



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Site Visit Report

American Recovery and Reinvestment Act Site Visit of the Clifton Street Sewer Separation and Water Main Replacement Projects, Portland, Maine

Report No. 11-R-0248

June 7, 2011



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Cover photo: Clifton Street Sewer Separation and Water Main Replacement Projects under construction, Portland, Maine. (EPA OIG photo)

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At a Glance

Catalyst for Improving the Environment

Why We Did This Review

The U.S. Environmental Protection Agency, Office of Inspector General, conducts site visits of clean water and drinking water projects funded by the American Recovery and Reinvestment Act of 2009 (Recovery Act). We selected the Clifton Street Sewer Separation and Water Main Replacement Projects in the City of Portland, Maine, for review.

Background

The Maine Municipal Bond Bank, acting on behalf of the Maine Department of Environmental Protection, provided Recovery Act funds of \$2,063,665, with \$747,898 for principal forgiveness, through the Clean Water State Revolving Fund Program to the City of Portland for the Clifton Street Sewer Separation Project. The bank also provided to the Portland Water District, on behalf of the Maine Department of Health and Human Services, \$380,205, with \$114,062 for principal forgiveness, through the Drinking Water State Revolving Fund Program for the Clifton Street Water Main Replacement Project.

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

The full report is at:
www.epa.gov/oig/reports/2011/20110607-11-R-0248.pdf

American Recovery and Reinvestment Act Site Visit of the Clifton Street Sewer Separation and Water Main Replacement Projects, Portland, Maine

What We Found

We conducted an unannounced site visit of the Clifton Street Sewer Separation and Water Main Replacement Projects in the City of Portland, Maine, from June 15 through June 17, 2009. The projects were performed jointly by the City of Portland, Maine (sewer separation) and Portland Water District (water main replacement). We toured the projects and interviewed city representatives, water district representatives, and contractor personnel. We also reviewed documentation related to Recovery Act requirements.

We conducted our field work phase from June 15, 2009, to April 7, 2011. Our work was suspended for a period of time prior to completion.

Based upon our site visit, no issues or concerns came to our attention that would require action from the city, the Portland Water District, or the U.S. Environmental Protection Agency.



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

THE INSPECTOR GENERAL

June 7, 2011

MEMORANDUM

SUBJECT: American Recovery and Reinvestment Act Site Visit of the Clifton Street Sewer Separation and Water Main Replacement Projects, Portland, Maine
Report No. 11-R-0248

FROM: Arthur A. Elkins, Jr.
Inspector General

A handwritten signature in black ink, appearing to read "Arthur A. Elkins, Jr.", is written over the printed name and title.

TO: Curt Spalding
Regional Administrator, Region 1
U.S. Environmental Protection Agency

This is our report on the subject site visit conducted by the Office of Inspector General of the U.S. Environmental Protection Agency. The report summarizes the results of our site visit of the Clifton Street Sewer Separation and Water Main Replacement Projects in the City of Portland, Maine.

We performed this site visit as part of our responsibility under the American Recovery and Reinvestment Act of 2009. The purpose of our site visit was to determine whether the City of Portland and the Portland Water District complied with selected requirements of the Recovery Act pertaining to the Clean Water State Revolving Fund and Drinking Water State Revolving Fund Programs. The city received a loan from the Maine Municipal Bond Bank for the Clifton Street Sewer Separation Project totaling \$2,063,665, with \$747,898 for principal forgiveness, through the Clean Water State Revolving Fund Program. The Portland Water District received a loan from the Maine Municipal Bond Bank for the Clifton Street Water Main Replacement Project totaling \$380,205, with \$114,062 for principal forgiveness, through the Drinking Water State Revolving Fund Program.

The estimated direct labor and travel costs for this report are \$89,678.

Action Required

Because this report contains no recommendations, you are not required to respond to this report. The report will be made available at <http://epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact Melissa Heist, Assistant Inspector General for Audit, at (202) 566-0899; or Robert Adachi, Director of Forensic Audits, at (415) 947-4537 or adachi.robert@epa.gov.

Purpose

The purpose of the site visit was to determine whether the City of Portland, Maine, and the Portland Water District, Portland, Maine, are in compliance with selected requirements of the American Recovery and Reinvestment Act of 2009 (Recovery Act) pertaining to the Clean Water State Revolving Fund and Drinking Water State Revolving Fund Programs.

Background

The city received a loan from the Maine Municipal Bond Bank for the Clifton Street Sewer Separation Project totaling \$2,063,665, with \$747,898 for principal forgiveness, through the Clean Water State Revolving Fund Program. The Maine Municipal Bond Bank is the financial manager of the Maine Clean Water State Revolving Fund Program. The Maine Department of Environmental Protection administers the technical aspects of the program and individual projects funded by it. This project was approved to reduce the level of pollutants to water bodies and correct a combined sewer overflow.

The Portland Water District received a loan from the Maine Municipal Bond Bank for the Clifton Street Water Main Replacement Project totaling \$380,205, with \$114,062 for principal forgiveness, through the Drinking Water State Revolving Fund Program.¹ The Maine Municipal Bond Bank is the financial manager of the Maine Drinking Water State Revolving Fund Program. The Maine Department of Health and Human Services is responsible for project management and technical support, as well as overseeing activities. This project was approved to replace aging infrastructure serving a population of 124,258.

Scope and Methodology

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

We conducted an unannounced site visit during the week of June 15, 2009. Our field work phase began on June 15, 2009 and ended on April 7, 2011. Our work was suspended for a period of time prior to completion.

¹ The August 28, 2009, loan agreement between Maine Municipal Bond Bank and Portland Water District refers to the Drinking Water State Revolving Fund as the Safe Drinking Water Revolving Loan Fund.

During our visit, we:

1. Toured the project
2. Interviewed city, water district, and contractor personnel on site
3. Reviewed documentation maintained by the city, water district, and project contractors on the following matters:
 - a. Buy American requirements under Section 1605 of the Recovery Act
 - b. Wage rate requirements under Section 1606 of the Recovery Act
 - c. Contract procurement
 - d. Limit on funds and reporting requirements under Sections 1604 and 1512 of the Recovery Act

Results of Site Visit

Based upon our site visit, nothing came to our attention that would require action from the U.S. Environmental Protection Agency, the State of Maine, the City of Portland, or the Portland Water District. We summarize the specific site visit results below.

Buy American Requirements

The Clifton Street Sewer Separation and Water Main Replacement Projects were exempt from the Buy American requirement. The city solicited bids on February 17, 2009, for the two projects, which qualified them for the nationwide Buy American waiver issued by the U.S. Environmental Protection Agency.

On June 2, 2009, the U.S. Environmental Protection Agency published in the Federal Register, “Notice of Nationwide Waiver of Section 1605 (Buy American Requirement) of the American Recovery and Reinvestment Act of 2009 (ARRA) for Projects that Solicited Bids on or after October 1, 2008 and prior to February 17, 2009 that are Financed through the Clean or Drinking Water State Revolving Funds using Assistance Provided under ARRA.”² Since the city’s bid solicitation was made within the nationwide Buy American waiver timeframe of October 1, 2008, to February 17, 2009, it qualified for the Buy American waiver.

Wage Rate Requirements

We reviewed the city’s and Portland Water District’s compliance with wage rate requirements under Section 1606 of the Recovery Act. No issues or concerns came to our attention that would require action.

² The bid solicitation was made prior to the enactment of the Recovery Act later the same day and is, therefore, timely.

We interviewed all employees at the construction sites during our site visit to collect information on compensation, job duties, training, and qualifications. The contractor submitted copies of its certified payroll records to both the city and the Portland Water District to show its compliance with wage rate requirements, and also signed and submitted a “Statement of Compliance” with each certified payroll submission. We compared the wage rates on the certified payroll report to the applicable wage rate requirement to determine compliance. All employees were paid at or above the minimum required wage rate as determined by the Davis-Bacon Act.

Contract Procurement

We reviewed the city’s procurement of the subject projects and no issues or concerns came to our attention that would require action.

The city determined that it would be cost beneficial to issue one bid advertisement for work under the two projects since construction activity would be in one location. The city accepted responsibility for contract procurement.

The construction contract was competitively awarded based on public advertisement. In total, seven bids were received, and the contract was awarded to the lowest bidder overall (lowest bidder for the Sewer Separation Project and second-lowest for the Water Main Replacement Project).

Our review of the request for proposal, subsequent amendments, and the contract awarded found that the applicable Recovery Act clauses were included.

Limit on Use of Funds and Reporting Requirements

We did not identify any issues or concerns with the city’s or Portland Water District’s compliance with the requirements under Sections 1604 and 1512 of the Recovery Act.

To comply with the limitation of funds requirement of Section 1604, none of the funds appropriated or otherwise made available under the Recovery Act may be used by any state or local governments, or any private entity, for any casino or other gambling establishment, aquarium, golf course, or swimming pool. Based on our observations during the site visit, and our review of procurement documents, pay requests, and change orders, funds are not being used for any of the prohibited items noted in the Recovery Act.

We determined that both the city and the Portland Water District provided the State of Maine with the required information to ensure that they are meeting the reporting requirements under Section 1512 of the Recovery Act. Both provided to the state the Section 1512 reporting information monthly via pay requests. They also submitted to the Maine Department of Environmental Protection certified pay requests that itemized dollars requested by contract for the period covered by the

pay request. In addition, the city and the district provided to the state the number of hours worked on each contract. The city and the Portland Water District maintained detailed support for each pay request submitted to the state. The pay request was an overall summary for each project and contained the budgeted amount, funds dispersed to date, funds requested on the current request, and the balance remaining. The state, using the hours worked and a formula provided by the Office of Management and Budget, calculated the number of jobs saved or created.

Recommendations

Based upon our site visit, no issues or concerns came to our attention that would require action from the city, the Portland Water District, or the U.S. Environmental Protection Agency.

Agency, Recipient, and Subrecipient Responses to Draft Report

Since we had no recommendations, we did not require or receive formal written comments to the draft report. On May 23, 2011, we held an exit conference with representatives from the U.S. Environmental Protection Agency's Region 1, Maine Department of Environmental Protection, Maine Department of Health and Human Services, City of Portland, and Portland Water District. During the meeting, Maine's Department of Environmental Protection informed us that the \$1,087,238 principal forgiveness shown in the report represents the amount for two projects, Clifton Street and Forest Avenue. The portion attributed to the Clifton Street project is \$747,898.

Office of Inspector General Comment

We verified the principal forgiveness amounts for the Clean Water State Revolving Fund to supporting loan documentation and adjusted the report to reflect the principal forgiveness allocable to the Clifton Street project.

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
No recommendations							

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

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