



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Financial Management

EPA's Financial Oversight of Superfund State Contracts Needs Improvement

Report No. 16-P-0217

June 27, 2016



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Abbreviations

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFC	Cincinnati Finance Center
CFR	Code of Federal Regulations
EPA	U.S. Environmental Protection Agency
OIG	Office of Inspector General
OLEM	Office of Land and Emergency Management
SSC	Superfund State Contract

Cover photo: A warning sign at a Superfund site. (EPA photo)

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At a Glance

Why We Did This Review

The U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), performed this audit to determine whether the EPA: (1) effectively oversees the Superfund State Contract (SSC) process for remedial activities, (2) bills and collects appropriate SSC costs from the states, and (3) properly approves and applies SSC credits and in-kind payments to Superfund sites.

An SSC is an agreement between the EPA and a state to conduct remedial action at a site. The SSC clarifies the EPA's and the state's financial and other responsibilities to complete the remedial action, and documents state assurances before the remedial action occurs.

This document addresses the following EPA goal or cross-agency strategy:

- *Embracing EPA as a high-performing organization.*

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Listing of [OIG reports](#).

EPA's Financial Oversight of Superfund State Contracts Needs Improvement

What We Found

The EPA almost always billed and collected appropriate SSC costs and properly approved and applied SSC credits to SSCs. However, we found areas where improvements are needed. Specifically, we found that the EPA:

With improved financial oversight, the EPA may manage SSCs more effectively, report results more accurately, and increase the availability of funds for cleanups protecting public health.

- Incurred total SSC obligations and expenditures in excess of the authorized SSC cost ceiling for 51 of the 504 active and closed SSCs.
- Did not perform timely or complete and accurate financial closings for 20 SSCs to ensure that both the EPA and the state had satisfied their cost share requirement.
- Did not have all the up-to-date information needed for an accurate SSC accrual calculation.

In addition, the EPA did not effectively oversee the SSC process in some areas because some EPA regions did not:

- Effectively monitor SSC obligations and expenses.
- Make financial closings a priority or have closing procedures.
- Provide all the information needed for the accrual calculation.

Without effective oversight, excess SSC obligations and expenditures may constitute breaches of the SSCs. The accrual calculation may not be accurate and may misstate the financial statements and SSC financial status. SSC financial closings not performed timely or completely may delay the availability of appropriated funds. We identified SSCs with available reimbursable funds with the potential to increase these appropriated funds by \$2.3 million.

Recommendations and Planned Agency Corrective Actions

We recommend that the Office of Land and Emergency Management emphasize to the regions the importance of monitoring total SSC costs and develop uniform SSC cost monitoring and financial closeout procedures. We also recommend that the Chief Financial Officer develop guidance for the regions to provide information for a more accurate SSC accrual calculation and make certain accrual adjustments for more accuracy.

The agency concurred with and provided acceptable corrective actions and estimated completion dates for all recommendations. The agency completed corrective actions for three recommendations. The remaining recommendations, for the Assistant Administrator for Land and Emergency Management to emphasize the importance of monitoring SSC costs and to develop uniform SSC financial closeout procedures for the regions, are open with agreed-to corrective actions scheduled to be completed by the end of the year.



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

THE INSPECTOR GENERAL

June 27, 2016

MEMORANDUM

SUBJECT: EPA's Financial Oversight of Superfund State Contracts Needs Improvement
Report No. 16-P-0217

FROM: Arthur A. Elkins Jr.

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

TO: Mathy Stanislaus, Assistant Administrator
Office of Land and Emergency Management

David Bloom, Deputy Chief Financial Officer

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY15-0054. This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The offices with primary jurisdiction over the issues in this report are the Office of Superfund Remediation and Technology Innovation within the Office of Land and Emergency Management, and the Office of the Controller and Office of Budget within the Office of the Chief Financial Officer.

Action Required

In accordance with EPA Manual 2750, your offices provided acceptable corrective actions and milestone dates in response to OIG recommendations. All recommendations are resolved and no final response to this report is required.

We will post this report to our website at www.epa.gov/oig.

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Chapter 1

Introduction

Purpose

The U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), performed this audit to evaluate the EPA's oversight of Superfund State Contracts (SSCs) for remedial activities. With the current focus on reducing the federal budget deficit, the OIG wanted to determine whether the EPA was collecting the appropriate state cost shares. The objectives of our audit were to determine whether the EPA:

- Effectively oversees the SSC process for remedial activities.
- Bills and collects appropriate SSC costs from the states.
- Properly approves and applies SSC credits and in-kind payments to Superfund sites.

Background

An SSC is an agreement between the EPA and a state under which the EPA takes the lead in cleaning up a site located in that state. The SSC is a joint, legally binding agreement that clarifies the EPA's and state's responsibilities to complete the remedial action. It also documents other requirements and state assurances before the remedial action occurs. One important assurance is the state's commitment to share costs. The agreement is reached before the cleanup starts and calls for the state to share in the cost of the cleanup based on an agreed-upon percentage, as defined in the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

The EPA has entered into more than 500 SSCs totaling \$8.8 billion in estimated project costs, with a state cost share of \$889 million.

From the program's beginning in 1980 through December 31, 2014, the EPA has entered into more than 500 SSCs totaling \$8.8 billion in estimated project costs, with a state cost share of \$889 million. The EPA has spent more than \$7 billion in project costs, and collected \$550 million in cash from the states. The EPA also approved \$104 million for the states in credits, which are state site-specific expenses that the EPA determines to be reasonable, documented, direct, out-of-pocket expenditures of nonfederal funds for remedial action.

The regional offices negotiate and execute the SSC agreements with the states. Regional office responsibilities may vary depending upon how a region is organized and operates. The regional offices forward the signed SSC

documentation to the Office of the Chief Financial Officer's Cincinnati Finance Center (CFC). The CFC records the SSC billings and collections in the Compass accounting system for the EPA's 10 regions. The CFC prepares a quarterly spreadsheet to calculate the earned revenue and unearned revenue from the SSCs to properly reflect the financial statements. Unearned revenue represents the EPA's liability for advance collections from the states for which the EPA has not yet incurred costs on the SSC. As required by proper accounting policy, the EPA recognizes earned revenue as it incurs costs on an SSC.

SSC collections from a state to cover a state's cost share are designated as reimbursable resources. The EPA spends those funds on the remedial action designated in the SSC, and pays the EPA's cost share from the Superfund appropriation. The Superfund appropriation expenditures generally represent 90 percent of the remedial action costs, and the reimbursable expenditures generally represent 10 percent, reflecting the SSC cost share percentages.

Credits are state site-specific expenses for remedial action approved by the EPA and used by the states to reduce all or part of their cost share requirement. EPA regulations also permit states to pay their cost share through in-kind services, which are non-cash contributions of goods or services directly benefitting the remedial action.

Statutory Authority and Guidance

CERCLA, as amended, authorized SSCs. CERCLA Section 101 defines a remedial action as

... those actions consistent with a permanent remedy taken instead of or in addition to removal actions in the event of a release or threatened release of a hazardous substance into the environment, to prevent or minimize the release of hazardous substances so that they do not migrate to cause substantial danger to present or future public health or welfare or the environment.

CERCLA Section 104 requires the state to provide 10 percent of the remedial action's cost at privately owned or operated facilities, and requires 50 percent (or such greater amount as determined by the agency) of the remedial action's cost at a facility that is operated by the state.

The Code of Federal Regulations (CFR), in 40 CFR Part 35, Subpart O, provides the requirements for administering an SSC. Subpart O, Section 35.6800, requires an SSC with a state "before EPA can obligate or expend funds for a remedial action at a site within the State and before EPA or a political subdivision can conduct the remedial action." Section 35.6815 states that the state may pay for its share of the costs of the response activities in cash or credit. The state may pay for its cost share using in-kind services only if the state has entered into a support

agency cooperative agreement with the EPA. To conclude the SSC, Section 35.6820 requires, among other things, that the signatories produce a final accounting of all project costs.

Office of Land and Emergency Management (OLEM)¹ Directive 9200.3-15-IG-Y, *Superfund Program Implementation Manual Fiscal Year 2015*, provides overarching program management priorities, procedures and practices for the Superfund programs. The manual states at Chapter III.I.2 that the EPA may not obligate funds for a fund-financed remedial action without having a signed SSC in place. The SSC must contain an estimated value of the remedy that the EPA will implement using fund resources and the state's share, the amount of cost share that the state is assuring to provide, and a cost share payment schedule. The EPA may not spend remedial action resources in excess of the estimated value of the remedy determined in the SSC. If there are increases to the cost of the remedial action, the SSC must be amended to reflect the change and document that the state has increased share of the cost. Chapter III.I.4 states that SSC collections from state cost share payments are designated as reimbursable resources.

The EPA may not spend remedial action resources in excess of the estimated value of the remedy determined in the SSC.

OLEM Directive 9375.7-01, *Ensuring the Adequacy of Cost Share Provisions in Superfund State Contracts*, dated March 29, 1993, advised the EPA's regional offices that once all funds identified in an SSC are expended, the "EPA must not obligate more funds until the SSC is amended." OLEM Directive 9375.7-02, *Obligation of Funds Under Superfund State Contracts*, dated August 5, 1993, states that Subpart O reconciliation clauses are to be used only at the time of project closeout and must not be used as a substitute for amending an SSC when cost increases become apparent far in advance of the end of the project. The reconciliation provisions are intended to allow the EPA and the state to adjust actual cost share amounts to a level of precision possible only after all project costs are fully known.

The EPA's Resource Management Directive System No. 2550D-09-P1, *Financial Management of Superfund Program - State Cost Share Provisions for Superfund State Contracts and Remedial Cooperative Agreements*, August 2, 2012, describes the EPA's process for managing the financial aspects of Superfund program remedial state cost share provisions in state contracts and remedial cooperative agreements. Regional program offices are responsible for the overall management of SSCs. The regional program offices, in conjunction with regional finance office and the Office of Regional Counsel, are responsible for financial closeout of SSCs.

¹ On December 15, 2015, the EPA's Office of Solid Waste and Emergency Response, or OSWER, changed its name to the Office of Land and Emergency Management, or OLEM. Hereafter, we will always refer to OLEM.

Responsible Offices

The offices we identified with primary jurisdiction over the audit issues and the responsibility for taking corrective action on our recommendations are the Office of Superfund Remediation and Technology Innovation within OLEM, and the Office of the Controller and Office of Budget within the Office of the Chief Financial Officer. Regional Superfund program offices are responsible for the overall management of SSCs in the regions, and regional financial management offices handle the financial management.

Scope and Methodology

We conducted this audit from January 2015 to May 2015, and January 2016 through March 2016, in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains additional details concerning our scope and methodology, including details on prior reports reviewed.

Chapter 2

EPA Should Improve Its Financial Oversight of Superfund State Contracts

The EPA almost always billed and collected appropriate SSC costs and properly applied SSC credits to SSCs. However, the EPA could improve financial oversight in some areas. We found that:

- The EPA incurred total SSC obligations and expenditures that exceeded the authorized SSC-estimated project costs on 51 out of the 504 SSCs.
- EPA regions did not perform timely or complete and accurate financial closings for 20 SSCs.
- CFC did not have all the up-to-date SSC information needed to maximize the accuracy of the SSC accrual spreadsheet that supports the EPA's financial statements.

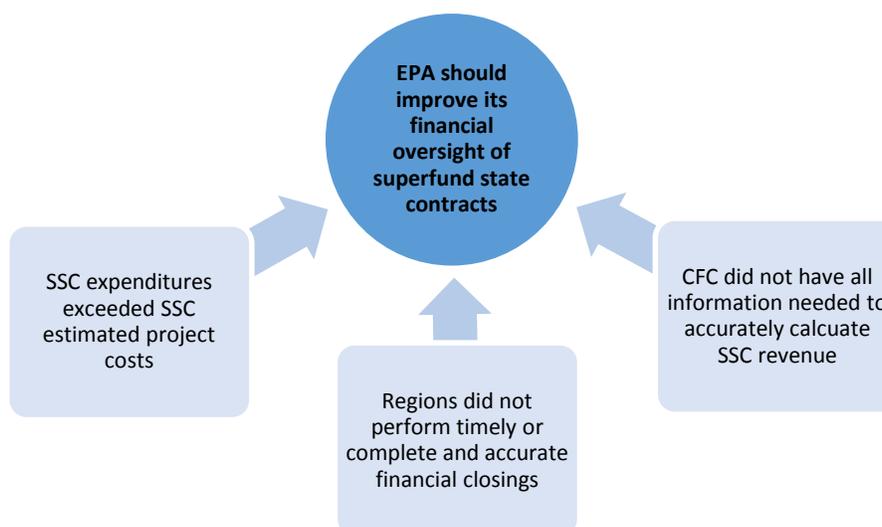
CERCLA requires the EPA to enter into an SSC with a state before spending funds for remedial action. Title 40 CFR Part 35, Subpart O, provides the requirements for administering an SSC, including cost share conditions. However, the EPA's oversight problems occurred because:

- The regions did not have uniform guidance for monitoring SSC obligations and expenses, and monitoring procedures varied by region.
- Some regions did not provide the CFC with all the up-to-date information needed to maximize the accuracy of the SSC accrual spreadsheet, despite the CFC providing the regions quarterly instructions to do so.
- Some regions did not make financial SSC closings a priority or did not have financial closing procedures.
- EPA guidance did not specifically require the regions to report in-kind payment information to the CFC, and the CFC did not include in-kind payments in the SSC accrual calculation.

Without effective oversight, excess SSC obligations and expenditures may constitute breaches of the SSCs. The accrual calculation may not be accurate, and could misstate the financial statements and financial status of the SSCs. In addition, SSCs not closed timely where state cost share funds remain available after completion of the activities identified in the SSC may delay the availability of appropriated funds that could be used for other sites. We identified SSCs with available reimbursable funds with the potential to increase appropriated funds by \$2.3 million. Appendix B lists the details of the \$2.3 million in available reimbursable funds. Figure 1 illustrates the areas where the EPA should improve its financial oversight of SSCs.

Without effective oversight, excess SSC obligations and expenditures may breach the SSCs and violate OLEM directives.

Figure 1



Source: OIG-generated.

SSC Expenditures Exceeded SSC Estimated Project Costs

The EPA incurred total SSC obligations and expenditures that exceeded the authorized estimated project costs on 51 of the 504 active and closed SSCs. CERCLA prohibits the EPA from providing any fund-financed remedial actions unless the state first enters into a contract with the agency in which the state makes certain, specified assurances. OLEM Directive 9200.3-15-IG-Y, the EPA's *Superfund Program Implementation Manual Fiscal Year 2015*, states that the cost of the remedial actions shall not exceed the SSC-estimated cost unless the contract is amended. Some regions did not adequately monitor the total SSC costs to ensure they did not exceed the SSC-estimated project costs. The regions did not have uniform guidance for monitoring SSC obligations and expenses, and monitoring procedures varied by region. EPA expenditures that exceed the SSC cost estimates violate EPA policy and could lead to disputes with states that may prevent the EPA from continuing a remedial action at a site.

CERCLA Section 104 (c) (3) prohibits the EPA from providing any fund-financed remedial actions unless the state first enters into a contract or cooperative agreement (in which the state makes certain, specified assurances) with the agency. Title 40 CFR Part 35, Subpart O, Section 35.6800, further clarifies that an SSC is required before the EPA can obligate or transfer funds for an EPA-lead remedial action.

OLEM Directive 9200.3-15-IG-Y, *Superfund Program Implementation Manual Fiscal Year 2015*, states that the EPA may not spend remedial action resources in excess of the estimated value of the remedy determined in the SSC. If there are increases to the cost of the remedial action, the SSC must be amended to reflect the change and document the state's increased share of the cost.

OLEM Directive 9375.7-02, *Obligation of Funds under Superfund State Contracts*, states that Subpart O reconciliation clauses—which ensure that both the EPA and the state have satisfied their cost share requirement—are to be used only at the time of project closeout. The final reconciliation of project costs must not be used as a substitute for amending an SSC when cost increases become apparent far in advance of the end of the project.

Nine of the 45 randomly selected SSCs that we initially reviewed incurred total expenditures exceeding the authorized estimated project costs. We also examined the other 459 SSCs on the CFC’s accrual spreadsheet for excess expenditures, and determined that an additional 42 exceeded the authorized project costs. The combined total of 51 of the 504 SSCs exceeding the authorized costs had excess costs totaling \$135,498,443. Table 1 lists the SSCs with excess expenditures.

Table 1: SSCs with expenditures exceeding the authorized project costs

Region	Site numbers	Excess \$
1	01C4, 01N9	\$1,251,893
2	0255, 0286, 0237	3,111,334
3	03T6, 031M, 032S, 03Q6, 03W9, A301	3,097,316
4	0444, 04B7, 04G2, 0442	7,207,586
5	0525, B58Y, 050WRA01, 05BW, 05C3, 05D3, 05D5	16,015,473
6	0611, 0635	39,719
7	07CS OU2, 07EF OU1, 07EF OU2, 07GE OU1, 07XL, 0706, 0701, 071T OU1	14,539,201
8	0813R, 0801, 0841, 085G, 087T, 08K5-081Y	27,806,021
9	09H2, 093Y, 094R, 09R6	6,650,777
10	1014, 104K, 10G8, 10P9, 10W2, 1022, 1027, 1091, 103N	55,779,123
Total		\$135,498,443

Source: OIG analysis of EPA data.

The remedial action expenditures for some SSCs exceeded estimated project costs because the regions did not adequately monitor the total SSC costs. For example:

- Region 1 tracked the reimbursable expenses but not the appropriated funds or the total expenses against the estimated project cost.
- Region 7 tracked total costs for billing purposes but not costs against the estimated project cost.
- Region 9 tracked reimbursable costs and total costs for billing purposes but not total costs against the estimated project cost.
- Region 10 did not track total costs against the estimated project cost and relied on CFC’s SSC accrual spreadsheet to track and monitor SSC costs.
- The other regions described various methods of tracking total SSC costs, but their tracking methods were not completely effective because we identified SSCs in all regions that exceeded the estimated project costs.

We determined that the EPA currently monitors reimbursable funds effectively because only four SSCs out of 504 had reimbursable obligations in excess of collections. In October 2014, the Office of the Chief Financial Officer developed an available balances report for all regions that compares SSC collections (reimbursable authority) to SSC obligations of reimbursable funds and highlights SSCs with negative balances (obligations in excess of collections). The report is available to all regions for monitoring reimbursable funds. The January 22, 2015, negative balance summary report showed four SSCs with negative balances totaling \$198,105. The EPA worked to correct the negative balances, and as of July 28, 2015, the EPA had four SSCs with negative balances totaling \$11,177. We consider the negative balances to be an acceptable level in relation to the \$4.2 million obligations for those SSCs as of July 28, 2015.

According to OLEM's Directive 9375.7-01, *Ensuring the Adequacy of Cost Share Provisions in Superfund State Contracts*, dated March 29, 1993, without effective oversight, excess SSC expenditures may constitute breaches of the SSCs. Without having an adequate cost-share provision in the SSC, the EPA may have to interrupt an ongoing cleanup, thereby delaying the environmental cleanup and public health protection until the SSC is amended.

The EPA may also be in violation of CERCLA for conducting remedial action without having a valid SSC. Any expenditure by the EPA in excess of the estimated project cost would be beyond the terms of the SSC, and the state may not be contractually bound to share in paying the additional cost.

Regions Did Not Perform Timely or Complete and Accurate Financial Closings

The regions did not perform timely or complete and accurate financial closings for several SSCs. Although the EPA does not have a standard for timely closing, we believe the amount of elapsed time for closing some SSCs (4 to 28 years) was excessive. Some regions did not make financial closings a priority or did not have financial closing procedures. SSCs not closed timely may delay the issuance of a final bill or refund to the state. They may also delay the reclassification of appropriated and reimbursable funds, which may affect the availability of appropriated funds. We identified SSCs with available reimbursable funds with the potential to increase appropriated funds by \$2.3 million. Appendix B lists the details of the \$2.3 million in available reimbursable funds.

Title 40 CFR Part 35, Subpart O, Section 35.6805, states that

...the SSC remains in effect until the financial settlement of project costs and final reconciliation of response costs (including all change orders, claims, overmatch of cost share, reimbursements, etc.) ensures that both the EPA and

the state have satisfied the cost share requirement in Section 104 of CERCLA, as amended.

The EPA’s Resource Management Directive System 2550D-09-P1 directs the regional program office to conduct the SSC financial closeout process, which includes the reconciliation of the state’s final cost share and reclassification of disbursements when applicable. The guidance further states that the SSC accrual calculation for a financially closed SSC should be reviewed and adjusted, if needed, to reflect a zero accrual balance.

We identified 20 SSCs out of 56 we reviewed where the regions did not perform timely or complete and accurate financial closings. Table 2 lists 10 SSCs that the EPA did not financially close, with the number of years that have elapsed since the EPA completed the SSC remedial action. Table 3 lists 10 SSCs where the EPA provided termination agreements or other documentation to indicate they had closed the SSC, but we determined that the EPA did not perform the closing completely and accurately or report accurate closeout data for the accrual calculation.

The EPA records did not provide a remedial action completion date for some of the SSCs we reviewed. When the remedial action completion date was not available, we used the date when the EPA completed remedial action expenditures to determine financial closing timeliness. Although the EPA does not have a standard for timely closing, we believe the amount of elapsed time for closing these SSCs—4 to 28 years after completing the remedial activity—was excessive.

Table 2: SSCs not financially closed timely

Site number	Year remedial activity complete	Financial closing status	Elapsed time (rounded to nearest year) ²
0230	2002	Not closed	13
0444	1996	Not closed	19
0502	2011	Not closed	4
0655	1996	Not closed	19
077M OU1	2000	Not closed	15
0928	1988	Not closed	27
0939	1987	Not closed	28
0944	2000	Not closed	15
09H2	2009	Not closed	6
09Y1	2004	Not closed	11

Source: OIG analysis of EPA data.

Table 3 lists the 10 SSCs that the EPA attempted to close but the closing was not complete and accurate or the closeout data for the accrual calculation was not

² We calculated the elapsed time from the year remedial activity was completed to the year 2015.

accurate. The EPA did not financially close these SSCs completely and accurately because the regions did not:

- Properly reclassify disbursements from the appropriated funds to the reimbursable funds to take advantage of available reimbursable funds.
- Report accurate closeout data and transfer of SSC credits to the CFC to support an accurate SSC revenue accrual.

Table 3: SSCs not financially closed completely and accurately

Site number	Reason not closed completely and accurately
0104	Did not report accurate closeout data and transfer of credits for the accrual.
0204	Disbursement reclassifications not complete.
0289	Disbursement reclassifications not complete.
0312	Did not include all remedial action costs in the final reconciliation.
0316	Did not report accurate closeout data for the accrual.
03T6	Disbursement reclassifications not complete and did not report accurate closeout data for the accrual.
0525	Disbursement reclassifications not complete.
05L3	Disbursement reclassifications not complete.
0813R	Did not report accurate closeout data for the accrual.
1056	Disbursement reclassifications not complete and did not report accurate closeout data for the accrual.

Source: OIG analysis of EPA data.

We found various reasons for the lengthy or incomplete financial closings. Some regions did not make financial SSC closings a priority or did not have financial closing procedures. Other reasons included determining how to correct a negative balance SSC and resolving a discrepancy in interagency agreement costs.

SSCs not closed timely may:

- Delay the issuance of any final bill or refund to the state.
- Delay the reclassification of appropriated and reimbursable funds, which affects the availability of appropriated funds.
- Misstate the accrual calculation, the financial statements, and the SSC financial status.

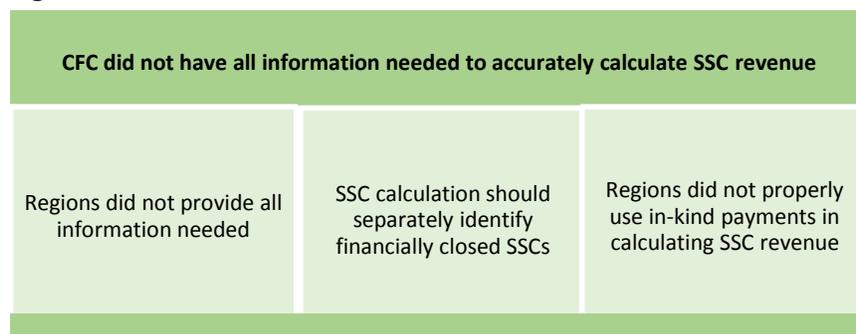
CFC Did Not Have All Information Needed to Accurately Calculate SSC Revenue

The CFC did not have all the current SSC information needed to accurately calculate SSC revenue. EPA guidance directs the regions to provide the CFC information to support the preparation of the revenue accrual. The CFC provided the regions with quarterly instructions for verifying certain SSC information, adding any new information and financially closing the accounts for closed SSCs.

We found that the regions did not always provide all the needed information. Without complete information, the SSC revenue calculation was not as accurate as it could have been and may have misstated the financial statements and the financial status of the SSCs.

The EPA’s Resource Management Directive System 2550D-09-P1 directs the regional financial management offices and program offices to provide the CFC with information on a quarterly basis with respect to new and/or amended SSCs, credits, and other information to support the calculation of SSC revenue. Figure 2 summarizes the reasons why the CFC did not have all information needed to accurately calculate SSC revenue.

Figure 2



Source: OIG-generated.

Regions Did Not Provide All Information Needed

The CFC’s quarterly correspondence with the regions instructed them to provide quarterly updated SSC information, including the estimated cost amount, state cost share percentage, and SSC credit additions for the quarter. The CFC also asked the regions to financially close accounts listed as “closed” on the spreadsheet.

We determined that the regions did not provide the CFC with the information needed in 15 of the 45 SSCs we reviewed. For example, the regions did not always:

- Update the SSC-estimated project cost amount after it made an amendment.
- Separate a site with multiple SSCs onto multiple lines of the accrual spreadsheet to provide more accurate accrual calculations.
- Notify CFC whether SSC expenses are allocated to the proper line on the accrual spreadsheet.
- Notify CFC whether a site credit needs to be allocated to multiple lines of the accrual spreadsheet, as appropriate.
- Report cost share payments made with in-kind contributions.
- Provide SSC financial closeout information, such as final billing and collections, SSC final project cost amount, appropriated disbursements, and reimbursable disbursements.

For a more accurate quarterly SSC accrual, we believe the CFC should also instruct the regions to:

- Separate a site with multiple SSCs or allocate a credit for multiple SSCs to multiple lines on the accrual spreadsheet.
- Report cost share payments received with in-kind contributions, which are needed to calculate an accurate accrued receivable for unbilled costs.

Without complete and up-to-date SSC information, the CFC revenue calculation was not as accurate as it could have been and may have misstated the financial statements and the financial status of the SSCs. We found errors in the fiscal year 2015 first quarter SSC accrual spreadsheet for some regions due to:

- Misstatements of SSC-estimated cost amounts (three regions).
- Omission of in-kind contributions, which overstated the accrued receivable for unbilled costs (two regions).
- Financial closing information not properly entered (eight regions).
- Misstatements of earned and unearned revenue (four regions).

SSC Calculation Should Separately Identify Financially Closed SSCs

The SSC accrual spreadsheet separated some of the SSCs into “active” and “administratively closed” categories but did not separately disclose “financially closed” SSCs. According to regional personnel, an SSC that is administratively closed has completed the remedial action and the state has provided all assurances. According to the EPA’s financial policy, an SSC financial closeout is complete when the EPA:

- Completes all billings, collections, credits, refunds and transfers.
- Records all disbursements in the agency’s financial system of record.
- Reclassifies appropriated and reimbursable disbursements when applicable.
- Adjusts advances in the agency’s financial system of record to equal zero.
- Completes a final amendment to the SSC or closeout agreement that all appropriate parties have signed.

Some regions had differing definitions of “administratively closed” and “financially closed,” and other regions stated that the two terms had the same meaning. Due to the differing definitions, the SSCs in the “administratively closed” section of the spreadsheet may not be financially closed. Therefore, we believe the SSC accrual spreadsheet should separately identify the financially closed SSCs. The CFC could then determine if the spreadsheet had all the final information and the appropriate columns equal zero as they should for a financially closed SSC. When a region financially closes an SSC, it may make additional appropriated funds available.

Regions Did Not Properly Use In-Kind Payments in Calculating SSC Revenue

The regions did not properly apply in-kind payments to the SSC revenue calculations. If the state and EPA enter into a support agency cooperative agreement, 40 CFR Part 35, Subpart O, Section 35.6815, allows a state to pay for its cost share with in-kind services. EPA guidance directs the regions to provide the CFC information on new or amended SSCs, credits and other information to support the preparation of the SSC revenue estimate. However, EPA guidance did not specifically require the regions to report in-kind payment information to the CFC, and the CFC did not include in-kind payments in the SSC accrual calculation. We identified in-kind payments totaling \$5,379,477. By not reporting in-kind payments, the CFC overstated the estimate for unbilled SSC costs and may have misstated the financial statements and the financial status of the SSCs.

Conclusion

The EPA should improve its financial oversight of SSCs to increase monitoring and prevent SSC expenses from exceeding the estimated project costs. With improved monitoring, the EPA could reduce the risk of: interrupting an ongoing cleanup, delaying the environmental cleanup and public health protection, or making expenditures for which the state is not contractually bound to share in paying. In addition, the EPA should prepare a more accurate SSC revenue estimate and financial status to financially close SSCs more timely and to improve the potential availability of appropriated funds. With a more accurate revenue estimate, the EPA can prepare more accurate financial statements and provide the regions with more precise information to help improve their oversight of SSCs. Figure 3 highlights the benefits of improved financial oversight.

Figure 3



Source: OIG-generated

We believe the EPA could improve its oversight of SSCs by developing additional guidance for the regions to provide quarterly SSC information. Timelier financial closing of SSCs may improve the availability of appropriated funds needed to improve the environment and protect human health. We identified SSCs with available reimbursable funds with the potential to increase appropriated funds by \$2.3 million.

We identified SSCs with available reimbursable funds with the potential to increase appropriated funds by \$2.3 million.

Recent Agency Actions Prompted by OIG Work

In response to our discussion document, the CFC in February 2016, provided us its additional quarterly guidance to the regions to provide the CFC in-kind contributions by SSC and identify financially closed SSCs.

During the course of our audit, in November 2015, the Office of Superfund Remediation and Technology Innovation issued new national model provisions for use in SSCs. The new model language addressed the issue raised during our audit that SSC expenditures should not exceed the estimated project cost. The new model states that the EPA may not expend appropriated funds in excess of the cost estimate, and any increase in the cost estimate requires an amendment to the SSC. We believe this provision in the new model reinforces the EPA's policy that the SSC cost estimate represents a spending ceiling; an SSC amendment is required to increase the ceiling before the EPA can continue to fund-finance a remedial action. Although the new model addresses this issue, we believe that the EPA needs to emphasize to the regions the importance of monitoring SSC costs to ensure they do not exceed the SSC cost estimate.

Recommendations

We recommend that the Assistant Administrator for Land and Emergency Management:

1. Emphasize to the regions the importance of monitoring total SSC costs to ensure they do not exceed the SSC cost estimate.
2. Develop and implement uniform regional guidance for monitoring obligations and expenditures of SSC costs.
3. Develop uniform SSC financial closeout procedures for the regions.

We recommend that the Chief Financial Officer:

4. Develop and implement additional quarterly accrual guidance for the regions to provide the CFC:
 - The in-kind contributions by SSC needed for an accurate SSC accrual calculation.
 - The financially closed SSCs for the CFC to list in a separate section on the accrual spreadsheet.
 - The amounts of final appropriated disbursements and reimbursable disbursements upon completion of the SSC final closeout and reclassification of appropriated and reimbursable disbursements, as needed.

5. Direct the CFC to change the SSC accrual spreadsheet by separating a site with multiple SSCs onto multiple lines of the spreadsheet, allocating expenses to the proper SSC line on the spreadsheet, and adding a column to track in-kind contributions.

Agency Comments and OIG Evaluation

The agency generally agreed with the OIG's review conclusions and supported the need to emphasize the importance of SSC financial management in the Superfund remedial program. The agency agreed with all our findings and recommendations, and provided acceptable high-level intended corrective actions and estimated completion dates that meet the intent of the recommendations.

The corrective actions include issuing new model SSC provisions regarding the monitoring of SSC costs, conducting outreach to EPA regions and states to ensure knowledge of the provisions, and developing tools to assist regions with SSC closeout procedures. Corrective actions also include making various improvements to the SSC quarterly guidance and accrual calculation. The EPA stated that it reviewed the SSCs from all 10 regions and initiated work to update the model provisions prior to the OIG's audit. However, the EPA's memorandum of January 16, 2015, reporting the results of its review, did not include the issue of SSC expenditures exceeding the estimated project cost.

We agree the agency has completed acceptable corrective actions for Recommendations 2, 4 and 5, and those recommendations are closed with all agreed-to actions completed. Recommendations 1 and 3 are open with agreed-to actions pending.

The agency's response to the draft report is in Appendix C.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	14	Emphasize to the regions the importance of monitoring total SSC costs to ensure they do not exceed the SSC cost estimate.	O	Assistant Administrator for Land and Emergency Management	9/30/16		
2	14	Develop and implement uniform regional guidance for monitoring obligations and expenditures of SSC costs.	C	Assistant Administrator for Land and Emergency Management	12/31/15		
3	14	Develop uniform SSC financial closeout procedures for the regions.	O	Assistant Administrator for Land and Emergency Management	12/31/16	\$2,271	\$2,271
4	14	Develop and implement additional quarterly accrual guidance for the regions to provide the CFC: <ul style="list-style-type: none"> • The in-kind contributions by SSC needed for an accurate SSC accrual calculation. • The financially closed SSCs for the CFC to list in a separate section on the accrual spreadsheet. • The amounts of final appropriated disbursements and reimbursable disbursements upon completion of the SSC final closeout and reclassification of appropriated and reimbursable disbursements, as needed. 	C	Chief Financial Officer	3/31/16		
5	15	Direct the CFC to change the SSC accrual spreadsheet by separating a site with multiple SSCs onto multiple lines of the spreadsheet, allocating expenses to the proper SSC line on the spreadsheet, and adding a column to track in-kind contributions.	C	Chief Financial Officer	3/31/16		

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

Details on Scope and Methodology

To gain an understanding of the EPA's processes for the financial management of SSCs, we:

- Reviewed applicable laws, regulations, policies, guidance and relevant prior audit reports.
- Reviewed the EPA's procedures for managing SSCs.
- Interviewed personnel involved with SSCs in the Office of the Chief Financial Officer, including in the CFC; the Office of Superfund Remediation and Technology Innovation within OLEM; and regional finance offices and regional Superfund program offices.
- Reviewed the EPA's fiscal year 2014 management integrity assurance letters from the regions, program offices and finance centers for reported internal control weaknesses related to SSCs.

We tested the effectiveness of the EPA's internal controls designed to comply with SSC regulations and guidance, including the cost share agreement terms, SSC billings, collections, credits and in-kind payments, allocation of appropriated and reimbursable funds, and financial closings. We performed an extensive review of 45 randomly sampled SSCs with total estimated costs of \$656,257,148 from a universe of 504 SSCs with total estimated costs of \$8,775,378,724. Each region was represented in our 45 samples, which included from one to nine sample SSCs per region. Since the 45 samples included only four SSCs with state credits totaling \$4,759,041, we randomly sampled and tested an additional 11 SSCs with state credits totaling \$10,966,376, to determine whether the EPA properly approved and applied the credits to the SSCs and the accrual calculation. The EPA entered into the sampled contracts from 1982 through 2013.

We also reviewed CFC's accrual spreadsheet for anomalies and errors, such as:

- SSCs with remedial action expenditures exceeding the approved contract cost ceiling.
- Total estimated project cost on the accrual spreadsheet not agreeing with the SSC, most recent SSC amendment, or termination amendment.
- SSCs listed as financially closed without reclassifying the appropriated and reimbursable expenditures to the proper amounts.

We accessed billing, collection, obligation and disbursement information in Compass Financials, the agency's accounting system. This data materially affected our findings, conclusions, and recommendations. We did not review the internal controls over Compass Financials from which we obtained financial data, but relied on the review conducted during the audit of the EPA's fiscal year 2014 financial statements. We did not assess the reliability of data in any other information systems because using the data did not materially affect our findings, conclusions or recommendations.

Prior Reports Reviewed

We researched prior EPA OIG and U.S. Government Accountability Office reports related to SSCs. We did not identify any U.S. Government Accountability Office reports with information

Prior reports disclosed that inaccurate recording and reconciliation of SSC entries has been a continuing problem since 2002.

directly related to our review. We did review eight prior EPA OIG reports, listed in Table A-1. These eight reports, of the EPA’s annual consolidated financial statement audits, disclosed SSC-related findings regarding the inaccurate recording and reconciliation of SSC entries in the general ledger and data errors in the SSC accrual spreadsheets. The fiscal year 2009 report noted SSCs as a material weakness because the EPA did not properly review the calculations used

to reconcile unearned revenue. Although the EPA’s corrective actions in fiscal year 2010 reduced the material weakness to a significant deficiency, the EPA needed to make further improvements in reviewing the calculations. The agency agreed with each report’s findings and recommendations and completed corrective actions for all 18 recommendations.

Table A-1: Prior reports reviewed

Report title	Report no.	Date
Audit of EPA’s Fiscal 2013 and 2012 Consolidated Financial Statements	EPA OIG 14-1-0039	December 16, 2013
Audit of EPA’s Fiscal 2010 and 2009 Consolidated Financial Statements	EPA OIG 11-1-0015	November 15, 2010
Audit of EPA’s Fiscal 2009 and 2008 (Restated) Consolidated Financial Statements	EPA OIG 10-1-0029	November 16, 2009
Audit of EPA’s Fiscal 2008 and 2007 Consolidated Financial Statements	EPA OIG 09-1-0026	November 14, 2008
Audit of EPA’s Fiscal 2005 and 2004 Consolidated Financial Statements	EPA OIG 2006-1-00015	November 14, 2005
Audit of EPA’s Fiscal 2004 and 2003 Consolidated Financial Statements	EPA OIG 2005-1-00021	November 15, 2004
Audit of EPA’s Fiscal 2003 and 2002 Consolidated Financial Statements	EPA OIG 2004-1-00021	November 21, 2003
Audit of EPA’s Fiscal 2002 and 2001 Consolidated Financial Statements	EPA OIG 2003-1-00045	January 29, 2003

Source: OIG analysis.

SSCs With Available Reimbursable Funds

Site number	Available reimbursable funds
0204	\$6,231
0289	113,813
0525	21,740
0534	824,164
0554	19,768
05DK	245,153
05GU	135,070
05H5	98,629
05L3	28,846
05N1	101,553
05T2	293,132
05W2	63,286
05W6	6,021
0611	100
067E	55,774
06DB	1,832
06DF	6,704
06E5	23,009
0944	166,408
09H2	59,297
	\$2,270,530

Source: OIG analysis of EPA data.

Agency Response to Draft Report

(Received May 6, 2016)

MEMORANDUM

SUBJECT: Response to Office of Inspector General Draft Report No. OA-FY15-0054
“EPA’s Financial Oversight of Superfund State Contracts Needs Improvement,”
April 1, 2016

FROM: Mathy Stanislaus, Assistant Administrator /s/
Office of Land and Emergency Management

David A. Bloom, Deputy Chief Financial Officer /s/
Office of the Chief Financial Officer

TO: Arthur A. Elkins, Jr.
Inspector General

Thank you for the opportunity to respond to the issues and recommendations in the subject audit report. Following is a summary of the agency’s overall position, along with its position on each of the report recommendations. For those report recommendations with which the agency agrees, we have provided high-level intended corrective actions and estimated completion dates to the extent we can. For your consideration, we have included a Technical Comments Attachment to supplement this response.

AGENCY’S OVERALL POSITION

The agency generally agrees with the OIG’s review, and supports the need to emphasize the importance of Superfund State Contract financial management in the Superfund remedial program. The agency appreciates the OIG recognition of the 2015 Model Provisions for SSCs in the *Recent Agency Actions Prompted by OIG Work* section of the draft report. However, the agency would like to clarify that the work to update the model provisions was initiated prior to the OIG’s audit. In 2014, OLEM’s Office of Superfund Remediation and Technology Innovation reviewed SSCs from all ten regions, and found a need to revise the twenty-five year old model provisions to better protect both EPA and state interests. OLEM convened a workgroup of EPA and state representatives to update the model SSC provisions, and to clarify some of the issues noted during the 2014 SSC review (see *Memorandum: Results of OSRTI Review of SSCs and Amendments and Next Steps*, January 16, 2015). The agency is using training opportunities, as well as regular national meetings with our state co-regulators, to ensure awareness of the model provisions and national program expectations for their usage.

The agency believes the 2015 SSC Model Provisions address the important issues raised in the OIG's draft report. Recommendation 1, related to ensuring SSC costs do not exceed cost estimates, is dealt with in two separate provisions in the 2015 Model. First, *Provision 28 - SSC Amendments* states "Amendments are required when... project costs exceed the remedial action cost estimate." A clear statement like this was not included in the original 1990 model. In addition, *Provision 17D - Periodic Financial Review* was added to ensure regular communication between the region and the state related to the cost of the remedy. The provision states:

"Once expenditures incurred are ["\$[amount]" or "[number]% of the estimate"], the parties agree to consult on the necessity to amend the cost estimate. Failure to consult does not preclude amendments to this Contract to amend the cost estimate."

Recommendation 2 highlights the need for monitoring obligations and expenditures of SSC costs. The EPA and the states agreed this was an important issue, and added *Provision 17D Periodic Financial Review* to the national model. During the model provision workgroup, states and regions noted that remedial actions at each site are incredibly different, making it hard to specify a uniform timeframe for cost monitoring. Therefore, the provision text below enables the region and state to determine the appropriate frequency for financial monitoring and consultation:

"EPA and the State are both responsible for reviewing cumulative expenditures for the work provided under this SSC on a [**specify time frequency**] basis. Such a review may also include a review of credits and in-kind services, use of contingency funds, cost share payments, and SSC cost estimates. Once expenditures incurred are ["\$[amount]" or "**[number]**% of the estimate"], the parties agree to consult on the necessity to amend the cost estimate."

Recommendation 3 deals with creating closeout procedures for SSCs. One issue unaddressed in the OIG's draft report is that some regions have left SSCs open beyond the end of remedial action to keep valid the state's assurance to provide for the operation and maintenance of implemented remedial actions for the expected life of such actions. Through the model provision workgroup process, there is a pathway to enable the region and the state to come to final terms with the implementation and cost of the remedy while keeping the SSC active with respect to O&M implementation.

There are two components associated with the closure of an SSC in the model provisions: Administrative Closure and Final SSC Conclusion. Administrative Closure refers to most activities associated with implementation of the SSC. These include satisfactory completion of the response activities under the SSC, final financial reconciliation, transfer of property, and assumption of responsibility for all future O&M by the state. Administrative Closure must be documented through an amendment to the SSC.

Under the model provisions, the SSC remains in effect until O&M is no longer required at the site, a potentially responsible party has taken over the O&M, or the SSC is terminated for other

reasons. At this point, Final SSC Conclusion may take place, which must also be documented by a final amendment to the SSC.

The agency feels that it may be helpful to develop additional tools to assist regions as they prepare for Administrative Closure and Final Conclusion of SSCs. Therefore, the agency will work to develop tools to help regions complete all steps necessary to ensure SSCs are closed in a timely and accurate way.

AGENCY’S RESPONSE TO REPORT RECOMMENDATIONS

Agreements

No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
1	Emphasize to the regions the importance of monitoring total SSC costs to ensure they do not exceed the SSC cost estimate.	1.1 Issue new model provisions to require SSC amendments when costs exceed SSC amendment.	Complete, 1 st quarter FY2016
		1.2 Conduct outreach to EPA regions and states to ensure knowledge of new model provisions, including the provision requiring amendment for cost increases.	SSC Presentation at National Association of Remedial Project Managers, 3 rd quarter FY2016 SSC Presentation at Association of State and Territorial Solid Waste Management Officials Superfund and Brownfields Symposium, 4 th quarter FY2016
2	Develop and implement uniform regional guidance for monitoring obligations and expenditures of SSC costs.	1.1 Issue new model provisions requiring periodic financial review of SSCs.	Complete, 1 st quarter FY2016
3	Develop uniform SSC financial closeout procedures for the regions.	1.1 Issue new model provisions to address expectations for final financial reconciliation, administrative closure and final conclusion of SSCs.	Complete, 1 st quarter FY2016
		1.2 Develop tools to assist regions with steps needed to achieve final financial reconciliation, administrative closure and final conclusion.	1 st quarter, FY2017

4	<p>Develop and implement additional quarterly accrual guidance for the regions to provide the CFC:</p> <p>4.1 The in-kind contributions by SSC needed for an accurate SSC accrual calculation.</p> <p>4.2 The financially closed SSCs for the CFC to list in a separate section on the accrual spreadsheet.</p> <p>4.3 The amounts of final appropriated disbursements and reimbursable disbursements upon completion of the SSC final closeout and reclassification of appropriated and reimbursable disbursements, as needed.</p>	<p>4.1 Request regional update of in-kind contributions in accrual spreadsheet.</p> <p>4.2 Add closed SSCs to separate section of accrual spreadsheet.</p> <p>4.3 Adjust quarterly correspondence to ensure the regions are appropriately categorizing SSC sites.</p>	<p>Complete, 2nd quarter FY2016</p> <p>Complete, 2nd quarter FY2016</p> <p>Complete, 2nd quarter FY2016</p>
5	<p>Direct the CFC to change the SSC accrual spreadsheet by separating a site with multiple SSCs onto multiple lines of the spreadsheet, allocating expenses to the proper SSC line on the spreadsheet, and adding a column to track in-kind contributions.</p>	<p>Update accrual spreadsheet to separate sites with multiple SSCs, and add a column to track in-kind contributions.</p>	<p>Complete, 2nd quarter FY2016</p>

If you have any questions regarding this response, please contact Ellyn Fine, in OLEM’s Office of Superfund Remediation and Technology Innovation, at (703) 603-8714 or Nic Grzegorzewski, OCFO Audit Follow-up Coordinator, at (202) 564-2292.

Attachments:

1. Technical Comments
2. Memorandum: Results of OSRTI Review of SSCs and Amendments and Next Steps, January 16, 2015

cc: Barry Breen, OLEM
Nitin Natarajan, OLEM
James Woolford, OLEM
Jennifer Wilbur, OLEM
Kecia Thornton, OLEM
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Nic Grzegozewski, OCFO
Greg Luebbering, OCFO
Judi Doucette, Region 1
Jennifer Chernowski, Region 2
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