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COMPTROLLER GENERAL OF THE UNITED STATES
WASHINGTON, D.C. 20548

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RELEASED

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The Honorable Edmund S. Muskie
Chairman, Subcommittee on Air
and Water Pollution
Committee on Public Works S 3109
United States Senate
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Dear Mr. Chairman:

In accordance with your request of November 27, 1972, we have examined into (1) the delays incurred by Florida in obtaining grant funds from the Environmental Protection Agency (EPA) for constructing waste treatment facilities and (2) EPA's method of obligating fiscal year 1972 construction grant funds.

EPA allocated fiscal year 1972 construction grant funds to the States in accordance with the formula prescribed in the Federal Water Pollution Control Act, as amended (33 U.S.C. 1151).

As of November 1972, EPA had obligated about 50 percent of the construction grant funds appropriated for fiscal year 1972. At that time EPA had obligated only 11 percent of the Federal funds allocated to Florida. (Appropriations for construction grants are available until expended.) As of December 31, 1972, however, EPA had obligated all of the grant funds allocated to Florida and more than 99 percent of the total fiscal year 1972 construction grant funds. (See enc. III.)

Most of Florida's grant funds were not obligated until December 1972 primarily because, until then, the grant applications submitted by the State to EPA did not contain all the data EPA required pursuant to Federal laws and regulations. Representatives of several other States told us that there was not an unreasonable delay in obligating funds.

We found no indication that EPA withheld or delayed obligating appropriated funds as part of an overall effort to control the expenditure of Federal funds. EPA obligated grant funds in accordance with its prescribed policies and procedures.

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Our review was conducted at EPA headquarters in Washington, D.C.; EPA Region IV in Atlanta, Georgia; and the Florida Department of Pollution Control (FDPC) in Tallahassee, Florida. We interviewed EPA and FDPC officials and examined pertinent legislation, regulations, records, and files relating to the authorization, appropriation, allocation, and obligation of construction grant funds for fiscal year 1972. In addition, we discussed the obligation of construction grant funds with representatives of State water pollution control agencies in California, Indiana, New Jersey, North Carolina, and New York.

Our findings are discussed in more detail below.

DELAYS INCURRED BY FLORIDA IN OBTAINING
EPA CONSTRUCTION GRANT FUNDS

In November 1972, Florida submitted a resolution to the Committee on Public Works, U.S. Senate, which stated, in part, that:

- Florida had not received any fiscal year 1973 funds from EPA for constructing waste treatment facilities.
- The recently enacted Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) provided construction grant funds that should have yielded Florida \$181 million for fiscal year 1973.
- Florida had received only a small portion of the 1972 construction grant funds allocated to it by EPA.

As of November 1972, EPA had not allocated fiscal year 1973 construction grant funds to any of the States because the Federal Water Pollution Control Act Amendments of 1972, which authorized \$5 billion for fiscal year 1973 grants, had not been enacted until October 1972, and the Office of Management and Budget had not yet released the funds to EPA. Florida's share of the \$5 billion, allocated in accordance with the provisions of the act, would have been \$181 million. In December 1972, the Office of Management and Budget released \$2 billion to EPA for fiscal year 1973 construction grant awards, and EPA allocated \$72.5 million to Florida.

With respect to fiscal year 1972 funds, EPA, as of November 1972, had obligated about 11 percent of Florida's fiscal year 1972 allocation of \$65 million. During December 1972, however, EPA obligated the rest of Florida's allocated funds. (See enc. II.) The events leading to the obligation of Florida's fiscal year 1972 grant funds are listed in enclosure I and are summarized below.

Florida did not comply with
Federal certification requirements
until March 1972

The Federal Water Pollution Control Act states that EPA shall not award a construction grant for any project unless such project (1) conforms with the State's water pollution control plan approved by EPA and (2) has been certified by the State as having priority over other eligible waste treatment projects within the State.

In June 1971, FDPC submitted to EPA its water pollution control plan for fiscal year 1972. The plan included a project listing of 106 applicants for fiscal year 1972 grant funds. The plan did not include, however, the certification required by EPA from the State's Attorney General that the plan was legally enforceable. Florida submitted the certification to EPA in October 1971, and EPA approved the plan on November 19, 1971.

As of November 1971, EPA had allocated about \$21 million of fiscal year 1972 grant funds to Florida. FDPC had not certified any applications for grant funds as having priority over other applications in the State. EPA officials told FDPC that they could not approve any grant applications without the required certification.

During our review the Executive Director, FDPC, told us that the State's certification had been withheld pending congressional authorization¹ of fiscal year 1972 construction grant funds so that the State could reasonably determine the number of projects that could be funded from 1972 funds. The Congress did not authorize the bulk of the construction grant funds for fiscal year 1972 until March 1972.

Legislation Authorizing
Construction Grant Funds
Enacted During Fiscal Year 1972

<u>Act</u>	<u>Date of enactment</u>	<u>Amount authorized (000,000 omitted)</u>
Public Law 92-50	July 9, 1971	\$ 500
Public Law 92-137	October 13, 1971	150
Public Law 92-240	March 1, 1972	1,000
Total		<u>\$1,650</u>

¹In August 1971, the Congress appropriated \$2 billion for construction grants to be available within the limits of amounts authorized by legislation for fiscal year 1972.

In March 1972, EPA increased Florida's allocation of fiscal year 1972 grant funds to about \$54 million and FDPC certified the priority of 53 grant applications. The Executive Director, FDPC, told us that he certified the 53 applications because he estimated that the grant funds allocated to Florida would be sufficient to fund only that number of projects. He told us that the projects not certified were deleted from the original list of 106.

Florida grant applications initially submitted to EPA not in compliance with Federal requirements

Many of the 53 certified grant applications that Florida initially submitted to EPA did not comply with Federal requirements. The applications did not (1) show that the projects were included in interim basin plans, (2) include environmental assessment statements, or (3) include State clearinghouse statements. As a result, EPA withheld approval until the requirements were met.

The Code of Federal Regulations (18 CFR 601.32 and 601.33, July 2, 1970) requires that, to be eligible for a construction grant, a project be included in an interim basinwide plan for pollution abatement and in an effective metropolitan or regional plan for the metropolitan area or region within which the project is to be constructed.

The National Environmental Policy Act of 1969 requires that all Federal agencies prepare detailed environmental assessment statements on any actions to be taken which will significantly affect the quality of the human environment. EPA procedures for the preparation of the statements are summarized in 40 CFR 6.1, January 20, 1972. The procedures require an applicant for a construction grant to assess the impact upon the environment of a proposed treatment facility, to hold public hearings, and to submit to EPA the assessment and hearing records before EPA reviews and approves plans, specifications, and detailed design drawings.

Office of Management and Budget Circular A-95 requires an applicant for a construction grant to notify the planning and development clearinghouses of the State and region or metropolitan area in which the project will be located of his intention to apply for Federal assistance. Clearinghouses may comment on the proposed project and may solicit comments from other interested parties. All comments made by or through clearinghouses, or a statement that such comments were not received by the applicant, must be attached to the application for Federal assistance.

In addition, many of the applications did not include information required by EPA, such as engineering reports, industrial waste inventories, and detailed cost estimates.

FDPC officials told us that they had submitted the certified applications to EPA, even though the applications did not contain all required information, because (1) they were having difficulty in obtaining the information from the applicants and (2) the fiscal year was drawing to a close and they were concerned that the grant funds might be lost to Florida if they were not applied for by June 30, 1972.

Both EPA and FDPC had attempted to obtain compliance by the applicants by writing letters, making telephone calls, or meeting with them. In most cases the applicants did not furnish the required information and, on September 28 and 29, 1972, the EPA Region IV Administrator, with the concurrence of FDPC, sent a telegram to each applicant stating that if the required information was not submitted, the application would be returned. Between October and December 1972, most of the applicants furnished the information and, as of December 31, 1972, EPA had obligated Florida's allocated funds.

FDPC comments

Subsequent to our review at FDPC, the Executive Director, FDPC, resigned and a new Executive Director was appointed. On February 23, 1973, we met with the new director and other FDPC officials to obtain their comments on the matters discussed in this report. They told us that the report was a factual and objective evaluation of the events contributing to the delays incurred by Florida in obtaining fiscal year 1972 construction grant funds. The director said that our review would assist him in improving FDPC's operation to avoid such delays in the future.

He told us that FDPC established, as part of an overall reorganization, the Bureau of Assistance and Grants in January 1973. The Bureau is establishing technical assistance teams for each of FDPC's six regional offices to extend engineering, accounting, and legal advice and guidance to applicants for EPA construction grants. He mentioned that this type of assistance had previously not been available to municipalities.

We believe that FDPC's plan to assist applicants in preparing and submitting applications for grants should help assure that the applications submitted to EPA are complete and comply with Federal requirements.

COMMENTS FROM OTHER STATE WATER
POLLUTION CONTROL AGENCIES
ON OBLIGATION OF FUNDS

We contacted representatives of the water pollution control agencies in California, Indiana, New Jersey, North Carolina, and New York to obtain their comments on EPA's obligation of allocated construction grant funds. As of October 31, 1972, EPA had obligated all of New York's allocated funds. Obligations for the other four States ranged from 3 to 46 percent of allocated funds at October 31, 1972.

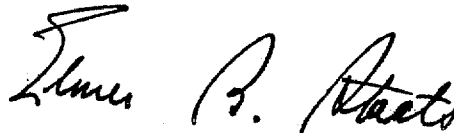
The New York representative told us that the State had applied its entire fiscal year 1972 allocation to projects initially funded in prior years, rather than to new projects. Under these circumstances, the EPA review process was faster, and the documentation required by EPA was considerably less than that for new projects. Therefore, EPA was able to obligate funds soon after the applications were received.

The Indiana representative told us that the delay in obligating Indiana's fiscal year 1972 funds was primarily due to the State agency's lack of adequate resources to process applications in a timely manner. The representatives of the other three States said that there was not an unreasonable delay in obligating their allocated funds after the Congress had authorized the appropriations for fiscal year 1972.

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EPA and FDPC officials reviewed this report and their comments have been considered. We do not plan to distribute this report further unless you agree or publicly announce its contents.

Sincerely yours,



Comptroller General
of the United States

Enclosures - 3

GENERAL ACCOUNTING OFFICE
CHRONOLOGY OF EVENTS
LEADING TO OBLIGATION OF FISCAL YEAR 1972
GRANTS FOR CONSTRUCTING
WASTE TREATMENT FACILITIES IN FLORIDA

- May to July, 1971--FDPC received applications for grants to construct waste water treatment works for fiscal year 1972 from municipalities in the State.
- June 19, 1971--EPA Region IV received Florida's water pollution program plan and on June 22, 1971, began its review of the plan's adequacy and compliance with requirements of the Federal Water Pollution Control Act.
- June 30, 1971--Sections of the Federal Water Pollution Control Act authorizing Federal grant support for the construction of municipal sewage treatment facilities expired.
- July 9, 1971--The President signed Public Law 92-50, which extended the Federal Water Pollution Control Act until September 30, 1971. This act authorized the appropriation of \$500 million for construction grants.
- July 14, 1971--As a result of its review of Florida's program plan, EPA notified FDPC that additional data was needed including a certification by the Florida Attorney General that the State's plan for prevention and control of water pollution was legally enforceable.
- August 10, 1971--The Congress approved the Agriculture-Environmental and Consumer Protection Appropriation Act of 1972 (Public Law 92-73). This act provided \$2 billion for grants to construct waste treatment facilities pursuant to section 8 of the Federal Water Pollution Control Act, as amended, to remain available until expended. Because appropriation authority for section 8 grants expired on June 30, 1971, Public Law 92-73 provided that the appropriation be available only within the limits of amounts to be authorized by legislation for fiscal year 1972.
- August 27, 1971--FDPC submitted additional information requested by EPA on July 14, 1971, but did not submit the Florida Attorney General's certification.

ENCLOSURE I

- September 7, 1971--The Office of Management and Budget apportioned to EPA the \$500 million authorized by Public Law 92-50.
- October 13, 1971--Public Law 92-137 authorized an additional \$150 million for waste treatment facilities' construction grants. The act also extended the Federal Water Pollution Control Act for 1 month to October 31, 1971.
- October 29, 1971--The Office of Management and Budget apportioned the \$150 million to EPA for construction grants. Apportionments for fiscal year 1972 totaled \$650 million.
- November 19, 1971--EPA, after receiving the Florida Attorney General's certification, approved Florida's water pollution control program plan.
- March 1, 1972--The President signed Public Law 92-240, which authorized up to \$1.65 billion for waste treatment facilities' construction grants for fiscal year 1972 and extended the Federal Water Pollution Control Act to April 30, 1972.
- March to June 1972--FDPC certified 53 applications as eligible for fiscal year 1972 construction grants for waste treatment facilities, and EPA reviewed the applications for adequacy and compliance with the Federal Water Pollution Control Act, the National Environmental Policy Act of 1969, and the Code of Federal Regulations.
- April 7, 1972--The Office of Management and Budget apportioned an additional \$1 billion to EPA, as a result of Public Law 92-240. This brought the total apportionments for construction grants to \$1.65 billion for fiscal year 1972.
- June to September 1972--EPA and FDPC attempted to obtain from project applicants additional data to bring the applications into compliance with grant requirements.
- September 28 and 29, 1972--EPA's Region IV Administrator sent telegrams to applicants reiterating the deficiencies in their grant applications which had been identified from June to September 1972.
- October 18, 1972--The Federal Water Pollution Control Act Amendments of 1972 (Public Law 92-500) were enacted authorizing an additional \$350 million for fiscal year 1972 construction grants.

ENCLOSURE I

December 5, 1972--The Office of Management and Budget apportioned the remaining \$350 million to EPA. Apportionments for fiscal year 1972 totaled \$2 billion.

December 31, 1972--The majority of applications had complied with grant requirements and Florida's allotment of about \$65 million had been obligated.

ENVIRONMENTAL PROTECTION AGENCY

OBLIGATION OF FLORIDA'S
FISCAL YEAR 1972 ALLOCATION FOR
WASTE TREATMENT FACILITIES'
CONSTRUCTION GRANTS

	<u>Total allocations</u>	<u>Total obligations</u>	<u>Percent of allocations obligated</u>
July 31, 1971	\$15,709,300	\$ -	-
August 31, 1971	15,709,300	530,410	3
September 30, 1971	20,652,400	1,240,779	6
October 31, 1971	20,652,400	1,810,751	9
November 30, 1971	20,652,400	1,810,751	9
December 31, 1971	20,652,400	2,217,551	11
January 31, 1972	20,652,400	2,408,411	12
February 29, 1972	20,652,400	2,469,791	12
March 31, 1972	53,606,400	2,469,791	5
April 30, 1972	53,606,400	2,469,791	5
May 31, 1972	53,606,400	2,469,791	5
June 30, 1972	53,606,400	2,469,791	5
July 31, 1972	53,606,400	2,602,031	5
August 31, 1972	53,606,400	3,581,241	7
September 30, 1972	53,606,400	5,363,241	10
October 31, 1972	53,606,400	6,626,581	12
November 30, 1972	65,134,450	7,036,211	11
December 31, 1972	65,134,450	65,134,450	100

ENVIRONMENTAL PROTECTION AGENCY

OBLIGATION OF FISCAL YEAR 1972
EPA APPROPRIATIONS FOR
WASTE TREATMENT FACILITIES'
CONSTRUCTION GRANTS

	<u>Total allocations</u>	<u>Total obligations</u>	<u>Percent of allocations obligated</u>
July 31, 1971	\$ 500,000,000	\$ 1,775,965	.4
August 31, 1971	500,000,000	26,046,769	5
September 30, 1971	650,000,000	60,568,673	9
October 31, 1971	650,000,000	80,222,430	12
November 30, 1971	650,000,000	85,889,377	13
December 31, 1971	650,000,000	112,301,519	17
January 31, 1972	650,000,000	157,773,462	24
February 29, 1972	650,000,000	203,818,558	31
March 31, 1972	1,650,000,000	241,900,460	15
April 30, 1972	1,650,000,000	315,867,400	19
May 31, 1972	1,650,000,000	381,485,735	21
June 30, 1972	1,650,000,000	587,750,085	36
July 31, 1972	1,650,000,000	661,197,003	40
August 31, 1972	1,650,000,000	744,076,269	45
September 30, 1972	1,650,000,000	845,391,335	51
October 31, 1972	1,650,000,000	962,771,743	58
November 30, 1972	2,000,000,000	993,266,768	50
December 31, 1972	2,000,000,000	1,999,999,938	99