



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

EPA Superfund Contract Initiatives and Controls to Reduce Fraud, Waste, and Abuse

Report No. 12-P-0360

March 16, 2012



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Report Contributors:

Janet Kasper
Michael Petscavage
Melinda Burks
David Penman

Abbreviations

CMM	Contracts Management Manual
CO	Contracting Officer
EPA	U.S. Environmental Protection Agency
EPAAR	EPA Acquisition Regulation
FAR	Federal Acquisition Regulation
FMR	Financial Monitoring Review
FY	Fiscal year
H.R.	House of Representatives
IA	Interagency Agreements
IGCE	Independent Government Cost Estimate
MATS	Management Audit Tracking System
OAM	Office of Acquisition Management
OIG	Office of Inspector General
OMB	U.S. Office of Management and Budget
PO	Project Officer
RAC	Remedial Action Contract
RPM	Remedial Program Manager
USACE	U.S. Army Corps of Engineers

Hotline

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At a Glance

Why We Did This Review

The U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) conducted this congressionally required review to report to the House and Senate Committees on Appropriations the Agency's current efforts to strengthen Superfund contracting controls to prevent future waste, fraud, and abuse.

Background

Congress enacted the Comprehensive Environmental Response, Compensation and Liability Act of 1980, commonly referred to as Superfund, to address threats to human health and the environment. In the cleanup of Superfund sites, EPA uses a variety of instruments, such as contracts and interagency agreements (IAs). In fiscal year 2010, EPA obligated \$413 million to contracts and \$244 million to the U.S. Army Corps of Engineers.

For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2012/20120316-12-P-0360.pdf

EPA Superfund Contract Initiatives and Controls to Reduce Fraud, Waste, and Abuse

What We Found

We identified three EPA initiatives related to Superfund contracting controls:

- Contracts 2010 Strategy
- Office of Acquisition Management's Performance Measurement and Management Program
- Recovery Act Stewardship Plan

In addition to the above initiatives, EPA has other contract internal controls in place. EPA describes its contracting internal controls in documents such as the Contracts Management Manual, EPA Acquisition Handbook, EPA Acquisition Regulation, and IA Desk Manual. EPA evaluates implementation of internal controls through Office of Management and Budget Circular A-123 reviews.

As required by the Committees, we identified 20 OIG audit reports issued to EPA since fiscal year 2005 with recommendations related to Superfund contracting controls. A full listing of those recommendations and EPA's corrective actions are provided in appendix A. Some of the corrective actions implemented by EPA as a result of our recommendations include:

- EPA began verifying the timeliness of contractor performance evaluations by contracting officers and revised the EPA Acquisition Handbook.
- EPA developed a process to ensure adjustment vouchers and monies owed to EPA are tracked until receipt.
- EPA revised internal guidance to require a cost-benefit analysis be conducted prior to awarding a Cost-Plus-Award-Fee contract.

We noted that one audit report did not have two recommendations entered in the Agency tracking system, nor were the corrective actions to address the recommendations entered in the system.

We also identified five ongoing OIG audits and two audit projects planned to begin in fiscal year 2012 that impact Superfund contracting controls or EPA contracting controls in general.



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

THE INSPECTOR GENERAL

March 16, 2012

MEMORANDUM

SUBJECT: EPA Superfund Contract Initiatives and Controls to Reduce
Fraud, Waste, and Abuse
Report No. 12-P-0360

FROM: Arthur A. Elkins, Jr.
Inspector General

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

TO: Mathy Stanislaus
Assistant Administrator for Solid Waste and Emergency Response

Craig E. Hooks
Assistant Administrator for Administration and Resources Management

This is a final report by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). We conducted the assignment based on a requirement from the House and Senate Committees on Appropriations. The committees required the OIG to report on EPA's implementation of OIG recommendations, as well as current efforts, to strengthen Superfund contracting controls to prevent waste, fraud, and abuse. We do not make any recommendations in this report, and you are not required to respond to this report.

If you or your staff have any questions regarding this report, please contact Melissa Heist, Assistant Inspector General for Audit, at (202) 566-0899 or heist.melissa@epa.gov; or Janet Kasper at (312) 886-3059 or kasper.janet@epa.gov.

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Chapter 1

Introduction

Purpose

The U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) conducted this congressionally required review to report to the House and Senate Committees on Appropriations the Agency's current efforts to strengthen Superfund contracting controls to prevent future waste, fraud, and abuse.

Background

On July 19, 2011, the House Committee on Appropriations submitted report 112-151, to accompany House of Representatives (H.R.) 2584. The Committee submitted the report in explanation of the accompanying bill that made appropriations for the Department of the Interior, EPA, and related agencies for the fiscal year (FY) ending September 30, 2012. The bill provides regular annual appropriations for EPA and other federal agencies.

The report commended EPA for proactively identifying methods to reduce contract costs and urged EPA to continue to identify contract efficiencies so that more funds could be spent on site remediation and cleanup. However, the report also highlighted the Committee's concerns about whether EPA's controls for Superfund contracts are sufficient given OIG findings of criminal activity and kickbacks at the Federal Creosote site in New Jersey. In the 1990s, creosote was discovered under a residential neighborhood in Manville, New Jersey. Creosote, a mixture of chemicals used to preserve wood products, such as railroad ties, was found by EPA to include chemicals that may cause cancer. As of May 2009, construction of EPA's remedies for the site had been completed with total site costs equaling almost \$340 million. However, a joint investigation by Department of Justice Antitrust Division's New York Field Office, the Internal Revenue Service Criminal Investigation, and the EPA OIG uncovered criminal activity at the site. Criminal activities included fictitious bids, kickbacks, and inflation of invoices.

The Committee's report stated that the OIG should report to the Committee within 90 days of enactment of the Consolidated Appropriations Act, 2012, concerning EPA's implementation of OIG recommendations, including ongoing efforts to tighten contracting controls. The Joint Statement of Managers report, as part of H.R. 2055, directed the OIG to report to the House Committee on Appropriations, within 90 days of enactment of the Act, on current Agency efforts to strengthen Superfund contracting controls to prevent future waste, fraud, and abuse. The Act was passed on December 23, 2011.

Congress enacted the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, commonly referred to as Superfund, to address threats to human health or the environment. The Superfund program uses a variety of contracting methods. In FY 2010, EPA had more than 100 active Superfund class contracts in place, and obligated \$413 million to contracts. As such, it is vital that controls are in place to prevent fraud, waste, and abuse. The program also uses interagency agreements (IAs) with other federal agencies, notably the U.S. Army Corps of Engineers (USACE), and cooperative agreements with state governments, to obtain needed services. In FY 2010, EPA obligated \$244 to USACE. For the Federal Creosote site, EPA used an IA with the USACE to clean up the site.

Scope and Methodology

Due to our limited scope and purpose, as well as the limited time to perform the work, we did not conduct our work in accordance with all generally accepted government auditing standards issued by the Comptroller General of the United States. Specifically, we did not evaluate the effectiveness of management controls, determine compliance with laws and regulations, or develop findings and recommendations. Further, we did not thoroughly assess the validity and reliability of data obtained from the Agency's Management Audit Tracking System (MATS). Our primary source for determining the status of the Agency's corrective actions taken as a result of prior OIG reports was MATS.

EPA uses MATS to track audit information Agency-wide. EPA Manual 2750 requires the Agency to enter data in the tracking system, such as management decision dates and final action dates. The manual defines resolution as an approved management decision and states that a management decision must address each of the findings or recommendations in a report. Final action, as defined in EPA Manual 2750, is the completion and documentation of all actions specified in the management decision. For the Agency to consider an audit closed, there must be a management decision that addresses the audit's recommendations, and all corrective actions identified in the management decision must be implemented.

To gather information regarding current Agency efforts to strengthen Superfund contracting controls to prevent future waste, fraud, and abuse, we interviewed EPA managers in the Office of Acquisition Management (OAM) within the Office of Administration and Resources Management, the Office of Solid Waste and Emergency Response, the Office of the Chief Financial Officer, and Region 10.

To compile a listing of related recommendations and corrective actions, we reviewed OIG-issued audit reports from FY 2007 forward to identify recommendations that either directly or indirectly related to Superfund contract controls. For those recommendations, we reviewed MATS to identify the status of

the Agency's corrective actions. We also included one audit from FY 2005 that covered Remedial Action Contracts (RAC) because the recommendations in that audit are being followed up on in a current OIG audit.

To compile the current ongoing reviews related to Superfund contracting controls, we reviewed OIG management systems to identify objectives and reviews that could possibly pertain to the subject. We then contacted OIG managers to verify whether the assignments identified were related to Superfund contracting controls. To determine future audits related to Superfund contracting controls, we reviewed the OIG 2012 annual plan and spoke with OIG managers to ensure that all applicable future work related to the subject was identified.

Chapter 2

Current EPA Initiatives Related to Superfund Contract Controls

We identified three current EPA initiatives related to strengthening Superfund contracting controls:

- Contracts 2010 Strategy
- OAM's Performance Measurement and Management Program
- Recovery Act Stewardship Plan

In addition to the above initiatives, EPA has other contract internal controls in place. EPA describes its contracting internal controls in documents such as the Contracts Management Manual (CMM), EPA Acquisition Handbook, EPA Acquisition Regulation (EPAAR), and IA Desk Manual. EPA evaluates implementation of internal controls through Office of Management and Budget (OMB) A-123 reviews.

Current Initiatives

Contracts 2010 Strategy

Reforming contracting is one of the six performance management strategies included in the Obama administration's Accountable Government Initiative. OMB has placed great emphasis on reforming contracting to reduce costs and risks and get better results. EPA, like other federal agencies, is tasked with examining and reporting its efforts in reducing non-competitive procurements, reducing/mitigating high-risk contracting, and finding efficiencies to save costs.

EPA's Contracts 2010 Strategy, dated May 24, 2011, sets the framework for acquisitions in support of Superfund program activities for the next 10 years. The 2010 strategy contains seven goals, incorporating those highlighted in the previous Contracts 2000 Strategy and adding others that reflect new program directions and heightened government-wide concerns for efficiency and procurement process improvements. The following seven goals of the Contracts 2010 Strategy are to guide the development and implementation of the next round of Superfund acquisitions:

1. Balance national consistency with local flexibility
2. Ensure that there is appropriate competition in the contracting process
3. Increase participation of all socio-economic concerns in the Superfund contracting program
4. Implement green policies and procedures

5. Identify and implement opportunities and initiatives for process and cost efficiencies
6. Identify the full range of vehicles or instruments available for obtaining services for the Superfund cleanup programs
7. Mitigate high-risk contracting practices.

Of those seven goals, goals 2, 5, and 7 most represent Agency initiatives to strengthen contracting controls:

- **Ensuring appropriate competition.** The intended result of this goal is to achieve an increased level of awareness concerning competition in the contracting process. Contract placement actions should always consider competition. Although in some instances contract competition may not be the best use of Agency resources, sole-source contracting is a special occurrence and must be well documented with the appropriate rationale.
- **Implementing process and cost efficiencies.** The strategy states that one approach is to explore and assess whether appropriate tools are evaluated and implemented, particularly the use of multiple awards, fixed price contracts, and fixed price components of contracts.
- **Mitigating high-risk contracting.** High-risk contracts, as defined by the OMB, are contracts that were awarded without competition or contracts awarded from a solicitation that received only a single bid; cost reimbursement contracts; or time and material type contracts. In July 2009, OMB directed federal agencies to assess their current contract inventory of high-risk contracts and strive to mitigate high-risk contracting practices. The Agency has been working with OMB and its acquisition community to reach its mandated goal of reducing the number of high-risk contracts. When the use of high-risk contracts is deemed necessary and appropriate, the Agency is to take steps to recognize and manage the risks.

The next step is to develop a detailed plan to identify additional analysis needed for strategy implementation and measures to monitor progress in meeting goals of the Contracts 2010 Strategy. EPA is currently developing an implementation strategy.

OAM's Performance Measurement and Management Program

OAM is implementing the Performance Measurement and Management Program. Further, in late 2011, OAM began implementing the related Balanced Scorecard, which is a functional component of the program. The purpose of the program is to establish a framework under which OAM may ensure that business systems adhere to OAM's mission and vision, and strategy statements follow best business management practices and comply with applicable statutes, regulations, and contract terms and conditions. Under the Balanced Scorecard the Agency

establishes performance objectives and measures, assigns targets, and takes measurements. Formal documented self-assessments and peer reviews are the principal data generating and gathering source. Staff report on the status of performance to management and the customer; the feedback cycle then drives improvement actions as appropriate.

According to the draft Concept of Operations for the Performance Measurement and Management Program, having efficient and effective business processes associated with successfully acquiring goods and services is critical to accomplishing agency mission and goals while simultaneously complying with many rules, regulations, and policies. Internal controls are necessary to protect the integrity of federal acquisition programs in a way that ensures the Agency meets its fiduciary responsibilities to the public, conducts its business fairly, and employs consistent and transparent practices. To assure internal and external stakeholders—such as the EPA Administrator, Congress, OMB officials, and the public—that these principles are robustly integrated into the EPA Acquisition System, it is critical that the Agency has an effective Performance Measurement and Management Program. The accomplishment of this initiative recognizes the nexus between the Agency’s existing quality assurance program; OMB Circular A-123, *Management of Internal Controls*; and the implementation of best business practices.

EPA’s senior procurement executive is responsible for establishing an effective acquisition management system that ensures that quality goods and services are obtained at reasonable prices, in a timely fashion, and in accordance with the statutory and regulatory requirements and the programmatic needs of the Agency. To assist in accomplishing this responsibility, the Balanced Scorecard provides the methodology for assessing performance of the EPA’s procurement offices, and includes a compliance review component. This component focuses on the organization’s ability to comply with system requirements, including laws, regulations, terms and conditions of contracts, ethical standards, and good business management practices, as appropriate.

Recovery Act Stewardship Plan

For IAs and contracts funded by the American Recovery and Reinvestment Act of 2009, the main control or strategy EPA uses to monitor and mitigate risk in the implementation is the Recovery Act Stewardship Plan. Under the plan, EPA assessed the risk to management and oversight of Recovery Act funds and identified the controls the Agency needed to reduce the risk of fraud, waste, and abuse. EPA’s Recovery Act Steering Committee charged the Recovery Act Internal Controls Workgroup with monitoring the control activities identified in the stewardship plan. The Agency reports the results of this monitoring quarterly. In addition, with the help of a consultant, the Office of the Chief Financial Officer performed a statistical review of the stewardship plan to enhance all of the monitoring efforts to prevent fraud related to Recovery Act funds.

Internal Controls Related to Superfund Contracting

In addition to the above initiatives, EPA has other contract internal controls in place. EPA describes its contracting internal controls in documents such as the CMM, EPA Acquisition Handbook, EPAAR, and IA Desk Manual. EPA evaluates implementation of internal controls through OMB Circular A-123 reviews.

Contracts Management Manual

The CMM contains important contracting controls that apply to all Agency contracts, including Superfund contracts. These internal controls help to ensure prevention of fraud, waste, and abuse, and include the following control areas:

- **Contracting Officer Warrant Program (Section 1.2).** Establishes specific education, training, and experience standards for Agency employees who are authorized to contract for supplies and services on behalf of the Agency.
- **Oversight of Acquisition Functions (Section 1.2.5.8).** Describes provisions for adequate separation of acquisition functions to avoid potential conflicts of interest; standards for management accountability to ensure prevention of fraud, waste, and abuse; and quality assessment plan compliance reviews.
- **Procedures for Documenting and Handling Organizational Conflicts of Interest (Sections 9.1 and 9.2).** Provides guidance on procedures for documenting organizational conflicts of interest decisions that occur prior to contract award, and handling organizational conflicts of interest issues that arise after contract award.
- **Statements of Work (Section 11.1).** Conveys to contracting personnel the fundamental principles of how to prepare a statement of work, defined as the written description of the contractual requirement for supplies or services, and covers the importance of the statement of work and contract types.
- **Invoice Review Process (Section 11.2).** Describes responsibilities, procedures, and instructions for the processing of contract invoices; stipulates the policy to review contract invoices thoroughly for cost reasonableness; and includes roles of the different parties in reviewing contract invoices, along with checklists to be used for invoice review. These controls ensure that costs are allowable, allocable, and reasonable.
- **Subcontracting Policies and Procedures (Chapter 44).** Stipulates required practices concerning subcontracts.

EPA Acquisition Handbook

In addition to the contracting internal controls described in the CMM, the EPA Acquisition Handbook also describes important contracting controls that apply to all Agency contracts, including:

- **Training and Certification (Section 1.1).** Provides information and guidance on federally mandated education, training, and experience requirements for employees in the acquisition workforce.
- **Reviews, Concurrences, and Checklists (Section 4.1).** Lists the required reviews, concurrences, and approvals in connection with the acquisition process.
- **Cost Advisory Functions (Section 31.1).** Identifies price negotiation procedures that apply to actions requiring a cost analysis.
- **Protests and Contract Performance (Section 33.2).** Provides guidance to improve the quality of Agency determination and findings, and required division director approval when a protest is filed.
- **Contract Management (Section 42.2).** Identifies reporting requirements to ensure that proper contract administration is being performed.
- **Tracking Contractor Billings (Section 42.3).** Ensures that Contracting Officers (COs) take appropriate steps to track contractor billings under cost reimbursement and fixed-rate contracts.

EPAAR

The EPAAR, which supplements the Federal Acquisition Regulation (FAR), includes guidance and policy ranging from competition requirements to contract type. Subpart 1503.5, Contractor Responsibility To Avoid Improper Business Practices, details the management controls that must be in place and that the contractor must abide by.

IA Desk Manual

The IA Desk Manual is one of the documents that contains the basic controls in place for Superfund IAs with the USACE. The manual includes IA processing instructions, which incorporate EPA Project Officer (PO) and Remedial Project Manager (RPM) duties. The EPA PO provides overall management and direction over the IA. The PO provides advice and guidance to the prospective users of the IA, authorizes assignments under the IA, and maintains management control systems in order to know the financial and performance status of the activities under the IA. The assignments under the IA are initiated using a work

authorization form. The RPM, On-Scene Coordinator, or other Superfund staff member is responsible for overseeing the project's activities and expenditures. The oversight is completed through regular briefings with the USACE, review of USACE monthly reports and payment requests, and the resolving of any payment disputes.

The USACE Special Terms and Conditions section of the IA Desk Manual states that the USACE agrees to meet the site-specific financial management and recordkeeping responsibilities in EPA's *Superfund Financial Management and Recordkeeping Guidance for Federal Agencies*. The Special Terms and Conditions section covers various control activities applicable to all IAs with the USACE, including:

- cost documentation requirements
- reporting requirements
- cost recovery
- cost collection upon cancellation
- record retention requirements
- audits
- final inspection and certification
- financial close-out
- procurement
- equipment disposition
- minority business utilization
- project specific conditions
- resolution of disagreements
- quality assurance

The IA Desk Manual states that IA post award monitoring is to be conducted at least once every 12 months. POs are responsible for programmatic reviews, and IA specialists are responsible for administrative reviews. The review questions cover timely submittal of reports, compliance with terms and conditions, drawdowns, review of billing, appropriateness of time and funding for completion of the project, and unliquidated obligations.

OMB Circular A-123 Reviews

For IAs, the main processes used to ensure effective implementation of internal controls are the OMB Circular A-123 reviews and self-assessment reviews. The latest A-123 audit reviewed a random IA sample, and the areas reviewed included ensuring that the completed IA checklist was in the file, proper documentation was in the file, the PO was certified, and programmatic and administrative baseline reviews were completed as necessary. The results indicated that exceptions were insignificant and corrective action was minimal.

The Shared Service Center responsible for IAs conducts self-assessments by reviewing a statistically valid representative sample of IAs processed to verify sustained compliance with applicable regulations, policies, and procedures. The goals of the assessments are that over time there is a reduction in the number of findings, increased compliance and consistency, and increased standardization of business practices. The latest IA self-assessment was conducted in conjunction with the A-123 audit. The purpose of the self-assessment was to review a select number of IAs to assess the efficiency of certain aspects of the IA administrative procedural process. The self-assessments covered four areas: (1) statutory authority; (2) terms and conditions; (3) file content; and (4) close-out. The self-assessment results included several positive observations, as well as findings resulting in recommendations for follow-up.

As with IAs, OAM also uses the A-123 reviews to ensure effective implementation of internal controls for contracts. The Agency's latest assurance letter covering contracts management stated that the Agency's acquisition functions are being performed in an effective and efficient manner. An entity level acquisition assessment recommended that EPA: (1) create formal methods to assess how well training programs are meeting the needs of the acquisition workforce, (2) establish a formal process for the collection and analysis of human capital data for the consideration of human capital decisions in relation to the acquisition workforce, and (3) reassess the performance evaluation system to align individual activities with organizational goals. Those findings are being addressed by OAM workgroups and are included in OAM's program review strategy.

Chapter 3

Past Recommendations and Agency Corrective Actions

We identified 20 OIG audit reports issued to EPA with recommendations related to Superfund contract or IA controls. Of these reports, 19 were issued between FY 2007 and the present; the remaining report, issued in FY 2005, was included because it is the basis for another relevant audit currently underway. Comprehensive summaries of the 20 audit reports issued to EPA, including the recommendations and corrective actions, are in appendix A.

For 15 of the 20 audits, MATS indicated that all corrective actions intended to address each report's recommendations were implemented. For the remaining five audits:

- Two of the recommendations and the related corrective actions were not entered in MATS for audit report 2005-P-00001 (appendix A, pages 17–19). This audit report is the subject of another audit currently underway and we anticipate issuing those findings in FY 2013.
- Audit report 11-P-0362 is still active and the corrective actions for that report are expected to be completed in November 2012 (appendix A, page 45).
- The remaining three audit reports were recently issued, in FY 2012, and the corrective actions are to be implemented after a management decision is approved. Those audit reports are 12-4-0295, 12-P-0311, and 12-P-0320 (appendix A, pages 46–48).

Many of the audit report recommendations required actions to strengthen key internal controls, such as EPA's CMM and Acquisition Handbook, as well as IA documentation. Some of the corrective actions that EPA implemented as a result of our recommendations were:

- EPA established mechanisms to distribute the financial monitoring review (FMR) reports to COs and POs impacted by the reviews.
- EPA evaluated the resources used to manage contracts for remedial cleanup of Superfund sites. The report contained recommendations for the Agency to consider during the Contracts 2010 implementation phase.
- EPA issued guidance requiring stronger cost-effectiveness justifications in IA decision memorandums submitted by program offices.

- EPA began verifying the timeliness of contractor performance evaluations by COs and revised the EPA Acquisition Handbook to incorporate contractor past performance evaluation reviews as an oversight activity.
- EPA developed a process to ensure adjustment vouchers and monies owed to EPA are tracked until receipt.
- EPA revised internal guidance, such as the CMM, to require a cost-benefit analysis be conducted prior to awarding a Cost-Plus-Award-Fee contract and to require work assignment managers, POs, COs, and Performance Evaluation Board members to explicitly document the basis for award-fee decisions.

Chapter 4

OIG Audits Currently Being Conducted and Future Plans

The FY 2012 OIG annual plan identifies mandated and selected assignment topics continuing from FY 2011 and assignments scheduled to commence during FY 2012. Currently, there are five ongoing audits and two planned audits for FY 2012 that are related to Superfund contracting controls.

Audits Currently Underway

We identified five ongoing audits that are related to Superfund contracting controls or impact contracting controls in general. Table 1 notes the audits and the objectives for each.

Table 1: Ongoing OIG Audits

Audit Title	Objectives
Superfund Remedial Action Contracts	<ul style="list-style-type: none"> • Has EPA implemented the recommendations from the December 2004 OIG audit <i>Response Action Contracts: Structure and Administration Need Improvement</i>, and has it resulted in an increase in the use of fixed price contracting? • Has fixed price contracting achieved the anticipated cost savings or other benefits associated with fixed price contracting vehicles?
EPA Efforts in Response to the President's Savings Initiative	Determine whether: <ul style="list-style-type: none"> • EPA's efforts to identify and realize savings have been effective. • EPA savings reported to the Office of Administration and Resources Management were accurate and complete.
Controls over Time and Materials Contracts	Determine whether: <ul style="list-style-type: none"> • EPA process/procedures require verification that the contractor personnel have the qualifications/credentials specified in the contract. • Assess whether the implementation of that process is effective. • Determine if EPA received the level of services that it paid for.
Review of EPA's Regional Contract Management (Time and Materials) (EPA Regional Contract EPS90804)	Determine whether: <ul style="list-style-type: none"> • The EPA contract review process requires verification that the contractor personnel have the qualifications/credentials specified in the contract. • EPA received the level of services that it paid for.
American Recovery and Reinvestment Act Site Visit of Diversion Ditch Repair Project at the Gilt Edge Mine Superfund Site	Determine whether: <ul style="list-style-type: none"> • The contractor and its subcontractors complied with selected requirements under the American Recovery and Reinvestment Act of 2009 • The contractor's procurement of its subcontractor complied with federal requirements.

Source: OIG analysis

Planned OIG Audits for Fiscal Year 2012

We identified two planned audit projects that are related to Superfund contracting controls or impact contracting controls in general. Table 2 notes the audit projects and the objectives for each.

Table 2: Planned OIG Audits

Audit Title	Objectives
Unliquidated Obligations for Grants and Interagency Agreements	<ul style="list-style-type: none">• Did the EPA office complete its review of unliquidated obligations as required in FY 2011?• Was there adequate documentation to support the decision to retain obligated amounts?
Audits of Superfund Contractors	The objectives of the audits will include determining whether contractors complied with selected federal requirements.

Source: OIG analysis

Summary of Recommendations and Corrective Actions Implemented

Our primary source for determining the status of the Agency's corrective actions taken as a result of prior OIG reports was MATS. As noted in chapter 1, EPA Manual 2750 requires the Agency to enter information on the status of corrective actions into MATS. EPA staff are responsible for the information in MATS. We did not thoroughly assess the validity and reliability of the data obtained from MATS. Below is a listing of all the applicable prior reports; summaries of each report follow. In the summaries, the "Final Action Date" is the date that all corrective actions were implemented. In some cases the recommendations have been modified from the original report so that abbreviations are consistent throughout this report.

Report Title	Report No.	Date Issued	Summary Page No.
Response Action Contracts: Structure and Administration Need Improvement	2005-P-00001	December 6, 2004	17
Interagency Agreements to Use Other Agencies' Contracts Need Additional Oversight	2007-P-00011	March 27, 2007	20
EPA Can Improve Its Managing of Superfund Interagency Agreements with U.S. Army Corps of Engineers	2007-P-00021	April 30, 2007	22
EPA Should Further Limit Use of Cost-Plus-Award-Fee Contracts	08-P-0093	February 26, 2008	24
Over-Billed Labor Charges on START Contract No. EP-S3-05-02, Tetra Tech EM, Incorporated, Boothwyn, Pennsylvania	08-4-0154	May 19, 2008	26
EPA Can Improve the Awarding of Noncompetitive Contracts	08-P-0186	June 30, 2008	27
EPA Should Strengthen Internal Controls over Interagency Agreement Unliquidated Obligations	09-P-0086	January 26, 2009	29
Over-Billed Base Year Labor Charges on START Contract No. EP-S3-05-02, Tetra Tech EM, Incorporated Boothwyn, Pennsylvania	09-4-0135	April 3, 2009	32
EPA Should Stop Providing Estimates of Total Labor Hours to Contractors	09-P-0229	September 9, 2009	33
Contractor Invoice Internal Controls Need Improvement	09-P-0242	September 23, 2009	34
EPA Needs to Improve Cost Controls for Equipment Used during Emergencies	10-P-0047	December 16, 2009	36
EPA Can Improve Its Preparation and Use of Independent Government Cost Estimates for Superfund Contracts	10-P-0065	February 16, 2010	38
EPA Does Not Always Receive Adjustment Vouchers from Contractors	10-P-0075	March 8, 2010	40

Report Title	Report No.	Date Issued	Summary Page No.
EPA Should Improve Its Contractor Performance Evaluation Process for Contractors Receiving Recovery Act Funds	10-R-0113	April 26, 2010	42
EPA's Terms and Conditions as Well as Process to Award Recovery Act Interagency Agreements Need Improvement	11-R-0016	November 16, 2010	43
EPA Can Improve the Use of Financial Monitoring Reviews for Recovery Act Superfund Contracts	11-R-0081	January 31, 2011	44
EPA Needs to Reexamine How It Defines Payment Its Recapture Audit Program	11-P-0362	July 19, 2011	45
Agreed-Upon Procedures Applied to Equipment Rate Proposals Submitted Under EPA Contract EP-S9-11-01 by SFS Chemical Safety, Inc., Emeryville, California	12-4-0295	February 27, 2012	46
EPA Can Improve Its Improper Payments Reporting	12-P-0311	March 1, 2012	47
Policies Needed for Proper Use and Management of Cost-Reimbursement Contracts Based on Duncan Hunter Act	12-P-0320	March 6, 2012	48

Report Title: Response Action Contracts: Structure and Administration Need Improvement
Report Number: 2005-P-00001
Date Issued: December 6, 2004
Final Action Date: June 20, 2007
Link: <http://www.epa.gov/oig/reports/2005/20041206-2005-P-00001.pdf>

Recommendations

We recommended that EPA:

- 2-1. Develop and implement a plan with milestones for RAC II which:
 - a) increases use of Indefinite Delivery/Indefinite Quantity, task order, and site specific contracts
 - b) increases the use of separate contracting for design, construction, and other remedial services
- 2-2. Conduct a lessons learned analysis of the new Indefinite Delivery/Indefinite Quantity contracts as soon as sufficient data is available and develop a plan to share and utilize the results of the analysis.
- 2-3. Stop funding RACs in excess of identified needs.
- 2-4. Review and revise the recertification policy so as to remove it as an impediment to utilization of better contract types. The policy should reflect a balance between the need to return funds to Headquarters for redistribution to where the most pressing needs are identified, and the degree of flexibility Headquarters is willing to grant to the regions to move funds between sites as they now do with work assignments.
- 3-1. Issue clarifying guidance on “Superfund Policy for Assigning Remedial Work to USACE” requiring that:
 - a) Past performance of USACE be considered in source selection
 - b) The rationale for all source selection decisions be documented
- 3-2. Develop and implement a plan to evaluate USACE performance and share this information nationwide.
- 4-1. Provide National Institute of Health Contractor Performance System training to applicable regional and headquarters staff.

- 4-2. Develop a method for holding COs accountable for documenting evaluations of contractor performance in the National Institute of Health Contractor Performance System timely and consistently.
- 5-1. Complete the proposed cost benefit analysis to determine whether the Remedial Action Contract Management Information System should be retained or other more cost effective methods should be used to collect RAC financial data.
- 5-2. If EPA decides to continue using the Remedial Action Contract Management Information System, develop and implement a strategy to improve regional utilization of the system (or its replacement system if so decided), and require that financial information be collected for all RACs.

Corrective Actions

- 2-1. EPA did not enter this recommendation or address the corrective action for it in MATS. The OIG is currently following up on this recommendation in an ongoing audit. We anticipate completing the audit in FY 2013.
- 2-2. EPA stated that it plans to include the lessons learned as a standing agenda topic on monthly conference calls with POs and COs and again at their annual Superfund Senior Regional Management and Acquisition Council conference. There was no date entered in the corrective action field in MATS.
- 2-3. EPA agreed to evaluate each region's funding and, if necessary, meet with the regions to discuss the findings of their evaluation. Corrective action was completed on April 30, 2005.
- 2-4. EPA agreed to review and clarify the funds recertification policy to describe how this policy applies to Indefinite Delivery/Indefinite Quantity type contracts. Corrective action was completed on June 20, 2007.
- 3-1. EPA agreed to review how each region documents its decision as part of the Superfund Contracts Regional Review Program. EPA agreed to share the results of these reviews and, as a result of the findings, revise or reissue the guidance to address any recommended adjustments to documentation. Corrective action was completed on November 14, 2006.
- 3-2. EPA stated an electronic form and a nationwide database were being developed that would facilitate the assessment of USACE project management and the performance of USACE contractor work for all actively managed projects by USACE. Corrective action was completed on December 1, 2005.
- 4-1. EPA stated it will continue to provide training on the National Institute of Health Contractor Performance System at various contract forums. Corrective action was completed on July 13, 2005.

- 4-2. EPA did not enter this recommendation or address the corrective action for it in MATS. The OIG is currently following up on this recommendation as part of an ongoing audit. We anticipate completing the audit in FY 2013.¹
- 5-1. EPA agreed to complete the proposed cost benefit analysis to determine whether the Remedial Action Contract Management Information System should be retained or if other methods should be used to collect RAC financial data. Corrective action was completed on May 17, 2005.
- 5-2. EPA stated that if the decision at the July Superfund Senior Regional Management and Acquisition Council conference is to continue to utilize the Remedial Action Contract Management Information System, a strategy for its implementation will be developed. Corrective action was completed on January 26, 2006.

¹ A similar recommendation was made in report no. 10-R-0113 and MATS indicates that the corrective action is completed.

Report Title: Interagency Agreements to Use Other Agencies' Contracts Need Additional Oversight
Report Number: 2007-P-00011
Date Issued: March 27, 2007
Final Action Date: May 10, 2010
Link: <http://www.epa.gov/oig/reports/2007/20070327-2007-P-00011.pdf>

Recommendations

We recommended that EPA:

1. Provide guidance to POs for developing independent government cost estimates (IGCEs) or other appropriate cost information, as well as cost reasonableness assessments. These assessments should include an analysis of the fees paid to servicing agencies.
2. Ensure the Grants Administration Division requires that the IA decision memorandum better explains why an IA is more cost effective, and include an evaluation of cost reasonableness assessments in the Grant Administration Division's oversight reviews of IA management.
3. Provide guidance to POs for identifying alternatives to the contracting vehicle selected. OAM's CMM addresses market research and should be consulted for guidance.
4. Strengthen the existing training to include how to develop IGCEs or other appropriate cost information, conducting cost reasonableness assessments, and identifying alternatives.
5. Work with program officials to ensure that PO performance standards reflect their responsibilities for managing interagency contracts.
6. Review EPA interagency contracts with Federally Funded Research and Development Centers to ensure they were appropriately awarded and develop guidance for program offices when considering an interagency contract with these centers.
7. Emphasize to program offices the importance of maintaining a complete file, and providing a copy to the successor PO as required by the recently published EPA Order regarding IAs.

Corrective Actions

1. EPA stated it provided POs with initial guidance and training on how to develop IGCEs and cost reasonableness assessments for IAs that require cost-related determinations (e.g., Economy Act IAs). Corrective action was completed on June 1, 2007.
2. EPA stated that, after consultation with the Agency's Grants Management Council, it will issue guidance requiring stronger cost effectiveness justifications in IA decision

memorandums submitted by program offices. EPA also stated it is enhancing the decision memo to require that the programs provide stronger justifications and documentation. Additionally, EPA stated it would conduct a comprehensive program review of IAs in FY 2008 and share the results with OIG. Corrective action was completed on May 10, 2010.

3. EPA agreed to issue guidance requiring program offices to document in their decision memorandum that they have consulted with the appropriate EPA contracting office and that there is no viable existing Agency contract vehicle that can be used for the work. Corrective action was taken on January 1, 2008.
4. EPA made interim changes to its PO training program. Corrective action was completed on September 9, 2008.
5. EPA stated it would work with senior resource officials to ensure that IA responsibilities are referenced, as appropriate, in PO performance agreements as part of the 2008 Performance Assessment Rating System process. Corrective action was completed on January 1, 2008.
6. EPA agreed to conduct the necessary review, and should the review determine that additional guidance beyond that contained in the FAR is required, it would update its IA guidance accordingly. Corrective action was completed on September 20, 2007.
7. EPA stated it continues to emphasize the importance of this requirement in its PO training on EPA Order 1610 and considers this corrective action to be ongoing. Corrective action was completed on March 31, 2007.

Report Title: EPA Can Improve Its Managing of Superfund Interagency Agreements with U.S. Army Corps of Engineers
Report Number: 2007-P-00021
Date Issued: April 30, 2007
Final Action Date: April 3, 2008
Link: <http://www.epa.gov/oig/reports/2007/20070430-2007-P-00021.pdf>

Recommendations

We recommended that EPA:

- 2-1. Require that regional offices develop an EPA independent cost estimate for USACE's oversight of IAs.
- 2-2. Require that regional offices conduct a cost analysis of alternatives when determining whether to award an IA and evaluate the analysis against an EPA-developed cost estimate.
- 2-3. Develop a process for holding regional offices and RPMs accountable for complying with the Office of Solid Waste and Emergency Response's 2003 policy for assigning remedial work, and the Office of Administration and Resources Management's 2002 guidance to document in decision memorandums justifications for IAs based on an analysis of alternatives and EPA-developed cost estimates.
- 3-1. Require USACE to improve the format of its monthly reports so that costs and activities correlate and can be clearly understood. RPMs must be able to determine who in USACE worked on the IA, for how long, the costs charged EPA, and what work was accomplished and remains to be completed.
- 3-2. Use the Intra-governmental Payment and Collection system to reimburse USACE's in-house costs for work accomplished under IAs.
- 3-3. Develop a specific plan for using the \$2.5 million in Management and Support fees held by USACE or require the USACE to refund these fees to EPA, and continue to develop plans on an annual basis to address future fees.
- 3-4. Require future IAs awarded to the USACE to include terms and conditions that will enable RPMs to monitor USACE's cost, quality, and timeliness.
- 3-5. Develop a policy on how and when the feedback reports will be used as an oversight tool to monitor and improve the cost, quality, and timeliness of USACE's performance.

Corrective Actions

- 2-1. EPA agreed to revise and reissue its May 2003 policy on assigning work to USACE. EPA stated it would require regions to prepare an estimate of anticipated USACE full-time equivalent hours/cost, travel, and other direct costs prior to entering into an IA with USACE. Corrective action was completed on April 3, 2008.
- 2-2. EPA agreed to update the May 2003 policy on assigning work to USACE to require regions to document their decisions regarding use of USACE versus other mechanisms. EPA also stated that it will require an estimate of anticipated USACE full-time equivalent hours/cost, travel, and other direct costs be developed before entering into an IA with USACE. Corrective action was completed on April 3, 2008.
- 2-3. EPA agreed to reissue its May 2003 policy on assigning work to USACE and to include the following requirements: (1) regions should document all alternatives to the IA they considered, why the IA mechanism with the USACE was selected, and why estimated USACE staff hours and costs for the proposed work are considered to be reasonable; (2) regions will normally consider several selection factors when making these decisions; (3) regions will document regional management involvement in these decisions; and (4) headquarters will develop a process for holding regional offices and RPMs accountable for complying with the new policy and for monitoring regional adherence to the reissued policy. Corrective action was completed on April 3, 2008.
- 3-1. EPA stated that a joint EPA/USACE workgroup was formed that will further assess issues associated with monthly reports and invoices, areas for improvement, and recommended follow-up actions. Corrective action was completed on April 3, 2008.
- 3-2. EPA agreed to further assess and consider whether to use the Intra-governmental Payment and Collection system to reimburse USACE for payment of staff work accomplished under IAs. Corrective action was completed on April 3, 2008.
- 3-3. EPA stated it has an established plan in place for use of the \$2.5 million in Management and Support fees held by USACE and will update this plan to address expanded technical support activities to be funded with these fees. EPA plans to draw down the remaining Management and Support fees, funding work that would normally be paid for from Superfund's annual budget. Corrective action was completed on October 31, 2007.
- 3-4. EPA stated it would work to review current IAs for terms and conditions relating to EPA monitoring of USACE costs, quality, and timeliness; and consider whether to recommend development of generic Superfund terms and conditions. Corrective action was completed on April 3, 2008.
- 3-5. EPA agreed to develop a plan for how and when the feedback reports will be used as an oversight tool to monitor and improve the cost, quality, and timeliness of USACE performance. Corrective action was completed on April 3, 2008.

Report Title: EPA Should Further Limit Use of Cost-Plus-Award-Fee Contracts
Report Number: 08-P-0093
Date Issued: February 26, 2008
Final Action Date: May 5, 2009
Link: <http://www.epa.gov/oig/reports/2008/20080226-08-P-0093.pdf>

Recommendations

We recommended that EPA:

- 2-1. Revise the CMM to require that:
 - a cost-benefit analysis be conducted prior to awarding a Cost-Plus-Award-Fee contract
 - all Cost-Plus-Award-Fee contracts be approved by the CO's Service Center Manager
- 2-2. Revise CMM to require work assignment managers, POs, COs, and Performance Evaluation Board members to explicitly document the basis for decisions made.
- 3-1. Negotiate with contractors to modify contracts currently providing base fees in excess of the 3-percent limit cited by EPAAR 1526.404-273(b) so that the fees no longer exceed the 3-percent limit.
- 3-2. Communicate the 3 percent base fee limit included in EPAAR to all COs and POs using Cost-Plus-Award-Fee contracts and verify compliance during Headquarters reviews.
- 4-1. Analyze alternatives and determine a way to simplify the base fee calculation for Cost-Plus-Award-Fee contracts.
- 4-2. Require the COs for all current Cost-Plus-Award-Fee contracts to review the self-evaluation requirement and either eliminate the requirement or provide written justification for not eliminating the requirement.
- 4-3. Recover the \$4,801 in overpaid award fees paid to a contractor, or offset this amount against future payments.

Corrective Actions

- 2-1. EPA agreed to revise the CMM to require that each contract file include documentation to show why the particular contract type was selected. When selecting a Cost-Plus-Award-Fee contract the CO must apply adequate analytical measures, such as cost benefit analysis. Corrective action was completed on April 27, 2009.

- 2-2. EPA agreed to revise the CMM chapters related to the use of Cost-Plus-Award-Fee contracts to strengthen the coordination in decision-making and documenting the basis for decisions made. Corrective action was completed on April 27, 2009.
- 3-1. EPA negotiated with contractors to modify contracts providing base fees in excess of the 3 percent limit. Corrective action was completed on May 5, 2009.
- 3-2. EPA issued a Flash Notice which requested that all Agency contracting offices verify through their Quality Assessment Plan process that they are complying with the 3 percent base fee limit for their Cost-Plus-Award-Fee contracts. EPA also stated it would send out reminder verification/compliance request notices on an annual basis. Corrective action was completed on February 6, 2008.
- 4-1. EPA agreed to establish a work group to analyze various alternatives and determine if there is a way to simplify Cost-Plus-Award-Fee base fee calculations. Corrective action was completed on August 19, 2008.
- 4-2. EPA asked its acquisition community, via a Flash Notice, to determine if self evaluations are useful or needed for their particular Cost-Plus-Award-Fee contracts. EPA also stated that COs would document their contract files with their findings and recommendations. Corrective action was completed on March 14, 2008.
- 4-3. EPA recovered \$4,801 from the contractor in overpaid award fees. Corrective action was completed on March 18, 2008.

Report Title: Over-Billed Labor Charges on START Contract No. EP-S3-05-02,
Tetra Tech EM, Incorporated, Boothwyn, Pennsylvania
Report Number: 08-4-0154
Date Issued: May 19, 2008
Final Action Date: January 9, 2009
Link: Due to confidential business information, this report was not made public

Recommendations

We recommended that EPA:

1. Disallow \$203,588 of Option Year 1 Core Emergency Response Team Labor.
2. Disallow \$9,990 of Option Year 2 Core Emergency Response Team Labor.
3. Disallow \$122,948 of Option Year 1 Fixed-Rate Labor.
4. Disallow \$103,832 of Option Year 1 Subcontract Costs.

Corrective Actions

A certification memorandum was signed by the CO disallowing costs. Corrective action was completed on January 9, 2009.

Report Title: EPA Can Improve the Awarding of Noncompetitive Contracts
Report Number: 08-P-0186
Date Issued: June 30, 2008
Final Action Date: April 15, 2009
Link: <http://www.epa.gov/oig/reports/2008/20080630-08-P-0186.pdf>

Recommendations

We recommended that EPA:

- 2-1. Document in the file for each contract that was not approved at the appropriate level the circumstances why the Justification for Other than Full and Open Competition was not approved at the appropriate level and the corrective actions taken. Require the Competition Advocate to review the documentation for those procurements where the Justification for Other than Full and Open Competition required such approval.
- 2-2. Ensure that internal controls designed to identify Justification for Other than Full and Open Competition for sole source procurements over \$550,000 requiring the Competition Advocate's approval are developed and properly implemented.
- 2-3. Revise the Approval Matrix in the Acquisition Handbook to require that contracting staff one level above the CO review and approve all Justification for Other than Full and Open Competitions to ensure they include required elements.
- 2-4. Ensure that Quality Assessment Plans include a review of sole source contracts. Specifically, the Quality Assessment Plans should ensure that the Justification for Other than Full and Open Competition was approved at the appropriate level, that the Justification for Other than Full and Open Competition includes all required elements, and that synopses of proposed sole source contracts are published when necessary and contain all required language.
- 2-5. Publish an OAM Hot Tips newsletter that reminds contracting staff of the approval thresholds for sole source procurements, the importance of using the required checklists and ensuring all applicable fields are completed, and the synopses requirements as set forth in FAR Part 5.
- 3-1. Reinforce the requirement that the contract files for sole source procurements include evidence of market research when necessary.
- 3-2. Include in Quality Assessment Plans a review of the market research conducted and determine the appropriateness of awarding sole source procurements.

Corrective Actions

- 2-1. EPA documented in the contract files the circumstances why the Justification for Other than Full and Open Competition was not approved at the appropriate level. EPA also agreed to have the Agency's Competition Advocate review the documentation. Corrective action was completed on June 30, 2008.
- 2-2. EPA stated that new controls would include a level above the CO to review pre-award documentation to determine if the required signatures have been obtained. Additionally, EPA stated that the Agency's Competition Advocate would develop post-award automated reports to identify contract actions requiring the Agency Competition Advocate's signature. Corrective action was completed on December 18, 2008.
- 2-3. EPA agreed to update the Acquisition Handbook to reflect the level above the CO review. Corrective action was completed on December 18, 2008.
- 2-4. EPA agreed to reinforce to the COs through a Flash Notice that Quality Assessment Plans are to include oversight elements related to sole source contracts. Corrective action was completed on January 31, 2009.
- 2-5. EPA agreed to publish in its Hot Tips newsletter a reminder to COs of the approval thresholds for sole source procurements, the importance of using required checklists, and the synopsis requirements set forth in FAR Part 5. Corrective action was completed on July 31, 2008.
- 3-1. EPA agreed to reinforce, through its Hot Tips newsletter, the requirement that sole source procurements include evidence of market research when necessary, and to include a review of the market research conducted as part of its Quality Assessment Plan. Corrective action was completed on June 25, 2008.
- 3-2. EPA agreed to reinforce the recommendation via Flash Notice and include a review of market research efforts in Quality Assessment Plans. Corrective action was completed on January 31, 2009.

Report Title: EPA Should Strengthen Internal Controls over Interagency Agreement Unliquidated Obligations
Report Number: 09-P-0086
Date Issued: January 26, 2009
Final Action Date: September 30, 2010
Link: <http://www.epa.gov/oig/reports/2009/20090126-09-P-0086.pdf>

Recommendations

We recommended that EPA:

- 2-1. Direct the Grants and Interagency Agreements Management Division and the Grants Management Office to:
 - (a) Work with the POs to prepare decrease amendments to deobligate the remaining \$4.2 million in IA unliquidated obligations identified during our audit and initiate close-out action.
 - (b) Ensure the IAs with \$2.3 million deobligated during the audit are closed out.
- 2-2. Direct the Office of Grants and Debarment to ensure EPA Order 1610 is consistently followed, which includes:
 - (a) Grants Management Offices notifying the PO that the IA is expiring before the project period ends.
 - (b) POs initiating close-out of the project once a project is complete and all applicable costs have been billed or paid.
 - (c) Grants Management Offices initiating close-out of the IA if the PO has not done so after the end of the IA project period.
 - (d) Grants Management Offices sending close-out notices to the other agencies, the PO, and the Cincinnati Finance Center for IAs where the project period end date is greater than 270 days old.
- 2-3. Direct the Office of Grants and Debarment to work with other agencies on developing standard billing practices.
- 2-4. Direct the Office of Grants and Debarment to work with the Grants Management Office and POs to ensure compliance with the existing deobligation and close-out procedures under EPA Order 1610. When other agencies do not respond within 90 days to the decrease amendments, have Grants and Interagency Agreements Management Division/Grants Management Offices send the decrease amendment to the Cincinnati Finance Center and instruct it to deobligate the remaining funds and administratively and financially close out the IAs.

- 2-5. Follow through with program offices to ensure they develop performance measures that are incorporated into PO performance standards which hold the PO accountable for their performance in monitoring and timely closing out IAs.
- 2-6. Ensure the IA data in the Grants Information and Control System and Integrated Grants Management System are reconciled.
- 2-7. Develop procedures that ensure compliance with Office of the Chief Financial Officer Policy Announcement 96-04 and require all POs responsible for managing and closing out IAs to participate in the unliquidated obligation review and determine the validity and necessity of all inactive IAs for current and expired project periods.
- 2-8. Reformat the unliquidated obligation report in order of IA number and require that the Grants and Interagency Agreements Management Division and Grants Management Offices forward the report to the PO of record and his/her supervisor, so a single review of the entire unliquidated obligation amount can be performed.

Corrective Actions

- 2-1. EPA stated it deobligated \$3.5 million of the \$4.2 million of IA unliquidated obligations identified. Additionally, EPA closed out 10 of the 14 agreements, as well as all of the IAs with the \$2.3 million that were deobligated. EPA stated it would continue to work with the responsible project offices and other agencies to deobligate the remaining balances and to close out those agreements as soon as possible. Corrective action was completed on August 12, 2010.
- 2-2. EPA instituted a new system that will notify POs when an IA is due to expire in 60 days. EPA also stated the Agency would adopt measures to help ensure compliance with EPA Order 1610 through the implementation of the new Interagency Shared Service Center. EPA stated that the Interagency Shared Service Center would provide centralized cradle-to-grave IA administration. Corrective action was completed on March 20, 2009.
- 2-3. EPA agreed to develop IA Policy for billing practices. Corrective action was completed on June 30, 2009.
- 2-4. EPA agreed to ensure compliance with EPA Order 1610 as part of the Interagency Shared Service Center comprehensive assessments and performance review process. Corrective action was completed on May 30, 2009.
- 2-5. EPA agreed to develop PO performance standards that include measures for holding POs accountable for timely monitoring and closing out IAs. Corrective action was completed on September 15, 2009.
- 2-6. EPA stated it completed a reconciliation of IA close-out data between the Grants Information and Control System and the Integrated Grants Management System. EPA

also agreed to complete a comparison of additional data elements between the Grants Information and Control System and the Integrated Grants Management System records to identify further mismatches in the data. Corrective action was completed on June 30, 2009.

2-7. EPA agreed to issue a memorandum regarding guidance for conducting A-123 internal reviews of unliquidated obligations. EPA also agreed to incorporate Policy Announcement 96-04, requiring all program offices to conduct annual unliquidated obligation reviews into the Resource Management Directive System. Corrective action was completed on August 31, 2010.

2-8. The Office of the Chief Financial Officer agreed to provide the unliquidated obligations report and assist the Office of Grants and Debarment, as needed, to ensure it has the most useful sort. Corrective action was completed on May 5, 2009.

Report Title: Over-Billed Base Year Labor Charges on START Contract No. EP-S3-05-02, Tetra Tech EM, Incorporated Boothwyn, Pennsylvania
Report Number: 09-4-0135
Date Issued: April 3, 2009
Final Action Date: December 2, 2010
Link: Due to confidential business information, this report was not made public

Recommendations

We recommended that EPA:

1. Disallow \$166,980 of Base Year Core Emergency Response Team Labor.
2. Disallow \$65,491 of Base Year Fixed-Rate Labor.
3. Disallow \$20,618 of Base Year Subcontract Costs.

Corrective Actions

Region 3 negotiated with Tetra Tech concerning the over-billings and obtained a credit of \$163,327 to be applied to a future invoice. Corrective action was completed on December 2, 2010.

Report Title: EPA Should Stop Providing Estimates of Total Labor Hours to Contractors
Report Number: 09-P-0229
Date Issued: September 9, 2009
Final Action Date: September 30, 2010
Link: <http://www.epa.gov/oig/reports/2009/20090909-09-P-0229.pdf>

Recommendations

We recommended that EPA:

1. Revise EPAAR to eliminate the requirement that EPA include total estimated labor hours in work assignments or identify specific circumstances in which the requirement should apply.
2. Communicate to contract management and program staff who prepare and use IGCEs when estimates of total labor hours, or any other cost-related estimates, should not be provided to contractors prior to receiving the contractor's proposal.

Corrective Actions

1. EPA stated it will revise the EPAAR and published the new guidance for immediate implementation and use by contract management and program officials. Corrective action was completed on May 25, 2010.
2. EPA published the new guidance for immediate implementation in a News Flash Notice and briefed the change to COs and program managers at the Superfund Senior Regional Management and Acquisition Council conference. Corrective action was completed on January 13, 2010.

Report Title: Contractor Invoice Internal Controls Need Improvement
Report Number: 09-P-0242
Date Issued: September 23, 2009
Final Action Date: September 2, 2010
Link: <http://www.epa.gov/oig/reports/2009/20090923-09-P-0242.pdf>

Recommendations

We recommended that EPA:

- 2-1. Modify the CMM to require use of the checklist for invoice reviews the Contracting Officer Representatives perform, and to ensure Contracting Officer Representatives receive invoices and supporting documentation to assist their reviews.
- 2-2. Where the progress report and invoice did not cover the same time period, require the contractors identified during this review to revise their progress reports to match the time period of the invoice.
- 2-3. Re-evaluate the assignment of the responsibility for math and rate verifications on contractor invoices and update the CMM accordingly.
- 2-4. Require that the COs, as part of the annual invoice review, make certain that the POs and Contracting Officer Representatives are:
 - a. Implementing changes to the CMM made in response to the audit report.
 - b. Requiring contractors to submit invoices and progress reports with matching periods of performance.
- 3-1. Analyze FMRs to identify findings that are recurring on multiple contracts.
- 3-2. Develop a corrective action for addressing the common findings identified in FMRs.

Corrective Actions

- 2-1. EPA agreed to modify the CMM to better define documentation needs. EPA indicated that the update would include supporting documentation needed from the contractor to assist the Contracting Officer Representatives in invoice reviews and the Contracting Officer Representatives documentation needed to prove that a sufficient invoice review was performed. Corrective action was completed on March 2, 2010.
- 2-2. EPA stated that contractors would be notified via written letter that progress reports must match the time periods of the invoice submitted. EPA also stated that in cases where these requirements are not contained in the contract, those contracts would be modified. Corrective action was completed on December 18, 2009.

- 2-3. EPA stated the CMM is in compliance with statute and modification to the CMM is not appropriate. EPA agreed to prepare a memorandum regarding math and rate verification on contractor invoices. Corrective action was completed on September 2, 2010.
- 2-4. EPA stated that the reviews would be carried out in each CO's annual review of invoices as required by their division's or region's Quality Assessment Plan. EPA also stated that the Quality Assessment Plan would be modified accordingly in EPA's Acquisition Handbook. Corrective action was completed on April 15, 2010.
- 3-1. EPA agreed to carry out an analysis to identify findings that are recurring on multiple contracts. Corrective action was completed on November 30, 2009.
- 3-2. EPA stated that Financial Analysis and Oversight Service Center would disseminate all FMR reports to all EPA COs managing active contracts with the contractor. EPA further stated that the Financial Analysis and Oversight Service Center would present at procurement conferences and contractor forums to remind both government and contractor personnel of their responsibilities and issues requiring attention. Corrective action was completed on December 21, 2009.

Report Title: EPA Needs to Improve Cost Controls for Equipment Used during Emergencies
Report Number: 10-P-0047
Date Issued: December 16, 2009
Final Action Date: March 31, 2010
Link: <http://www.epa.gov/oig/reports/2010/20091216-10-P-0047.pdf>

Recommendations

We recommended that EPA:

- 2-1. Review all equipment charges for responding to Hurricanes Gustav and Ike and identify any items where the usage fees exceeded the average purchase price. For these equipment items, the CO should negotiate maintenance rates for the equipment and then require the contractor to repay any charges in excess of negotiated rates.
- 2-2. Amend the Emergency and Rapid Response Services contract to require the contractor to provide average purchase price information within a specific timeframe.
- 2-3. Develop a system or process to identify and prevent overcharges for contractor-owned equipment for Superfund Technical Assessment and Response Team and emergency logistics contracts. If the Removal Cost Management System is not used, provide policies and procedures for how to track equipment costs.
- 2-4. Modify the Removal Cost Management System so that it tracks equipment charges by contract rather than just task order.
- 3-1. Expand the *Emergency Contracting Procedures* to describe when EPA should convene a control review board, what offices should participate in board meetings, and how long the board should remain active.
- 4-1. Notify the OIG when planned milestones for corrective actions are going to be delayed more than 6 months.

Corrective Actions

- 2-1. EPA agreed to review all equipment charges and use the Removal Cost Management System to compare it against contractor records. Corrective action was completed on January 13, 2010.
- 2-2. EPA Region 6 required contractors to provide average purchase price information in the Removal Cost Management System within 60 working days after the initial award and on each anniversary date of the contract. Corrective action was completed on October 20, 2009.

- 2-3. EPA developed the Removal Cost Management System for use by the Superfund Technical Assessment and Response Team contractors across the country to track equipment usage and costs. Corrective action was completed on December 2, 2010.
- 2-4. EPA stated the Removal Cost Management System has a data mining feature that enables users to query the system and capture individual equipment cost. Training was provided on how to query the system at the Superfund PO/CO Conference. Corrective action was completed on July 13, 2010.
- 3-1. EPA's Acquisition Handbook, Chapter 18, Emergency Contracting Procedures, was expanded to address the requirements to convene a Control Review Board, who will participate, and how long the board will remain active. Corrective action was completed on November 2, 2011.
- 4-1. EPA agreed to update and utilize the audit tracking system, MATS, to ensure compliance with EPA Manual 2750. Corrective action was completed on May 1, 2010.

Report Title: EPA Can Improve Its Preparation and Use of Independent Government Cost Estimates for Superfund Contracts
Report Number: 10-P-0065
Date Issued: February 16, 2010
Final Action Date: July 7, 2011
Link: <http://www.epa.gov/oig/reports/2010/20100216-10-P-0065.pdf>

Recommendations

We recommended that EPA:

- 2-1. Require OAM to update its IGCE guide to address:
 - Technical direction documents that exceed the simplified acquisition threshold
 - Emergency acquisitions
 - The U.S. Government Accountability Office Cost Estimating and Assessment Guide
- 2-2. After the OAM IGCE guide is updated, require EPA regions and program operating divisions to conduct a review to verify compliance with the updated guide.
- 2-3. Eliminate the practice of accepting contractor estimates that differ from IGCEs without examining the reason for the difference.
- 2-4. Require the Superfund program to update, distribute, and maintain its supplemental tools and guidance used for IGCE preparation (e.g., the Office of Superfund Remediation and Technology Innovation's cost estimating toolbox).
- 2-5. Instruct OAM and the Superfund program office to provide training to Superfund program staff on IGCE tools and databases, as well as OAM and Superfund IGCE guidance.

Corrective Actions

- 2-1. EPA agreed to update the guide and it will contain a broad overview for preparing a sufficient IGCE and specific guidance for preparing an IGCE for an emergency acquisition or a technical direction document. Additionally, the guide will contain information on cost estimating techniques. Corrective action was completed on June 15, 2010.
- 2-2. EPA agreed that the updated guidance will recommend that EPA regions and program operating divisions should conduct a review and develop and/or update existing guidance in accordance with OAM's updated guide. Corrective action was completed on June 30, 2010.

- 2-3. EPA agreed to update the guidance and provide training to effectively address accepting contractor estimates that differ from IGCEs without examining the reason for the difference. Corrective action was completed on July 15, 2010.
- 2-4. EPA agreed to update, distribute, and maintain its supplemental tools and guidance used for IGCE preparation. Corrective action was completed on April 29, 2011.
- 2-5. EPA agreed to provide training to Superfund program staff on IGCE tools and databases, as well as IGCE guidance. Corrective action was completed on July 15, 2010.

Report Title: EPA Does Not Always Receive Adjustment Vouchers from Contractors
Report Number: 10-P-0075
Date Issued: March 8, 2010
Final Action Date: April 1, 2010
Link: <http://www.epa.gov/oig/reports/2010/20100308-10-P-0075.pdf>

Recommendations

We recommended that EPA:

- 2-1. Track receipt of adjustment vouchers and monies owed EPA for final negotiated indirect cost rates in accordance with OMB Circular A-50.
- 2-2. Identify all final indirect cost rate agreements where adjustment vouchers have not been submitted and track them to ensure receipt.
- 2-3. Require Financial Administrative COs to identify all contracts impacted and list those contracts in the final indirect cost rate agreements.
- 2-4. Require Financial Administrative COs to provide the final indirect cost rate agreement directly to the COs for contracts impacted by the agreement.
- 2-5. Increase COs' and POs' awareness of their responsibilities for processing and managing indirect cost rate agreements and adjustment vouchers through discussions and presentations at meetings and conferences on contract management, as well as through articles in OAM's quarterly newsletter on current policy initiatives.

Corrective Actions

- 2-1. EPA agreed to establish a process to ensure that adjustment vouchers and monies owed to EPA are tracked. Corrective action was completed on February 1, 2010.
- 2-2. EPA agreed that COs should review all final indirect cost rate agreements and determine which vouchers have not been submitted and track them to ensure receipt. EPA also agreed to include an article in Hot Tips to raise awareness for enhanced CO oversight. Corrective action was completed on March 31, 2010.
- 2-3. EPA agreed that the Financial Administrative COs will list the prime contracts in the indirect cost rate agreements and establish indirect rates which will apply to all of the prime contracts and subcontracts which the vendor holds with EPA. Corrective action was completed on March 31, 2010.
- 2-4. EPA agreed that Financial Administrative COs will be required to distribute negotiated indirect cost rate agreements to all affected Service Center managers and Regional CO Supervisors. Corrective action was completed on March 31, 2010.

2-5. EPA discussed responsibilities for processing and managing indirect cost rate agreements and adjustment vouchers at the Spring 2010 Contractor Forum and the annual PO/CO and Acquisition conference. EPA also agreed to include information with respect to this topic in the Hot Tips article. Corrective action was completed on March 31, 2010.

Report Title: EPA Should Improve Its Contractor Performance Evaluation Process for Contractors Receiving Recovery Act Funds
Report Number: 10-R-0113
Date Issued: April 26, 2010
Final Action Date: June 10, 2010
Link: <http://www.epa.gov/oig/reports/2010/20100426-10-R-0113.pdf>

Recommendations

We recommended that EPA:

- 2-1. In accordance with OMB's directive, institute a process that would provide management with information to monitor the timeliness and quality of contractor performance evaluations.
- 2-2. Revise its Quality Assurance Plan requirements to include the timeliness and oversight of contractor performance evaluations.
- 3-1. Maintain FMRs, Defense Contract Audit Agency, and OIG reports in an electronic system that COs can access.
- 3-2. Require COs to access the centrally available OAM database for all applicable reports and consider results in annual contractor performance evaluations.

Corrective Actions

- 2-1. EPA agreed to begin using the Department of Defense's Contractor Performance Assessment Reporting System, in lieu of the National Institute of Health's Contractor Performance System. Corrective action was completed on May 1, 2010.
- 2-2. EPA agreed to revise the Acquisition Handbook, Chapter 4.2, Quality Assessment Plans, to include contractor Past Performance Evaluation Reviews as an oversight activity. Corrective action was completed on April 1, 2010.
- 3-1. EPA agreed to consolidate the reports on a shared server for access. Corrective action was completed on June 1, 2010.
- 3-2. EPA agreed to post a Hot Tips article on the Intranet encouraging all COs to use information available from all reports, and to consider the results in the annual contractor performance evaluations. Corrective action was completed on June 1, 2010.

Report Title: EPA's Terms and Conditions as Well as Process to Award Recovery Act Interagency Agreements Need Improvement
Report Number: 11-R-0016
Date Issued: November 16, 2010
Final Action Date: November 3, 2011
Link: <http://www.epa.gov/oig/reports/2011/20101116-11-R-0016.pdf>

Recommendations

We recommended that EPA:

- 2-1. Revise standard terms and conditions for future IAs with USACE to include EPA's roles and responsibilities and amend Recovery Act IAs with the USACE as they are modified.
- 2-2. Amend the terms and conditions in Recovery Act IAs with Indian Health Services to include EPA's roles and responsibilities in the areas of design and planning, construction monitoring, and final project inspection.
- 2-3. Revise standard terms and conditions for future IAs with Indian Health Services to include EPA's roles and responsibilities in the areas of design and planning, construction monitoring, and final project inspection.
- 3-1. Prepare a program evaluation of levels of effort and the cost of the processes associated with procurement, management, and oversight of the construction contract for projects delivered by USACE, EPA, or remedial action contractors to support decision making in selecting the method of obtaining construction delivery services.
- 3-2. Use this program evaluation to provide transparency and aid in developing a contracting strategy that will allow the EPA regional offices to make informed decisions when determining the best value for delivering Superfund construction projects.

Corrective Actions

- 2-1. EPA revised the standard terms and conditions for IAs with USACE to include EPA's roles and responsibilities. Corrective action was completed on November 19, 2011.
- 2-2. According to the Agency's response to the audit report and the OIG's comments, EPA & updated the terms and conditions for modified Recovery Act IAs. Corrective action was completed on October 28, 2010.
- 2-3. completed on October 28, 2010.
- 3-1. EPA agreed to conduct a program evaluation and have the regions participate in the evaluation. Corrective action was completed on June 24, 2011.
- 3-2. After completing the program evaluation (see 3-1 above), EPA stated it would use the findings to develop a contracting strategy by October 31, 2011. Corrective action was completed on September 30, 2011.

Report Title: EPA Can Improve the Use of Financial Monitoring Reviews for Recovery Act Superfund Contracts
Report Number: 11-R-0081
Date Issued: January 31, 2011
Final Action Date: October 22, 2010
Link: <http://www.epa.gov/oig/reports/2011/20110131-11-R-0081.pdf>

Recommendation

We recommended that EPA:

- 3-1. Revise policies and procedures to ensure that FMR reports are distributed timely to all POs, work assignments managers, and task order managers assigned to the contract impacted by the FMR as well as those working on other active contracts with the same contractor.

Corrective Actions

- 3-1. EPA updated its internal Financial Analysis and Oversight Standard Operating Procedures to require FMR reports to be distributed to cognizant COs and POs. The COs and POs are to further disseminate the report(s) to all parties associated with the contract, including delivery order POs, task order POs, and work assignment managers. Corrective action was completed on October 22, 2010.

Report Title: EPA Needs to Reexamine How It Defines Its Payment Recapture Audit Program
Report Number: 11-P-0362
Date Issued: July 19, 2011
Final Action Date: Ongoing
Link: <http://www.epa.gov/oig/reports/2011/20110719-11-P-0362.pdf>

Recommendation

We recommended that EPA:

1. Report the results of all activities, including audits the OIG and other audit organizations conduct, when reporting on its payment recapture audit program in 2011.

Corrective Actions

1. EPA agreed to report in the Agency Financial Report Defense Contract Audit Agency audit efforts that result in amounts over and under billed by the contractor; all questioned costs determined to be improper payments that are identified during all post-award grant reviews, including state and local governments, tribes, and universities; and questioned costs determined to be improper payments that are identified through OIG audits and state Single Audit reports. Corrective action is ongoing and expected to be completed on November 15, 2012.

Report Title: Agreed-Upon Procedures Applied to Equipment Rate Proposals
Submitted Under EPA Contract EP-S9-11-01 by SFS Chemical Safety,
Inc., Emeryville, California
Report Number: 12-4-0295
Date Issued: February 27, 2012
Final Action Date: N/A
Link: Due to confidential business information, this report was not made public

Recommendations

We recommended that EPA:

1. Not utilize the equipment rates proposed by the contractor for billings or for negotiating option period prices.
2. Disallow and recover unallowable equipment costs of \$30,123 claimed under the base period of the contract.
3. Modify the contract to reduce the option period 1 firm fixed price by the excess equipment costs of \$42,911.

Corrective Actions

The recommendations were provided to the CO and the CO's decision is pending.

Report Title: EPA Can Improve Its Improper Payments Reporting
Report Number: 12-P-0311
Date Issued: March 1, 2012
Final Action Date: N/A
Link: <http://epa.gov/oig/reports/2012/20120301-12-P-0311.pdf>

Recommendations

We recommended that EPA:

1. Issue guidance requiring that the results of all grant improper payment determinations and recaptures be documented in the compliance database and reported in the FY 2012 Agency Financial Report.
2. Continue to track in MATS the recommendation in OIG Report No. 11-P-0362—to include in the Agency Financial Report all improper payments identified through EPA reviews and OIG financial and single audits—until the corrective actions are completed.
3. Report discounts not taken as improper payments under the Improper Payments Elimination and Recovery Act, starting with the FY 2012 Agency Financial Report, unless clarification from OMB states otherwise.
4. Issue guidance to program offices to ensure the quality of reported improper payment and recaptured payment information.

Corrective Actions

1. EPA prepared draft guidance and is in the process of completing additional refinements to the draft guidance for appropriate Agency review and final issuance. Corrective action is ongoing and expected to be completed on April 30, 2012.
2. EPA re-opened corrective actions 1.2 and 1.3 from OIG Report No. 11-P-0362. Recommendations will remain open until the corrective actions are completed. Corrective action is ongoing and expected to be completed on November 15, 2012.
3. EPA respectfully disagreed with this recommendation and stated that the OIG's interpretation of improper payments for discounts is overly broad. The recommendation is unresolved with resolution efforts in progress.
4. EPA stated it will issue FY 2012 annual guidance to the Office of Administration and Resources Management, the Office of Water, and the Research Triangle Park–Finance Center. Corrective action was not verified and, therefore, it is considered pending.

Report Title: Policies Needed for Proper Use and Management of Cost-Reimbursement Contracts Based on Duncan Hunter Act
Report Number: 12-P-0320
Date Issued: March 6, 2012
Final Action Date: N/A
Link: <http://www.epa.gov/oig/reports/2012/20120306-12-P-0320.pdf>

Recommendations

We recommended that EPA:

1. Develop a policy for COs that provides guidance on preparing written acquisition plans that comply with the FAR revisions resulting from the interim rule (FAR Case 2008-030).
2. Update the procurement initiation notice as contained in the CMM to include, as an attachment, a copy of the Contracting Officer Representative appointment memorandum.
3. Direct COs to verify that nomination forms and appointment memorandums are included in contracting files for all current contracts.
4. Develop and distribute instructions on coding of Indefinite Delivery/Indefinite Quantity contracts. EPA should ensure that the four contracts identified in this finding are coded consistent with the instructions.

Corrective Actions

1. EPA agreed with the recommendation and stated that it would issue an Interim Policy Notice updating the references to the CMM for acquisition planning. EPA would also update the Peer Review Checklist to reflect changes made to the FAR. Corrective action is ongoing and expected to be completed on March 31, 2012.
2. EPA stated it will publish an Interim Policy Notice requiring program and technical staff to nominate prospective Contracting Officer Representatives in EPA's Acquisition System's requisition documents. Corrective action is ongoing and expected to be completed on September 30, 2012.
3. EPA stated it will require the nomination form of the Contracting Officer Representative to be included in the official contract file in accordance with FAR 4.803(a)(33). Corrective action is ongoing and expected to be completed on September 30, 2012.
4. EPA stated it will publish a flash policy notice advising staff that Indefinite Delivery/Indefinite Quantity contracts should be coded in the Federal Procurement Data System in accordance with the Federal Procurement Data System's User's Manual dated April 2011. Corrective action is ongoing and expected to be completed on March 31, 2012.

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