



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 10

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OFFICE OF THE REGIONAL  
ADMINISTRATOR

FEB 24 2017

**MEMORANDUM**

**SUBJECT:** Oregon Health Authority's Prior Labor-Charging Practices Under Environmental Protection Agency Grants Did Not Meet Requirements, Audit Report No. 16-P-0313

**FROM:** Michelle L. Pirzadeh  
Acting Regional Administrator

**TO:** John M. Trefry, Director,  
Office of Inspector General

Thank you for the opportunity to respond to the findings and recommendations in Audit Report 16-P-0313 regarding the Oregon Health Authority's prior labor-charging practices. The audit report states that OHA's Public Health Division did not follow proper labor-charging practices from October 19, 2012, until May 2014, when OHA updated its employee time reporting guidance and employees began properly reporting actual hours worked. The audit report identified three EPA grant programs in particular: the Drinking Water State Revolving Fund, Public Water Supply Supervision and Lead-Based Paint programs.

The audit report provided two recommendations, to disallow and recover \$12,136,214 of unsupported labor and related fringe benefits and indirect costs claimed prior to May 2014, for these three EPA-funded grant programs, and to identify and recover any unsupported costs claimed prior to May 2014, under any other PHD-administered EPA grants not covered by this audit.

The EPA and OHA met with the Office of the Inspector General to understand the two recommendations and potential approaches for gathering and analyzing data that might address the findings and recommendations. Subsequently, OHA conducted extensive review of its payroll charging and methods to verify the work conducted by its grant-funded employees. They shared their results with the EPA and OIG in several iterations.

At this point, we believe that OHA has provided sufficient documentation to substantiate the \$10,428,165 in labor charges for the Drinking Water State Revolving Fund and the Public Water Supply Supervision program. OHA recently provided additional information for payroll charges that will potentially reduce the \$1,708,047 in questioned costs for the Lead Based Paint Program. Further review and analyses of OHA's information is warranted in order for the EPA to determine the final amount of disallowed costs for this program. Attachment 1 summarizes the detailed information that formed the basis for accepting that OHA has sufficiently substantiated the labor charges for the two drinking water programs and summarizes the Lead-Based Paint analysis to date.

The audit report cited 2 CFR 225, Appendix B, Section 8.h(3-5) as the Federal requirements for charging labor and related fringe benefits and indirect costs. Title 2 CFR 225 became effective December 26, 2014. The timeframe when the questioned costs occurred predate this effective date. The relevant regulations are 40 CFR 31.22(b) and OMB Circular A.87 Section 8.h(3-5). The language in the

relevant sections is identical. Thus the findings still stand. For the purpose of this response, we reference both regulations.

The EPA has further work ahead to complete our response. We are requesting approval from the EPA Office of Grants and Debarment for an exception from 40 CFR 31.22 and 2 CFR Part 225 and we have yet to address the second recommendation, to examine other EPA-funded grant programs at OHA that might have made the same mistake.

The table below summarizes the EPA's response to the OIG recommendations, the next steps (actions) and timeframes for completion.

#	OIG Recommendation	Corrective Actions	Estimated Completion
1	Disallow and recover <b>\$12,136,214</b> of unsupported labor and related fringe benefits and indirect costs claimed prior to May 2014, under the DWSRF, PWSS and Lead-Based Paint programs, unless PHD can provide support for the labor charges that complies with 2 CFR Part 225.	<b>PWSS and DWSRF:</b> No funds disallowed. Region 10 will work with OGD to obtain an exception for the pre-May 2014, charges to bring them into compliance with 2 CFR Part 225 and OMB Circular A-87.	9/30/2017
<b>Lead-Based Paint:</b> EPA anticipates a combination of supported and disallowed labor costs. OHA has provided additional information, requiring further EPA review, which will potentially reduce questioned costs. Region 10 will work with OGD to obtain an exception for any pre-May 2014, substantiated charges to bring them into compliance with 2 CFR Part 225 and OMB Circular A-87. For any unsubstantiated costs, we will seek reimbursement from OHA.		9/30/2017	
2	Identify and recover any unsupported costs claimed prior to May 2014, under any other PHD-administered EPA grants not covered by this audit, or the cost-impact determination.	Region 10 will review a sample of open and closed grants between 10/19/12 – 5/1/14. If any unsupported labor costs are identified, a comparative analysis like the ones for DWSRF, PWSS and LBP will be completed, along with review of documentation from OHA. If appropriate, the Region, in consultation with OGD may seek an exception for the pre-May 2014, charges to bring them into compliance with 2 CFR Part 225 and OMB Circular A-87.	9/30/2017

This audit was conducted in a cooperative manner, with OIG staff readily available to provide information and assistance to the EPA and OHA. OIG staff reviewed data and analyses and provided critiques. This allowed OHA and the EPA to work expeditiously to gather appropriate and sufficient data to address the audit report's findings, and bringing us to the current results in a relatively short time

frame. The EPA values its state partners in delivering public health and environmental programs and welcomed OIG's role in resolving this situation in a timely manner.

Thank you for your consideration of our response to the final audit report. If you have any questions regarding this response, please contact me at [pirzadeh.michelle@epa.gov](mailto:pirzadeh.michelle@epa.gov) or (206)-553-1234 or Carrie Williams of my staff. She is our Audit Follow-up Coordinator and can be reached at [williams.carrie@epa.gov](mailto:williams.carrie@epa.gov) or (206) 553-1194. We look forward to hearing from you soon.

**Attachment**

cc:

Mr. Kevin Christensen  
Assistant Inspector General, Office of Inspector General

Ms. Angela Bennett  
Project Lead, Office of Inspector General

Mr. Darren Schorer  
Auditor, Office of Inspector General, Auditor

Ms. Christine Psyk  
Acting Director, Office of Water and Watershed

Mr. Edward Kowalski  
Director, Office of Compliance and Enforcement

Ms. Nancy Lindsay  
Assistant Regional Administrator, Region 10

Ms. Paula vanHaagen  
Grants Management Officer, Grants Unit

Ms. Benita Deane  
Agency Audit Follow-up Coordinator, OCFO

## Attachment 1

The EPA Region 10 agrees with the central tenet of the audit report findings, that OHA did not follow proper labor-charging practices from October 19, 2012 until May 2014. The audit report provides two recommendations, shown below.

**Recommendation 1:** Disallow and recover \$12,136,214 of unsupported labor and related fringe benefits and indirect costs claimed prior to May 2014, under the Drinking Water State Revolving Fund, Public Water Supply Supervision and Lead-Based Paint programs, unless the Oregon Health Authority's Public Health Division can provide support for the labor charges that complies with 2 Code of Federal Regulations Part 225.

The EPA agrees essentially that costs incurred for labor, fringe and indirect costs for the Drinking Water State Revolving Fund, Public Water Supply Supervision and Lead-Based Paint programs from October 19, 2012 to May 2014, in the amount of \$12.1 million required additional documentation from OHA to demonstrate that those charges comply with 40 CFR 31.22, OMB Circular A-87 and 2 CFR Part 225.

OHA has provided additional information for the two drinking water programs and the LBP program. The EPA analyzed the additional information to determine to what extent the additional information adequately demonstrates compliance with the appropriate regulations. The analysis for the drinking water programs and the LBP program is presented in the following sections.

**Recommendation 2:** Identify and recover any unsupported costs claimed prior to May 2014, under any other Oregon Health Authority Public Health Division-administered EPA grants not covered by this audit, or the cost-impact determination.

OHA is gathering additional information and conducting analyses for the EPA Region 10 review to ascertain whether labor charges comply with federal regulations. This ongoing work is included in the list of follow-up actions.

### Recap of \$12.1 Million Questioned Costs

Program	Direct Labor	Fringe Benefits	Indirect Costs	Total
DWSRF	\$4,828,625.00	\$2,434,824.00	\$678,634.00	\$7,942,083.00
PWSS	\$1,413,414.00	\$797,219.00	\$275,449.00	\$2,486,082.00
<b>Total Drinking Water</b>				<b>\$10,428,165.00</b>
LBP	\$1,031,999.00	\$488,728.00	\$187,320.00	<b><u>\$ 1,708,047.00</u></b>
<b>Total Costs</b>				<b><u>\$12,136,212.00</u></b>

## **DWSRF and PWSS Programs**

The audit report identified \$10.4 million (or 86%) of the \$12.1 million in questioned costs from grants awarded for the DWSRF and PWSS programs.

The Office of Water and Watershed works with OHA/PHD on these EPA grant-funded programs. Early in the audit process, OHA, OWW and the OIG generally recognized that OHA Drinking Water Services staff working on the two programs only do work related to drinking water primacy (for the PWSS grant) or for activities eligible under the DWSRF set-asides (for the DWSRF grant). Several meetings between the EPA Region 10 and OIG discussed what would be an appropriate state response. OHA was initially asked to demonstrate, for a few employees, that staff charges using the methodology in place prior to May 2014, generally delivered the same result as the correct methodology put in place in May 2014. OHA provided this information while the audit report was in draft. OIG determined that their submittal was incomplete, primarily because OHA did not identify the non-federal sources of funding, and the audit report was finalized questioning all costs as discussed in above. Subsequently, OHA provided enhanced and comprehensive documentation showing all sources of funding, by employee and by program, and indicated for each employee if there was a variance for staff charges pre-and post-May 2014. For the DWSRF and PWSS programs, there were no significant variances. The insignificant variances are reasonable and provide assurance that OHA staff are working full time on these two EPA funded programs.

While OHA can substantiate their labor charging between October 19, 2012 and May, 2014, their approach was not in compliance with 40 CFR 31.22, Allowable Costs, and OMB Circular A-87 Section 8.h.(3-5), which require OHA to comply with the support for salaries and wages. The EPA is preparing to request from the Office of Grants and Debarment an exception from 40 CFR 31.22, consistent with 40 CFR 31.6(c), 2 CFR 200.102(b) and 2 CFR 1500.3. This approach and rationale will be similar to the exception requested by the EPA Region 6 in response to labor-charging errors by New Mexico Environment Department.

The EPA Region 10 recommends no cost recovery of the \$10.4 million for the DWSRF and PWSS programs, subject to approval by the Office of Grants and Disbarment of an exception to provide regulatory compliance for those pre-May 2014, charges.

## **Lead-Based Paint Program**

Approximately \$1.7 million (or 14%) of the \$12.1 million in questioned costs represents grants awarded for the Lead-Based Paint Program. The EPA Region 10's Office of Compliance and Enforcement administers and manages this program. OCE is also working with the OHA and OIG to deliver an effective, timely, and appropriate response with respect to its grant program.

The EPA Region 10's Grants and Interagency Agreement Unit performed an administrative review of the lead-based paint program in April 2013. The review focused on programmatic and technical aspects of the grant, along with the level of full-time equivalents and payroll charges. At the time, they determined that OHA's payroll documentation system did not meet the requirements of the 40 CFR 31.22. Shortly thereafter, OHA updated its employee time reporting guidance and revised time and

activity reports used for supervisory review of employee time charges. Effective May 2014, OHA required employees to track and input their actual hours daily using the statewide online system.

OCE agrees that the labor-charging between October 19, 2012, and April 30, 2014, against the Lead-Based Paint Programs (Grant Numbers: PB096054201 and PB96054202) did not comply with the practices required in OMB Circular A-87, Section 8.h(3-5) and 2 CFR Part 225, Appendix B, Section 8.h(3-5). OHA appeared to charge labor, fringe benefits and indirect costs to the lead-based paint cooperative agreements based on the budget the EPA provided rather than actual activities performed. OCE is aware that several of OHA's employees that charged to these grants worked on multiple activities or cost objectives.

OHA has provided data to the EPA as recently as February 10, 2017. The EPA needs more time to review and evaluate this additional information before we can make conclusions on sufficient documentation for labor charges. We anticipate a mix of sufficiently and insufficiently documented labor charges.