



U.S. ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF INSPECTOR GENERAL

*Catalyst for Improving the Environment*

# Annual Superfund Report to Congress for Fiscal Year 2010



# ***OIG Scoreboard Summary of Superfund Results Fiscal Year 2010***

**Office of Inspector General (OIG) Goal: Contribute to human health and environmental quality through improved business practices, accountability, and integrity of program operations. Below are Superfund results of OIG work in terms of outputs, actions by EPA, and impacts.**

***Dollars in thousands***

## **Audits, Program Evaluations, and Special Reviews**

1	EPA policy, practice, process change
2	Actions taken or resolved prior to report issuance
12	Certifications, verifications, validations, or corrections
87	Recommendations for improvement/risk identified/awareness briefings
10	Referrals for Agency action from audits and investigations
8	Sustained environmental or business recommendations
\$16.6	Questioned costs
\$1,726	Cost efficiencies/savings/funds put to better use <sup>a</sup>

## **Investigative Operations**

\$123.3	Fines and restitution
9	Administrative actions taken
2	Convictions of persons or firms

Sources: Performance Measurement and Results System, Inspector General Enterprise Management System, Inspector General Operations and Reporting System, and other OIG reports.

<sup>a</sup> Includes savings from investigative operations.

**To find out more about the U.S. Environmental Protection Agency  
Office of Inspector General and its activities, visit our website at:**

**<http://www.epa.gov/oig>**

**Cover photo:** Monitoring well MW-7 at the remediated PAB Oil and Chemical Services, Inc., Superfund Site, Abbeville, Louisiana, March 2008. (EPA OIG photo)



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## **Foreword**

This report covers fiscal year 2010 Superfund activity of the U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG). The Superfund Amendments and Reauthorization Act of 1986 requires the OIG to annually audit the Superfund program and report the results to Congress.

In July 2009, EPA decided to obligate approximately \$211 million in American Recovery and Reinvestment Act of 2009 funds to Superfund contractors. We found that EPA had not completed in a timely manner 83 percent of the required performance evaluations for contractors awarded Recovery Act funds. As a result, the Agency risked providing funds to contractors with a history of cost control and performance issues.

EPA did not sufficiently document information in its Superfund independent government cost estimates for 30 of 42 cases reviewed. EPA limits its ability to negotiate a fair and reasonable price for Superfund contracts when it does not have a well-supported independent government cost estimate. Additionally, in 9 of the 42 cases, EPA did not update the estimates when significant changes occurred. In 8 of the 42 cases, EPA program staff accepted the contractor's estimate without evaluating why it differed from the independent government cost estimate.

A U.S. Representative requested that we investigate the events surrounding a response to an April 25, 2009, telephone report of a leaking well in Skyland, North Carolina. We found that the National Response Center did not provide EPA with calls or voicemail messages from the telephone report. When the Agency was informed of the leak, EPA's on-scene coordinator contacted the constituent and arranged for permanent repairs to the well, which were completed on April 28, 2009.

For Five-Year Reviews signed since 2006 for EPA Superfund sites, 84 percent of the review recommendations were overdue as of April 28, 2009. Superfund Five-Year Reviews represent a required process for examining the cleanup remedies at Superfund sites to determine whether remedies adequately protect human health and the environment.

The OIG is testing long-term monitoring results at Superfund sites that EPA has deleted from the National Priorities List. During fiscal year 2010, we conducted four such reviews. We found that Pennsylvania did not collect ground water samples for a site in Bruin, Pennsylvania, from 2001 to 2007. We found that more sampling and EPA oversight are needed at a site near Dover, Delaware. Our independent ground water sampling results for sites in Abbeville, Louisiana, and near Janesville, Wisconsin, were generally consistent with EPA's historical results.

Our criminal investigative work resulted in 2 additional sentencing, as well as additional fines and restitution, in connection with a bid rigging case at the Federal Creosote Superfund site in Manville, New Jersey. To date, eight individuals and three companies have pled guilty as part of this investigation, and fines and restitution totaling more than \$2.7 million have been ordered.

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We recognize the importance of Superfund activities to the health of our nation and the quality of our environment. We will continue to address Superfund program management and funding to help Congress and EPA protect against potential adverse impacts resulting from Superfund sites.

A handwritten signature in black ink, reading "Arthur A. Elkins, Jr." in a cursive style.

Arthur A. Elkins, Jr.  
Inspector General

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## Hazardous Substance Superfund Trust Fund

The Government Management and Reform Act requires federal agencies to prepare annual audited financial statements. The act was passed to help improve agencies' financial management practices, systems, and controls so that timely, reliable information is available to manage federal programs.

One of the major entities included in the U.S. Environmental Protection Agency's (EPA's) financial statements is the Hazardous Substance Superfund Trust Fund. Our audit of EPA financial statements also meets our Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requirement to annually audit the Superfund Trust Fund. EPA presented the financial statements for fiscal year 2010 in a consolidated format and did not include a separate presentation on the Superfund Trust Fund.

The summary below of our fiscal year 2010 financial statement audit highlights areas that pertain to the Hazardous Substance Superfund Trust Fund. The financial statement audit details are followed by summaries of several other reviews we conducted that note ways EPA can improve its management of Superfund resources.

### **EPA Earns Unqualified Opinion on Financial Statements**

We rendered an unqualified opinion on EPA's Consolidated Financial Statements for fiscal years 2010 and 2009, meaning that they were fairly presented and free of material misstatement. However, we noted four significant deficiencies, including one specifically involving Superfund.

Although the Cincinnati Finance Center worked with the regions in fiscal year 2010 to improve the accuracy of the Superfund state contract unearned revenue accrual, further improvements are needed. The Cincinnati Finance Center and the regions did not thoroughly review the Superfund state contract spreadsheets and detect data errors that we found during our test work. The Chief Financial Officers Act requires that the integrated agency accounting and financial management system include complete and reliable information. By not performing a thorough review, EPA misstated the unearned revenue accrual in the fiscal year 2010 financial statements.

Regarding the other three significant deficiencies, EPA needs to assess collectability of federal receivables and record allowances for doubtful accounts as needed, improve its controls for headquarters personal property, and properly close the Fund Balance with Treasury when cancelling treasury symbols. Further, we noted one noncompliance issue involving EPA's need to continue efforts to reconcile intragovernmental transactions.

In a memorandum from the Chief Financial Officer received on November 9, 2010, the Agency generally concurred with the issues raised and indicated it will take corrective actions. The Agency did not concur with two of our draft report recommendations, and we modified those recommendations to reflect information provided.

We issued our report (11-1-0015) on November 15, 2010.

## **EPA Should Improve Evaluation of Contractor Performance**

Because EPA did not complete contractor performance evaluations in a timely manner and with complete information, the Agency risked providing funds to contractors with a history of cost control and performance issues.

In July 2009, EPA decided to obligate approximately \$211 million in Recovery Act funds to Superfund contractors. Contracting officers are required to complete and document performance evaluations for these contractors within 95 business days after each 12 months of contract performance.

EPA had not completed in a timely manner 83 percent of the required performance evaluations for contractors awarded Recovery Act funds. On average, EPA completed the evaluations 109 business days late, generally because there was no system to monitor evaluation timeliness. Further, contracting officers did not consider all available sources of information when preparing the performance evaluations. EPA awarded \$109 million in Recovery Act funds to contractors with cost control and performance issues. In one instance, the contractor's past performance evaluation information was not available to EPA when it awarded a new Recovery Act contract totaling \$5.4 million.

We recommended that EPA develop a system to monitor and verify the timeliness of performance evaluations, revise quality assurance plan requirements, maintain reports in an electronic system that contracting officers can access, and require contracting officers to consider annual performance evaluation results. EPA agreed with our recommendations.

We issued our report (10-R-0113) on April 26, 2010.

## **EPA Can Better Prepare and Use Independent Government Cost Estimates**

EPA limits its ability to negotiate a fair and reasonable price for Superfund contracts when it does not have a well-supported independent government cost estimate. An independent government cost estimate is a detailed estimate of what a reasonable person should pay to obtain the best value for a product or service. Such estimates are compared to the contractor's proposal to help determine price reasonableness.

EPA did not sufficiently document information in its Superfund independent government cost estimates for 30 of the 42 cases reviewed. Additionally, in 9 of the 42 cases, EPA did not update the estimates when significant changes occurred. In 8 of the 42 cases, EPA program staff accepted the contractor's estimate without evaluating why it differed from the independent government cost estimate. In some cases, EPA did not prepare the required estimate for actions with a potential value in excess of the Federal Acquisition Regulation threshold for simplified acquisitions of \$100,000.

We recommended that EPA place greater emphasis on independent government cost estimates through training and tools. EPA should prepare independent government cost estimates for all contract actions expected to exceed the simplified acquisition threshold and discontinue the practice of relying only on the contractors' estimates. EPA agreed with all our recommendations and provided a corrective action plan.

We issued our report (10-P-0065) on February 16, 2010.

## **EPA Should Continue Reducing Federal Advances and Special Accounts**

We found three Superfund federal special accounts that included incorrectly recorded receipts and/or expenditures totaling about \$2.5 million.

Federal advance interagency agreements and Superfund federal special accounts occur between EPA and its federal trading partners. EPA issued Superfund Special Account Guidance on July 16, 2002. However, that guidance does not address spending federal versus nonfederal special account funds. Without clear guidance, programs expended nonfederal funds before federal funds, resulting in amounts advanced by other federal agencies remaining outstanding after the project was completed and some special account receipts and/or expenditures remaining misclassified.

During our audit, EPA corrected \$2.0 million of the \$2.5 million in incorrectly recorded federal special accounts. We recommended that EPA record the remaining \$579,126 in special account funds in the correct fund, and verify that special account receipts and expenditures are recorded in the proper fund code. The Agency concurred with our findings and recommendations.

We issued our report (10-P-0093) on March 31, 2010.

## **Improvement Needed in Recording and Reporting Fines, Penalties**

EPA did not consistently record fines and penalty billings in a timely manner and did not report penalty information with complete accuracy and transparency. Assessing penalties as part of an enforcement action deters noncompliance. EPA's Cincinnati Finance Center records and tracks the billing and collection of fines and penalties.

Regional and program office personnel did not forward copies of source documents to the Cincinnati Finance Center in a timely manner, thus delaying the recording of accounts receivable. EPA did not record a receivable as required for two disputed stipulated penalties totaling \$2,839,500. EPA generally took appropriate action to collect fines and penalties. However, EPA did not monitor the collections on a \$298,851 Superfund receivable as required. Although EPA tracked the assessment, billing, and collection of fines and penalties, it used the assessments, and not the collections, as a measure of the enforcement program's impact. The Agency's data system contained 7 errors totaling \$139,242 in the penalty assessment amounts out of 156 billings reviewed related to 117 assessments.

We recommended that EPA ensure the timely recording of fines and penalty billings, monitor delinquent debt, ensure greater data system accuracy, develop a policy for recording stipulated penalties, and disclose fines and penalties collected as well as assessments when reporting enforcement action results. EPA agreed with all our recommendations.

We issued our report (10-P-0077) on March 9, 2010.



## Remedial Action Decisionmaking

We performed in-depth reviews of the reliability of site-specific analytical data for sound site remediation decisions. Through these and other actions, we are working to ensure that EPA decisions on site remediation are based on data of known quality. During 2010, we found ways in which EPA could improve remedial action decisionmaking.

### **EPA Should Improve Oversight of Federal Superfund Site Reviews**

EPA does not have effective management controls to monitor the completion of Five-Year Review recommendations at federal government Superfund sites. Prior studies identified weaknesses in EPA's Superfund Five-Year Review—a required process that examines the cleanup remedies at Superfund sites to determine whether remedies adequately protect human health and the environment. For Five-Year Reviews signed since 2006, 84 percent of review recommendations were overdue as of April 28, 2009.

EPA regional staff do not consistently follow Superfund review process guidance and policies for updating the status of review issues and recommendations in the Comprehensive Environmental Response, Compensation, and Liability Information System. In addition, discrepancies in the presentation of issues and recommendations exist between the reviews and the information system, some data in the information system are logically inconsistent, and recommendations from prior reviews are not always closed out. Finally, federal facilities are responsible for their own reviews, and EPA's management of the concurrence process has resulted in some reviews being conducted more than 5 years apart and some issues not being addressed.

We recommended that EPA implement improved management controls to monitor and ensure timely submission of federal facility reviews, improve the management of the concurrence process, clarify and describe enforcement options, and improve data quality. EPA agreed with all recommendations and proposed actions to address them.

We issued our report (10-P-0133) on June 2, 2010.

### **EPA Provides Limited Assurance on Contamination at North Carolina Site**

The water and air quality sampling EPA conducted at the Mills Gap hazardous waste site near Asheville, North Carolina, has provided limited assurance of the extent of water and air contamination and risk at the site. The site has been in North Carolina's hazardous waste cleanup program since 1993. EPA Region 4 has carried out emergency response actions at the site since 1999. These actions included providing an alternative drinking water source for residents with unsafe levels of the chemical trichloroethylene, or TCE, in their drinking water.

In the records the OIG reviewed, Region 4 adhered to accepted standards and practices in conducting its drinking water sampling in 2008–2009 and air sampling in 2007–2008. However, the limited scope of Region 4's past sampling activities and oversight kept the region from detecting ground water contamination in drinking water wells, and an ineffective response action has not addressed the potential air quality risk that remains. Also, Region 4's letters to affected residents on sampling results contained jargon and technical language and did not clearly communicate safety issues. Further, Region 4's

community involvement plan did not reflect all site activities and did not include a communication strategy, and Region 4 staff have not always documented conversations with residents or site visits.

We recommended that Region 4 develop a plan for site transition to the state, clarify resident communications, update the community involvement plan, and improve recordkeeping. Region 4 generally agreed with five of our six recommendations and developed an acceptable corrective action plan for one recommendation that required further review in response to site events. The acting Regional Administrator said the region “will do everything within our authority to ensure the safety of the residents in the Mills Gap area.” In September 2010, Region 4 announced its plans to propose that the site be placed on the National Priorities List.

We issued our report (10-P-0130) on May 17, 2010.

### **EPA Not Sufficiently Notified by Response Center About Leaking Well**

A U.S. Representative requested that we investigate the events surrounding a response to an April 25, 2009, telephone report of a leaking well in Skyland, North Carolina. The National Response Center, operated by the U.S. Coast Guard, U.S. Department of Homeland Security, is the sole national point of contact for reporting such discharges. During nonbusiness hours, the EPA emergency hotline is programmed to forward all incoming calls to the National Response Center.

We found that the National Response Center did not provide EPA with calls or voicemail messages from a North Carolina constituent regarding a leaking well. When the Agency was informed of the leak, EPA’s on-scene coordinator contacted the constituent and arranged for permanent repairs to the well, which were completed April 28, 2009.

We found that the National Response Center received voicemails about the leaking well from two other callers on April 25, 2009, but did not provide any response to the voicemails. The center’s operations officer told us the center did not listen to the voicemails until September 2009. When the voicemails were discovered, center staff took no actions to inform EPA of the calls. Prior to April 25, 2009, we determined that 12 voicemails were left with the National Response Center dating back to 2006. The National Response Center operations officer informed us the center did not listen to the voicemails until September 2009. We made this information available to an EPA official and that official said there would be followup with the center. We found inconsistencies in the statements of the National Response Center and its telephone contractors regarding who was aware of voicemail problems and when.

We presented our findings to the U.S. Department of Homeland Security, Office of Inspector General, so that it may determine corrective actions taken and still needed.

We issued our report (10-P-0027) on November 10, 2009.

## **Lack of Final EPA Guidance on Vapor Intrusion Impedes Efforts**

EPA's efforts to protect human health at sites where vapor intrusion risks may occur have been impeded by the lack of final Agency guidance. Vapor intrusion is the migration of volatile chemicals from the subsurface into overlying buildings. EPA has acknowledged that current and former contaminated sites could have extensive vapor intrusion issues and pose a significant risk to the public.

EPA issued draft guidance in 2002. EPA's draft guidance has limited purpose and scope, contains outdated toxicity values, does not address mitigating vapor intrusion risks or monitoring the effectiveness of mitigation efforts, does not clearly recommend a multiple-lines-of-evidence approach in evaluating and making decisions about vapor intrusion risks, and is not recommended for assessing vapor intrusion risks associated with underground storage tanks.

EPA has not finalized its 2002 draft guidance because 2007 guidance from the Interstate Technology Regulatory Council addressed many of the issues that EPA's finalized guidance would have addressed. In addition, the Agency said that issuing final guidance is problematic because the associated science and technology is evolving and lengthy administrative review requirements were a barrier to timely guidance. Some of these administrative requirements have been rescinded. The Agency is developing a roadmap of technical documents to update its draft guidance.

We recommended that EPA issue final guidance to establish current Agency policy on the evaluation and mitigation of vapor intrusion risks, and finalize toxicity values for trichloroethylene and perchloroethylene. The guidance should incorporate information on how it applies to Superfund Five-Year Reviews. The Agency agreed and provided milestones.

We issued our report (10-P-0042) on December 14, 2009.

## **Long-Term Monitoring Results Tested at Four Sites**

The OIG is testing long-term monitoring results at Superfund sites that EPA has deleted from the National Priorities List. During fiscal year 2010, we issued reports on four such reviews. They are summarized below.

### ***Bruin Lagoon Superfund Site, Bruin, Pennsylvania***

We found that Pennsylvania did not collect ground water samples from the Bruin Lagoon Superfund site in Bruin, Pennsylvania, for 6 years, from 2001 to 2007. EPA Region 3 decided not to require the state to conduct the sampling.

The Bruin Lagoon site was added to the Superfund National Priorities List in 1983 and was deleted in 1997. EPA Region 3 managers told the OIG that they made a deliberate, but undocumented, decision to not use oversight authority to require the state to conduct ground water sampling at the site. In June 2007, Pennsylvania resumed ground water sampling at the site. The region's 2009 Five-Year Review indicated that the site was protective of human health and the environment. However, gaps in long-term monitoring may result in a failure to detect conditions that show a cleanup remedy is not protecting human health and the environment. We also noted that transcription errors in data were found in the region's 2004 Five-Year Review that were carried over into the most recent 2009

Five-Year Review, due to a lack of quality assurance procedures to check summary data generated from laboratory reports.

We recommended that EPA Region 3 improve its oversight, acknowledge and correct data errors in Five-Year Reviews, and ensure accuracy of data used in site protectiveness decisionmaking. Region 3 agreed with the recommendations and proposed acceptable corrective actions.

We issued our report (10-P-0217) on September 8, 2010.

***PAB Oil and Chemical Services, Inc., Superfund Site, Abbeville, Louisiana***

Our independent ground water sampling results from the PAB Oil and Chemical Services, Inc., Superfund site in Abbeville, Louisiana, were consistent with Region 6's valid historical results. Region 6 accepted two types of invalid ground water data at the site and included those invalid data in its analyses.

EPA placed the PAB Oil site on the Superfund National Priorities List in 1989 and deleted it in 2000. For two wells, data were collected on stagnant water at the bottom of the wells, below screen openings where the water enters the wells. Consequently, data on both water quality and water levels were collected contrary to accepted procedures and were invalid. Region 6 said it was aware of the declined water level condition, but noted it had data from other wells that were sufficient to determine the direction of ground water flow and that the remedy was protective of human health and the environment. We agree that the invalid data did not have adverse implications for the region's protection decision because ground water flows past these two wells before flowing under the area where contaminated soils and wastes were capped. However, should ground water conditions change, the invalid data could impede the region's ability to determine whether the site's cleanup remedy is still protective and whether the network of ground water monitoring wells remains effective.

We recommended that EPA Region 6 improve its oversight by amending the site's Five-Year Review to identify invalid data and modifying the long-term monitoring plan. Region 6 committed to completing actions that would meet the intent of both recommendations.

We issued our report (10-P-0229) on September 21, 2010.

***Wildcat Landfill Superfund Site Near Dover, Delaware***

Our inspection of the Wildcat Landfill Superfund site near Dover, Delaware, found that more sampling and EPA oversight are needed to ensure the site remains safe for humans and the environment. The Wildcat Landfill site was contaminated by disposal of paint sludge and municipal, industrial, and latex waste. In 2005, the site was sold to Kent County, Delaware, which plans to reuse the site for public recreation purposes.

Wildcat Landfill was added to the Superfund National Priorities List in 1983 and deleted from the list in 2003. Our independent sampling results were generally consistent with Region 3's historical results. However, surface waters at the site have a sheen that resembles petroleum. The cleanup remedy does not address

petroleum contamination. Region 3 had not tested for petroleum but agreed to do so in September 2009. In December 2009, the region reported that it had detected petroleum at levels below public health standards and it will continue to monitor the site's petroleum levels.

The site has not been cleaned up to standards that allow for unrestricted public access. However, Kent County plans to create a greenway and construct a bike path on the landfill. Also, a local small business owner who purchased an acre of the site has inquired about building a storage facility. The region is aware of the county's plans and agreed to formally document discussions with the site owner and review reuse plans.

We recommended that EPA Region 3 modify its sampling and analysis approach to ensure proper testing, address contamination that exceeds standards, and improve oversight of site reuse plans. Region 3 agreed with our recommendations and has initiated or completed some actions.

We issued our report (10-P-0055) on January 26, 2010.

### ***Wheeler Pit Superfund Site Near Janesville, Wisconsin***

With minimal exceptions, our independent sampling results at the Wheeler Pit Superfund site near Janesville, Wisconsin, were consistent with the sampling results that EPA Region 5 has obtained historically.

The Wheeler Pit site was added to the National Priorities List in 1984 and was deleted in 2004. In May 2008, the OIG obtained site ground water samples and a sample from a nearby residential well and conducted a site inspection. Among 135 contaminants, OIG results for 8 were different from the region's results for some wells, but none of the differences had adverse implications for site protectiveness. The site was properly maintained and secured. We found excess levels of di(2-ethylhexyl) phthalate, or DEHP, in one residential well, but it was unclear whether the excess levels had implications for site protectiveness. The OIG notified the resident in coordination with Region 5.

We recommended that EPA Region 5 conduct additional sampling on the residential well. Region 5 concurred with our findings and recommendation and proposed an acceptable corrective action.

We issued our report (10-P-0218) on September 8, 2010.

## Response Claims

CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986, authorizes EPA to pay any claim for response costs as a result of carrying out the National Contingency Plan. Potentially responsible parties, who often make these claims, are required to enter into a preauthorized decision document with EPA to cover work for which some costs will be reimbursed. The document specifies the work to be performed, the portion of the cost EPA will reimburse, and the procedures through which the potentially responsible parties can make claims for reimbursement. While we do not audit response claims, we review claims by following the instructions in EPA's claims guidance for the claims adjuster. During fiscal year 2010, we completed several such reviews, as discussed below.

### Reimbursement Claims for Cleanup at Superfund Sites Reviewed

We reviewed several reimbursement funding claims during the reporting period. We performed these reviews solely to assist the EPA Office of Solid Waste and Emergency Response in evaluating the claimants' mixed funding claims. We found the following:

- We reviewed a reimbursement mixed funding claim for \$3,280,027 submitted by the responsible parties for a Superfund site in Duval County, Florida. Our review noted no exceptions to the claimed amount. We recommended that EPA accept the claim and reimburse the claimant \$3,280,027 of the total eligible costs of \$7,273,989.
- We reviewed a reimbursement mixed funding claim for \$916,787 submitted by the responsible parties for a Superfund site in New Castle, Delaware. Our review noted that the total claimed amount exceeded the maximum amount the claimant could seek for reimbursement by \$10,191. We recommended that EPA accept the claim and reimburse the claimant for \$906,596 of the total eligible costs of \$2,291,967.
- We reviewed a reimbursement mixed funding claim for \$831,256 submitted by the responsible parties for a Superfund site in Cape Girardeau, Missouri. Our review noted no exceptions to the claimed amount. We recommended that EPA accept the claim and reimburse the claimant \$831,256 of the total eligible costs of \$4,156,280.

## Performance Reviews

In addition to the reviews required by CERCLA and the Superfund Amendments and Reauthorization Act, we conduct other reviews related to Superfund issues. Following is a summary of several such reviews completed during fiscal year 2010.

### Research and Development Performance Measures Need Improvement

The Land Research Program provides the science and technology to help its clients preserve the nation's land, restore contaminated properties, and protect public health from exposure to environmental contaminants. Because no single measure can adequately capture all elements of research performance, the program has employed a variety of methods to assess performance, including the Office of Management and Budget's Program Assessment Rating Tool measures, client feedback, and peer review by the Board of Scientific Counselors.

We found that improvements were needed in all three areas to better enable the Office of Research and Development to assess the Land Research Program's effectiveness. For example, the program did not have measures that assessed progress toward the short-term outcomes in its multiyear plan. Additionally, citation analysis Program Assessment Rating Tool measures for the program were not meaningful to program managers and were not linked to program goals and objectives. Moreover, as implemented, EPA's survey of program clients was not reliable because EPA did not identify the universe of clients, conduct a representative sample, or obtain a sufficient number of responses. Further, the program lacked some key measures and data that would aid the Board of Scientific Counselors in conducting its peer reviews of the program. Collectively, the Land Research Program's performance measures have not provided it with the data to assess progress toward goals, identify areas for improvement, or track the short-term outcomes of its research.

We recommended that EPA develop measures linked to the short-term outcomes in the Land Research Program's multiyear plan, augment the program's citation analysis with more meaningful measures, develop a reliable client survey or an alternative, provide appropriate performance measurement data to the Board of Scientific Counselors prior to full program reviews, and revise its long-term goal rating guidance to that board. EPA generally agreed with our recommendations and is taking action to implement most of them. For some recommendations, EPA is awaiting additional guidance from the Office of Management and Budget.

We issued our report (10-P-0176) on August 4, 2010.

### Region 6 Should Improve Oversight Practices

Region 6's documentation of its oversight was not sufficient to determine whether allegations that the New Mexico Environment Department mismanaged the Sandia National Laboratory's Mixed Waste Landfill monitoring wells had merit or whether New Mexico's well monitoring actions were technically sound. Allegations of mismanagement came from a Hotline complaint from Citizen Action New Mexico. The Resource Conservation and Recovery Act requires EPA Region 6 to provide oversight to delegated

programs. EPA's Public Involvement Policy encourages EPA staff and managers to ensure that decisionmaking processes are open and accessible.

Region 6 staff took inappropriate steps to keep the details of the landfill's monitoring wells assessment from the public. The region decided not to provide documentation or sometimes not to document their concerns about the landfill's monitoring wells. The region provided a letter to the citizens' group that did not note the specific details of the assessment. The region's actions are a violation of EPA policies on public involvement and records management.

We recommended that the Region 6 Administrator comply with EPA's national security, public involvement, and records management policies. We also recommended that the Regional Administrator evaluate the extent to which the region has not recorded oversight information, or misclassified information, to determine the action necessary to remedy the situation. Region 6 disagreed with the report's conclusion and recommendations, stating that information was not withheld from the public, and requested that resolution be elevated in accordance with EPA's audit management process.

In July 2009, the Deputy Administrator asked the Inspector General to consider whether an Office of General Counsel opinion he provided would influence the OIG's conclusions that Region 6 improperly classified information and withheld documents under the Freedom of Information Act. After reviewing the legal opinion and conducting additional legal research, OIG modified its conclusion and found there was no violation of EPA policies or guidance for marking national security information. Moreover, the OIG also accepted that the document in question was not withheld by the Agency under the Freedom of Information Act on the basis of improper classification. The report findings and recommendations that remain in dispute are in the report resolution process.

We issued our report (10-P-0100) on April 14, 2010.



## Investigative Activity

The OIG Office of Investigations continued to focus its investigative resources on allegations of fraud, waste, and abuse in high-risk and high-dollar EPA programs and administrative areas, including the Superfund program. High priority was also given to environmental programs for which the action under investigation had the potential to seriously undermine the integrity of the Agency and/or the public trust in the Agency's ability to carry out its mission to protect public health and safeguard the environment.

Investigative efforts covered all stages of the Superfund program, including efforts to detect and investigate fraud in EPA-contracted laboratories, focusing on erroneous environmental testing data and results that could undermine the bases for EPA decisionmaking, regulatory compliance, and enforcement actions. Many of these laboratories conduct analyses and produce data that is used to make decisions concerning Superfund sites. We also continued major efforts in uncovering fraudulent activities in the award, performance, and payment of funds under contracts, grants, and other assistance agreements. EPA programs, including Superfund, are dependent on contractors and assistance agreement recipients to perform a significant portion of the work related to EPA's mission. An instance of Superfund investigative activities with results in fiscal year 2010 is described below. During fiscal year 2010, our Superfund investigative efforts resulted in:

- 2 convictions and subsequent sentencings
- 9 administrative actions
- \$625,891 in cost avoidance
- \$123,350 in fines and restitution

### Sentencings Continue in Bid Rigging Case at New Jersey Site

On October 28, 2009, Frederick Landgraber, of Bridgewater, New Jersey, was sentenced in U.S. District Court of New Jersey to 5 months in prison to be followed by 5 months of home detention. He was also ordered to pay a \$5,000 fine and \$35,000 in restitution to EPA. Landgraber is president and co-owner of a Martinsville, New Jersey, landscaping company.

Landgraber previously pled guilty to conspiring to defraud EPA at the Federal Creosote Superfund Site, located in Manville, New Jersey. As part of the conspiracy, Landgraber provided more than \$30,000 in kickbacks to an employee of a prime contractor in exchange for the employee steering landscaping subcontracts to Landgraber's company. Landgraber and his co-conspirator subverted the competitive bidding process by submitting intentionally high cover bids on behalf of fictitious companies. Landgraber's company received approximately \$1.5 million in subcontracts at Federal Creosote. On February 23, 2010, James E. Haas, Jr., a former representative of a New Jersey subcontractor, was sentenced to serve 33 months in jail to be followed by 3 years of probation. He was also ordered to pay a \$30,000 fine and \$53,050 in restitution to EPA. Haas previously pled guilty to charges of fraud and conspiracy to provide kickbacks. Haas admitted to paying kickbacks to former employees of a prime contractor in exchange for the award of a subcontract to the company he represented. He also admitted to inflating bid prices for the subcontracts to include the amount of kickbacks paid to his co-conspirators.

To date, eight individuals and three companies have pled guilty as part of this investigation. Fines and restitution totaling more than \$2.7 million have been ordered.

*This case is being conducted with the Internal Revenue Service Criminal Investigation Division. (Case Cost: \$199,793)*

## OIG Superfund Financial Statements

### Analysis of OIG's Fiscal Year 2010 Funds Available and Usage

Superfund budget object class	FY 2009 carryover available in FY 2010	FY 2009 carryover used in FY 2010	FY 2009 lapsed funds	FY 2010 appropriation	FY 2010 funds used	FY 2010 carryover to FY 2011	Total Cost of FY 2010 operations	% of FY 2010 appropriation
PC&B	\$462,244	\$451,106	\$11,138	\$7,677,000	\$7,085,709	\$591,291	\$7,536,815	98%
Travel	387,706	377,617	10,089	417,000	91,958	325,042	469,575	113
Expenses	61,356	60,591	765	187,900	108,936	78,964	169,527	90
Contracts	288,400	287,000	1,400	1,141,400	360,574	780,826	647,574	57
WCF	0	0	0	532,000	532,000		532,000	100
Grants	<u>0</u>	<u>0</u>	<u>0</u>	<u>19,700</u>	<u>0</u>	<u>19,700</u>	<u>0</u>	<u>0</u>
<b>Total SF</b>	<b>\$1,199,706</b>	<b>\$1,176,314</b>	<b>\$23,392</b>	<b>\$9,975,000</b>	<b>\$8,179,177</b>	<b>\$1,795,823</b>	<b>\$9,355,491</b>	<b>94%</b>

Source: EPA Integrated Financial Management System.

#### FY 2010 OIG Superfund FTE Usage

FY 2010 Available	63.8
FY 2010 FTEs Used	52.3
% of FTEs Used	82.0

FTE	Full-time equivalent
FY	Fiscal year
PC&B	Personal compensation and benefits
SF	Superfund
WCF	Working Capital Fund

## Listing of Fiscal Year 2010 Superfund Reports

<u>Report No.</u>	<u>Description</u>	<u>Date</u>
10-N-0019	Rulemaking Process for Coal Combustion Waste Disposal	02-NOV-09
10-P-0027	EPA Not Sufficiently Notified by Response Center About Leaking Well	10-NOV-09
10-P-0042	Lack of Final Guidance on Vapor Intrusion Impedes Efforts	14-DEC-09
10-P-0055	Changes in Conditions at Wildcat Landfill Superfund Site in Delaware	26-JAN-10
10-P-0065	EPA Can Better Prepare and Use Independent Government Cost Estimates	16-FEB-10
10-4-0070	Army Creek Landfill CERCLA Claim No 3, New Castle DE	24-FEB-10
10-P-0077	Improvement Needed in Recording and Reporting Fines, Penalties	09-MAR-10
10-P-0093	EPA Should Continue Reducing Federal Advances and Special Accounts	31-MAR-10
10-P-0100	Region 6 Should Improve Oversight Practices	14-APR-10
10-R-0113	EPA Should Improve Evaluation of Contractor Performance	26-APR-10
10-P-0130	Contamination and Risk at a North Carolina Hazardous Waste Site	17-MAY-10
10-P-0133	EPA Should Improve Its Oversight of Federal Agency Superfund Reviews	02-JUN-10
10-4-0173	Missouri Electric Final Mixed Funding Claim, Cape Girardeau, Missouri	26-JUL-10
10-P-0176	Research and Development Performance Measures Need Improvement	04-AUG-10
10-4-0202	CERCLA Claim White House Oil Pits Superfund Site 3, Duval County, Florida	30-AUG-10
10-P-0217	Long-Term Monitoring at Bruin Lagoon Superfund Site in Pennsylvania	08-SEP-10
10-P-0218	Ground Water Sampling at Wheeler Pit Superfund Site in Wisconsin	08-SEP-10
10-P-0229	Long-Term Monitoring at PAB Oil Superfund Site in Louisiana	21-SEP-10
11-1-0015*	Audit of EPA's Fiscal 2010 and 2009 Consolidated Financial Statements	15-NOV-10

\* Report issued in fiscal year 2011.

## Report fraud, waste or abuse

e-mail: [OIG\\_Hotline@epa.gov](mailto:OIG_Hotline@epa.gov)

write: EPA Inspector General Hotline

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Mailcode 8431P (Room N-4330)

Washington DC 20460

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[www.epa.gov/oig/hotline.htm](http://www.epa.gov/oig/hotline.htm)



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