

Department of Homeland Security Office of Inspector General

Obligation of *American Recovery and Reinvestment Act* Funds by the U.S. Customs and Border Protection for Land Ports of Entry



American Recovery and Reinvestment Act of 2009

OIG-12-72

April 2012



**Homeland
Security**

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Preface

The Department of Homeland Security (DHS) Office of Inspector General (OIG) was established by the *Homeland Security Act of 2002* (Public Law 107-296) by amendment to the *Inspector General Act of 1978*. This is one of a series of audits, inspections, and special reports prepared as part of our oversight responsibilities for programs, grants, and projects administered by the Department under the *American Recovery and Reinvestment Act of 2009* (Recovery Act).

This report presents information on Recovery Act funds obligated by U.S. Customs and Border Protection to administer and monitor land ports of entry and on the overall status of project funds. It is based on interviews with employees and officials of relevant agencies and institutions, direct observations, and a review of applicable documents.

We express our appreciation to all of those who contributed to the preparation of this report.

A handwritten signature in cursive script, appearing to read "Anne L. Richards".

Anne L. Richards
Assistant Inspector General for Audits

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Abbreviations

CBP	U.S. Customs and Border Protection
DHS	Department of Homeland Security
GSA	General Services Administration
OIG	Office of Inspector General
PMRS	Program Management and Reporting System
USACE	U.S. Army Corps of Engineers

OIG

*Department of Homeland Security
Office of Inspector General*

Executive Summary

The *American Recovery and Reinvestment Act of 2009*, as amended, included \$420 million for management and construction of Customs and Border Protection (CBP)-owned land ports of entry. In a prior audit, we looked at the use of funds for construction of the ports. Our objectives in this review were to (1) determine whether funds obligated for project administration and monitoring were for purposes authorized by the *American Recovery and Reinvestment Act of 2009*; (2) determine whether CBP, the General Services Administration, and the U.S. Army Corps of Engineers established adequate oversight and monitoring processes and procedures over the construction and alteration projects; and (3) identify the status of the obligations and projects as of October 4, 2011.

This review focused on \$71.6 million that CBP obligated for internal project management and support, information technology, and assistance from the General Services Administration and U.S. Army Corps of Engineers.

We determined that funds obligated by CBP for project administration and monitoring and for information technology were for purposes authorized by the *American Recovery and Reinvestment Act of 2009*. Also, we concluded that CBP, the General Services Administration, and the U.S. Army Corps of Engineers established adequate oversight and monitoring processes and procedures over the construction and alteration projects. As of October 4, 2011, CBP reported obligations of \$375,453,047, and an unobligated balance of its *American Recovery and Reinvestment Act of 2009* appropriation of \$44,546,953. CBP indicated that it would return \$35,881,420 of unobligated funds to the U.S. Treasury, and that it would retain \$8,665,533 for reconstruction projects if needed. This report does not present any recommendations.

Background

A land port of entry (port) is a facility that provides controlled entry to and exit from the United States for people and materials. It consists of land, buildings, roadways, and parking lots. Currently, there are 167 ports: 122 on the northern U.S.-Canadian border and 45 on the southern U.S.-Mexican border. CBP owns 41 of these ports: 37 on the northern border and 4 on the southern border.

The *American Recovery and Reinvestment Act of 2009* (Recovery Act), as amended, was enacted on February 17, 2009. The Recovery Act appropriated \$420 million “solely for planning, management, design, alteration, and construction of [CBP] owned land border ports of entry.” Among the Recovery Act’s stated purposes are the creation and preservation of jobs, promotion of economic recovery, and investment in infrastructure. Regarding infrastructure development, the Recovery Act required federal agencies to give preference to activities that “can be started and completed expeditiously, including a goal of using at least 50 percent of the funds for activities that can be initiated not later than 120 days after the date of the enactment of this Act.”

The Recovery Act also required that CBP obligate the funds by September 30, 2010, and that the Secretary of the Department of Homeland Security (DHS) submit to the Committees on Appropriations for the Senate and House of Representatives a plan for the expenditure of the funds. Guidance from the Office of Management and Budget (M-09-15, *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*) required the submission of final program-specific Recovery Act plans by May 15, 2009.

In its May 15, 2009, program-specific spending plan, CBP said that it would use \$374 million to construct new facilities at 23 existing CBP-owned ports and \$25 million to repair and alter a minimum of 10 additional ports. The plan also included \$21 million for a Program Management and Reporting System (PMRS) to aid in managing the construction projects. On April 12, 2010, CBP submitted a revised plan that estimated about \$389 million for design, construction, contingency, program support, and project build-out for 33 new ports. Funding for the 10 additional construction projects became available when CBP learned that the costs of the initial 23 port projects were lower than

estimated. The revised plan also included funds for the PMRS and for repairs and alterations.

This review primarily focused on the approximately \$71.6 million that CBP obligated for administering and monitoring project construction and for information technology. Funds obligated for construction of the ports were not reviewed because the construction program was covered in our August 26, 2011, audit of CBP's use of funds for construction of ports.

On October 22, 2009, the Office of Inspector General (OIG) issued *Review of the U.S. Customs and Border Protection Expenditure Plans for the American Recovery and Reinvestment Act of 2009* (OIG 10-05). The purpose of that review was to determine whether CBP developed practical and comprehensive plans related to the construction of CBP-owned ports. The report concluded that CBP generally developed practical, thorough, and comprehensive expenditure plans for these activities.

On August 26, 2011, OIG issued a report on the *Use of American Recovery and Reinvestment Act Funds by U.S. Customs and Border Protection for Construction of Land Ports of Entry* (OIG 11-97). That report focused on CBP's use of funds and approach to altering and constructing ports on the northern border. The report concluded that CBP generally developed reasonable plans for spending Recovery Act funds under the constraints of the Recovery Act. The plans provided for completing actions necessary to meet the environmental, historic, and cultural preservation requirements; acquiring land; designing projects; obligating internal funds and awarding contracts; and building at multiple locations throughout the United States. The report also said that features in standard port designs contributed to CBP building ports that are larger than necessary to meet operational requirements, that CBP did not fully support the basis for its decision regarding the port size required at different locations, and that CBP is building three new ports and repairing one port at locations that its field offices recommended be closed.

Results of Review

The funds that CBP obligated for project administration and monitoring and for information technology were for purposes authorized by the Recovery Act. Also, CBP, the General Services Administration (GSA), and the U.S. Army Corps of Engineers (USACE) established adequate oversight and monitoring processes and procedures for the construction and alteration projects. As of October 4, 2011, CBP reported obligations of \$375,453,047 and an unobligated balance of its Recovery Act appropriation of \$44,546,953 (see appendix C).

Obligations for Project Administration, Monitoring, and Information Technology

Obligations for project administration and monitoring included funds set aside for CBP internal management and contracts that CBP awarded for project management support and information technology systems and equipment. Based on our review of supporting information, we concluded that the obligations were for the Port Modernization Program and obligated for authorized purposes, as summarized in table 1:

Description	Obligations
CBP payroll (\$3,389,062) and travel (\$249,162) for staff performing project-related duties	\$3,638,224
CBP construction management of eight projects and contracts for financial reporting and acquisition support	13,194,746
Interagency agreements with GSA (\$17,175,204) for managing 9 projects and with USACE (\$15,414,271) for managing 16 projects and assisting with land acquisition	32,589,475
PMRS for comprehensive real property planning and needs analysis, including support of port construction projects	19,751,482
Other information technology purchase infrastructure needs at the ports, such as data equipment and telephone systems	2,419,262
Total	<u>\$71,593,189</u>

Program Monitoring

CBP established adequate oversight and monitoring processes and procedures for construction projects managed by CBP (8 projects), GSA (9 projects), and USACE (16 projects). In determining the level of management support needed, CBP used other government agencies such as GSA as guides and also reviewed industry benchmarks. GSA and

USACE used their own frameworks to determine the level of oversight and monitoring support needed.

CBP, GSA, and USACE use a consistent management approach in which they follow a project management plan to execute each construction project. These plans outline the responsibilities of the project managers and construction managers regarding project oversight. The project manager performs general oversight duties including occasional site visits, while the construction manager provides day-to-day management of the projects. CBP also prepares biweekly Program Management Review Reports that provide a summary dashboard that includes information regarding the status, risks, and delays of the port construction projects. These reports include information regarding all port construction projects, whether they are managed by GSA, USACE, or CBP. Program management support contractors also submit monthly status reports to CBP regarding work performed, as well as any concerns or issues.

Status of Projects and Funds

All planned construction and repair projects are underway except for construction projects at Morses Line, Vermont, and Whitetail, Montana. CBP classified the port for closure at Morses Line after inquiries from Senator Leahy¹ and at Whitetail after Canada closed its port on the other side of the border. In addition, CBP suspended construction at Churubusco, New York, after Canada said that it was going to close its counter port, but later decided to continue construction and operate Churubusco as a one-way port. On average, progress toward completion of the 31 construction projects is currently on time with the scheduled completion dates.

CBP obligated \$375,453,047 for the port modernization program by September 30, 2010. This consists of \$282,859,860 for building 33 new ports, including land acquisition support, firing range remediation support, and repairs and alterations to 8 ports. The obligations also consist of

¹ On May 23, 2010, Senator Patrick Leahy requested that Secretary Napolitano close the port at Morses Line because it is “not a critical link in the chain of our nation’s security or commerce” and because it “threatens a multi-generational operational dairy farm...” In a June 24, 2010, response to the Senator, Secretary Napolitano said that the Department decided to begin the process of closing Morses Line “based on internal analyses and significant consultation with the local community and congressional delegation...” In an April 28, 2011, letter to the Commissioner of CBP, Senator Leahy wrote, “I favor maintaining a port at Morses Line that meets the national security needs of the 21st Century. However, I understand that the security deficiencies of the existing facility require [DHS] to increase the footprint of the port, alter traffic flow around the building, and modernize the security capabilities. While I remain concerned about efforts to condemn private farmland for the development of a new facility, I hope the community and DHS might find a suitable alternative for improving this port facility.”

\$71,593,189 for administration and monitoring construction and alteration projects. Finally, in July 2010, the Chairmen of the House and Senate Appropriation subcommittees on Homeland Security agreed to CBP's request to reprogram the remaining \$21 million. CBP reprogrammed the funding to the projects listed in table 2.

Table 2. Projects Approved for Reprogrammed Funds		
Project	Description	Amount
Laredo Lincoln II Juarez Port	Alterations to Port	\$ 1,008,075
Laredo II Lincoln Juarez Bus	Alterations to Port	4,000,781
Laredo I Convent	Alterations to Port	2,491,144
Nogales West – Mariposa	Alterations to Port	10,500,000
Antelope Wells, NM	Build Forward Operating Base	3,000,000
Total		<u>\$ 21,000,000</u>

CBP had not obligated \$44,546,953 of Recovery Act fund appropriations by the end of the statutory period of availability on September 30, 2010. According to CBP, it plans to set aside \$8,665,533 of the expired funds as additional funding for adjustments to the current reconstruction projects if needed, and will return the remaining balance of \$35,881,420 to the U.S. Treasury. Appendix C lists the financial status and completion dates of the projects.

Appendix A

Purpose, Scope, and Methodology

Our objectives were to (1) determine whether funds obligated for project administration and monitoring were for purposes authorized by the Recovery Act; (2) determine whether CBP, GSA, and USACE established adequate oversight and monitoring processes and procedures over the construction and alteration projects; and (3) identify the status of the obligations and projects as of October 4, 2011.

To meet our objectives, we—

- Examined the Recovery Act; *Department of Homeland Security Appropriations Act, 2010*, P.L. 111-83 (October 28, 2009); and applicable plans, policies, procedures, and internal directives that CBP uses to administer and monitor the construction of land ports of entry.
- Interviewed project management and contracting officials regarding port activities.
- Reviewed documents supporting payroll and travel obligations.
- Analyzed contracts and modifications and statements of work related to information technology purchases totaling \$2,419,262.
- Interviewed CBP, GSA, and USACE officials responsible for planning and managing the construction or alteration of port projects, reviewed interagency agreements, and evaluated port project supervision activities to evaluate project oversight.
- Reviewed financial and construction status reports that CBP submitted to DHS.
- Visited the project management office for PMRS in Indianapolis, Indiana, to obtain and assess information regarding the history, status, and functionality of the system.

We conducted this audit from February through October 2011 in Washington, DC, pursuant to the *Inspector General Act of 1978*, as amended, and according to 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 upon our audit objectives. We believe that the evidence obtained

Appendix A
Purpose, Scope, and Methodology

provides a reasonable basis for our findings and conclusions based upon our audit objectives.

Appendix B

Management Comments to the Draft Report

1300 Pennsylvania Avenue NW
Washington, DC 20229



U.S. Customs and
Border Protection

February 29, 2012

Charles K. Edwards
Acting Inspector General
Department of Homeland Security
245 Murray Drive, SW, Building 410
Washington, DC 20528

Re: OIG Draft Report Entitled, "Obligation of American Recovery and Reinvestment Act Funds by U.S. Customs and Border Protection for Land Ports of Entry" (OIG-11-088-AUD-CBP)

Dear Mr. Edwards:

Thank you for the opportunity to review and comment on this draft report. U.S. Customs and Border Protection (CBP) appreciates the Office of Inspector General's (OIG's) work in planning and conducting its review and issuing this report. Our agency is pleased that the OIG found that funds obligated by CBP for administering land ports of entry (LPOEs) were for authorized purposes and that its process for monitoring projects was adequate.

As part of the U.S. Department of Homeland Security's (DHS's) overall American Recovery and Reinvestment Act (ARRA) program, CBP's LPOE Program Management Office (PMO), consisting of, and receiving support from, a diverse group of facilities, procurement, operations and service provider professionals, closely monitors the allocation of resources and progress of ARRA-funded land port projects from inception to completion. CBP's disciplined governance framework put in place to oversee the obligation of ARRA funds, also included regular leadership reviews at CBP and DHS Headquarters to monitor the cost and schedule associated with the LPOE efforts. The PMO ensured that the funds allocated to CBP for land port modernization effectively fulfilled the purpose and the goals of ARRA: stimulating the economy by hiring American companies and creating American jobs to strengthen the infrastructure of America.

Again, thank you for the opportunity to review and comment on this draft report. We note that the report does not contain any recommendations for CBP. CBP has no technical or sensitivity comments.

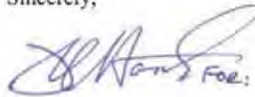
**Obligation of American Recovery and Reinvestment Act Funds by the
U.S. Customs and Border Protection for Land Ports of Entry**

Appendix A
Purpose, Scope, and Methodology

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We look forward to working with you on future reviews. If you have any questions, please have a member of your staff contact Patty Quintana, Audit Liaison, Office of Internal Affairs at (202) 344-1038.

Sincerely,

A handwritten signature in blue ink, appearing to read "James F. Tomsheck".

James F. Tomsheck
Assistant Commissioner
Office of Internal Affairs

Appendix C
Projects, Funds Obligated, and Forecasted Completion Dates as of October 4, 2011

Projects	Obligation	Completion Date
<i>New Construction</i>		
Amistad Dam, TX	\$ 8,299,887	June 30, 2012
Antelope Wells, NM	10,563,749	December 5, 2011
Antler, ND	7,688,366	August 29, 2011
Boundary, WA	13,887,938	May 12, 2012
Bridgewater, ME	7,791,789	August 7, 2012
Cannons Corner, NY	8,002,388	May 25, 2012
Carbury, ND	7,569,446	July 18, 2011
Churubusco, NY	8,377,447	January 27, 2012
Del Bonita, MT	6,521,436	June 1, 2012
Easton, ME	6,349,620	July 16, 2012
Forest City, ME	6,541,156	June 30, 2012
Frontier, WA	15,088,278	August 31, 2011
Hamlin, ME	10,031,012	May 11, 2012
Hannah, ND	6,724,778	June 30, 2012
Hansboro, ND	8,010,855	September 26, 2011
Los Ebanos, TX	8,378,612	August 17, 2012
Maida, ND	8,412,132	December 13, 2011
Morgan, MT	8,851,052	October 11, 2011
Morses Line, VT	171,149	Identified for closure
Neche, ND	8,413,015	September 15, 2011
Nighthawk, WA	8,141,846	January 12, 2012
Noonan, ND	9,482,578	August 15, 2011
Pinecreek, MN	6,102,225	June 30, 2012
Pinnacle Road, VT	7,804,604	October 28, 2011
Pittsburg, NH	8,413,306	December 8, 2011
Sarles, ND	6,299,172	June 30, 2012
Scobey, MT	8,113,052	October 11, 2011
Sherwood, ND	7,403,694	June 3, 2011
Walhalla, ND	7,846,962	September 16, 2011
Westhope, ND	7,599,787	June 3, 2011
Whitetail, MT	8,564,368	Identified for closure
Whitlash, MT	6,455,915	June 30, 2012
Wild Horse, MT	9,224,158	September 28, 2011
Subtotal	\$267,125,772 ^a	
<i>Land Acquisition and Support</i>		
	4,361,428	
<i>Firing Range Rem. and Support</i>		
	269,686	
<i>Repairs and Alterations</i>		
	11,102,974	
Subtotal	282,859,860 ^a	
<i>Administration and Monitoring</i>		
CBP Payroll and Travel	3,638,224	
CBP Internal Support	13,194,746	
GSA and USACE Support	32,589,475	
PMRS	19,751,482	
Other Information Technology	2,419,260	
Subtotal	71,593,187	
<i>Reprogrammed Funds</i>		
	21,000,000 ^a	
Subtotal	375,453,047	
Unobligated Appropriation	44,546,953	
Total	\$420,000,000	

^a Unaudited, information is as reported by CBP to DHS.

Appendix D
Major Contributors to this Report

Roger LaRouche, Director
William Gillies, Audit Manager
Kendra Loper, Auditor
Katrina Reuben-Bynes, Independent Referencer

Appendix E
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