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United States Government Accountability Office
Washington, DC 20548

B-305494

March 27, 2006

The Honorable Mitch McConnell
United States Senate

Subject: *Department of Defense -- Obligation of Chemical Weapons Demilitarization Funds*

Dear Senator McConnell:

In your letter of May 23, 2005, you asked us to monitor a potential impoundment of funds by the Department of Defense with regard to chemical weapons demilitarization activities at Blue Grass Army Depot, Kentucky, and Pueblo Depot, Colorado. Specifically, you asked GAO to monitor whether funds appropriated for Chemical Weapons Demilitarization at the Blue Grass and Pueblo sites are being properly obligated and whether the Department was impounding funds for chemical weapons demilitarization. GAO has verified that the Department obligated \$103 million for chemical weapons demilitarization activities at Blue Grass and Pueblo. Furthermore, we have found no impoundment of funds occurring.

Under the Chemical Weapons Convention ratified in 1998, the United States is obligated to dispose of its chemical weapons stockpile no later than 2012. 22 U.S.C. §§ 6701–6771. *See also* 50 U.S.C. §§ 1512–1526. Congress has appropriated multi-year funds to the Department of Defense for chemical weapons demilitarization. *See, e.g.*, Pub. L. No. 108-287, title VI, 118 Stat. 951, 967 (Aug. 5, 2004); Pub. L. No. 108-324, 118 Stat. 1220, 1225 (Oct. 13, 2004).

Concerned with delays in the development of chemical weapons demilitarization disposal facilities at the Blue Grass and Pueblo sites,¹ Congress enacted a provision in the fiscal year 2005 emergency supplemental appropriations act requiring that any unobligated balances of appropriations for Chemical Weapons Demilitarization at

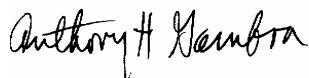
¹ S. Rep. No. 109-52, at 27-28 (2005) (“The Committee is concerned with the status of the Chemical Demilitarization program. The cost of operations and development of new facilities is growing at a disturbing rate. The increasing expenses when combined with delays in developing the Blue Grass and Pueblo Chemical Munitions Disposal Facilities are placing the nation’s ability to meet the Chemical Weapons Convention Treaty requirements at risk.”).

those two sites remain available for obligation solely for the destruction of the U.S. stockpiles of lethal chemical agents and munitions at Blue Grass and Pueblo. The provision also directed that funds be made available to the Program Manager for Assembled Chemical Weapons Alternatives program at the Blue Grass and Pueblo Depots not later than 30 days after enactment of the emergency supplemental. Pub. L. No. 109-13, § 1016, 119 Stat. 231, 249-50 (May 11, 2005). Section 1016 further required the obligation of not less than \$100 million for chemical weapons demilitarization at those sites not later than 120 days after enactment. *Id.*

We asked the Department of Defense (Department) for information and obligational data in order to respond to your request and sought the Department's legal view on whether it was impounding appropriated funds intended for chemical weapons demilitarization at the two sites. Letter from Anthony H. Gamboa, General Counsel, GAO, to William J. Haynes, General Counsel, Department of Defense, Aug. 15, 2005.

In its response, the Department advised that all fiscal year 2005 funds for the Assembled Chemical Weapons Alternatives program had been released for obligation. Letter from E. Scott Castle, Deputy General Counsel (Fiscal), Department of Defense, to Anthony Gamboa, General Counsel, GAO, Oct. 17, 2005. The Department also reported that as of September 8, 2005, the Assembled Chemical Weapons Alternatives program had obligated \$111.8 million, including \$9.7 million for the Blue Grass Depot, \$96.3 million for Pueblo Depot, and \$5.7 million for Assembled Chemical Weapons Alternatives programmatic support. *Id.* Further, the Department reported that the Blue Grass and Pueblo facilities were in the "design phase" and that early construction activities had begun in Pueblo and were expected to begin in Blue Grass during fiscal year 2006. *Id.*

The Department provided GAO with confirming documentation, including copies of contract modifications. GAO verified that the Department obligated \$103 million for chemical weapons demilitarization activities at Blue Grass Army Depot, Kentucky, and Pueblo Depot, Colorado, from May through September 2005, as required by section 1016 of Public Law 109-13. As a result, we find that the Department is not impounding funds appropriated for chemical weapons demilitarization. We will continue to monitor the Assembled Chemical Weapons Alternatives program to ensure that any impoundment that might occur is properly reported. We will also monitor the Assembled Chemical Weapons Alternatives program's expenditures.



Anthony H. Gamboa
General Counsel