and conditions of its grant. Therefore, EPA should classify the Village of Wellsville as a high risk grantee.

What We Recommend

We recommend that the Regional Administrator, EPA Region 5:

1. Recover the \$1,241,591 in questioned costs.
2. Require the grantee to re-bid both engineering contracts with Dallis Dawson and Associates in accordance with federal regulations.
3. Require the grantee to strengthen its accounting and procurement systems to meet the requirements of Title 40 Code of Federal Regulations Part 31.
4. Classify the Village of Wellsville as a high risk grantee, and apply special conditions to this and future awards until improvements are made to the accounting and procurement systems.



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

OFFICE OF
INSPECTOR GENERAL

July 21, 2008

MEMORANDUM

SUBJECT: Village of Wellsville, Ohio – Ineligible Costs
Claimed Under EPA Grant XP97582801
Report No. 08-2-0204

FROM: Janet Kasper
Director of Contract and Assistance Agreement Audits

TO: Bharat Mathur
Acting Regional Administrator
EPA Region 5

This report contains time-critical issues the Office of Inspector General (OIG) identified and recommends recovery of federal funds drawn down by the recipient. This report represents the opinion of the OIG and does not necessarily represent the final position of the U.S. Environmental Protection Agency (EPA). EPA managers will make final determinations on matters in this report.

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 \$134,457.

Action Required

In accordance with EPA Manual 2750, Chapter 3, Section 6(f), you are required to provide us your proposed management decision for resolution of the findings contained in this report before any formal resolution can be completed with the recipient. Your proposed decision is due in 120 days, or on November 18, 2008. To expedite the resolution process, please e-mail an electronic version of your proposed management decision to kasper.janet@epa.gov.

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 have any questions, please contact Janet Kasper, Director, Contract and Assistance Agreement Audits, at 312-886-3059 or the e-mail address above.

Purpose

The Office of Inspector General is reviewing Special Appropriation Act Project grants to identify issues warranting further analysis. This includes reviewing the total project costs incurred by selected grant recipients. During our review of the Special Appropriation Act Project grant awarded to the Village of Wellsville, Ohio (grantee), we found that the grantee did not meet the Title 40, Code of Federal Regulations (CFR), Part 31 requirements for financial management.

Background

U.S. Environmental Protection Agency (EPA) Region 5 awarded Grant XP97582801 (grant) on May 29, 2002. The grant provided federal assistance of \$2,419,665 to improve and upgrade the existing wastewater treatment plant and the combined sewer collection system for the Village of Wellsville. The \$2,419,665 represents EPA's contribution of up to 55 percent of the eligible project costs and is limited by the amount of the congressional appropriation. The grantee is responsible for providing the remaining 45 percent of all eligible project costs as a match to the federal funding. In November 2006, EPA extended the budget and project period to December 31, 2008, due to delays the grantee experienced in receiving non-federal funding. As of March 28, 2008, federal funds totaling \$621,994 remained on the grant.

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 field work between February 4 and March 28, 2008. We made site visits to the grantee and its engineering firm and performed the following steps:

- Obtained and reviewed grantee support for payment requests;
- Conducted interviews of current grantee and former engineering firm personnel;
- Obtained and analyzed the grantee's bank statements, canceled checks, construction contracts, and change orders; and
- Obtained and analyzed information from the engineering firm regarding grantee payment requests and matching funds.

Findings

The grantee did not meet the Title 40 CFR Part 31 requirements for financial management. In particular, the grantee did not have support for required matching costs and received grant funds it never expended. As a result, EPA will need to recover

\$1,241,591 under Grant XP97582801. Also, the grantee made two improper procurements. EPA should designate the grantee a high risk grantee.

Unsupported Matching Costs and Payment Request

The grantee did not have supporting documentation for \$1,003,155 in matching costs. The grantee provided support for \$467,667 of its required \$1,470,822 match for project costs to date. Title 40 CFR 31.24 (a)(1) and (b)(6) require matching costs to be verifiable from the grantee's records. Any reduction in the grantee's matching costs requires that a portion of the EPA grant be reduced. Without adequate supporting documentation to demonstrate that claimed matching costs of \$1,003,155 were incurred, the allocable federal share of \$1,226,078 is questioned. The federal share was calculated using the federal funds-to-match ratio of 55 percent/45 percent, respectively.

The grantee retained \$15,513 from a June 2002 payment request that had not been expended as of March 28, 2008. Office of Management and Budget Circular A-87, Attachment A, Section C, requires that to be allowable under a federal award, a cost must be necessary and reasonable for proper and efficient performance and administration of federal awards. Since the \$15,513 was not spent, the grantee should have credited the \$15,513 back to the EPA grant. However, the grantee retained these funds in its general fund. As a result, the \$15,513 is ineligible for reimbursement.

Improper Procurements

The grantee awarded two engineering contracts to Dallis Dawson and Associates (DDA), but did not follow the procurement requirements of Title 40 CFR 31.36. The first contract was awarded in October 2006 for the design of a new sanitary sewer pump station and sanitary force main. The second contract was awarded in October 2007 for sanitary sewer and drainage improvements. The grantee did not:

- Maintain records documenting the process it used to award each contract to DDA,
- Perform a cost or price analysis for either contract,
- Adequately compete the first contract,
- Properly advertise the second contract, or
- Preclude awarding a contract to DDA when the appearance of a conflict of interest existed.

The grantee informed us that no work had been billed under these contracts. Therefore, EPA should require that both contracts be re-bid in accordance with federal regulations.

The grantee did not have documentation to support the process for awarding either contract. Title 40 CFR 31.36(b)(9) requires grantees to maintain records sufficient to detail the significant history of a procurement. These records will include, but are not limited to: rationale for the method of procurement, selection of contract type, contractor selection or rejection, and the basis for the contract price. The grantee did not have records detailing its method of procurement, how it selected DDA, or how it determined a

basis for the price of the contracts. Without documentation to support the award of these contracts, the grantee cannot demonstrate that it followed federal procurement requirements or selected the best firm for the best price.

The grantee did not perform a cost or price analysis for either engineering contract. Title 40 CFR 31.36(f) requires grantees to perform and document a cost or price analysis in connection with every procurement action. According to EPA guidance, a cost analysis is the review and evaluation of each element of cost to determine reasonableness. A price analysis includes the comparison of price quotations submitted, market prices, bid prices for firm fixed price contracts, or similar information. Because the grantee did not perform a cost or price analysis, it had no assurance that DDA's proposed prices for either contract were fair and reasonable. The grantee could be overpaying for engineering services under both contracts.

The grantee did not adequately compete the first contract. The grantee awarded this contract to DDA for "emergency" work. However, at the time of our field work, 17 months after the contract was signed, construction had still not started. We found no evidence that the grantee competed this contract or supported that it was for "emergency" work. Title 40 CFR 31.36(c)(1) generally requires that all procurement transactions be conducted in a manner providing full and open competition.

The advertisement for the second engineering contract did not meet federal regulations and did not provide for open competition. According to Title 40 CFR 31.36, grantees must publicize and identify all evaluation criteria and their relative importance. However, the grantee did not specify the relative importance of each evaluation factor. Instead, the advertisement informed potential bidders that they must have experience in areas such as sanitary sewer and roadway projects with the grantee, and experience regarding acquisition of funding for various types of projects, specifically for the grantee. By specifying that this work had to have been previously performed for the grantee, the grantee limited the number of qualified firms.

In October 2007, the grantee awarded the second contract to DDA when the appearance of an organizational conflict of interest existed. An organizational conflict of interest exists when a set of facts or circumstances or a relationship provide the contractor an unfair competitive advantage in future procurements. DDA had such an advantage as it performed "pro-bono" work for the grantee prior to the contract award. This "pro-bono" work included identifying the remaining two projects under the EPA grant that the grantee later awarded DDA contracts to perform. According to the grantee, the firm also helped the grantee write the advertisement for the second contract. Title 40 CFR 31.36, (c)(1)(v) states that organizational conflicts of interest restrict competition. DDA's previous relationship with the grantee and its involvement in developing the advertisement provided an unfair competitive advantage and created the appearance of an organizational conflict of interest. Therefore, the grantee should not have allowed DDA to bid on this contract.

Grantee representatives told us that DDA has not billed them for any EPA grant-related work as of March 27, 2008. The grantee also has not drawn down any grant funds since June 2007, and had not issued any payments to DDA as of the end of our field work. Therefore, EPA should require the grantee to re-bid both engineering contracts in accordance with federal regulations.

High Risk Grantee

As noted, the grantee did not maintain an acceptable financial management system, procurement system, or contract administration system. Also, the grantee did not conform to the terms and conditions of the award. When grantees do not have systems that meet financial management standards, EPA can identify them as “high risk.” According to Title 40 CFR 31.12, a grantee may be considered “high risk” if an awarding agency determines that the grantee:

- Has a history of unsatisfactory performance,
- Is not financially stable,
- Has a management system that does not meet management standards,
- Has not conformed to terms and conditions of previous awards, or
- Is otherwise not responsible.

We found that the grantee meets two of the five criteria for high risk. The grantee’s management system was not adequate and the grantee did not conform to the terms and conditions of its award. The grantee did not maintain adequate accounting records to support its matching costs, it requested grant funds for ineligible costs, and it violated the procurement requirements of Title 40 CFR 31.36 in selecting an engineering firm.

The grantee also did not have an adequate contract administration system. Title 40 CFR 31.36(b)(2) requires grantees to maintain a contract administration system that ensures contractors perform in accordance with the terms, conditions, and specifications of their contracts. The grantee did not have such a system. For example, it approved four change orders under a construction contract more than 4 months after the contract expired.

As of March 28, 2008, the grantee had not spent the remaining \$621,994 in grant funds, and we identified numerous issues previously discussed. Therefore, EPA should classify the Village of Wellsville as a high risk grantee and apply special conditions until improvements are made to its accounting and procurement systems.

Recommendations

We recommend that the Acting Regional Administrator, EPA Region 5:

1. Recover the \$1,241,591 in questioned costs.
2. Require the grantee to re-bid both engineering contracts awarded to DDA in accordance with federal regulations.

3. Require the grantee to strengthen its accounting and procurement systems to meet the requirements of Title 40 CFR Part 31.
4. Classify the Village of Wellsville as a high risk grantee, and apply special conditions to this and future awards until improvements are made to the accounting and procurement systems.

Grantee Comments

We held an exit conference with grantee and EPA Region 5 representatives on May 29, 2008. The grantee did not have any concerns with the factual accuracy of the report, but did raise concerns about EPA's approval of its pre-award costs and stated that it had documentation to support the contract procurements.

The grantee prepared its EPA grant application with its congressman's office. The application included pre-award matching costs, which the grantee believed were eligible. EPA approved the entire grant amount requested in the application. The grantee will submit supporting documentation for the matching costs to EPA.

The grantee believes that it followed procurement guidelines when it established both contracts with DDA. The Village Administrator placed the advertisement for the second contract in the newspaper, and scored the applicants based on a point system. The grantee selected DDA because it received the highest score. The grantee will obtain the supporting documentation for the procurements from the Village Administrator and submit it to EPA.

OIG Response

Our position remains unchanged and we continue to believe that EPA Region 5 should recover the questioned costs totaling \$1,241,591.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed To Amount
1	4	Recover the \$1,241,591 in questioned costs.		Acting Regional Administrator, Region 5		\$1,241.6	
2	4	Require the grantee to re-bid both engineering contracts awarded to DDA in accordance with federal regulations.		Acting Regional Administrator, Region 5			
3	5	Require the grantee to strengthen its accounting and procurement systems to meet the requirements of Title 40 CFR Part 31.		Acting Regional Administrator, Region 5			
4	5	Classify the Village of Wellsville as a high risk grantee, and apply special conditions to this and future awards until improvements are made to the accounting and procurement systems.		Acting Regional Administrator, Region 5			

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

Distribution

Acting Regional Administrator, Region 5
Director, Office of Wastewater Management, Office of Water
Director, Office of Wastewater Management - Municipal Support Division, Office of Water
Director, Office of Grants and Debarment
Director, Grants and Interagency Agreements Management Division
Agency Follow-up Official (the CFO)
Agency Follow-up Coordinator
Associate Administrator for Congressional and Intergovernmental Relations
Associate Administrator for Public Affairs
Region 5 Audit Follow-up Coordinator
Region 5 Public Affairs Office
Deputy Inspector General