



Office of Inspector General

Audit Report

Final Audit Report of Grant Numbers EQ-993391-01 and EQ-824225-01 Awarded to Center for Environment, Commerce & Energy

E3CEN8-03-0011-9300006

February 17, 1999

**Inspector General Division
Conducting the Audit:**

**Mid-Atlantic Audit Division
Philadelphia, PA**

Regions Covered:

**Region 3
Headquarters**

Program Offices Involved:

**Chesapeake Bay Program Office
Philadelphia, PA**

**Office of Assistant Regional
Administrator for Policy
and Management
Philadelphia, PA**

**Office of Environmental Justice
Washington, D.C.**

**Office of Grants and Debarment
Washington, D.C.**




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

OFFICE OF
THE INSPECTOR GENERAL

February 17, 1999

MEMORANDUM

SUBJECT: Final Report of EPA Grants to Center for Environment, Commerce & Energy
Grant Numbers EQ-993391-01 and EQ-824225-01
Report Number E3CEN8-03-0011-9300006

FROM: Elissa R. Karpf 
Deputy Assistant Inspector General
for External Audits (2421)

TO: W. Michael McCabe, Regional Administrator
Region 3 (3RA00)

Steven A. Herman, Assistant Administrator
for Enforcement and Compliance Assurance (2201A)

Gary M. Katz, Director
Grants Administration Division (3903R)

Attached is our final audit report on Environmental Protection Agency (EPA) grants EQ-993391-01 and EQ-824225-01 awarded to the Center for Environment, Commerce, & Energy (the Center). Region 3's Chesapeake Bay Program Office (CBPO) requested we perform an audit of these two EPA grants, which had identical requirements and work plans. EPA Headquarters Office of Environmental Justice (OEJ) awarded one grant and Region 3's CBPO awarded the other. The purpose of our audit was to determine why EPA awarded two identical grants to the same grantee and whether EPA mismanaged the grant funds.

This report contains findings that describe problems the Office of Inspector General (OIG) has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG. Final determinations on matters in this report will be made by EPA managers in accordance with established EPA audit resolution procedures. Accordingly, the findings contained in this report do not represent the final EPA position.

RESULTS-IN-BRIEF

EPA awarded the same grantee two grants with identical work plans and expected two different work products. About one month after the award of the second grant, the President of the Center notified the two EPA program offices of the duplicate work plans and suggested two separate reports be produced. Neither CBPO nor OEJ staff responded to the Center's proposed solution or took action to differentiate between the work plans. This lack of clear direction coupled with ineffective monitoring by EPA project officers resulted in neither program office receiving the work product it expected.

The results of our financial audit are shown below.

<u>Agreement</u>	<u>Federal Share</u>			
	<u>Costs</u>		<u>Costs Questioned</u>	
	<u>Incurred</u>	<u>Accepted</u>	<u>Ineligible</u>	<u>Unsupported</u>
EQ-993391-01	\$140,000 *	\$767	\$54,688	\$ 84,545
EQ-824225-01	<u>30,000</u> *	<u>0</u>	<u>0</u>	<u>30,000</u>
Total EPA Share	<u>\$170,000</u>	<u>\$767</u>	<u>\$54,688</u>	<u>\$114,545</u>

* EPA award officials rounded this number on the award agreement.

RECOMMENDATIONS

EPA should more effectively award grants and monitor grantee performance. Also, EPA should adjust the allowable costs in accordance with our determination. In particular, the Center should repay EPA \$169,219.

AGENCY COMMENTS AND OIG EVALUATION

The Agency and the Center generally agreed with our findings and recommendations. However, we did revise Recommendations 1 and 4 to address Agency concerns. In addition, officials from the Grants Administration Division (GAD) believe that the error of duplicate work plans was an isolated incident. Therefore, they did not agree with Recommendation 5 which is to require the grantee to certify that it has no other EPA-funded awards that include the same scope of work. GAD's response did not provide sufficient proof that this was an isolated incident. As a result, Recommendation 5 remains unchanged.

After evaluating all of the responses, we made modifications as appropriate to our report and the recommendations. However, our position remains unchanged on the report findings. We summarized the comments received from EPA and the Center after the finding. Neither EPA nor

the Center responded specifically to the Notes in Exhibits A and B. The Center offered one general comment regarding allowable costs which we addressed after the finding.

ACTION REQUIRED

This report contains recommendations to the Regional Administrator, Region 3; the Assistant Administrator for Office of Enforcement and Compliance Assurance (OECA); and the Director, Grants Administration Division. We designated the Regional Administrator, Region 3, as the primary action official because we address the majority of recommendations to him. As the primary action official, the Regional Administrator, Region 3, should take the lead in coordinating the Agency's response.

In accordance with EPA Order 2750, the Regional Administrator, Region 3, is required to provide a final determination on the costs questioned and the other recommendations within 90 days of the audit report date. Your response should address all recommendations, and include milestone dates for corrective actions planned, but not completed. This will assist us in deciding whether to close this report. Should the action official consider a position on the questioned costs that differs from our recommendations, we would appreciate the opportunity to discuss management's position before the determination is issued to the Center. Please provide a copy of the final determination to our office when issued.

We have no objection to the further release of this report to the public. If you or your staff have any questions regarding this report, please contact Carl A. Jannetti, Divisional Inspector General for Audit, Mid-Atlantic Division at (215) 814-5800 or Patrick J. Milligan at (215) 814-2326.

Attachment

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PURPOSE

Region 3's Chesapeake Bay Program Office (CBPO) requested we perform an audit of two EPA grants awarded to the Center for Environment, Commerce, & Energy (the Center). These grants had identical requirements and work plans. The purpose of our audit was to determine:

- ◆ why EPA awarded two identical grants to the same grantee,
- ◆ whether EPA mismanaged grant funds, and
- ◆ whether the costs claimed under these two grants were allowable, allocable, and reasonable.

BACKGROUND

In June 1994, the Center issued a report which quantified discharges of pollution into the air, water, and land of the District of Columbia (the District). The National Wildlife Federation and the National Association of Neighborhoods funded this work. According to EPA personnel from the Office of Environmental Justice (OEJ) and Region 3, the Center's report was well received by the environmental community.

The Director, OEJ told the President of the Center that this work would be useful to the environmental justice community. However, the Center would need to expand on its report to include statistics on race, income, and how these statistics correlated with the levels of pollution in the District. As a result, EPA Headquarters, Grants Administration Division (GAD) awarded an OEJ grant for \$15,000 to the Center on April 10, 1995. The GAD approved an amendment to the OEJ grant for an additional \$15,000 on May 10, 1996. OEJ was the program office responsible for monitoring the Center's performance during the two-year project period that concluded on April 23, 1997.

On August 29, 1995, approximately five months after the award of the OEJ grant, Region 3's CBPO awarded the Center a \$140,000 grant. The funding for this grant originated in EPA Headquarters Office of Enforcement and Compliance Assurance which then transferred the funds to Region 3's CBPO. The CBPO project officer said the Center was to focus its efforts on informing the District's communities about the types and amounts of pollution in their neighborhoods. Also, she expected the Center to give the communities a greater understanding of the functions of government; the structure of environmental laws; roles and responsibilities of various government and private agencies; and opportunities for public involvement in decision-making.

SCOPE AND METHODOLOGY

We conducted a financial audit of EPA grants EQ-993391-01 and EQ-824225-01 and an internal audit of EPA's award and oversight of these grants. Our fieldwork began on April 2, 1998, and ended on July 24, 1998. We conducted audit work at the Center, EPA Headquarters, and Region 3. The scope of our work was limited to activities conducted by the Center under the applicable grants. The audit represents a final audit of costs claimed for grants EQ-993391-01 and EQ-824225-01.

To accomplish our audit, we reviewed EPA's policies and procedures for administering grants. We also interviewed responsible program officials at Region 3 and OEJ, and the President of the Center. We reviewed the Code of Federal Regulations (CFR), Part 30, Office of Management and Budget (OMB) Circular A-122, and the requirements specified in the grant agreements between EPA and the Center.

Our audit was performed in accordance with the *Government Auditing Standards* (1994 Revision) issued by the Comptroller General of the United States. However, we did not follow all of the elements of the planning standards in Chapter 6. Because a request from the CBPO initiated this audit, our work focused on confirming the issues raised in the request. The audit included tests of program records, accounting records, and other auditing procedures we considered necessary.

We did not conduct an extensive review of the Center's internal control systems. However, we did examine internal controls as they related to costs incurred under the grants to assure compliance with Federal statutory and regulatory criteria and with the Center's policies and procedures. Because of the inherent limitations in any system of internal accounting control, errors or irregularities may occur and not be detected. Except for the issues discussed in this report, nothing came to our attention that would cause us to believe the Center's procedures were not adequate for our purposes.

The Agency in its "1998 Integrity Act Report To The President and Congress," declared grants management as a material weakness. We reviewed the CBPO's annual assurance letter for fiscal year 1998 prepared as a result of the Federal Managers' Financial Integrity Act. There were no weaknesses identified that pertained to the scope of work we reviewed. However, the letter indicated that the CBPO requested this audit and that they would use the findings to strengthen their management controls.

We reviewed records maintained by the Agency and the Center. These records included the grant agreements, progress reports, and project officers' files. To determine the reasonableness, allowability, and allocability of the costs claimed under the grants, we judgementally selected a sample of costs claimed. For each cost claimed, we reviewed the source documentation including invoices, canceled checks, travel reports, and time sheets. We also reviewed the

Center's compliance with the program and financial reporting requirements of the grants and interviewed the Center's President to determine if the Center appropriately followed policies and procedures.

We issued the draft report on August 28, 1998. Region 3 submitted a consolidated response on November 12, 1998, which included comments from the Office of Enforcement and Compliance Assurance (OECA), GAD, Region 3, and the Center. We included all of the responses as Appendix 1 to this report. Because the Center's response was voluminous, we did not include the attachments, which are on file in our office and are available upon request. On December 11, 1998, we conducted an exit conference with the Center. We conducted exit conferences with OECA and the CBPO on December 15, 1998.

EPA AWARDS GRANTEE TWO GRANTS WITH IDENTICAL REQUIREMENTS

EPA mismanaged grant funds when it awarded the same grantee two grants with identical requirements and work plans, despite expecting two different work products. This occurred in part, because the work plan was too general and included tasks related to both work products. EPA's Assistance Administration Manual (Manual), Chapter 12 requires a comprehensive review of the grantee's proposed work plan. This review should take into consideration: whether the grantee's proposal duplicates other efforts funded by EPA; and whether the project outputs are clearly defined. In addition, EPA's oversight of the grantee's performance was lacking in the areas of obtaining the required annual progress report and conducting on-site visits. Chapter 44 of the Manual requires that EPA project officers sufficiently manage grants and monitor grantee performance. Consequently, the Agency program offices that funded the grants did not receive final reports that met their requirements.

Duplicate Work Plans for Two Different Grants

Headquarters GAD awarded the first OEJ grant to the Center on April 10, 1995, for \$30,000 with a two-year project period. Region 3's CBPO awarded the second grant to the Center on August 29, 1995, with a one year project period. This grant was for \$140,000. Although OEJ and CBPO expected different work products, they awarded two grants with the same work plan. The President of the Center told us that at the time he submitted the second grant application, he believed this additional grant money was to supplement the work agreed to under the OEJ grant. As a result, the Center used the same work plan to obtain the CBPO grant that it had submitted to OEJ for the first grant.

CBPO personnel said they did not know the Center had received an identical grant from OEJ five months earlier. However, the President of the Center notified OEJ and CBPO of the duplicate work plans about one month after the second grant was awarded. In an October 1995 letter, the President of the Center informed EPA about the duplication and suggested that he produce two separate reports, one for each program office. Neither CBPO nor OEJ staff responded to the Center's proposed solution or took action to differentiate between the work plans.

Region 3 officials told us they review and compare grants awarded within the Region to ensure that one grantee does not receive money twice for the same work. However, no such control exists between the regions and EPA Headquarters, thereby allowing for the possibility of a grantee receiving two awards for the same work. This lack of control was a primary reason the Center received two identical awards.

Inadequate Work Plan

The work plan used for both grants more closely reflected OEJ's desired results because the proposed work plan was based on discussions held between the Center and OEJ officials.

Moreover, the final product was more suited to what OEJ expected, a report on how pollution impacted the different communities in the District of Columbia. Additionally, the interim deliverable in the work plan of collecting and analyzing data also related to producing the report.

Although the work plan more closely suited OEJ's needs, it was not adequate even for their purposes. OEJ personnel told us they expected a report that identified the most polluted areas of the District and how these areas correlated to the race and income of its residents. OEJ's expectation was supported in the introduction section of the grant work plan which stated, "A central feature of the project was to be an assessment of the disproportionate impact of pollution on the poor and people of color." However, the grant's scope of work emphasized identifying types and amounts of pollution by categories of facilities. The scope of work hardly mentioned the issue of race and income.

The work plan clearly did not satisfy CBPO's intended results. The CBPO project officer said the Center was to focus its efforts on informing the District's communities about the types and amounts of pollution in their neighborhoods. She also expected the Center to educate the communities about environmental laws, the responsibilities of various government and private agencies, and the opportunities for public involvement in environmental decision-making. The only deliverables in the work plan described data collection and producing a report. These deliverables did not coincide with the public outreach that the CBPO wanted the grantee to perform. More suitable grant requirements could have included items such as a detailed description of the information the grantee needed to relay to the communities and a schedule of dates and places where the grantee planned to perform this public outreach.

Prior to awarding the grant, the CBPO should have structured the grant requirements to reflect outreach activities. Furthermore, when the Center notified EPA of the duplicate work plan, the CBPO had another opportunity to amend the grant requirements and scope of work. The work plan was not adequate for either grant and contributed to both offices receiving, from the Center, a product that did not satisfy their requirements.

EPA Did Not Effectively Monitor the Grants

Both CBPO and OEJ could have received the desired results if they had adequately monitored the Center's performance. Chapter 44 of EPA's Assistance Administration Manual requires that EPA project officers (POs) sufficiently manage grants and monitor grantee performance. We found the OEJ PO did not conduct on-site visits or follow-up with the Center when the required annual status reports were not received. As required in 40 CFR Part 30.51(b), the grantee must submit at least one progress report for each year of the project period. During the two year project, the Center submitted no progress reports to OEJ. OEJ personnel said that the President of the Center would occasionally make informal visits to their office and provide verbal updates of its work. This was the extent of OEJ's oversight during the entire project period. OEJ personnel said that because Region 3's CBPO awarded the predominance of the EPA grant funds

to the Center, the CBPO should have monitored the grantee's performance. However, this reasoning does not appear workable since OEJ and CBPO expected two different final products. In addition, each PO had a responsibility to manage their grant and monitor the grantee's performance to ensure funded activities were accomplished and final products were received.

The CBPO PO told us that early in the project period, she realized the grantee was not performing adequately. For example, in the quarterly progress reports, the Center included information on race and income in an attempt to satisfy OEJ. However, the CBPO PO instructed the Center to remove it because the information did not relate to public outreach. The CBPO PO claimed she could take no action against the Center because of the way EPA structured the grant requirements. Excluding the quarterly status reports, the only interim deliverable was at the conclusion of the data collection phase, which was nine months into the project. As a result, the PO contended that she could take no formal action against the grantee until the tenth month of the twelve-month project period. At that time, the PO attempted to withhold some of the grant funds because the grantee was not focusing its efforts on public outreach. CBPO officials determined that although the Center was performing almost no outreach, it was performing work within the broad scope of the work plan. As a result, the PO said that she believed there was no basis to withhold funds.

Status of Grantee's Work

In December 1997, ten months after the report was due, the grantee issued a report on types and amounts of pollution in the District. The CBPO PO said that this report did not provide what the CBPO expected, which was public outreach to the District's communities. According to the OEJ PO, the report satisfied OEJ's expectations, however, the former Director, OEJ did not agree. The former Director, who initiated the idea of awarding grant money to the Center, told us that the report was inadequate because it did not include the race and income components that represented the basis of the award. When we discussed this with the President of the Center, he said the CBPO would not allow that information in the report. As of April 1998, the Center was drafting another report that included the race and income components that would satisfy OEJ's expectations.

During our audit fieldwork, the OEJ PO stated she did not intend to monitor the completion of this draft report because she was satisfied with the initial report the Center submitted to the CBPO. The OEJ PO obtained the cover page from the CBPO report and considered this as evidence of the final OEJ report. In fact, the OEJ PO certified to GAD that she had received and accepted the final report from the Center. This certification prompted GAD to closeout the grant.

OEJ personnel provided conflicting information regarding the final OEJ report. In response to the draft report, the OEJ PO acknowledged that the report prepared for the CBPO was not an adequate final product. Therefore, the OEJ PO should not have certified that she received an adequate final product and the grant should not have been closed out by GAD. The OEJ PO said

she did not expect a final report because the Center had spent all of the grant funds. It is unclear whether the Center intends to perform any more work related to the raw data that was submitted to OEJ. The OEJ PO needs to monitor any additional work performed by the Center.

RECOMMENDATIONS

We recommend the Regional Administrator, Region 3, and the Assistant Administrator for the Office of Enforcement and Compliance Assurance:

- 1) Require POs to manage grants properly in accordance with EPA's Assistance Administration Manual. Specifically, for awards over a certain dollar threshold, the program offices should develop an assistance management plan. The plan should identify planned PO oversight activity, estimated PO monitoring time and other funds (e.g., travel) required. These oversight efforts should be coordinated with Grants Management Office's monitoring efforts.
- 2) Hold the PO's and approval officials accountable for grant work plan specificity, administering the grant effectively, and monitoring the grantee's performance.

We recommend the Assistant Administrator for the Office of Enforcement and Compliance Assurance:

- 3) Instruct the OEJ PO to monitor any additional work performed by the Center under the grant.

We recommend the Regional Administrator, Region 3, and the Director, Headquarters Grants Administration Division:

- 4) Before awarding additional funds to the Center, require the Center to provide a description of the changes made to its accounting, procurement, and timekeeping systems to ensure the Center meets the requirements of OMB Circular A-122. (See Exhibits A and B)
- 5) Include language in grant applications and agreements whereby the grantee certifies that it has no other EPA-funded awards that include the same scope of work.
- 6) Adjust the allowable costs in accordance with our determination and require the Center to repay EPA \$169,219. (See Exhibits A and B)

REGION 3 RESPONSE

Region 3 stated that it is the ultimate obligation of the grantee to correct duplicate plans before the grantee accepts a grant or expends funds. This is where the audit should place clear and final responsibility.

Regional officials requested that we not use the term “misuse” of EPA funds because all of the funds were used for eligible work under the grant work plan. Region 3 officials also stated while one might argue that this was less than a fully effective use of the funds, it was not technically a misuse or misapplication of funds.

Region 3 disagreed with Recommendation Number 1, which is to develop an assistance management plan for each grant because it is well beyond the resources available for grants management given that individuals may manage numerous grants in addition to other work requirements.

In our draft report, we recommended that EPA obtain written assurance that the Center has an adequate financial accounting system before awarding additional funds to the Center. The Region responded that the applicant already attests to its ability to meet the financial accounting requirements in a written certification.

Region 3, Grants Management Branch did not agree with the recommendation to require the grantee to certify it has no other EPA-funded awards that include the same scope of work. They cited lack of communication between EPA offices as the reason for duplicate awards. Conversely, the Region 3 CBPO cited it as the most important recommendation in the report. In response to the final report, Region 3 needs to take one position regarding this recommendation.

OIG EVALUATION

The Center fulfilled its obligation by reporting the problem of duplicate work plans to EPA. When the Center made EPA aware of the problem, EPA did not correct the situation although it was EPA’s responsibility not only to eliminate the duplicate work plans but clearly to communicate to the Center what needed to be accomplished under each grant and what was to be included in the final work product. The work plan should be a negotiated document containing well-defined commitments that foster accountability on behalf of the grantee.

We agree with Region 3's reasoning regarding the term “misuse” of funds and have changed the term to “mismanagement” of funds.

Regarding Recommendation Number 1, we believe an assistance management plan is a fundamental management tool that EPA should use whenever possible. If resources do not allow Region 3 to develop a plan for each award, the Region should at a minimum, develop plans for

groups of awards or for awards over a certain dollar threshold. In the long run this will provide the POs a tool to efficiently and effectively manage the numerous grants they are responsible for.

Concerning Recommendation Number 4, we agree with Region 3's response that the applicant already attests to its ability to meet the financial accounting requirements in a written certification. We revised the recommendation to state that because of the Center's inadequate financial accounting system, EPA needs to require the Center to provide a description of the changes made to its accounting, procurement, and timekeeping systems to ensure the Center complies with OMB Circular A-122 before awarding additional funds to the Center.

In regards to the Region attributing the duplicate awards to a lack of communication between EPA offices, it was more than lack of communication. It was the Center that identified the problem of duplicate grants, not EPA. Because EPA has no controls to prevent duplication from occurring again, we have not changed Recommendation Number 5.

OFFICE OF ENFORCEMENT AND COMPLIANCE ASSURANCE RESPONSE (OECA)

The OEJ PO said there was never communication with the CBPO regarding an overlap between the two grants.

The OECA PO's responsibilities and employee performance agreements already include recommendations related to effective grants management.

OIG EVALUATION

Although the OEJ PO may not have personally had discussions with the CBPO, the former Director of OEJ acknowledged she had discussed the duplicate work plans with the CBPO project officer.

We agree that effective grants management must be included as part of the PO's responsibilities and reflected in the employee's performance agreements. Moreover, EPA should hold the POs accountable for not effectively managing the grants.

During the exit conference, the OEJ PO said the Center submitted raw data for the race and income components. However, she did not expect a final report because the Center had spent all of the grant funds. It is unclear whether the Center intends to perform any more work related to the raw data that was submitted to OEJ. The OEJ PO needs to monitor any additional work performed by the Center.

GRANTS ADMINISTRATION DIVISION (GAD) RESPONSE

GAD disagreed with implementing Recommendation Number 5 because we found only one instance of duplication. GAD said that it reviewed 4,000 awards from the past two years comparing Headquarters and regional awards. The review focused on identifying grants to the same recipients within the same year, and then compared the project descriptions. GAD found no other instance where duplication appears to be a problem.

OIG EVALUATION

We believe that GAD's analysis of the 4,000 awards was not thorough enough to identify duplicate awards. Project descriptions are a general characterization of the award. We believe comparing work plans would achieve definitive results. Moreover, EPA has no control between the regions and Headquarters to prevent duplication from recurring. Thus, Recommendation 5 remains unchanged.

CENTER RESPONSE

The Center cited several reasons for not having an adequate financial management system such as time constraints, inexperience in documenting a large federal grant, and the vagueness of OMB Circular A-122 requirements.

The Center contends that because it completed the scope of work included in the grants, it should not be required to repay both grants completely. For example, the Center asked that positive consideration be given to certain reasonable costs in the grant such as the salaries of the author and the primary research assistant. On November 20, 1998, the Center provided additional documentation in an attempt to support personnel costs. The support consisted of calendars indicating when the Center employees worked on the EPA grants.

OIG EVALUATION

An inadequate financial management system does not relieve the Center of its responsibility. Regarding the Center's additional documentation to support personnel costs, the calendar pages are not adequate alternative documentation to the personnel activity reports required by OMB Circular A-122. The calendar sheets were blank for about half the days that the Center had charged time to the grants. Also, for those calendar days which did reference the grant, there was no detail of hours charged to the grant. Therefore, our position regarding the allowable costs remains unchanged.

**ANALYSIS OF ALLOWABILITY OF EXPENDITURES
FOR THE PERIOD SEPTEMBER 1, 1995 TO NOVEMBER 1, 1996
UNDER EPA AGREEMENT EQ-993391-01
AWARDED TO CENTER FOR ENVIRONMENT, COMMERCE & ENERGY**

AUDITOR'S OPINION

<u>Costs Category</u>	<u>Costs Incurred</u>	<u>Accepted</u>	<u>Costs Questioned</u>		<u>Note</u>
			<u>Ineligible</u>	<u>Unsupported</u>	
Personnel	\$ 74,789	\$ 0	\$ 0	\$74,789	1
Consultants	46,868	0	46,868	0	2
Misc.	12,680	807	10,698	1,175	3,4
In-Kind	7,000 ¹	0	0	7,000	5
Unknown ²	<u>5,663</u>	<u>0</u>	<u>0</u>	<u>5,663</u>	5
Total	<u>\$147,000</u>	\$ <u>807</u>	<u>\$57,566</u>	<u>\$88,627</u>	
Federal Share 95%	\$140,000 ¹	\$ 767	\$54,688	\$84,545	
Payments To Date		<u>\$140,000</u>			
Balance Due EPA		<u>\$139,233</u>			

¹ EPA award officials rounded this number on the award agreement.

² The Center's records did not indicate the category of costs.

Note 1: Personnel costs amounting to \$74,789 were unsupported because the Center did not maintain documented payrolls supported by personnel activity reports as required by OMB Circular A-122. The personnel activity reports must be based on an after-the-fact determination of the actual activity of each employee. The Center, which provided no support, other than some canceled checks, paid employees based on budgeted amounts. Budget estimates do not qualify as support for personnel charges.

Response: EPA and the Center did not respond to this Note.

Note 2: We considered the \$46,868, paid to 15 consultants, ineligible because there were no consulting agreements as required by OMB Circular A-122. Without the required consulting agreements, the Center had no support indicating what consulting services were provided. The Circular provides that to determine the allowability of costs, some of the relevant factors are:

- Adequacy of the contractual agreement for the service (e.g., description of the service, estimate of time required, the rate of compensation, and termination provisions).
- The nature and scope of the services rendered in relation to the service required.
- The qualifications of the individual rendering the service and the customary fees charged.

In addition, the Center did not procure consulting services in accordance with 40 CFR 30.45, which requires grantees to use and document in the procurement files, some form of cost or price analysis for each procurement. Price analysis may be accomplished by the comparison of price quotations submitted, market prices, and similar indicia. Cost analysis is the review and evaluation of each element of cost to determine reasonableness, allocability and allowability. When procuring the consultants, the Center did not consider cost or perform a price analysis. Without a cost or price analysis, EPA has no assurance that the consulting expenditures were reasonable and allowable.

Response: EPA and the Center did not respond to this Note.

Note 3: We considered \$10,698 paid to various vendors for miscellaneous expenditures (computer, health benefits, supplies, etc.) ineligible because they did not procure them in accordance with 40 CFR 30.45. The Center provided no support to indicate that a cost or price analysis was done as required.

Moreover, \$4,255 of the \$10,698 in miscellaneous expenditures were also unsupported. The Center did not provide receipts as required by 40 CFR 30.21 or maintain a financial management system that included an accurate, current, and complete accounting of all financial transactions for the grant, with supporting documents showing the application of all expenditures.

Response: EPA and the Center did not respond to this Note.

Note 4: We considered \$1,175 in travel expenditures unsupported because the Center did not maintain documentation such as travel reports as required by 40 CFR 30.21.

Response: EPA and the Center did not respond to this Note.

Note 5: We considered \$12,663 (\$7,000 In-Kind and \$5,663 Unknown) unsupported because the Center did not maintain documentation such as invoices, canceled checks, travel reports, and time sheets required by 40 CFR 30.21. Without the required support, we could not determine what they expended the \$12,663 for.

Response: EPA and the Center did not respond to this Note.

**ANALYSIS OF ALLOWABILITY OF EXPENDITURES
FOR THE PERIOD APRIL 24, 1995 TO APRIL 23, 1997
UNDER EPA AGREEMENT EQ-824225-01
AWARDED TO CENTER FOR ENVIRONMENT, COMMERCE & ENERGY**

AUDITOR'S OPINION

<u>Costs Category</u>	<u>Costs Incurred</u>	<u>Accepted</u>	<u>Costs Questioned</u>		<u>Note</u>
			<u>Ineligible</u>	<u>Unsupported</u>	
Personnel	\$ 3,125	\$ 0	\$0	\$ 3,125	1
In-Kind	2,000 ³	0	0	2,000	2
Unknown ⁴	<u>26,875</u>	<u>0</u>	<u>0</u>	<u>26,875</u>	2
Total	<u>\$32,000</u>	\$ <u>0</u>	<u>\$0</u>	<u>\$32,000</u>	
Federal Share 94%	\$30,000 ³	\$ 0	\$0	\$30,000	
Payments To Date		<u>\$29,986</u>			
Balance Due EPA		<u>\$29,986</u>			

³ EPA award officials rounded this number on the award agreement.

⁴ The Center's records did not indicate the category of costs.

Note 1: Personnel costs of \$3,125 were considered unsupported because the Center did not maintain documented payrolls in accordance with OMB Circular A-122. (See Exhibit A, Note 1)

Response: EPA and the Center did not respond to this Note.

Note 2: We considered \$28,875 (\$2,000 In-Kind and \$26,875 Unknown) unsupported because the Center did not maintain documentation such as invoices, canceled checks, travel reports, and time sheets. 40 CFR 30.21 requires this documentation. Without the required support, we could not determine what they expended the \$28,875 for.

Response: EPA and the Center did not respond to this Note.

APPENDIX 1
RESPONSES TO DRAFT REPORT

Region 3 Administrator Response

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

SUBJECT: Comments on the Draft Audit Report for the Center for Environment, Commerce and Energy
Report No. E3CEN8-03-0011
Grant Nos. EQ993391-01 EQ824225-01

FROM: W. Michael McCabe ^s
Regional Administrator (3RA00)

TO: Elissa R. Karpf
Deputy Assistant Inspector General
for External Audits (2421)

In response to the draft audit report and recommendations, we offer the following comments. Each of the responsible EPA offices has provided comments on the report recommendations. In addition, the grantee as well as the responsible EPA offices submitted comments on the report, itself, which are summarized below with a copy of each original response attached.

Recommendations

We recommend the Regional Administrator, Region III and the Assistant Administrator for the Office of Enforcement and Compliance Assurance :

1) Require the program offices to develop an assistance management plan that identifies project officer (PO) planned oversight activity, estimated PO monitoring time and other funds (e.g., travel) required, prior to approval of awards.

-The response from the Office of Enforcement and Compliance Assurance (OECA) was submitted by the PO for Grant EQ824225-01.

The response agrees that "POs (should) more closely monitor a recipient's performance." It also indicates that "the recommendations made on pages 9- 10 of the draft report are already included as part of each OECA PO's responsibilities and are included as a part of the employee's performance agreement.

Customer Service Hotline: 1-800-438-2474

^s As signed by W. Michael McCabe on November 12, 1998.

-The response from Region III, Office of Policy and Management (OP&M) was submitted by the responsible Grants Management Specialist.

The response concurs with the recommendation. However, it "(disagrees) with the requirements that the assistance management plans be developed prior to the award unless there is some immediate benefit in doing so."

-The response from the Chesapeake Bay Program Office (CBPO) was submitted by the Deputy Director, CBPO.

They do not concur with the recommendation. "It is well beyond the resources available for grants management given that individuals may manage numerous grants in addition to other work requirements."

-The response from the Grants Management Division (GAD) was submitted by the Director, GAD.

There were no comments on this recommendation.

2) Hold POs and approval officials accountable for grant work plans specificity and deliverables to administer the grant effectively and monitor grantee performance.

-The OECA response, as noted above, states that the recommendations are already part of each OECA PO's responsibilities.

-The Region III, OP&M response concurs with the recommendation.

-The CBPO response concurs with the recommendation.

-The GAD response had no comment on this recommendation.

3) Require POs to manage grants properly in accordance with EPA's Assistance Administration Manual.

-As noted above, OECA believes that the recommendations are already a part of each OECA PO's responsibilities.

-The Region III, OP&M response concurs with the recommendation.

-The CBPO concurs with the recommendation.

-The GAD response had no comment on this recommendation.

We recommend the Assistant Administrator for the OECA:

4) Instruct the Office of Environmental Justice (OEJ) PO to monitor the completion of the Center's work.

-As noted above, the OECA believes that the recommendation is already a part of each OECA PO's responsibilities.

-The Region III, OP&M response concurs with the recommendation.

-The CBPO response concurs with the recommendation.

-The GAD response had no comment on this recommendation.

We recommend the Regional Administrator, Region III and the Director, Grants Administration Division:

5) Obtain written assurance that the Center's accounting, procurement and timekeeping systems meet the requirements of OMB Circular A-122 before awarding additional funds to the Center.

-The OECA believes that the recommendation is already a part of each OECA PO's responsibilities.

-The Region III, OP&M response concurs with the recommendation . "However by signing SF-424B, Assurances-Non-Construction Programs, the applicant is already attesting to their ability to meet the financial accounting requirements."

-The CBPO response concurs with comment- "Doesn't the grantee effectively do this when signing the Assistance Agreement? "

-The GAD response had no comment on this recommendation.

6) Include language in grant applications and agreements whereby the grantee certifies that it has no other EPA-funded awards that include the same scope of work.

-The OECA believes that the recommendation is already a part of each OECA PO's responsibilities.

-The Region III, OP&M response does not concur with the recommendation. The legality of establishing such a certification is questionable.

-The CBPO concurs with comment. “This is the most important recommendation-it places the responsibility clearly and efficiently with the grantee where all funding would come together at one grant. A single-program PO does not have the tools available to anticipate this problem and address it routinely.”

-The GAD believes “this recommendation is not warranted by the finding of a single instance of this type of duplication identified in this report. We reviewed about 4,000 awards from the past two years, comparing EPA Headquarters' grants to Regional ones. We found no other instance where such duplication appears to have been a problem. Based on our review, requiring all recipients to make this additional assertion appears unnecessary. The requirement would add a new paperwork burden which will require OMB's approval. The effort to obtain that approval is also unnecessary.”

In addition to the responses directed to the report recommendations, some submittals commented on the body of the report, in some detail. Copies of all responses are attached. A summary of each detailed response follows.

Respondent-The grantee, The Center for Environment, Commerce and Energy (CECE).

The grantee states the following:

EPA HQ awarded a \$15,000 grant on April 10,1995 and \$15,000 on May 10, 1996. The CBPO-PO (Program Officer) requested the Office of Environmental Justice (OEJ) proposal from the grantee to use as the grant proposal for the Region III grant. The grantee believed that the Region III was an add-on to the OEJ grant.

Duplicate Work Plans for Two Different Grants

The April 10, 1995 OEJ grant amount was \$15,000 for a one year period. An amendment was approved on May 10, 1996 for an additional \$15,000. The Region III grant was approved on August 29, 1995.

The Center (grantee) states that the CBPO-PO was well aware of the OEJ grant. If other personnel in the CBPO or Region III in Philadelphia or Annapolis were unaware of then OEJ grant, then it is because the CBPO-PO did not inform them. The Center President and the CBPO-PO had lengthy discussions about the OEJ grant before the Center signed the Region III grant.

EPA Did Not Effectively Monitor the Grants

The Center had its best outreach year in its history during the Region III grant period in 1995 and 1996. Examples are found in the attached response.

The Center complained to the CBPO Director about the multi-month delays in reimbursements to the Center. During the spring of 1996, the CBPO-PO would not release funds until the Center agreed to her demands to reprogram \$10,000 to a festival.

Other delays by the CBPO-PO are discussed in the Center's attached response. The CBPO-PO stated that, if the grant was not reprogrammed, she would not approve the final grant payments.

The CBPO-PO never informed the Center that its performance was inadequate until approximately, May 1996. In fact, in a letter dated December 4, 1995 (attached) she complimented us on our prospects for completing a good report.

Status of the Grantee's Work

The ten month delay in issuing the report was because of the unwarranted nine month delay in making the final payments. Thus, the ten month delay was caused by the CBPO-PO.

A report cannot provide public outreach. We proceeded to speak at civic association meetings, environmental group meetings and generally distributed the report all over Washington, D.C.

The OIG sent the OEJ Director a copy of the commentary of the report and not the charts which included all of the race and income information. The OIG representatives said that they did not need the charts.

The audit report statement that the Center was in the process of drafting another report that included the race and income components that would satisfy the OEJ's expectations is incorrect. The Center did not draft a report, after the fact. The Unfair Share II and Unfair Share III reports were completed at about the same time.

Auditor's Opinion

The Center does not dispute the conclusions of the financial audit. The Center did not maintain documented payroll records supported by activity reports as required by OMB Circular A-122.

The Center's August 28, 1998 response stated that they would not attempt to compile "after-the-fact " documentation to support budget expenditures. However, in a September 25, 1998 letter, the Center indicated that it will be submitting documentation (letter attached).

**Respondent-Jon Capacasa, Deputy Director, Chesapeake Bay Program Office
(CBPO)**

Why EPA Awarded Two Identical Grants to the Same Grantee

We request that the audit report include a statement that the Chesapeake Bay Program Office (CBPO) was administering grant funds from the Office of Enforcement and Compliance Assurance (OECA), not CBPO funds. Funding was provided under OECA's "Partners in Protection Program."

It is clearly the ultimate obligation of a federal grantee to ensure a potential problem is corrected with, apparently, duplicate work plans and awards before they accept the assistance agreement or expend the funds.

We request a statement be included in the report that EPA has no data base or systems in place to routinely detect situations where grantees apply for the same project to multiple programs, nationally.

The draft report statement that EPA approved a work plan that required the grantee to meet "only one interim deliverable that was near the end of the project period" is incorrect. The time frame included in the approved scope of work stated that data would be collected over a nine month period and a separate three month period would be used for the integration and analysis of the information collected. There was also a grant condition for the delivery of quarterly reports to the Agency.

Other Comments On the Facts

As correctly stated on page 7 of the report under Duplicate Work Plans for Two Different Grants, the CBPO-PO for EQ99339-01 did not know the Center (grantee) had received an identical grant from OEJ five months earlier.

The grantee had the prime and ultimate responsibility to ensure there wasn't duplicate payment for the same tasks and to initiate a request for an amendment to the grant.

The draft report states that in an October 1995 letter, the President of the Center suggests that he produce two separate reports, one for each program office. The CBPO-PO never received such a letter. The OEJ PO has also indicated that they have no record of such a letter.

Insofar as a final document/deliverable was produced by the grantee for the CBPO managed funds, the conditions of the work plan for a final report were met. The items in the scope of work that did not meet the CBPO-PO's expectation was the provision for public participation. This is based on the fact that the Center agreed to provide financial support for an environmental "fair" in Anacostia Park in September 1996, but the check that was provided for support was returned for insufficient funds.

Use of the Term "Misuse" of EPA Funds

We are requesting a correction to the report language which refers to this as a "misuse" of EPA funds. The dictionary definition of misuse is a " wrong or improper use; misapplication."

All of the funds here were used for eligible work activities and a deliverable was obtained which met the letter of the CBPO administered grant award and work plan. While one might argue that this was a less than fully effective use of the funds, it was not, technically, a misuse or misapplication of funds.

Other Comments

The draft report correctly states that the work plan clearly did not satisfy CBPO's intended results and that the CBPO's PO said the Center was to focus its efforts on informing the District's communities about the types and amounts of pollution in their neighborhoods. None of the information provided in the quarterly reports or first-hand knowledge of the CBPO PO indicated that the Center was engaged in any public participation/outreach activities related to this project.

Regarding the inclusion of race and income data in the final report, the CBPO PO did not instruct the grantee to withhold this information.

Regarding the withholding of payments, the Assistance Agreement stipulates that the recipient shall request reimbursement of eligible costs on a quarterly basis. The CBPO-PO felt that it was reasonable to attempt to withhold payment based on this condition, as well as the condition that a draft "final" report had not been delivered until after the project period had ended.

Respondent-Linda Smith, Project Officer on EPA Grant No. EQ824225-01

We do not believe that the work performed under the two projects was identical nor do we believe that the \$30,000 awarded by OEJ was a misuse of EPA funds. We do agree that EPA should revise how awards are made to eliminate potential duplication of effort in the future and that POs more closely monitor a recipient's performance. During the period of performance of this grant there was no communication between the OEJ PO and the CBPO PO.

OEJ was the first EPA office to award a \$30,000 grant to the Center for Environment, Commerce and Energy.

Even though the initial work plan reflected a much larger scope of work than could be addressed by the \$30,000, OEJ did not request a change in the scope of work. In hindsight, OEJ should have required a revised scope of work since this seems to be where the charge of "duplicate" work effort is originating. The grantee provided the required data to OEJ and has committed to furnishing copies of the printed report at such time as it is available. OEJ disagrees that the \$30,000 must be repaid to EPA. The grantee should be required to submit a statement as to how the \$30,000 was distributed.

Given that there is no requirement for verifying an application's uniqueness, it is possible for two or more awards to the same applicant occur. It appears that this second grant for \$140,000 which was awarded by Region III on August 29, 1995 was based on the same statement of work that the applicant has used for the OEJ award. The only solution to avoid similar problems in the future is for EPA to require verification by a PO that the applicant has not received any other EPA grants for similar work. OEJ takes issue with the audit report stating that "OEJ did not monitor the grantee's performance." Mr. McDonald (President, CECE) came by the office quite regularly to discuss the status of his report.

As stated in the audit report, the grantee sent a letter to OEJ which was dated October 1995, which requested a modification of the title of the anticipated report from "Our Fair Share-Part II" to "Our Fair Share-Part III." When OEJ questioned the grantee, he explained that the Region had awarded him a grant to conduct mostly outreach and education. At no time during the life of either grant was there any communication between the OEJ PO or the CBPO PO. It never dawned on us that there was any concern of overlap between the two grants by either the grantee or EPA.

The recommendation made on pages 9-10 of the draft audit report are already included as a part of each OECA PO's responsibilities and are included as a part of the employee's performance agreement. The issue in the audit involves some lax PO management of the project as well as a more fundamental problem that the Agency has in that two projects were awarded without a cross-check for duplicate project awards. The Agency, as a whole, may want to consider adding to its management review process, under FMFIA. The Grants Administration Division ought to consider this need during its management reviews.

If you have any questions, please have your staff contact Robert Picollo at (215) 814-5405 or Thomas Gallagher at (215) 814-5398.

Attachments

cc: Carl Jannetti (3AI00)
Steven Herman (2201A) (w/o attachment)
Gary Katz (3903R) “
Linda Smith (2201A) “
Scott McMoran (3903R) “
Jon Capacasa (3CB00) “

**Region 3 Chesapeake Bay Program Office Response
(Provided as an Attachment to Region 3's Response)**

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029

SUBJECT: Comments on the Draft Report of EPA Grants to the
Center for Environment, Commerce and Energy
Grant Numbers EQ993391-01 and EQ824225-01
Report Number E3CEN8-03-0011

FROM: Jon M. Capacasa, Deputy Director /^S
Chesapeake Bay Program Office (3CB00)

TO: Robert G. Reed, Jr., Chief
Grants and Audit Management Branch (3PM70)

According to the draft report, the purpose of the audit was to determine: 1) Why EPA awarded two identical grants to the same grantee; 2) Whether this was a misuse of EPA funds and 3) Whether the costs claimed under the two grants were allowable, allocable, and reasonable.

1) Why EPA awarded two identical grants to the same grantee

Important Factual Corrections and Other Comments:

Source of Funds - We request first that the audit report include a statement that "the Chesapeake Bay Program Office was administering grants funds from the Office of Enforcement and Compliance Assistance (OECA), not Chesapeake Bay Program funds. Funding was provided under OECA's Partners in Protection Program.

Obligation of the Grantee - it is clearly the ultimate obligation of a federal grantee to ensure a potential problem is corrected with potentially duplicative grants and workplans before they accept an Assistance Agreement or expend federal funds. This is where the audit should place clear and final responsibility. If the grantee did not get timely resolution of this issue from the EPA Project Officers involved, he should have deferred signing of the Agreement or deferred expenditures under the grant until the matter was resolved.

EPA Tools to Detect Such Occurrences - we request that the report make note of the fact that EPA does not maintain a national data base or system which would routinely detect situations where grantees apply for the same project to multiple programs nationally. This is a systems issue and not something that can be averted by Project Officers managing single program grants. The audit could be of greater benefit to the Agency by making some recommendations along these lines to address this situation nationally, rather than focusing primary attention on Project Officer duties.

Customer Service Hotline: 1-800-438-2474

^S As Signed by Jon M. Capacasa on October 13, 1998

Lack of Interim Deliverables - The draft report states that EPA approved a workplan that required the grantee to meet “only one interim deliverable that was near the end of the project period.” **This is incorrect and requires correction.** The time frame included in the approved scope of work stated that data would be collected over nine month period, and a separate three-month period would be used for the integration and analysis of the information collected. There was also a grant condition for the delivery of **quarterly progress reports** to the Agency. Quarterly progress reports are interim deliverables. It was as a result of the information supplied in the quarterly reports that the CBPO project officer questioned whether the grantee was on track in collecting the necessary data and satisfying the public participation element of the approved scope of work. These quarterly reports coupled with the submission of inferior, draft work products caused the Project Officer to initiate a series of meetings with the grantee to clarify the requirements of the workplan, and authorize the withholding of funds and the final payment on the grant for a considerable period of time. This needs to be stated in the report. The Grants Section of EPA Region 3 would not support further retention of funds beyond a certain point because the workplan was broad and would not clearly justify the retention.

Other Comments on the Facts - As correctly stated on page 7 under the section entitled "Duplicate Work Plans for Two Different Grants", the CBPO project officer for EQ993391-01 did not know the Center had received an identical grant from the Office of Environmental Justice (OEJ) five months earlier. Prior to May, 1995, the CBPO project officer worked in EPA Headquarters Office of Water and had no knowledge of the Center or the activities of the OEJ. Once the second grant award for \$140,000 had been made, the President of the Center informed the CBPO project officer that they had received funding from OEJ to do follow-up work on the 1994 report, "Our Unfair Share." The CBPO project officer attempted to contact OEJ to determine: 1) whether the workplans were the same and 2) if they were, whether OEJ would amend their grant to include the additional funds. A copy of the workplan submitted to the CBPO was faxed to OEJ, however **CBPO did not receive the OEJ workplan in return for review.** OEJ informed the CBPO Project Officer that since the \$140,000 was the larger award, they would not amend their grant.

As stated above, the grantee had the prime and ultimate responsibility to ensure there wasn't duplicate payment for the same tasks and to **initiate a request** for an amendment to the grants. Alternatively, he should have deferred endorsement of the Assistance Agreement or expenditure of funds until the matter was resolved.

The draft audit report further states that in an October 1995 letter, the President of the Center suggests that he produce two separate reports, one for each program office. The CBPO project officer never received such a letter. The OEJ project officer has also indicated that they have no record of such a letter. The President of the Center did offer verbally that two separate reports would be produced: the report for the CBPO would include the survey of types and amounts of pollution in the District of Columbia and a map as indicated in the workplan and the report for OEJ would include information on "toxic behavior" such as violence, and types of food and beverages consumed.

Insofar as a final document/deliverable was produced by the grantee for the CBPO managed funds and met the letter of the workplan, the conditions of the grant for a final report were met. The item in the scope of work that did not meet the CBPO project officer's expectation was the provision for public participation. This is based on the fact that the Center agreed to provide financial support for an environmental fair in Anacostia Park in September, 1996 but the check that was provided for support was returned for insufficient funds.

2) Use of the term "misuse" of EPA funds

Removal of the Term Misuse of Funds - We are requesting a correction to the report language which refers to this as a "misuse" of EPA funds. The dictionary definition of misuse is a "wrong or improper use; misapplication."

All of the funds here were used for eligible work activities and a deliverable was obtained which met the letter of the Chesapeake Bay Program Office administered grant award and work plan. While one might argue that this was a less than a fully effective use of the funds, it was not technically a misuse or misapplication of funds. Simple corrective steps during the course of the project could have prevented any issue here.

While we referred this issue for audit review because we were concerned about the potential duplication of grant awards, it would quite acceptable for a large work task to be supported by more than one cost-share partner or grant program, so long as efforts were made to segregate the work tasks to the various sources of funding. The grantee failed to do this and the EPA Project Officers did not have the tools available to them to know in advance that a potential overlap existed. All the grantee would need to do is submit a grant amendment request along with workplan changes to segregate the sources of funding with the tasks in the workplan.

Other Comments - While the workplan for this grant was admittedly broad in scope, one must consider that this was for the purpose of producing a sequel report to a highly successful first report (Unfair Share Part 1). This report was an early precedent in the Environmental Justice movement nationally. Simple reference to this report in the workplan set a benchmark for performance under this award. We expected that a similar product would be delivered this second time based in part on the established track record and national credibility of the grantee.

Page 8 paragraph 2 of the draft report states that the workplan clearly did not satisfy CBPO's intended results and that the CBPO's project officer said that the Center was to focus its efforts on informing the District's communities about the types and amounts of pollution in their neighborhoods. The draft report states correctly that the grant's scope of work emphasized identifying types and amounts of pollution by categories of facilities but the scope of work also says that the project will provide tours of selected sites, educational materials, workshops, and training under a public participation element. None of the information provided in the quarterly reports or first hand knowledge of the CBPO project officer indicated that the Center was engaged in any public participation/outreach activities related to this project. That is the reason that the CBPO project officer offered to allow the grantee to satisfy this public participation element by supporting and attending the September, 1996 environmental fair in Anacostia Park.

Further, a copy of the "Partners in Protection" Program Anacostia Enforcement Assistance Project **was given to the grantee as guidance before the grant was awarded.** This document describes where the concept and funding for the project originated and as stated, the immediate goal was to provide the means for the Anacostia population to better inform themselves about their environment and the legal framework for governmental functions.

As stated earlier, the project officer at CBPO had no prior knowledge of OEJ or OEJ activities, nor any prior knowledge of the Center or the Center's President and assumed that verbal agreements that didn't require reallocation of funding were acceptable. The President of the Center verbally agreed to conduct and expand the public participation aspect of the project. Also, as stated previously, the Center did not formally (in writing) notify CBPO of a duplicate workplan and a copy of the OEJ workplan was never provided to the CBPO Project Officer while the grant was active.

Regarding the inclusion of race and income data in the final report, the CBPO project officer did not instruct the grantee to withhold this information. In fact, in the 1994 "Our Unfair Share" report, racial distribution information is reproduced from the 1992 "Indices: A Statistical Index to District of Columbia Services". The 1998 report contains the exact same demographic data but includes median household income instead of average housing cost.

Regarding withholding of payments, the Assistance Agreement stipulates that the recipient shall request reimbursement of eligible costs on a quarterly basis. The CBPO felt that it was reasonable to attempt to withhold payment based on this condition as well as the condition that a draft final report had not been delivered until after the project period had ended. Withholdings of payment were authorized by the Project Officer and supported by the Region for a considerable time which was ultimately the tool which produced a final project report meeting the minimum requirements of the workplan.

3) Whether the costs claimed under these two grants were allowable, allocable, and reasonable

We defer to the grantees response to the request for better cost documentation.

Proposed Recommendations

1) Require the program offices to develop an assistance management plan that identifies project officer planned oversight activity, estimated PO monitoring time and other funds required, prior to approval of awards.

We do not concur with this recommendation. It is well beyond the resources available for grants management given that individuals may manage numerous grants in addition to other work requirements.

2) Hold POs and approval officials accountable for grant work plan specificity and deliverables to administer the grant effectively and monitor grantee performance.

Concur.

3) Require the POs to manage grants properly in accordance with EPA's Assistance Administration Manual.

Concur.

4) Instruct the OEJ PO to monitor the completion of the Center's work.

Concur.

5) Obtain written assurance that the Center's accounting, procurement, and timekeeping systems meet the requirements of OMB Circular A-122 before awarding additional Federal funds to the Center.

Concur with comment -- Doesn't the grantee effectively do this when signing the Assistance Agreement?

6) Include language in grant applications and agreements whereby the grantee certifies that it has no other EPA-funded awards that include the same scope of work.

Concur with comment. This is the most important recommendation - it places the responsibility clearly and efficiently with the grantee where all funding would come together at one point. A single-program Project Officer does not have the tools available to anticipate this problem and address it routinely.

cc: William Matuszeski
Beverly Baker
Robert Picollo
Carl A. Jannetti, Divisional Inspector General for Audit (3AI00)

**Region 3 Grants and Audit Management Branch Response
(Provided as an Attachment to Region 3's Response)**

**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION III
1650 Arch Street
Philadelphia, Pennsylvania 19103-2029**

SUBJECT: Comments on the Draft OIG Report for the Center for Environment, Commerce & Energy, Report # E3CEN8-03-0011

FROM: Mary G. Zielinski
Grants Management Specialist (3PM70)

TO: Francis R. Snock
Grants Management Officer (3PM70)

The following are my comments concerning the findings and recommendations contained in subject report:

Findings

On page seven, the report describes the situation which occurred regarding the award of two EPA grants with identical requirement. Specifically, the report states that "EPA approved a work plan that required the grantee to meet only one interim deliverable" and that this lack of deliverables precluded EPA from effectively monitoring the grantee's performance. This is inaccurate. The conditions in the grant award document required the grantee to produce quarterly progress reports. These reports are an effective means of monitoring performance.

Recommendations

- ✓ Concur. However, I do not agree with the requirement that the assistance management plans be developed prior to award unless there is some immediate benefit to doing so.
- ✓ Concur.
- 3. Concur.
- 4. Concur.
- 5. Concur. However by signing SF-424B, *Assurances - Non-Construction Programs*, the applicant is already attesting to their ability to meet the financial accounting requirements. Is the OIG envisioning something additional?

Customer Service Hotline: 1-800-438-2474

- ✓ Do not concur. First of all, I'm not sure of the legality of establishing such a certification. Furthermore, the situation that occurred appears to have happened because of miscommunication between EPA offices. Had there been better coordination, the chances of this situation occurring would have been minimal.

**Office of Environmental Justice Response
(Provided as an Attachment to Region 3's Response)**

October 5, 1998

MEMORANDUM

SUBJECT: Response to Draft Audit Report on EPA Grants to Center for Environment,
Commerce & Energy Grant Number EQ824225-01

FROM: Linda K. Smith /signed/ **Linda K. Smith**
Project Officer on EPA Grant EQ824225

TO: Carl A. Jannetti
Divisional Inspector for Audit
Mid-Atlantic Division
EPA Region 3

Thank you for the opportunity to respond to your August 28, 1998 Draft Audit Report concerning two EPA grants awarded to the Center for Environment, Commerce & Energy using \$170,000 of the Office of Enforcement and Compliance Assurance (OECA) funding. While both grants were awarded with funds from OECA, only the first grant, EQ824225, was managed by OECA. The second larger grant, EQ993391, was managed by Region 3's Chesapeake Bay Program with funds reprogrammed to Region 3 for this purpose. The following information addresses the audit findings concerning the first grant, EQ824225, managed out of OECA's Office of Environmental Justice (OEJ). It does not attempt to answer any issues raised in the audit report concerning the Region 3 project.

We do not believe that the work performed under the two projects was identical nor do we believe that the \$30,000 awarded by OEJ was a misuse of EPA funds. We do agree that EPA should revise how awards are made to eliminate potential duplication of effort in the future and that project officers more closely monitor a recipient's performance. It appears that much of what is described in this report is due to a lack of communication between the project officers on the two grants and an unawareness on the part of the recipient of the requirements for awards greater than \$100,000. During the period of performance of this grant, there was no communication between the OEJ project officer and the CBPO project officer.

It is important to note that OEJ was the first EPA office to award a small \$30,000 grant to the Center for Environment, Commerce, & Energy to **ADD** race and income demographics to an existing study published in June 1994 as "Our Unfair Share: A Survey of Pollution Sources in Our Nation's Capital." This grant was awarded April 10, 1995 and incrementally funded in the

amount of \$15,000 due to a shortage of funds in fiscal year 1995. The balance of \$15,000 was to be added after October 1, 1995, and was actually awarded May 10, 1996. Even though the initial work plan reflected a much larger scope of work than could be addressed by this \$30,000 OEJ did not require a change in the scope of work but only requested that the budget be revised to reflect the \$30,000 it was providing for the race and income demographics. In hindsight, OEJ should have required a revised scope of work as well since this seems to be where the charge of "duplicate" work effort is originating. The report which was to include the race and demographics was to be called "Our Unfair Share -- Part II." There was no intent for the grantee to do anything beyond reissuing the report to include the race and demographics-there was never any request or intention for the grantee to do extensive outreach and education to the affected DC communities. The grantee provided the data to OEJ and has committed to furnishing copies of the printed report-at such time as it is available. OEJ disagrees that the \$30,000 must be repaid to EPA. The grantee should be required to submit a statement as to how the \$30,000 was distributed.

Given that grants can be awarded in eleven different locations and given that there is no requirement for verifying an application's uniqueness, it is possible for two or more awards to the same applicant to occur. Since an applicant has no guarantee that he or she is going to receive an award it is highly likely that an applicant could use "similar" application packages at different locations. This appears to be what happened in this instance. If Region 3's Chesapeake Bay Program Office (CBPO) expected something that was not stated in the work plan, it would be the project officer's responsibility to request the applicant to submit a revision prior to the award. It appears that this second grant for \$140,000 which was awarded by Region 3 on August 29, 1995, three months after OEJ's initial award, was based on the same statement of work that the applicant had used for the OEJ award. The only solution to avoid similar problems in the future is for EPA to require verification by a project officer that the applicant has not received any other EPA grant for similar work.

OEJ takes issue with the audit report stating that "OEJ did not monitor the grantee's performance." The grantee was local and Mr. MacDonald came by the office quite regularly to discuss the status of his report. Since the requirements of the project were quite simple and direct (e.g., to add race and income demographics to the existing report), the OEJ Director and project officer reviewed early versions of the purported document. At one such meeting, the OEJ Director reviewed tabular demographic data broken down by DC wards and stressed to the grantee that the information needed to be added graphically to the report. Likewise, the OEJ Director and project officer did see a preliminary very rough draft of the report about June 1996 and found that the data was included and that the report would be acceptable. At this time, a printed report was still expected although OEJ was aware that the grantee was having difficulty arranging for the layout and manuscript preparation needed to make the report manuscript "printable." OEJ had no additional funds with which to print the report and was waiting for the grantee to find another means. OEJ had no way of anticipating that the "final report" it had reviewed would later be greatly modified to remove the race and demographics data. Based on the original review of the manuscript and the availability of the data, if needed, the OEJ project officer closed out the grant.

As stated in the audit report, the grantee sent a letter to OEJ which was dated October 1995 which requested a modification of the title of the anticipated report from "Our Fair Share -- Part II" to "Our Fair Share -- Part III." When OEJ questioned the grantee why that was necessary, he explained that the Region had awarded him a grant to conduct mostly outreach and education with the affected DC communities on environmental justice, community-right-to-know and much broader issues under the same name. At no time during the life of either grant was there any communication between the OEJ project officer or the CBPO project officer. It never dawned on us that there was any concern of overlap between the two grants by either the grantee or EPA.

The recommendations made on pages 9-10 of the draft audit report are already included as a part of each OECA project officer's responsibilities and are included as a part of the employee's performance agreements. In this specific case the project management was at the OEJ Office Director level rather than more appropriately at the project officer level but this does not eliminate the fact that the project officer is still responsible for ensuring that the \$30,000 is accounted for by receiving a final product. This project officer and the grantee, have had numerous discussions concerning the need for closure of the project. Since a final printed report is not forthcoming, the race and demographic data were requested electronically and the project officer is investigating how to make the information available through the Internet. The issue in this audit involves some lax project officer management of the project as well as a more fundamental problem that the agency has in that two projects were awarded without a cross-check for duplicate project awards. This is a much bigger issue and one that the Agency as a whole may want to consider adding to its management review process under FMFIA. The Grants Administration Division ought to consider this need during its management reviews.

Thank you again for the opportunity to respond to this draft report. If you have any questions concerning this response, please contact me at 202-564-2602, Fax: 202-501-1162.

**Grants Administration Division Response
(Provided as an Attachment to Region 3's Response)**

MEMORANDUM

SUBJECT: Center for Environment, Commerce & Energy Audit, Number E3CEN8-03-0011

FROM: Gary M. Katz, Director
Grants Administration Division

TO: W. Michael McCabe, Regional Administrator
Region 3 (3RA00)

I am providing my comments on the Center for Environment, Commerce & Energy, Audit Number E3CEN8-03-0011.

My primary concern has to do with Recommendation 6 on page 10. You recommend that we include language in grant applications and agreements whereby grantees certify that it has no other EPA-funded awards that include the same scope of work.

This recommendation is not warranted by the finding of a single instance of this type duplication identified in this report. Moreover, we reviewed about 4,000 awards from the past two years, comparing Headquarters grants to Regional ones. We found no other instance where such duplication appears to have been a problem. Based on our review, requiring all recipients to make this additional assertion appears unnecessary. The requirement would add a new paperwork burden which will require OMB's approval. The effort to obtain that approval is also unnecessary.

If you have questions, please contact Scott McMoran on 202-564-5376.

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**Center for Environment, Commerce & Energy Response
(Provided as an Attachment to Region 3's Response)**

September 22, 1998

Center for Environment, Commerce and Energy

African American Environmentalist Association

1336 Bay Avenue
Annapolis, Maryland 21403
(410) 280-2103 cfece@erols.com

Mr. W. Michael McCabe
Regional Administrator, Region 3
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Report No. E3CEN8-03-011
Audit of Center for Environment, Commerce & Energy
EPA Grants EQ993391-01 and EQ824225-01

Dear Mr. McCabe:

Enclosed is a copy of our response to the draft audit report referenced above. We understand that the audit report prepared by the United States Environmental Protection Agency's Office of Inspector General (OIG) is a draft and is subject to revision.

We are providing comments within 30 days of the date of the OIG draft audit report (dated August 28, 1998). As requested, we are also enclosing a copy of our response to Mr. Carl A. Jannetti, Divisional Inspector General for Audit, Mid-Atlantic Division. If you have any questions, please feel free to contact me.

Sincerely,

/s

Norris McDonald
President

cc: Carl A. Jannetti

^s As signed by Norris McDonald on September 22, 1998.

Response to: OIG Draft Report of EPA Grants to the
Center for Environment, Commerce & Energy
Grant Numbers EQ993391-01 and EQ824225-01
Report Number E3CEN8-03-0011

From: Center for Environment, Commerce and Energy

Comments: (Section-by- Section)

August 28, 1998 Memorandum

The first paragraph on page one (1) states that Region 3's Chesapeake Bay Program Office (CBPO) requested EPA's Office of the Inspector General (OIG) to perform an audit of two EPA grants awarded to the Center for Environment, Commerce and Energy (the Center). The memo also states that the grants had identical requirements and work plans. The paragraph concludes by stating that the purpose of the audit was to determine why EPA awarded two identical grants to the same grantee and whether this was a misuse of EPA funds.

Response 1: The Center received the notification of a \$15,000 grant from EPA's Office of Environmental Justice on April 10, 1995. We were informed at that time that we would receive an additional \$15,000 after the beginning of the new fiscal year. The additional \$15,000 was awarded on May 10, 1996. The Center was informed by the CBPO Program Officer (CBPO-PO) that the Center had been awarded a grant for \$140,000 in August, 1995. The Center President immediately asked the CBPO-PO if the \$140,000 was an add-on or amendment to the OEJ grant of \$15,000.

The CBPO-PO was aware of the OEJ grant at the beginning of the Region 3 grant. [Note: For the purposes of our response(s), we are using the phrase "Region 3 grant" although funding for the grant was provided by the EPA Headquarters Office of Enforcement and Compliance Assurance and the grant was managed by Region 3 in Philadelphia, Pennsylvania and its Chesapeake Bay Program Office in Annapolis, Maryland.] The CBPO-PO faxed a copy of the Region 3 grant notification (See Attachment 1: Commitment Notice) to the Center before the Center submitted the proposal. The CBPO-PO requested that we send over a copy of the OEJ proposal with a modified budget. The Center submitted the same proposal format, but with a modified budget to reflect the expanded requirements of the larger grant. The Center President notified the OEJ that the larger grant had been awarded and inquired about the linkage of the grants. In

September 1995, the CBPO-PO informed the Center President that we were receiving two grants for the same project. The CBPO-PO made disparaging remarks about the competence of the EPA officials involved in the grant(s) and noted that some EPA officials were going to "go to jail" and that EPA's Inspector General would definitely get involved in the grant(s). It was after these comments that the Center President discussed modifying the work plan with the OEJ to include race and income in the OEJ grant and just types and amounts of pollution in the Region 3 grant. The Center President sent a letter requesting the change in title and scope of work to the OEJ office and to the CBPO-PO on October 15, 1995. The CBPO-PO questioned why EPA would give the Center such a large grant. The CBPO-PO stated in October, 1995, at the beginning of the grant period, that she would make sure that the Center would never get another EPA grant.

The first paragraph on page 2 under the section entitled Results-In-Brief states that because EPA awarded the same grantee two grants with identical work plans despite expecting different work products , that this represents a misuse of EPA funds.

Response 2: The Center, as the grantee, requested a modification of the work plans at the beginning of the grant period. The Center also proceeded to implement two different, although similar, work plans. As mentioned in Response 1, the Center was confused about the EPA grant procedures related to the amendment process. Once we understood that we were in a position to receive two separate grants, we submitted the request to modify the work plans. The Center should not be penalized for EPA's lack of responsiveness to its requests to modify the grants. We are also concerned that assigning responsibility to the Center for the duplication of work plans and then describing it as a misuse of EPA funds represents a damaging characterization of the Center. Moreover, the Center submitted the same proposal (with the modified budget) at the request of the CBPO-PO. Again, the Center received the grant Commitment Notice from the CBPO-PO before we submitted a proposal. The Commitment Notice was dated June 23, 1995. The Commitment Notice also stated that the responsible EPA Office was the Office of Enforcement and Compliance Assurance--the same office with authority over the Office of Environmental Justice. The Commitment Notice contained no reference to Region 3 nor the CBPO. The Center had no way of knowing that we were committing to two separate grants for essentially the same program until we heard the comments from the CBPO-PO and after we realized that the Region 3 grant

was given a different grant number. The Center was unaware that it was receiving a separate grant instead of an amendment. And when we became aware of the duplication, we immediately made a request for a modification and proceeded to implement two separate reports.

The Purpose section states that the CBPO requested the OIG audit to determine: 1) why EPA awarded two identical grants to the same grantee, 2) whether this was a misuse of EPA funds, and 3) whether the costs claimed under these two grants were allowable, allocable, and reasonable.

Response 3: The CBPO-PO requested that we send the OEJ proposal with a modified budget. As noted in Response 2, we requested a modification of work plans. The CBPO-PO also showed us a marked-up draft of the project description which included the EPA recommendation to commission a follow-up report to "Our Unfair Share: A Survey of Pollution in the DC and Maryland portions of the watershed, the follow-up shall identify resources to aid in their solution (See Attachment 2). Again, the CBPO-PO was aware of the \$15,000 OEJ grant. The Center sent the CBPO-PO a copy of the OEJ grant and we were instructed to modify the budget. The CBPO-PO continually stated that the marked-up draft of the Partners in Protection Program was part of our work plan. It was never formally included in the proposal or the grant agreement. Moreover, the marked-up document stated that the Center should first identify the problems and then identify the resources to aid in their solution. The CBPO-PO insisted that we implement outreach solutions before we identified the problems. Of course, this was probably a function of the differences in our proposal and scope of work and the goals contained in the marked-up Partners in Protection Program draft. We proceeded with an aggressive outreach program while the research was being conducted during the nine month research and outreach period. This included the first and only time that African Americans conducted environmental tours on the Anacostia and Potomac Rivers. We recruited a boat club, a tree preservation group and a community organization to participate in the outreach program. The Center initiated outreach efforts, and the CBPO-PO reacted to initiatives on an ad hoc basis. The specific outreach components were never agreed upon. And no matter how much outreach we designed and implemented, it was never enough for the CBPO-PO.

It appears to us that the authorization for the grant was completed before our proposal was submitted. The CBPO-PO requested a copy of the OEJ proposal. This led us to believe that the larger grant amount was to be an add-on. [Note: We now know that EPA would not amend a small grant with such a larger amount.] We thought that EPA decided to authorize \$140,000 instead of the additional \$15,000 (OEJ) that we were expecting at the time the Region 3 grant was authorized. We subsequently received authorization for the additional \$15,000 portion of the OEJ grant seven months after the Region 3 grant. Because OEJ operates under the Office of Enforcement and Compliance Assurance (OECA) and the funding for the Region 3 grant came from OECA, we thought that the larger grant was a significant add-on to provide significant funding to hire staff and consultants, to conduct an extensive research and outreach project, and to provide a solid foundation for the Center to become self sustaining.

Again, from our perspective, we acted appropriately in recommending a separation in the work plans in the grants and in implementing the grants.

Concerning whether the costs claimed under the two grants were allowable, allocable, and reasonable, the Center did not implement, or did not implement adequate, personnel activity reports, time sheets, invoices, and cost or price analyses. Because there was a short period of time between our notification of the grant(s) and the beginning of the grant period, we did not use an adequate financial management system. Although we reviewed OMB Circular A-122, we were inexperienced in, and unfamiliar with, comprehensive federal contracting requirements. As a result, we relied upon canceled checks and a certified public accountant report of our expenditures based on budgeted amounts for our financial documentation. We are now familiar with the financial management system and procurement procedures required for federal government grants. Our finished reports and the outreach described in our quarterly reports is evidence of a significant amount of time, effort and expense on the part of the Center in fulfilling the deliverables in our proposal(s).

Although virtually all costs under both grants received a negative determination regarding eligibility, allocability and allowability due to our inadequate accounting system, at a very minimum, we hope that some

positive consideration can be given to certain reasonable costs in the grant(s), such as the salaries of the author of the report(s) and the primary research assistant. Again, the reports were produced and the outreach was accomplished under the terms of the grant(s). We hope that EPA's Grants Division will take this into consideration as they address the OIG recommendation to repay both grants.

The Background section states that The National Wildlife Federation and the National Association of Neighborhoods funded the first DC pollution report.

Response 4: Actually, they cosponsored the report with the Center's membership arm, the African American Environmentalist Association. Funding was provided by a private foundation. Each group's in-kind contributions far exceeded the modest level of funding provided by the private foundation. The project also took two years to complete when the original projection was for one year. And we would like to believe that this report stimulated much of the current activity, including EPA's formation of its Partners in Protection Program, that is occurring in the District of Columbia. The "Our Unfair Share II and III" reports fulfilled the limitations of the first report by providing types and amounts of pollution by site and race and income data by site. We are currently constrained in promoting the reports, however, because of the cloud over the project(s) and the CBPO-PO's proclivity for making unsubstantiated, untrue, and (we assume) unauthorized allegations about the Center to other organizations, EPA divisions, and the media.

The second paragraph of the Background section states that EPA Headquarters awarded a \$30,000 grant to the Center on April 10, 1995.

Response 5: The April 10, 1995 grant was for \$15,000 (See Attachment 3).

The third paragraph of the Background section states that the Center used the same work plan to obtain the CBPO grant that it had submitted to OEJ for the first grant. It goes on to say that the CBPO-PO anticipated a final product different from the OEJ's and that the Center should focus on informing communities about types and amounts of pollution in neighborhoods. It goes on to describe the goals in the scratched up document in our Attachment 1, which were never included in the grant proposal or the grant.

Response 6: As previously stated, the CBPO-PO requested the OEJ proposal from the Center to use as the grant proposal for the Region 3 grant.

The Center President and the CBPO-PO had lengthy discussions about the OEJ grant. The CBPO-PO stated that EPA officials did not know what they were doing because Region 3 had already commissioned a pollution study with a company named Versar. The CBPO-PO stated at this time that this would make three grants for the same project. The CBPO-PO proceeded to make disparaging remarks about the competence of the EPA coordinator for the Versar contract, EPA Region 3 officials and EPA Headquarters officials. The CBPO-PO was aware of the three initiatives, expressed concern about it, but waited until the end of the project(s) to recommend an OIG audit. The CBPO-PO should not have signed-off on the grant authorization considering her knowledge of the OEJ grant and the concerns about duplication. The CBPO-PO should not have signed-off on a grant notification before she had a proposal. The CBPO-PO should not have requested a copy of the OEJ grant proposal with a modified budget if she was concerned about program duplication. Again, the Center thought that the Region 3 grant was an add-on to the OEJ grant, particularly since funding for both grants was being provided by OECA. The CBPO Partners in Protection project description clearly calls for a follow-up report to "Our Unfair Share." This decision was made independent of the Center, without our knowledge or input. Again, the CBPO-PO knew that we already had a grant for \$15,000 to produce a follow-up report to "Our Unfair Share" from the OEJ.

The CBPO-PO instructed us to proceed with outreach to educate communities about types and amounts of pollution during the research phase of the project (the first nine months). We consistently responded that we could not do this because we had not compiled the information on types and amounts of pollution. We did, however, proceed to implement outreach programs (such as toxics river tours) to educate people about pollution and pollution sites in Washington, D.C. The Center President consistently requested an amendment to the grant to include specific deliverables to satisfy the goals of the scratched-up Partners in Protection draft document. It is possible that this might have occurred if the government had not "shut-down" in November, 1995 until February, 1996. Unfortunately, just before the government closure, the CBPO-PO sent our payment invoice to the Center instead of to the appropriate EPA office. Thus, although the Center had staffed-up and procured equipment and other consulting commitments, its October, 1995 reimbursement was delayed until March,

1996 by what we believe was an intentional action to impede our work. During the "shut-down," the CBPO-PO stated that the Center would not be paid for the months that the government was closed. We proceeded with our research and outreach, to the extent practicable, without any assurances about when, or if, the grant or the grant period would proceed.

The Duplicate Work Plans for Two Different Grants section on page seven (7), first paragraph, states that the OEJ grant was for \$30,000 with a two-year project period.

Response 7: The April 10, 1995 OEJ grant amount was \$15,000 for a one year period. An amendment was approved on May 10, 1996 for an additional \$15,000 (See Attachment 4). The Region 3 grant was approved on August 29, 1995.

This section's second paragraph also states that CBPO personnel said they did not know the Center received an identical grant from OEJ five months earlier.

Response 8: The CBPO-PO was well aware of the OEJ grant. If other personnel in the CBPO or Region 3 in Philadelphia and Annapolis were unaware of the OEJ grant, then it is because the CBPO-PO did not inform them. The Center President and the CBPO-PO had lengthy discussions about the OEJ grant before the Center signed the Region 3 grant. Again, the CBPO-PO discussed the implications of the pending Region 3 grant, the OEJ grant, and the Region 3 grant to Versar for pollution studies of the District. Again, the CBPO-PO stated that when the OIG finds out about this, someone at EPA is going to jail. And the CBPO-PO stated that it was not going to be her. After repeatedly hearing this controversial scenario, the Center President discussed the situation with the OEJ Director and drafted a letter to modify the grant(s) in October, 1995. Again, maybe the government shutdown one month later obscured the need to modify the grant(s).

The last paragraph in the EPA Did Not Effectively Monitor the Grants section (page 9), states that EPA determined that the Center was performing almost no outreach.

Response 9: The Center had its best outreach year in its history during the Region 3 grant period in 1995 and 1996. In addition to numerous workshops, speaking engagements, a radio interview and toxics river tour for the interviewer, a television appearance in prime time that was repeated approximate 10 times in prime time; two particular outreach efforts

illustrate the advanced level of outreach the Center achieved: 1) we helped launch and implement the D.C. Fresh Program, in cooperation with the District government, to provide environmental jobs to summer youth and 2) we operated river tour programs (the only environmental river tours ever conducted by African Americans in the history of Washington, D.C.). To characterize the outreach efforts documented in our quarterly reports and recognized by District officials (See Attachments 5 and 6) as "almost no outreach" is totally inaccurate. This level of outreach was also achieved without it being specified in the scope of work.

The same section concludes that CBPO had no basis to withhold funds.

Response 10: In addition to the delays in the Center's reimbursements due to the government shutdown, the Center complained to the CBPO Director about the additional unwarranted, multimonh delays in reimbursements created by the CBPO-PO (See Attachments 7 and 8): 1) the CBPO-PO sent an invoice back to the Center instead of grants in Philadelphia for processing, 2) a multimonh delay during the spring of 1996 when the CBPO-PO would not release funds until we agreed to her demands to reprogram \$10,000 to a festival (we eventually reprogrammed the grant for \$5,000 so that we could receive our final payments), 3) a delay in reimbursement for not reporting items during the third quarter that were required to be performed during the fourth quarter, and 4) the unwarranted nine month delay at the end of the grant period. The Center believes that these delays in reimbursements were a calculated effort to undermine the successful implementation of the grant.

Again, we were forced to agree to send a letter to reprogram \$10,000 to a festival by the CBPO-PO. She stated that if we did not reprogram the grant, she would not approve the final grant payments. The CBPO even drafted the language for the letter and faxed it to us for the Center President to copy (See Attachment 9). I drafted the letter just as she wrote it but reduced the amount to \$5,000 because I did not want to spend the grant money this way (See Attachments 10 and 11). After we wrote a check to the Park Service to pay for the event, the CBPO-PO decided that she would cancel the remaining payments because she said that the final draft of the report was inadequate. Because of this, the check to the Park Service was returned due to insufficient funds. The final payments included funding to support this event and for printing the report. The CPBO-PO also tried to

coerce us into using our production crew to produce the documents for the festival. The CBPO-PO appeared to be trying to impress the DC Environmental Regulation Administration employee who was coordinating the festival. The CBPO-PO told me, when she was taking a grants management training session, that it was illegal for program officers to force grantees to subcontract with other entities. The Center surely did not want to provide funding to the U.S. Park Service or the D.C. Environmental Regulation Administration. Both of the agencies are multimillion dollar operations. Furthermore, although our procurement system was inadequate at the time, we would like to know how one would support the eligibility of such a redirection of the grant.

The delay of the final payments and the cancellation of an expected EPA Water Management Division grant forced the Center to lay-off staff, (and Center staff lost their health insurance--our research assistant was eight months pregnant, the administrative assistant suffers from diabetes, and the Center President is a chronic, acute asthmatic), close the Washington office, and reestablish a home-based operation similar to our circumstances prior to the Region 3 and OEJ grants. The Center President does take responsibility for the fate of the organization and should not have relaxed fundraising activities after he thought the organization had secured the water grant (See Attachment 12).

The second paragraph in this section (page 8) states that the CBPO-PO told the OIG that early in the project period, she realized the grantee was not performing adequately.

Response 11: The CBPO-PO never informed the Center that its performance was inadequate until approximately May, 1996. In fact, in a letter dated December 4, 1995 (See Attachment 13), she complimented us on our prospects for completing a good report. The Center did not realize the true nature and depth of the CBPO-PO's negativity towards us until approximately May, 1996. The CBPO-PO engaged in a campaign of aggressive negativity towards us after the release of the Versar draft report in May, 1996. We did not realize how deeply the CBPO-PO despised the Center President until he was hospitalized with a severe asthma attack and she used the opportunity to low-rate him before Region 3 staff concerning another pending grant from EPA's Drinking Water Branch. The Center believes that the "Lead Survey and Remediation in D.C. Day Care Drinking Water" proposal was killed by the negative comments to Region 3 program

and grants staff (See Attachment 14). The proposal was for \$230,540. EPA offered the grant in February, 1996 and was ultimately killed in July, 1996, after being delayed for about four months. Evidently, the CBPO-PO proceeded to work to kill this grant right after the Center President informed her that EPA offered the grant. The Center considered this additional project to be a great outreach tool to supplement the current Region 3 grant. Because the Center thought the grant was definite, we relaxed our fundraising and assembled a very good team of scientists to execute the grant. Our team of scientists was used by the firm that eventually performed this grant under a subcontract with Cadmus. It was after these events, and the unwarranted delay in the final grant payments, that the Center, through an Advisory Committee member requested another program officer for the grant (See Attachment 15). The request was denied.

In the Status of Grantee's Work section on page 9, it states that the grantee issued a report ten months after the due date.

Response 12: The ten month delay occurred because of the unwarranted nine month delay in making the final payment(s). The Center essentially had a final product but was very nervous about completing payments for production and printing costs when the CBPO had taken the liberty to tell our production consultant that the project was not going to receive any more funding. The Center President had to reassure the Red Letter Group that they would be paid for their services, even if we had to pay it out of our organization general support funding. Of course, the production consultants had stopped working on the project in order to pursue other business and we had no choice but to comply with their schedule. However, when the final payment(s) were authorized, due to communications with the CBPO Director, the payments were made immediately to the printing and production company. Thus, the ten month delay was not caused by the Center, but was caused by the CBPO-PO.

The same section notes that the CBPO-PO stated that the report did not provide public outreach (page 9).

Response 13: A report cannot provide public outreach. We proceeded to speak at civic association meetings, environmental group meetings, and generally distributed the report all over Washington, D.C. We have

continued to distribute the report and we will continue to distribute reports. We get requests for the reports every week.

This section states that the former OEJ Director said the report was inadequate because it did not include the race and income components.

Response 14: The OIG sent the OEJ Director a copy of the commentary of the report and not the charts which include all of the race and income information. The commentary of the report also included significant amounts of information about race and income. The Center did not provide a copy of the charts when OIG conducted its audit visit at their request. The OIG representatives said they did not need the charts. The audit representatives said they accepted that we had completed writing the third report.

This section notes that, as of April 1998, the Center was in the process of drafting another report that included the race and income components that would satisfy OEJ's expectations.

Response 15: This is incorrect. The Center completed the "Unfair Share III" report at about the same time as the "Unfair Share II" report. The research on these reports was conducted simultaneously. The Center did not draft a report after the fact to attempt to show a separation of the grants. The dichotomy was made by our organization at the beginning of the grant period, when we shared various drafts of the Unfair III report with the OEJ during the grant period. At one point, the Center President described how he discovered errors in the Landview II CD ROM that were almost included in the "Unfair Share III" report. The Center even contacted EPA and the U.S. Department of Commerce and they agreed to look into the errors and make the appropriate changes if needed.

Response 16 (to Auditors Opinion): The Center does not dispute the conclusions of the financial audit. Again, the Center did not maintain documented payrolls supported by activity reports as required by OMB Circular A- 122. The Center also determined that it would not attempt to compile after-the-fact payroll activity reports and other support documentation. In addition to the logistical constraints to reconstructing this information, we concluded that it would not be possible to adequately reconstruct the information. And we also did not want to create an

appearance of impropriety by an effort to regenerate after-the-fact reports, invoices and other support documentation, no matter how accurate and factual they might be. As the Center noted to the OIG during the audit visit, the Center considered the canceled checks, the CPA report, and adherence to the budgeted amounts as its financial management system. The Center's lack of experience in documenting a large federal grant, and the vagueness (to us) of the OMB Circular A-122 in describing the specific requirements for administering a grant, led to a failure to adequately document the grant expenditures. Moreover, the Center failed to implement consulting services agreements for consulting services, price analyses for equipment purchases, travel reports or time sheets. However, we completed the scope of work included in the grants and we should not be required to completely repay both grants. We have also taken the appropriate steps to thoroughly familiarize ourselves with federal financial management requirements. We are also extremely concerned that a repayment determination will lead to our debarment and we will not be allowed to work with any federal agencies. This would, however, fulfill the statement made by the CBPO-PO.

Conclusion

We appreciate the efforts of EPA to provide us with sufficient funding to implement aggressive research and outreach services in the District of Columbia. It is unfortunate that the partnership was hampered in achieving all of its goals. Moreover, although the Center established a downtown Washington office with 3 full time staff and several part-time consultants, thanks to the EPA grant, we are now in the position of possibly having to repay a \$140,000 grant, a \$30,000 grant, and we lost a \$230,540 EPA water grant due to unsubstantiated comments by the CBPO-PO. Although we believe that these deficits would negatively affect, bankrupt or close any organization or business, we intend to continue to be committed to working to improve environmental conditions whenever and wherever we can. We also continue to believe that our organization and EPA could be great partners. Although the CBPO-PO stated at the beginning of our grant notification that she would assure that we would never get another EPA grant; we hope that this will not happen. Finally, It is ironic that our lack of experience in implementing an acceptable financial management system would have probably created problems in a review of the grant anyway.

The many efforts by the CBPO-PO to undermine and sabotage us was overkill. The CBPO-PO vendetta against the Center President is not only tragic, but is also baffling in light of the good work that the CBPO-PO has apparently accomplished in other areas. In addition to our self-inflicted mistakes, the CBPO-PO did succeed in significantly damaging us and our aspirations to work closely with EPA to deliver environmental information and services to the general public and African American communities.

Order of Attachments

1. Commitment Notice
2. Marked-up Partners-in-Protection document
3. OEJ Agreement (\$15,000), April 10, 1995
4. OEJ Amendment (\$15,000), May 10, 1996
5. Testimonial, DC Public Schools
6. Testimonial, DC Department of Employment Services
7. Complaint letter to CBPO Director
8. Complaint letter to CBPO Director
9. Letter drafted by CBPO Program Officer
10. CBPO-PO letter copied by Center President
11. CBPO-PO letter altered and copied by Center President
12. Lead Grant
13. Testimonial, CBPO Program Officer
14. Drinking Water Branch Memo
15. Request to replace CBPO Program Officer

Center for Environment, Commerce and Energy

African American Environmentalist Association

1336 Bay Avenue
Annapolis, Maryland 21403
(410) 280-2103 cfece@erols.com

September 25, 1998

Robert G. Reed
Chief
Grants and Audit Management Branch
U.S. Environmental Protection Agency
Region 3
1650 Arch Street
Philadelphia, Pennsylvania 191031-2029

RE: Grant #: EQ824225 and EQ993391

Dear Mr. Reed:

This letter is to inform you that the Center for Environment, Commerce and Energy intends to submit *after-the-fact* documentation to support budget item expenditures incurred under U.S. Environmental Protection Agency Agreement Numbers EQ824225 and EQ993391. This documentation is being generated during the month of October 1998 for your consideration in our attempt to meet the requirements of OMB Circular A-122: "Cost Principles for Nonprofit Organizations." We understand that this documentation should have been produced during the grant period, but we were simply unaware that if we did not follow the guidelines in the OMB Circular, we would have to repay each item ruled ineligible or unallowable in an audit. We sincerely hope that EPA will consider our inexperience in documenting federal grants and allow the expenditures supported by our *after-the-grant-period* documentation.

If you have questions, or need additional information, please feel free to contact me.

Sincerely,

/s

Norris McDonald
President

cc: Robert J. Picollo
Carl A. Jannetti
W. Michael McCabe

^s As signed by Norris McDonald September 25, 1998.

Center for Environment, Commerce and Energy

African American Environmentalist Association

1336 Bay Avenue
Annapolis, Maryland 21403
(410) 280-2103 cfece@erols.com

December 14, 1998

Mr. W. Michael McCabe
Regional Administrator, Region 3
U.S. Environmental Protection Agency
1650 Arch Street
Philadelphia, PA 19103-2029

Re: Report No. E3CEN8-03-011
Audit of Center for Environment, Commerce & Energy
EPA Grants EQ993391-01 and EQ824225-01

Dear Mr. McCabe:

Enclosed is a supplemental statement to the draft audit report referenced above. Mr. Patrick J. Milligan and Mr. Mark Phillips, of the Office of the Inspector General, recommended that I submit this statement to you in order for it to be included in the final record. I am formally requesting the inclusion of this supplemental statement in my response to the audit report. I have also submitted copies to them.

If you have questions, please feel free to contact me.

Sincerely,

/s

Norris McDonald
President

cc: Patrick J. Milligan
Mark Phillips

^s As signed by Norris McDonald, on December 14, 1998.

Addendum to:

Response 11:

The CBPO-PO made one final attempt to sabotage the production of the report by calling the president of Friends of the Earth to convince him to back out of cosponsoring the report. The CBPO-PO did this after she knew that the report was being printed. The intent must have been to create a conflict between the Center and FOE. If FOE had agreed, we would have been in the position of having printed a report with their name on it that could not have been distributed. The CBPO-PO tried to use the "Calculating a Fair Federal Pollution Payment" section in the report as the basis for FOE's removing their cosponsorship. She knew that they did not support this concept. We acknowledged their neutrality on this issue in the front of the report and put the section in the back of the report. Fortunately, the Friends of the Earth president saw through the scheme and maintained their cosponsorship and promotion of the report. Again, this action, along with many other such actions, was an attempt to destroy a relationship between the African American Environmentalist Association and the U.S. Environmental Protection Agency.

APPENDIX 2 - DISTRIBUTION

HEADQUARTERS

Office of Inspector General - Headquarters (2410)
Assistant Administrator for Enforcement and Compliance Assurance (2201A)
Director, Office of Grants and Debarment (3901R)
Director, Grants Administration Division (3903R)
Comptroller (2731)
Agency Audit Follow up Official (2710)
Agency Audit Follow up Coordinator (2724)
Agency Liaison,
 Office of Enforcement and Compliance Assurance (2201A)
Audit Liaison, Office of Administration and Resources Management (3102)
Audit Liaison, Grants Administration Division (3903R)
Director, Office of Policy and Resources Management (3102)
Associate Administrator for Congressional and Intergovernmental Relations (1301)
Associate Administrator for Communications, Education, and Media Relations (1701)

REGIONAL OFFICE

Region 3 Administrator (3RA00)
Assistant Regional Administrator, Office of Policy and Management (3PM00)
Director, Chesapeake Bay Program Office (3CB00)
Director, Office of Communications and Government Relations (3CG00)
Chief, Grants & Audit Management Branch (3PM70)
Regional Library (3PM52)

OTHER

Center for Environment, Commerce & Energy
General Accounting Office