

# Status of Unliquidated Obligations for Programs Receiving Funding from the Infrastructure Investment and Jobs Act

September 28, 2023 | Report No. 23-N-0036



## Report Contributors

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## Abbreviations

EPA	U.S. Environmental Protection Agency
FY	Fiscal Year
IIJA	Infrastructure Investment and Jobs Act
OIG	Office of Inspector General
Pub. L.	Public Law
ULO	Unliquidated Obligation
U.S.C.	United States Code

## Key Definition

ULO Unliquidated obligations, or ULOs, are the portion of an obligation or liability that has not been outlaid, expended, or liquidated.

## Cover Image

Images representing the four EPA programs with the highest ULOs and IIJA funding, from top to bottom: Clean Water State Revolving Fund, geographic programs, Drinking Water State Revolving Fund, and Superfund. (EPA images)

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**OFFICE OF INSPECTOR GENERAL**  
U.S. ENVIRONMENTAL PROTECTION AGENCY

September 28, 2023

**MEMORANDUM**

**SUBJECT:** Status of Unliquidated Obligations for Programs Receiving Funding from the Infrastructure Investment and Jobs Act  
Report No. 23-N-0036

**FROM:** Sean W. O'Donnell, Inspector General *Sean W O'Donnell*

**TO:** Faisal Amin, Chief Financial Officer

This is our report on the subject project conducted by the U.S. Environmental Protection Agency Office of Inspector General. The project number for this project was [OA-FY23-0083](#). This project's objective was to determine the amount of fiscal year 2018 through 2023 unliquidated obligations, or ULOs, from annual appropriations for programs receiving supplemental funding from the Infrastructure Investment and Jobs Act, or IIJA.

**This project supports these EPA mission-related efforts:**

- Compliance with the law.
- Operating efficiently and effectively.

**This project addresses these top EPA management challenges:**

- Managing business operations and resources.
- Managing increased investment in infrastructure.

A final response pertaining to this report is not required; however, if you submit a response, it will be posted on the OIG's website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at [www.epaoig.gov](http://www.epaoig.gov).

**Background**

The IIJA, Pub. L. 117-58, was signed into law on November 15, 2021. Overall, the IIJA authorizes approximately \$60 billion to the EPA for FY 2022 through 2026, most of which is available until expended.

The IIJA requires that the EPA make significant investments to advance public health and safety by improving the nation's drinking water, wastewater, and stormwater infrastructure; cleaning up legacy pollution; investing in healthier air; increasing the Agency's workforce; and enhancing the

country's climate resilience. The IJA funding consists of \$55.43 billion for state and tribal grants, \$1.96 billion for environmental programs and management, and \$3.5 billion for Superfund remediation and cleanup activities. The IJA appropriation is a significant increase in funding for the EPA, which has received annual appropriations ranging from approximately \$8.2 billion to \$10.1 billion over the past ten fiscal years.

### **Annual Review of ULOs**

A ULO is the portion of an obligation or liability that has not been outlaid, expended, or liquidated. ULO reviews are required by law (31 U.S.C. §1554). The law requires that each federal agency annually provide a report to the President and the Secretary of the Treasury that contains a certification that the obligated balance in each appropriation account of the agency reflects proper existing obligations.

At least annually, the EPA requires ULOs to be reviewed when there is any financial inactivity of 180 days or more. When obligated funds are no longer needed for an assigned project, those funds should be deobligated. Deobligation returns available funds to the balance holder's budget; these funds can then be used as appropriate for other authorized projects. According to the EPA's standard operating procedures for deobligating unliquidated obligations:

Since EPA has many long-term grant and other programs, the unliquidated portion of obligations represent a significant portion of the EPA's overall financial position. EPA must regularly review these ULOs and promptly deobligate funds that agency officials determine are no longer needed.

The standard operating procedures for deobligating ULOs vary depending on the category of funding, such as grant or cooperative agreement, interagency agreement, or training. The procedures depend on whether the project is still active (within the project period) or expired (after the project period ends).

### **Responsible Offices**

The Office of the Chief Financial Officer formulates and manages the EPA's annual budget and performance plan. Within the Office of the Chief Financial Officer, the Office of the Controller initiates and coordinates the Agency's review of ULOs, oversees the Agency's annual ULO certifications, and prepares annual ULO summary reports for Agency senior managers in program offices and regions.

### **Scope and Methodology**

We conducted this project from June to September 2023. This project followed the OIG's quality control procedures to ensure that the information in this report is accurate and supported. Additionally, the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Federal Offices of Inspector General* requires that our work adhere to the highest ethical principles of integrity, objectivity, confidentiality, independence, and professional judgment, and we adhered to these principles when we performed our work.

To answer our objective, we obtained from the Office of the Chief Financial Officer the universe of ULOs with inactivity of 180 days or more for FY 2018 through 2023 for grants, contracts, interagency agreements, travel, and the working capital fund. Of that universe, we identified the programs that receive funding through the IJJA. Total ULOs were identified for both regular appropriations and the IJJA appropriation for FY 2018 through 2023. In addition, we reviewed prior EPA OIG reports related to ULOs.

## Results

We found that the EPA had over \$1.55 billion in ULOs with inactivity of 180 days or more for FY 2018 through 2023. Table 1 presents total ULOs by fiscal year.<sup>1</sup> While we made no determination as to whether these funds are still needed for the projects for which they were obligated, environmental projects often last for long periods of time and the ULOs may represent valid obligations. However, the EPA should review ULOs for programs that received a substantial increase through the IJJA to ensure that the funds are used for the intended programs or deobligated timely to fund other environmental projects, as appropriate. While IJJA funds are mostly available until expended, it is important that programs use the funds efficiently.

**Table 1: FY 2018 through 2023 total ULO amounts**

Fiscal year	Total ULO amount (\$)
2023*	1,336,273,515.03
2022*	164,270,117.42
2021	24,852,188.69
2020	12,722,870.22
2019	11,524,264.79
2018	7,858,379.01
<b>Total</b>	<b>1,557,501,335.16</b>

Source: OIG analysis of ULO data provided by the EPA on July 27, 2023, and August 8, 2023. (EPA OIG table)

\*These fiscal years include IJJA appropriations.

As shown in Table 2, we identified approximately \$429 million of IJJA ULOs for FYs 2022 and 2023. With the increased focus on identifying and funding IJJA projects, the EPA may not spend and deobligate program funds in a timely manner.

**Table 2: FY 2022 and 2023 total ULO amounts—IJJA appropriations**

Fiscal year	Total ULO amount
2023	\$414,342,067.88
2022	\$14,592,967.88
<b>Total</b>	<b>\$428,935,035.76</b>

Source: OIG analysis of data provided by the EPA on July 27, 2023, and August 8, 2023. (EPA OIG table)

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<sup>1</sup> Data for the tables were provided by the Agency on July 27, 2023, for contracts, grants, interagency agreements, and miscellaneous funds and on August 8, 2023, for travel and the working capital fund.

As shown in Table 3, there is a substantial balance of prior-year ULOs with inactivity of 180 days or more for programs that are also receiving funds through the IIJA. Some of the programs that are receiving IIJA funds have existing ULOs from other appropriations. Our analysis found that the Clean Water State Revolving Fund has the highest amount of ULOs from non-IIJA funding, followed by the geographic programs, the Drinking Water State Revolving Fund, and the Superfund. The EPA has identified many potential challenges in managing the influx of IIJA funds. Specifically, the Agency has noted that the additional IIJA funds have resulted in an increase of new recipients and corresponding obligations to review, as well as that new staff are inexperienced in managing and reviewing these obligations. Therefore, the EPA should focus on the management of these funds in light of the substantial amount of funding that these same programs received through the IIJA.

**Table 3: EPA programs with ULOs and IIJA funding per program**

EPA program	Total ULOs from FY 2018 through 2023 from non-IIJA appropriations (\$)	Amount of IIJA appropriations** (\$)
Clean Water State Revolving Fund	345 million	11.71 billion
Geographic Programs	276 million	1.72 billion
Drinking Water State Revolving Fund	154.6 million	11.71 billion
Superfund	118 million	3.5 billion
Brownfields	89.5 million	1.5 billion
Clean School Bus*	77.6 million	5 billion
Save Our Seas Act Grants / Recycling Grants	18.9 million	350 million
Class VI Wells	18 million	25 million
National Estuary Program	14 million	132 million
Emerging Contaminants	11 million	5 billion
Battery Recycling Best Practices / Voluntary Battery Labeling Guidelines	2 million	25 million
Pollution Prevention	1 million	100 million
Underground Injection Control Grants	1 million	50 million
<b>Total</b>	<b>1.13 billion</b>	<b>40.82 billion</b>

Source: OIG analysis of data provided by the EPA. (EPA OIG table)

\*The non-IIJA program for electric and reduced carbon buses is funded through the Diesel Emissions Reduction Act.

\*\*These are the total IIJA amounts funded for fiscal year 2022 through 2026, most of which are available until expended.

### ***Lessons Learned from Prior EPA OIG Reports Related to ULOs***

Through our analysis of the 12 EPA OIG reports we reviewed, which we list in Attachment 1, we developed two lessons that the EPA should consider to mitigate risks and reduce the likelihood of fraud, waste, and abuse of funds that are from regular appropriations and from IIJA funds:

- Improve project management, monitoring of funds, and data verification.
- Provide clear and comprehensive guidance on fund management.

## Improve Project Management, Monitoring of Funds, and Data Verification

In ten reports, we identified that the EPA experienced challenges with project management, monitoring funds, and data verification. These challenges led to not spending funds in a timely manner and resulted in ULOs. Findings in these reports include challenges with prioritizing spending and projects; staffing issues, such as turnover, shortages, and hiring freezes; and a lack of implementation of requirements. For example, in previous reports:

- The OIG [identified](#) \$6.1 million that should have been deobligated for three assistance agreements that EPA Region 3 awarded to the District of Columbia. To achieve clean and safe water goals, the EPA provides funds through assistance agreements to states, local governments, and tribes under the water program. An EPA project officer and a District of Columbia Water and Sewer Authority official stated that they had not deobligated the unused funds because they were focusing on projects related to the American Recovery and Reinvestment Act of 2009.
- The OIG [identified](#) \$6.6 million of funds that potentially could have been deobligated for three expense reimbursement grants awarded by EPA Regions 4 and 5. Specifically, the states to which the EPA awarded safe drinking water expense reimbursement grants faced numerous impediments in spending the funds, such as staff shortages, global recession, hiring freezes, higher priority water projects, and contractors not completing as much work as they initially proposed.
- The OIG [identified](#) \$231 million of capitalization grant funds that remained idle, and loans were not issued. Specifically, states did not use adequate financial tools to project the Drinking Water State Revolving Fund resources available for community projects. As a result, communities were not able to implement needed drinking water improvements.

These challenges resulted in ULOs, and the OIG identified funds that potentially could have been deobligated. Our prior report found that the EPA did not maximize the use of all resources available. Had the funds been deobligated timely, they could have been available sooner for other projects.

## Provide Clear and Comprehensive Guidance on Fund Management

In three reports, we identified that the EPA experienced challenges with providing clear and comprehensive guidance on fund management. These challenges contributed to not spending funds in a timely manner and resulted in ULOs. Findings in these reports include challenges with being unaware of closeout procedures, having inconsistent definitions, and lacking performance standards and implementation requirements. For example, in previous reports:

- The OIG [identified](#) that the EPA did not close out interagency agreements with at least \$4.2 million that should have been deobligated for a variety of programs. Several project officers said that they did not effectively monitor interagency agreements because they were unfamiliar with the interagency agreement closeout procedures and often waited for others to initiate the closeouts. Other factors included lack of performance standards, inconsistent data, and conflicting guidance. The EPA deobligated an additional \$2.3 million from January 7 through April 25, 2008, as a result of the audit.

- The OIG [identified](#) that Region 5 had over \$1.7 billion in grant, contract, and interagency agreement ULOs. During FY 2011, Region 5 liquidated over \$1 billion in ULOs, leaving about \$645 million in ULOs remaining at the end of FY 2011. The OIG found an additional \$402,445 that could have been deobligated during FY 2011. Several factors impacted Region 5's ability to liquidate funds, including obtaining the documentation necessary to close out funding agreements and not following the procedure to elevate issues to management. In addition, obligations could remain unliquidated for many years because of funding recipient delays in starting or completing projects.
- The OIG [identified](#) that the EPA's ULOs for grant awards that expired on or before September 1, 2018, totaled about \$8.3 million. This occurred because the EPA did not enforce its requirement that underperforming regions implement grant closeout strategies, which would have helped address timeliness issues. Also, EPA regions delayed some grant closeouts for several years because they did not have a specific mechanism to escalate difficult cases to the Office of Grants and Debarment.

These challenges were all causes for the EPA's ULOs. As we found in a prior report, late closeouts of expired grant awards delay the Agency's determinations as to whether taxpayer dollars were spent properly. Also, late closeouts delay the EPA's performance of critical financial and programmatic control steps, thus increasing the risk of not achieving its objectives or not detecting fraud. Ultimately, by not deobligating the funds in a timely manner, the EPA misses opportunities to put those funds to better use.

## Conclusions

While environmental projects can often last for long periods of time and the ULOs may represent valid obligations, long periods between awarding and expending funds may indicate that the EPA is not maximizing its resources. From FY 2018 through 2023, the EPA had over \$1.55 billion in ULOs with inactivity of 180 days or more. This includes approximately \$429 million in IJA appropriations in FY 2022 and 2023. The large amount of funds received through the IJA provides an additional challenge for the Agency. Rather than sitting idle, awarded funds could be put to better use by communities that are ready to proceed with environmental projects. By properly deobligating funds, the EPA could use the resources as appropriate for other purposes to benefit human health and the environment.

The OIG has initiated audits to look into similar findings that were identified in prior reports. Specifically, the OIG is looking at the Drinking Water State Revolving Fund in Project No. [OA-FY23-0072](#) and oversight and guidance issues related to the Clean Water State Revolving Fund in Project No. [OA-FY23-0047](#) and Project No. [OA-FY23-0055](#), respectively.

Attachment

cc: Michael S. Regan, Administrator  
Janet McCabe, Deputy Administrator  
Dan Utech, Chief of Staff, Office of the Administrator  
Wesley J. Carpenter, Deputy Chief of Staff for Management, Office of the Administrator

Andrew LeBlanc, Agency Follow-Up Coordinator  
Susan Perkins, Agency Follow-Up Coordinator  
Jeffrey Prieto, General Counsel  
Tim Del Monico, Associate Administrator for Congressional and Intergovernmental Relations  
Chuck Widener, Acting Principal Deputy Associate Administrator for Public Affairs  
Gregg Trembl, Deputy Chief Financial Officer  
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Adil Gulamali, Deputy Controller  
Stefan Martiyan, Director, Office of Continuous Improvement, Office of the Chief Financial Officer  
Brian Webb, Director, Policy, Training, and Accountability Division, Office of the Controller  
Nikki Wood, Chief, Management, Integrity and Accountability Branch; Policy, Training, and  
Accountability Division, Office of the Controller  
Michael Benton, Audit Follow-Up Coordinator, Office of the Administrator  
José Kercado, Audit Follow-Up Coordinator, Office of the Chief Financial Officer

## Reports Reviewed

Report number	Report title	Date published
<a href="#">08-P-0265</a>	<i>EPA Should Continue Efforts to Reduce Unliquidated Obligations in Brownfields Pilot Grants</i>	9/16/08
<a href="#">09-P-0086</a>	<i>EPA Should Strengthen Internal Controls over Interagency Agreement Unliquidated Obligations</i>	1/26/09
<a href="#">09-N-0150</a>	<i>EPA's Unliquidated Obligations for Grants</i>	5/1/09
<a href="#">09-P-0241</a>	<i>EPA Has Improved Efforts to Reduce Unliquidated Obligations in Superfund Cooperative Agreements, But a Uniform Policy Is Needed</i>	9/22/09
<a href="#">11-1-0069</a>	<i>EPA Did Not Fully Comply With Guidance Regarding OMB Circular A-123 Unliquidated Obligation Reviews</i>	1/19/11
<a href="#">11-P-0170</a>	<i>EPA Region 3 Reduced Unliquidated Obligations Under Water Program Assistance Agreements</i>	3/15/11
<a href="#">11-P-0228</a>	<i>EPA Should Reduce Unliquidated Obligations Under Expense Reimbursement Grants</i>	5/16/11
<a href="#">13-P-0145</a>	<i>New Procedures Aided Region 5 in Reducing Unliquidated Obligations</i>	2/13/13
<a href="#">14-P-0318</a>	<i>Unliquidated Obligations Resulted in Missed Opportunities to Improve Drinking Water Infrastructure</i>	7/16/14
<a href="#">16-P-0135</a>	<i>EPA Should Timely Deobligate Unneeded Contract, Purchase and Miscellaneous Funds</i>	4/11/16
<a href="#">20-P-0126</a>	<i>EPA Did Not Accurately Report Under the Grants Oversight and New Efficiency Act and Needs to Improve Timeliness of Expired Grant Closeouts</i>	3/31/20
<a href="#">23-F-0002</a>	<i>The EPA's Fiscal Years 2022 and 2021 Consolidated Financial Statements</i>	11/15/22



## Whistleblower Protection

U.S. Environmental Protection Agency

*The whistleblower protection coordinator's role is to educate Agency employees about prohibitions on retaliation and employees' rights and remedies in cases of reprisal. For more information, please visit the whistleblower protection coordinator's [webpage](#).*

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