



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Implementation Plan With Cost Sharing Methodology Needed for Region 8 Senior Environmental Employee Work on Lead Risk Reduction

Report No. 13-P-0430

September 24, 2013



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Report Contributors:

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Abbreviations

ECEJ	Enforcement, Compliance and Environmental Justice
EPA	U.S. Environmental Protection Agency
FY	Fiscal Year
OIG	Office of Inspector General
OPRA	Office of Partnerships and Regulatory Assistance
RRP	Renovation, Repair and Painting
SEE	Senior Environmental Employment/Employees
TSCA	Toxic Substances Control Act

Hotline

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At a Glance

Why We Did This Review

In November 2012, we received a hotline complaint on funds utilization for work done by Region 8 Senior Environmental Employment (SEE) program grantees to address lead-based paint programs. The U.S. Environmental Protection Agency Region 8 office jointly implements lead-based paint programs in two program offices, each with SEE assistance. After preliminary fact finding on the merits of the complaint, we opened an assignment to determine the extent to which the two offices have work plans on agreed-to SEE activities and a methodology for SEE funding.

This report addresses the following EPA themes:

- *Taking action on toxics and chemical safety.*
- *Embracing EPA as a high performing organization.*

For further information, contact our public affairs office at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2013/20130924-13-P-0430.pdf

Implementation Plan With Cost Sharing Methodology Needed for Region 8 Senior Environmental Employee Work on Lead Risk Reduction

What We Found

The two Region 8 program offices that jointly implement the Lead Renovation, Repair and Painting Program do not have methodology or agreement for sharing SEE funding, which has led to confusion about respective roles and tasks. Additionally, most of the funding has gone to the office that does not have a finalized work plan and, as a result, the other office cut its SEEs to part-time. Because of our inquiry, the region has redistributed funds. However, even though the two offices have recently discussed the importance of joint strategic planning, they have yet to reach a long-term agreement on SEE activities and related funding.

A prior situation in Region 8 between two offices jointly implementing a Clean Air Act program provides a sound approach to improving management of Lead Renovation, Repair and Painting Program SEE activities.

Recommendations and Planned Corrective Actions

We recommend that the Region 8 regional administrator develop a strategy for implementing the Lead Renovation, Repair and Painting Program that defines program goals, performance measures, organizational responsibilities, and a methodology for allocating SEE funding. We also recommend that the regional administrator develop an oversight process to evaluate the region's success in implementing the strategy. Region 8 agreed with our recommendations and has initiated efforts to address them.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

THE INSPECTOR GENERAL

September 24, 2013

MEMORANDUM

SUBJECT: Implementation Plan With Cost Sharing Methodology Needed for Region 8 Senior Environmental Employee Work on Lead Risk Reduction
Report No. 13-P-0430

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: Shaun McGrath, Regional Administrator
Region 8

This is our report on the subject examination conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. In accordance with established audit-resolution procedures, EPA managers will make final determinations on matters in this report.

Reasons for Review

In November 2012, the EPA OIG received a hotline complaint on funds utilization for work done by Senior Environmental Employment (SEE) program grantees to address lead-based paint programs under the Toxic Substances Control Act (TSCA). EPA Region 8 jointly implements TSCA lead-based paint programs in two offices with SEE assistance:

- Office of Partnerships and Regulatory Assistance (OPRA).
- Office of Enforcement, Compliance and Environmental Justice (ECEJ).

The complainant alleged that after Region 8 reorganized in 1995 and pulled enforcement and compliance work out of program offices like OPRA to form ECEJ, funding conduits for small, direct implementation programs (e.g., TSCA lead-based paint) remained in offices like OPRA. The complainant asserts that OPRA's lead workload has decreased over time while ECEJ's increased due to the TSCA Lead Renovation, Repair and Painting rule in 2008. After preliminary fact finding on the merits of the complaint, we opened an assignment to determine the extent to which OPRA and ECEJ have work plans on agreed-to SEE activities and a methodology for SEE funding. This memorandum summarizes the results of our review.

Background

The SEE program provides an opportunity for retired and unemployed Americans age 55 and over to share their expertise in tasks that support a wide variety of environmental programs. EPA and other federal and state environmental offices fund cooperative agreements with national aging organizations that have been authorized by the Secretary of Labor.

The EPA issued the Lead Renovation, Repair and Painting rule (known as the “Lead RRP”) in April 2008. Under the rule, beginning April 22, 2010, firms performing renovation, repair and painting projects that disturb lead-based paint in homes, child care facilities, and kindergartens built before 1978 must be EPA- or state-certified and must use certified renovators who follow specific work practices to prevent lead contamination. To become certified renovators, individuals must take training from an EPA-accredited training provider. In order for a firm to be certified, an application must be submitted to EPA.

The EPA Fiscal Year (FY) 2013 National Program Manager Guidance from the Office of Enforcement and Compliance Assurance and the Office of Chemical Safety and Pollution Prevention outline Lead RRP strategies for regional offices such as Region 8’s ECEJ and OPRA, respectively. Each national guidance document cross-references the other office, and each directs regional offices to coordinate with one another on Lead RRP activities. Funding for the RRP program also comes from these two EPA headquarters offices. OCSPP provides Agency Direct Implementation funds for efforts in all non-authorized states, tribes and territories (Region 8 currently has five RRP non-authorized states). OECA provides funding for the region’s compliance monitoring activities (i.e., inspections and investigations). Both Region 8 ECEJ and OPRA utilize SEEs in implementing lead-risk reduction programs. OPRA receives the majority of the funding, allowing OPRA to fund full-time SEE grantees for a longer duration than ECEJ, as shown below:

Table 1: Direct implementation funding for SEE grantees by Region 8 offices

	Account Balance*	Funding Duration for One Full-Time SEE Grantee**
ECEJ	\$208,555	$\$208,555 / \$15,000 = 13.90$ quarters
OPRA	\$349,681	$\$349,681 / \$15,000 = 23.31$ quarters

* Based on data as of October 1, 2012 (start of fiscal year 2013).

**Assumes annual cost of SEE grantee of \$60,000, or \$15,000 quarterly.

Source: OIG analysis of Region 8 SEE account balances for Lead RRP.

Scope and Methodology

We received the hotline complaint in November 2012 and performed our fieldwork in June and July 2013. We did not conduct this limited scope review in accordance with generally accepted government auditing standards. Specifically, we did not review internal controls related to the grant agreements the EPA has with authorized SEE career organizations. We also did not test controls related to the timekeeping system used by SEEs to verify Lead RRP tasks they may have conducted each day. To determine the extent to which OPRA and ECEJ have work plans on SEE activities and related funding, we interviewed staff and managers in each office and reviewed written materials each provided. We also interviewed the complainant, all SEEs conducting Lead RRP work in each office, and SEE employment organizations. We also reviewed each office’s FY 2013 National

Program Manager Guidance documents on priorities for regional activities. We believe the work we conducted provides a reasonable basis for our findings and conclusions in this report.

Results of Review

ECEJ and OPRA do not have an agreement on SEE activities or a methodology for sharing SEE funding, which has led to confusion about respective roles and tasks. For example, OPRA SEEs described work they do to review and process applications for RRP certification, but a ECEJ staff person understood that the EPA shifted administrative activities on certifications from regional program offices to headquarters (in its response to our draft report, the region concurred that headquarters assumed processing certification forms in August 2012). Thus, the ECEJ staff person understood OPRA to have little activity in this area, yet the funding has remained in OPRA. In contrast, the ECEJ staff person believes ECEJ's workload has increased—without attendant funding—due to the Lead RRP rule in 2008. As a result of funding uncertainty, ECEJ cut its SEEs to part-time in May 2013.

According to the complainant, ECEJ first raised concerns to OPRA in August 2011 about funds use. ECEJ and OPRA have corresponded or met over 20 times since then to discuss their respective lead-risk reduction activities, including SEE tasks. During those discussions, ECEJ suggested that the two offices establish a process to annually discuss projected allocations for lead to allow for mutual decision making to ensure adequate SEE funding for activities conducted. Partly due to our inquiry, OPRA has, in recent months, redistributed funding to ECEJ (\$52,500 in April, and \$46,904 and \$4,276 in July). However, even though the two offices have recently discussed the importance of joint strategic planning, they have yet to reach a long-term agreement on SEE activities and related funding.

A similar scenario occurred between ECEJ and another Region 8 office—Ecosystems Protection and Remediation—on shared workload related to the Clean Air Act Risk Management Program. In that situation, all funds for the program came to the Region 8 Ecosystems Protection and Remediation office from headquarters through the Office of Solid Waste and Emergency Response. However, the Ecosystems Protection and Remediation office was not able to do the Risk Management Program work because the region's organization placed the bulk of responsibilities in ECEJ. This issue led to an OIG report that found that the two offices jointly responsible for program implementation did not effectively plan or coordinate their activities.¹ The OIG recommended that the Region 8 regional administrator develop (1) a strategy for implementing the Risk Management Program in Region 8 that defines program goals, performance measures, and organizational responsibilities; and (2) an oversight process to evaluate the region's success in implementing the strategy. Region 8 agreed with the OIG's findings and completed the recommended actions by the time the OIG published its report. The two offices developed an implementation strategy that redirected funding from the Office of Solid Waste and Emergency Response (through the Ecosystems Protection and Remediation office) to ECEJ and realigned resources. We believe a similar approach by ECEJ and OPRA could improve the region's management of the Lead RRP Program and lessen confusion among

¹ *EPA Region 8 Needs to Better Manage the Risk Management Program for Airborne Chemical Releases*, Report No. 09-P-0130, issued March 30, 2009.

regional staff responsible for implementation. In its response to our draft report, the region agreed that both offices should make sure there is clarity on roles and responsibilities.

Recommendations

We recommend that the regional administrator, EPA Region 8:

1. Develop a strategy for implementing the Lead RRP Program in Region 8 that defines program goals, performance measures, organizational responsibilities, and a methodology for SEE funding.
2. Develop an oversight process to evaluate the region's success in implementing the strategy.

Agency Comments and OIG Evaluation

Region 8 agreed with our recommendations and has initiated efforts to address them. Specifically, the region's response indicated that staff and managers from OPRA and ECEJ are working toward the development of a joint work plan by the beginning of FY 2014 that will lead to more effective management of our resources. The region said, "Such a work plan will include developing a methodology for allocating funding to activities and SEEs, planning/coordinating activities, and clarifying roles and responsibilities. Once the Plan is final, ECEJ and OPRA will monitor Lead Program implementation efforts semiannually through FY 2014." We believe Region 8's planned actions meet the intent of our recommendations. After receiving Region 8's response, we conferred with the region to verify planned completion dates to address our recommendations and denoted dates in the status table on the next page. We included the region's full response in appendix A.

Action Required

You are not required to provide a written response to this final report because you agreed to all recommendations and provided corrective actions and planned completion dates that meet the intent of our recommendations. The recommendations remain open with corrective actions ongoing. Please update the EPA's Management Audit Tracking System as you complete the planned corrective actions for these recommendations and notify my staff if there is a significant change in the agreed-to corrective actions. We will post this report on our website at <http://www.epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact Rich Eyermann, acting assistant inspector general for the Office of Audit, at (202) 566-0565 or Eyermann.Richard@epa.gov; or Patrick Gilbride, director for Risk and Program Performance Audits, at (303) 312-6969 or Gilbride.Patrick@epa.gov.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	4	Develop a strategy for implementing the Lead RRP Program in Region 8 that defines program goals, performance measures, organizational responsibilities, and a methodology for SEE funding.	O	Regional Administrator, Region 8	11/01/13		
2	4	Develop an oversight process to evaluate the region's success in implementing the strategy.	O	Regional Administrator, Region 8	10/01/14		

¹ O = recommendation is open with agreed-to corrective actions pending
 C = recommendation is closed with all agreed-to actions completed
 U = recommendation is unresolved with resolution efforts in progress

Agency Comments on Draft Report

September 4, 2013

MEMORANDUM

SUBJECT: Region 8 comments on OIG draft report titled "Implementation Plan with Cost Sharing Methodology Needed for Region 8 Senior Environmental Employee Work on Lead Risk Reduction"

FROM: Shaun L. McGrath, Regional Administrator
EPA Region 8

TO: Richard Eyer mann, Acting Assistant Inspector General
Office of Audit

Thank you for the opportunity to review and comment on the draft "Implementation Plan with Cost Sharing Methodology Needed for Region 8 Senior Environmental Employee Work on Lead Risk Reduction." The report focuses on Region 8's Lead Renovation, Repair and Painting Program, which two offices within the Region implement: the Office of Enforcement, Compliance and Environmental Justice and the Office of Partnerships and Regulatory Assistance. The report makes recommendations on a regional strategy to implement the RRP Program and an oversight process to evaluate our success in implementing the strategy.

Region 8 agrees with the recommendations as outlined in the draft report. Earlier this year, we initiated efforts which we are confident will address your recommendations. Staff and managers from both offices are working toward the development of a joint work plan by the beginning of FY2014 that will lead to more effective management of our resources. Such a work plan will include developing a methodology for allocating funding to activities and SEEs, planning/coordinating activities, and clarifying roles and responsibilities.

Once the Plan is final, ECEJ and OPRA will monitor Lead Program implementation efforts semiannually through FY20 14 and report status to the Director of the Region 8, Grants, Audit and Procurement Program. If joint Office work plan development and implementation is successful through FY2014 further monitoring and reporting will no longer be required. Related to your draft report, we are also submitting the following comments to clarify certain aspects.

ROLES

ECEJ and OPRA are jointly responsible for implementing the Lead Program in Region 8. Your report indicates that "an absence of a methodology or agreement for sharing SEE funding has led to confusion about respective roles and responsibilities." While the responsibilities and functions of the two offices are stated in EPA Regional Orders (attached), we agree that the offices should make sure there is clarity on the roles and responsibilities of each office, especially in light of how the offices have addressed the RRP Program historically.

The most recent regional order for ECEJ's Lead Program was issued on February 25, 2009. It states that ECEJ's Technical Enforcement Program is responsible for compliance monitoring, inspections, and enforcement for the Toxic Substances Control Act (TSCA) lead-based paint program. The most recent regional order for OPRA's Pollution Prevention and Toxics Program was issued on October 5, 2005. It defines OPRA's role as responsible for the regulatory and non-regulatory aspects of implementing TSCA including lead. The order states that this is accomplished primarily through collaborative support, technical assistance and outreach, grants, and capacity building.

When the Lead RRP rule was passed in 2008, it increased the workload of both offices. Because OPRA's lead program was focused on required activities (certification, accreditation, regulatory interpretations, responding to inquiries, state authorizations, etc.), and fielding phone calls from potentially regulated entities, OPRA undertook minimal targeted compliance assistance, outreach, and education to the regulated community. During this timeframe, ECEJ undertook its own efforts to provide compliance assistance and outreach of the new Lead RRP rule. Due to the Program's maturity, and the fact that the Office of Chemical Safety and Pollution Prevention (OCSPP) assumed responsibility for processing certification of forms beginning in August 2012, OPRA has more recently been focusing on targeted compliance assistance and outreach via partnership and wholesale "marketing."

WORK PLANS

Your report indicated that OPRA did not have a FY2013 work plan. OPRA drafted a work plan at the end of FY2012 and shared it with ECEJ. Although that draft OPRA/ECEJ work plan was not finalized due to on-going discussions of work plan activities with ECEJ, the OPRA Lead Program has been using that plan to guide its activities throughout FY2013.

FUNDING

Your report also stated that "OPRA receives the majority of the funding, allowing OPRA to fund fulltime SEE grantees for a longer duration than ECEJ." It is true that OPRA receives more lead funding from OCSPP than ECEJ from the Office of Enforcement and Compliance Assistance (OECA). In FY2009 and FY2010, OPRA received over \$550,000 from OCSPP to support the new RRP Program creating a large surplus in the SSAI accounts for SEE charging. However, OPRA has been transferring funding to ECEJ's lead program since FY2012. OPRA was able to make these funds available to ECEJ primarily because OPRA had not been drawing its SEE account down due to reduced SEE staffing in previous years. This reduced level of drawdown is the main reason OPRA had a higher level of funding in its SEE account than ECEJ. (ECEJ had 3.1 SEEs while OPRA has 2 SEEs). Thus, ECEJ's drawdown rate was greater than OPRA's drawdown rate.

Your report also indicates that funds had only been transferred from OPRA to ECEJ recently in response to the OIG's inquiry. OPRA and ECEJ had initiated discussions in early FY2012 related to use of funds by the two Programs. As indicated above, in mid-2012 funds were transferred to ECEJ to support SEEs. Later, the two Programs continued to try to develop a methodology to allocate funds. Your inquiry in early FY20 13 served to invigorate the process of developing a sustainable framework to allocate funds and develop a more coordinated Region 8 Lead program.

Again, we appreciate the opportunity to review and comment on this draft report. If you have any questions or comments, please contact Callie Videtich, Deputy Assistant Regional Administrator (OPRA) at 303-312-6434.

Attachments: EPA Order dated February 25, 2009 and EPA Order dated October 20, 2005



Mail Code: TMS-I

Classification No.: R8.1100.54	Addressee
Approval Date: 02/25/09	

ORGANIZATION AND FUNCTIONS

- PURPOSE.** This Regional Order reorganizes the Air and Toxics Technical Enforcement Program of the Office of Enforcement, Compliance and Environmental Justice. The purpose of this reorganization is to effectively implement toxics enforcement programs, better manage complex clean air act enforcement cases and achieve better functional consistency.
- ORGANIZATION.** The Air and Toxics Technical Enforcement Program is reorganized to create a Unit called the Toxics Enforcement Unit. The Toxics Enforcement Unit will have a unit supervisor that will report to the program director.
- FUNCTIONS.** The Air and Toxics Technical Enforcement Program retains all functions described in the June 23, 2003 EPA Order approved by the EPA administrator. The Toxics Enforcement Unit will perform the following functions:
 - Responsible for Clean Air Act (CAA) Section 112r, CAA Title VI (Stratospheric Ozone Protection), Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) Section 103, the Emergency Planning and Community Right-to-Know Act (EPCRA) Sections 304, 311, 312, and 313, and the Toxic Substance Control Act (TSCA) Lead Based Paint and Polychlorinated Biphenyls (PCBs) compliance monitoring, inspections and enforcement.
 - Directly implements CAA Asbestos National Emission Standards for Hazardous Air Pollutants (NESHAP) and TSCA Asbestos Hazardous Emergency Response Act (AHERA) responsibilities in Indian country and provides compliance assistance to tribal environmental programs.
 - Provides program oversight and review of delegated CAA Asbestos NESHAP and TSCA AHERA programs.

4. EFFECTIVE DATE. Date of this Regional Order.
5. CANCELLATION. The Regional Order is canceled when its contents are incorporated into the Regional Organizations and Functions Manual.
6. SUPERSESSSION. No Order numbers were issued for the June 29, 1995, Region VIII reorganization. This was due to the large number of reorganizations in 1995 and the subsequent retirement of the former Headquarters Directives Office. EPA Order (R8.1100.46) issued June 25, 2003, established four separate Technical Enforcement Programs (TEP). This reorganization establishes a new Toxics Enforcement Unit under the Air and Toxics TEP and shall supplement the June 29, 1995, reorganization when that Order number is issued by Headquarters and the June 25, 2003 (R8.1100.46) Regional Order.

Carol Kusler acting
Regional Administrator

2/25/09
Date

SEPA ORDER

Mail Code: 87MS-N

Classification No.: 88.1100.48	Address:
Approval Date: 10/20/05	

ORGANIZATION AND FUNCTIONS

1. **PURPOSE.** This Regional Order establishes a new Pollution Prevention and Toxics Unit consisting of the members of the current Pollution Prevention Team and Toxics Team in the Pollution Prevention, Pesticides and Toxics Program, Office of Partnerships and Regulatory Assistance, with an assignment of a supervisor to direct that organization.

2. **ORGANIZATION.** The name of the new unit is Pollution Prevention and Toxics Unit which reflects the mission of the Unit within the Pollution Prevention, Pesticides and Toxics Program.

3. **FUNCTIONS.**

POLLUTION PREVENTION AND TOXICS UNIT, POLLUTION PREVENTION, PESTICIDES and TOXICS PROGRAM

This organization performs the following functions:

The Pollution Prevention, Pesticides and Toxics Program performs the following functions under the direction of a Program Director:

Regulatory and non-regulatory aspects of implementing FIFRA, FQPA, TSCA, EPCRA, the Pollution Prevention Act and related statutes addressing pesticides, priority toxic substances (including lead, asbestos, PCBs, mercury and other persistent bioaccumulative toxins (PBTs)), pollution prevention, energy efficiency, and solid waste reduction and recycling. The Program is responsible for the internal and external integration of pollution prevention into all aspects of the

Agency's areas of influence.

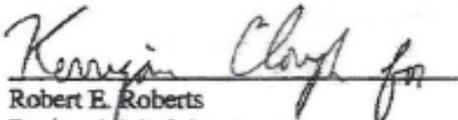
This is accomplished primarily by collaborative support, technical assistance and outreach, grants and capacity building. Programs implemented include: the Pesticides Program, the Toxic Substances Program (asbestos, PCB's, lead (Pb), and Emergency Planning and Community Right to Know, Section 313 Program) the Pollution Prevention Program, the Energy Star Program and the Recycling Program. This Program contains a Pollution Prevention and Toxics Unit, and the Pesticides Team.

The Pollution Prevention and Toxics Unit performs the following functions/programs:

- Toxic (TSCA) Substances Program (asbestos, PCBs, lead, PBT chemicals)
- Emergency Planning and Community Right to Know, Section 313 Program
- Pollution Prevention Program
- Energy Star Program
- Recycling Program

4. EFFECTIVE DATE. Date of this Regional Order.

5. CANCELLATION. The Regional Order is cancelled when its contents are incorporated into the Regional Organizations and Functions Manual.


Robert E. Roberts
Regional Administrator

10/20/05
Date

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