



United States Department of Agriculture
Office of Inspector General
Washington, D.C. 20250



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AUDIT
NUMBER: 09703-1-At (2)

TO: Dallas Tonsager
Under Secretary
Rural Development

FROM: Gil H. Harden /S/
Assistant Inspector General
for Audit

SUBJECT: Rural Utilities Service Needs to Improve Project Transparency for the Water and Waste Disposal System Recovery Act Projects

The Rural Utilities Service (RUS) is a Rural Development agency within the Department of Agriculture (USDA) that administers the Water and Waste Disposal System Program and provides loans and grants for sewer, storm water, and solid waste disposal systems in cities and towns having populations up to 10,000 people. As part of the American Recovery and Reinvestment Act of 2009 (Recovery Act), Congress provided USDA with \$28 billion in funding.¹ Approximately² \$3.8 billion of those funds were designated for RUS' Water and Waste Disposal System Program. As of September 30, 2010, RUS obligated \$3.3 billion in Recovery Act loans and grants for water and waste disposal systems in rural areas throughout the United States.

In the Recovery Act, Congress emphasized the need for Federal agencies to be accountable and transparent in the expenditure of Recovery Act funds. Subsequently, the Office of Management and Budget (OMB) issued guidance³ that required Federal agencies to establish rigorous internal controls, oversight mechanisms, and other approaches to meet the accountability objectives of the Recovery Act. The role of the USDA's Office of the Inspector General (OIG) is to oversee and evaluate USDA agencies' activities, thereby fostering accountability and transparency in meeting the provisions and intentions of the Act. This Fast Report addresses issues we found with the transparency of the program's projects. This issue, along with any others identified, will be compiled into the final report at the conclusion of our audit.

¹ Public Law 111-5, February 17, 2009.

² Funding decreased due to changes in the subsidy rate between fiscal years 2009 and 2010, as well as reprogrammed amounts from loan to grant.

³ *Initial Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, dated February 18, 2009, and *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009*, dated April 3, 2009.

“Recovery.gov” is the Federal Government’s official website for data related to the Recovery Act and a major source of information for the public. Agencies that received Recovery Act funds are required to periodically report financial data on Recovery.gov, including their obligations and expenditures. In addition to meeting these requirements, RUS needs to disclose on the Recovery Act’s website the time needed to initiate construction of water and waste disposal projects once funds are obligated and the impact such timing has on project spending and job creation. RUS deems projects “started” at the time loan and/or grant funds are obligated. However, actual project construction could be months or years after obligation, due to preconstruction requirements, and most project spending and job creation occurs after the start of project construction. Without RUS’ disclosure of project timing, the public may not fully understand the progress of water and waste disposal projects in meeting the goals of the Recovery Act.

It is critical that RUS be transparent as to the time needed to initiate construction of water and waste disposal projects because of the goals of the Recovery Act. The Recovery Act has three immediate goals to alleviate the economic crisis that include (1) creating new jobs and saving existing ones, (2) spurring economic activity and investment in long-term growth, and (3) fostering unprecedented levels of accountability and transparency in Government spending. While many of Recovery Act projects are focused more immediately on jumpstarting the economy, others, especially those involving infrastructure improvements, are expected to contribute to economic growth for many years.

According to RUS, project spending begins at the time of obligation for the water and waste disposal loan and grant program. Projects are approved at this time and have already completed preliminary design, environmental reviews, and assessments. Projects are then ready to proceed to final design and bid.⁴ Yet, there are several time-consuming steps that must be completed after funds are obligated and prior to the start of actual construction, which include, but are not limited to:

- Completing the final design and submitting it to Rural Development, the State health department, and the State public service commission for review and approval;
- Acquiring signed user agreements and collecting tap fees,⁵ (if new customers are added);
- Acquiring applicable permits from the U.S. Army Corps of Engineers, Division of Highways, Public Land Corporation, or railroads;
- Acquiring any new property and rights-of-way that are needed for the project;
- Conducting an initial RUS compliance review;

⁴ Final design entails final plans and specifications for projects. According to 7 *Code of Federal Regulations* 4280.115, final plans and specifications must be reviewed by the agency and approved prior to start of construction. RUS Instruction 1780.72 provides that when competitive sealed bidding is applicable, an invitation for sealed bids is publicly advertised and a firm-fixed-price contract is awarded to the responsible bidder whose bid, conforming to all the material terms and conditions of the invitation for bids, is lowest, price and other factors considered. Competitive sealed bids are the preferred procurement method for construction contracts.

⁵ Fees associated with the establishment and connection of water and sewer lines.

- Submitting proposed user rates;
- Purchasing appropriate insurance coverage; and
- Advertising for bids and contract awards.

Although we did not question the timeliness of RUS' loan and grant making and processing for water and waste disposal projects, RUS does not clearly convey to the public the additional time it takes to begin actual construction once a project is obligated. To address this concern, RUS needs to be more transparent with the public as to when its water and waste disposal projects begin construction, since it is not immediately after funds are obligated.

We statistically selected and reviewed 22 of 430 RUS water and waste disposal projects, totaling \$189 million of the \$1.6 billion in Recovery Act-funded obligations, as of September 30, 2009.⁶ During our fieldwork, we interviewed RUS officials and reviewed project documentation to determine when project construction began. We also obtained data from Recovery.gov to evaluate project expenditures and jobs created or saved.

Based on our review, project construction usually did not immediately follow the obligation of funds for the projects in our sample. The actual construction for 3 of the 22 projects (totaling \$33 million) started within 4 months of the obligation date, the preferred time stated in the Recovery Act. However, construction for 14 other projects (totaling \$65.8 million) started 5 to 21 months after obligation of funds; while the remaining 5 projects (totaling \$90.1 million) had yet to reach the actual construction phase as of July 22, 2011. For these 5 projects, the timeframes between funding obligation and estimated start of construction ranges from 25-36 months. In one instance, RUS obligated \$22 million in Recovery Act funds for the Atchison County, Missouri, Wholesale Water Commission project in June 2009. Project officials initially estimated that construction for this project would start in February of 2011, or over 20-months following the obligation of project funds (see exhibit A). When we contacted RUS officials during July 2011, construction still had not begun for this project. RUS officials estimate that it would be at least August 2011 before construction would start (26 months following the obligation of funds).

We also determined that, prior to the construction phase, project spending may be minimal and few jobs created. We found that 13 of the projects reported expenditures totaling \$28.6 million as of March 31, 2011 (see exhibit A). RUS estimated that 3,384 jobs would be created or saved from our sample of 22 water and waste disposal projects. However, as of March 31, 2011, a total of only 178 actual jobs had been reported on Recovery.gov as created or saved (see exhibit B). RUS expects increased numbers in jobs created or saved as projects progress.

Without a clear understanding of when project construction begins, the public may misjudge the progress of RUS' water and waste disposal projects. By clarifying the time needed to initiate

⁶ Therefore, our results are representative of all Recovery Act Water and Waste Disposal obligations made as of September 30, 2009. The entire universe of Recovery Act Water and Waste Disposal projects as of September 30, 2010, is 854 projects, with a total of \$3.3 billion in obligations.

project construction following the obligation of funds and its impact on the timing of spending and job creation, RUS can better inform the public of the water and waste disposal project process.

Recommendation

Explain on Recovery.gov the time needed to initiate actual construction for each water and waste disposal project following obligation of funds and this timeframe's impact on the timing of project spending and jobs created.

EXHIBIT A

Recovery Act Funds Obligation Dates, Amounts, Construction Dates, Expenditures, and Elapsed Time

| State | Project | Total RUS Funding | Obligation Date | Actual Construction Start Date | Estimated Construction Start Date | Expenditures Per Recovery.gov ⁷ | 0-4 Months from Obligation to Construction ⁸ | 5-24 Months from Obligation to Construction ⁹ | 25-36 Months from Obligation to Construction ¹⁰ |
|-------|---------------------------------------------|-------------------|-----------------|--------------------------------|-----------------------------------|--------------------------------------------|---------------------------------------------------------|----------------------------------------------------------|------------------------------------------------------------|
| AL | City of Thomasville | \$15,199,000 | May-2009 | | Sep-2011 | \$0 | | | 28 |
| ID | City of Dubois | \$964,000 | Jul- 2009 | Aug-2010 | | \$682,873 | | 13 | |
| IN | Town of Montezuma | \$5,542,000 | Jun-2009 | Oct-2010 | | \$1,264,710 | | 16 | |
| IN | Twin Lakes Regional Sewer District | \$22,112,000 | Jul-2009 | | Aug-2011 | \$0 | | | 25 |
| KY | Garrison-Quincy-KY-O-Heights Water District | \$1,227,500 | Aug-2009 | Jun-2010 | | \$811,536 | | 10 | |
| LA | Town of Jonesville | \$205,000 | Jun-2009 | Jan-2010 | | \$132,915 | | 7 | |
| ME | Town of Farmington | \$501,000 | Aug-2009 | Sep-2010 | | \$195,523 | | 13 | |
| MI | City of Hancock | \$4,000,000 | Jul-2009 | Apr-2011 | | \$0 | | 21 | |
| MO | Atchison County Wholesale Water Commission | \$22,000,000 | Jun-2009 | | Aug-2011 | \$0 | | | 26 |
| MS | Clara Water Association, Inc. | \$555,800 | May-2009 | May-2010 | | \$536,166 | | 12 | |
| MS | Mt. Comfort Water Association, Inc. | \$1,624,000 | May-2009 | Oct-2009 | | \$1,208,810 | | 5 | |

⁷ Recovery.gov recipient reporting data as of March 31, 2011.

⁸ For consistency among categories, actual or estimated start of construction dates were measured based on months.

⁹ See footnote 8.

¹⁰ Estimated as of July 22, 2011. See footnote 8.

EXHIBIT A - Continued

| State | Project | Total RUS Funding | Obligation Date | Actual Construction Start Date | Estimated Construction Start Date | Expenditures Per Recovery.gov ¹¹ | 0-4 Months from Obligation to Construction | 5-24 Months from Obligation to Construction | 25-36 Months from Obligation to Construction ¹² |
|--------------|-------------------------------------|----------------------|-----------------|--------------------------------|-----------------------------------|---------------------------------------------|--------------------------------------------|---------------------------------------------|------------------------------------------------------------|
| ND | North Central Consortium-Radar Hill | \$3,019,900 | May-2009 | Oct-2009 | | \$3,019,900 | | 5 | |
| NM | Village of Ruidoso Downs | \$1,000,000 | Jun-2009 | Jul-2009 | | \$0 | 1 | | |
| NY | Town of Volney | \$964,500 | Jun-2009 | Apr-2010 | | \$801,890 | | 10 | |
| OK | Roland Utility Authority | \$3,080,600 | Jun-2009 | Sep-2010 | | \$641,647 | | 15 | |
| OR | Netarts-Oceanside Sanitary District | \$20,995,000 | Jul-2009 | Oct-2010 | | \$3,397,416 | | 15 | |
| OR | City of Hood River | \$22,976,300 | Sep-2009 | Mar-2011 | | \$0 | | 18 | |
| VT | Town of St. Johnsbury | \$3,100,000 | May-2009 | Sep-2009 | | \$2,878,496 | 4 | | |
| WA | City of Shelton | \$28,857,000 | Sep-2009 | Jan-2010 | | \$ 13,018,576 | 4 | | |
| WV | City of Elkins | \$29,075,000 | May-2009 | | May-2012 | \$0 | | | 36 |
| WV | Big Bend PSD | \$1,800,000 | May-2009 | | Feb-2012 | \$0 | | | 33 |
| WV | City of War | \$180,300 | May-2009 | Feb-2011 | | \$0 | | 21 | |
| TOTAL | | \$188,978,900 | | | | \$28,590,458 | | | |

The above table contains a listing of the 22 sampled projects, where projects are located, total RUS funding, funding obligation date, actual or estimated start date for construction, and elapsed time from the obligation date to the start or estimated start of construction.

¹¹ Recovery.gov recipient reporting data as of March 31, 2011.

¹² Estimated as of July 22, 2011.

EXHIBIT B

Number of Jobs

| Project | Projected Number of Jobs Created ¹³ | Number of Jobs Created ¹⁴ |
|---------------------------------------------|------------------------------------------------|--------------------------------------|
| City of Thomasville | 338.4 | 0 |
| City of Dubois | 22.4 | 1.92 |
| Town of Montezuma | 92.4 | 5.3 |
| Twin Lakes Regional Sewer District | 338.3 | 0 |
| Garrison-Quincy-KY-O-Heights Water District | 81.1 | 3.12 |
| Town of Jonesville | 7.0 | 0.26 |
| Town of Farmington | 8.9 | 0 |
| City of Hancock | 61.2 | 0 |
| Atchison County Wholesale Water Commission | 336.6 | 0 |
| Clara Water Association, Inc. | 8.5 | 9.96 |
| Mt. Comfort Water Association, Inc. | 24.8 | 12.18 |
| North Central Consortium-Radar Hill | 47.7 | 26.83 |
| Village of Ruidoso Downs | 61.2 | 0 |
| Town of Volney | 14.8 | 8.8 |
| Roland Utility Authority | 47.1 | 14 |
| Netarts-Oceanside Sanitary District | 347.3 | 19.84 |
| City of Hood River | 351.5 | 0 |
| Town of St. Johnsbury | 47.4 | 5 |
| City of Shelton | 643.5 | 71.03 |
| City of Elkins | 444.8 | 0 |
| Big Bend PSD | 36.7 | 0 |
| City Of War | 22.4 | 0 |
| TOTAL | 3,384 | 178.24 |

The above table contains the name of each sampled project and the estimated and actual jobs created or retained between February 17, 2009, and March 31, 2011. Jobs created or retained are reported by recipients each quarter on the Recovery.gov website. In some cases, we contacted RUS State officials or recipients to confirm the number of jobs created; however, we did not confirm all of these figures.

¹³ Figures provided by RUS National office. These figures are multiplier-based and were included in the project summaries for each project. The multiplier was based on so many jobs per millions of project dollars and was departmentwide.

¹⁴ Recovery.gov recipient reporting data as of March 31, 2011, based on FTEs (Full-time equivalent).

USDA'S

RURAL DEVELOPMENT

RESPONSE TO AUDIT REPORT



United States Department of Agriculture
Rural Development

September 13, 2011

TO: Gil Harden
Assistant Inspector General for Audit

FROM: Dallas Tonsager /s/ Dallas Tonsager
Under Secretary
Rural Development

SUBJECT: Report Regarding Project Transparency for the Water and Waste Disposal
System Recovery Act Projects
Audit # 09703-1-At(2)

Thank you for your Fast Report dated August 31, 2011 regarding your oversight activities related to the water and waste disposal system program implementation of the funding received through the American Recovery and Reinvestment Act of 2009, P.L. 111-5, (Recovery Act). We are pleased that the Fast Report reconfirms that the timeliness and application processing is administrated appropriately and is not in question. The report does recommend that the Rural Development's (RD) Rural Utilities Service (RUS) explain on Recovery.gov the time periods associated with the various phases of construction of water and waste disposal projects funded through the Recovery Act, as well as its impact on related spending and jobs created. This memorandum will serve as our reply to your recommendation.

Through the Recovery Act, the water and waste disposal loan and grant program provided \$3.261 billion for 854 projects in 50 states. Much progress has been made toward construction of this much-needed rural infrastructure.

As of August 25, 2011, 586 (70 percent) of the 846 remaining projects¹ funded have gone out to bid, awarded contracts, are actively under construction or are completed. An additional 10 percent of projects funded are in the process of going to bid. The remaining projects are in the final design stage. We are pleased that in 84 recipient communities where projects are complete, the public is already receiving the benefits of new or improved infrastructure, and in 416 additional recipient communities the public can witness active construction in progress.

The Fast Report's primary focus is on ensuring that the public is made aware that RUS water and waste disposal infrastructure projects funded through the Recovery Act have

¹ Eight projects were deobligated at the request of recipients after September 30, 2010.

activities associated with them, such as design, permitting and bidding, that must be completed prior to active construction starting. The report notes that actual construction for the projects reviewed did not start immediately upon obligation. The primary concern is that the public might not fully understand the progress of our projects or how they are meeting the goals of the Recovery Act.

The scope of the Fast Report is limited to 5 percent of all water and waste projects funded through the Recovery Act effort and is not indicative of the progress made to date as detailed on page 1 on this memorandum. Further, there is no evidence provided in the report of public concern regarding our progress.

We believe the portfolio of Recovery Act projects is progressing at an appropriate pace. Given that the water and waste disposal projects funded by the program are to build or enhance critical infrastructure meant to last 40 years or longer, it is important the projects be well designed and constructed.

As communicated to the public in the RD Recovery Act Implementation Plan, RUS implemented its water and waste funding through the existing loan and grant program. The RUS Water and Waste Loan and Grant program is exclusively focused on rural water and waste infrastructure needs, working with rural areas with populations of 10,000 or less. Most RD projects serve areas well below 10,000 in population. In 2011, more than half of the projects receiving funding serve populations of 1,500 or less. Eighty-two percent serve populations below 5,000. In addition, applicants must demonstrate that they need federal assistance because they cannot obtain credit from commercial lenders or investors at affordable rates and terms. As such, the program is designed to address the unique challenges faced by its applicants. For example, in most cases, rural communities who participate in the program need funds to be obligated by RUS in order to proceed toward what OIG considers actual construction. Engineering design, permitting and other activities can be costly, and our applicants often do not have the financial resources to pay for these activities prior to seeking federal funding. We do require that a Preliminary Engineering Report and an Environmental Report are submitted with the application; however, final design and other activities can be completed post obligation. As such, RUS considers a project started at obligation and includes pre-construction activities. Without this approach, many rural communities would not be able to provide modern, reliable and affordable water and waste disposal services to the families and businesses within them. We believe our Program and its Recovery Act implementation fit squarely within the stated goals on Recovery.gov. As you note in the Fast Report, Recovery.gov states that while many of the Recovery Act projects are focused more immediately on jumpstarting the economy, others, especially those involving infrastructure improvements, are expected to contribute to economic growth for years to come.

With regard to public concern regarding our progress, the Agency has received positive feedback regarding its Recovery Act implementation of water and waste loans and grants. We attribute this to the significant progress made on the RUS water and waste disposal Recovery Act projects, and to our efforts to inform the public of implementation activities. However, we do appreciate OIG's desire for additional public information on

the timing of our projects and process. While recipients and the communities they serve have a keen understanding of our process, posting additional information on Recovery.gov (as permitted) and our RD web site may assist the general public in better understanding the program, our processes and our Recovery Act implementation.

RD is proud of the progress made to date by its Recovery Act water and waste funds recipients. The jobs that will be created or saved through full implementation will be just as critical and relevant to economic recovery as the jobs that have already been created or saved to date. The Agency has invested significant resources and effort into tracking and ensuring that projects funded fulfill the intent of the Recovery Act and proceed at a pace that ensures that this critical infrastructure is built properly so as to serve rural communities well into the future. The Agency is also committed to providing the public with information regarding implementation and, to that end, will post additional information regarding the program and processes on appropriate Recovery Act web sites.