



U.S. Department of Agriculture
Office of Inspector General
Southeast Region
Audit Report

MANAGEMENT OF HAZARDOUS
MATERIALS MANAGEMENT FUNDS



Report No.
50801-12-At
SEPTEMBER 2002



UNITED STATES DEPARTMENT OF AGRICULTURE

OFFICE OF INSPECTOR GENERAL
Washington D.C. 20250



DATE: September 9, 2002

REPLY TO
ATTN OF: 50801-12-A1

SUBJECT: Management of Hazardous Materials Management Funds

TO: Lou Gallegos
Assistant Secretary for Administration and Chairman
Hazardous Materials Policy Council

This report presents the results of the subject audit. The Assistant Secretary for Administration's response to the draft report is included as exhibit D with excerpts and the Office of Inspector General's (OIG) position is incorporated into the Findings and Recommendations section of this report.

We agree with management decision on Recommendations Nos. 2, 3, 6, and 7. Follow your internal agency procedures in forwarding final action correspondence to the Office of the Chief Financial Officer. We can reach management decision on Recommendations Nos. 1, 4, and 5 once the additional information requested in the OIG position sections of the report is received. In accordance with Departmental Regulation 1720-1, please furnish a reply within 60 days. Please note that the regulation requires management decision to be reached on all recommendations within 6 months of report issuance and final action to be completed within 1 year of the date of management decision.

We appreciate the cooperation and assistance your staff provided during the audit.

RICHARD D. LONG
Assistant Inspector General
for Audit

EXECUTIVE SUMMARY

MANAGEMENT OF HAZARDOUS MATERIALS MANAGEMENT FUNDS

AUDIT REPORT NO. 50801-12-AT

RESULTS IN BRIEF

This report presents the results of our audit of the Hazardous Materials Management Program (HMMP). The purpose of the HMMP is efficient management and cleanup of hazardous materials on facilities and lands under the U.S. Department of Agriculture (USDA) jurisdiction, custody, and control; prevention of releases of hazardous substances from USDA facilities; and, to defray administrative and legal costs associated with hazardous materials management activities. HMMP was established in 1987. Congress appropriated approximately \$204 million to USDA between fiscal years 1988 and 2000 to fund the HMMP.

The objectives of the audit were to: (1) determine if the policies and procedures for the planning and budgeting process were adequate to provide for the needs of the HMMP, (2) evaluate systems and procedures used to plan, monitor, manage, account for, and report on the availability and use of HMMP funds, (3) determine if obligation and cost data utilized by agencies and Hazardous Materials Management Group (HMMG) were complete and accurate, and (4) determine if HMMP funds were used for authorized purposes.

The Hazardous Materials Program Council (HMPC) has made considerable improvement in managing the HMMP, but HMMG and the agencies had not established a system to adequately monitor HMMP funds accountability and costs. HMMG used its spreadsheet-based reporting system and program reviews to assess agency performance and project management, but neither provided sufficient oversight of funds accountability. As a result, we found (1) un-liquidated obligations (residual funds) of about \$1.8 million that were not de-obligated and redirected to other cleanup projects and (2) one agency did not adhere to the plan of work for which HMMP funds were allocated. For example,

- As of October 31, 2000, 4 of the 5 agencies reviewed had residual funds totaling \$1,813,809 that remained from completed projects. The agencies had not performed closeouts of the completed projects; therefore, the residual funds remained idle for extended periods when they could have been redirected to other projects.

- The Commodity Credit Corporation (CCC) did not adhere to the plan of work for which HMMP funds were allocated. CCC did not coordinate its budgeting process with its contractor and submitted project estimates to HMMG without confirming the contractor's planned activities. A comparison of CCC's budget submitted to HMMG and actual expenditures incurred by Argonne National Laboratory (ANL) showed that CCC did not revise its budget estimates and plan of work submitted to HMMG when changes occurred in ANL's planned activities.

Our test of HMMP expenditures showed that they were for authorized purposes.

A 12-year old interagency agreement between CCC and the Department of Energy (DOE) to have ANL carry out the corporation's environmental compliance requirements should be re-evaluated. CCC used ANL for all site assessments and has never conducted a competitive assessment or selection for the work. ANL was given broad authority to establish the scope and methodology it uses for cleanup activities with few restrictions on time and costs and minimal CCC involvement. As of September 2000, ANL has been awarded more than \$57 million for 41 projects but CCC has not provided sufficient oversight to ensure that efficient methods and effective cost controls are used.

The contractual relationship between CCC and DOE and its contractor ANL has raised concerns with HMPC. Of particular concern was that the work proposals CCC uses for ANL do not delineate all essential work elements and relationships such as (1) dispute resolution, (2) funds accountability and performance reporting, (3) documentation of CCC's oversight of ANL's actions, and (4) controls to enable cost recovery actions against other responsible parties. HMPC's other concerns include, CCC's use of ANL as its sole contractor for all site characterization work and the adequacy of CCC's oversight. HMPC believes CCC needs to assign technically qualified personnel to review and direct all contractor activities to ensure that the Government and not its contractor makes key program and funding decisions.

KEY RECOMMENDATIONS

We recommended that HMPC strengthen its monitoring system to provide assurance that agencies maintain program fund accountability and adhere to plans of work. Specifically, HMPC should (1) amend procedures for conducting program reviews to ensure agencies assess funds accountability and comply with Departmental procedures, (2) require Farm Credit Program, Forest Service, Agricultural Research Service, and the Office of the General Counsel to de-obligate and return to the HMMP \$1,813,809 of residual funds for completed projects, and (3) require each agency to promptly

complete closeout reviews for all completed projects in the future and return any residual fund balances to HMMG for redistribution to other HMMP activities. HMPC should also require CCC to (1) re-evaluate its agreement with the DOE to ensure that the agreement is efficient and cost effective and in the best interest of the government, and (2) establish procedures to monitor contractor's cleanup activities including technical oversight.

AGENCY POSITION

In the August 28, 2002, written response (see exhibit D) to the draft report, the Assistant Secretary for Administration agreed with the recommendations. The response pointed out that several of the recommendations had been implemented since completion of the audit and discussed actions planned for implementing the other recommendations.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	i
RESULTS IN BRIEF	i
KEY RECOMMENDATIONS	ii
AGENCY POSITION	iii
INTRODUCTION.....	1
BACKGROUND	1
OBJECTIVES.....	3
SCOPE.....	3
METHODOLOGY	4
FINDINGS AND RECOMMENDATIONS.....	5
CHAPTER 1.....	5
HMMP FUNDS ACCOUNTABILITY AND COSTS WERE NOT ADEQUATELY MONITORED	5
FINDING NO. 1	5
RECOMMENDATION NO. 1	10
RECOMMENDATION NO. 2	11
RECOMMENDATION NO. 3	12
RECOMMENDATION NO. 4.....	13
CHAPTER 2.....	15
CCC'S AGREEMENT WITH DEPARTMENT OF ENERGY (DOE) AND ITS CONTRACTOR ANL NEEDS TO BE RE-EVALUATED	15
FINDING NO. 2	15
RECOMMENDATION NO. 5	19
RECOMMENDATION NO. 6	20
RECOMMENDATION NO. 7	21
EXHIBIT A – SUMMARY OF MONETARY RESULTS.....	23
EXHIBIT B – USDA HAZARDOUS MATERIALS MANAGEMENT APPROPRIATIONS FOR FISCAL YEARS 1988 THROUGH 2000	24
EXHIBIT C – SCHEDULE OF REIMBURSEMENTS TO ARGONNE NATIONAL LABORATORY	25

EXHIBIT D – AUDITEE'S RESPONSE TO THE DRAFT REPORT..... 26
ABBREVIATIONS..... 30

INTRODUCTION

BACKGROUND

Congress appropriates funds annually to the U.S. Department of Agriculture (USDA) for use in complying with requirements of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Resource Conservation and Recovery Act (RCRA). CERCLA was enacted on December 11, 1980, and provides broad Federal authority to respond directly to releases or threatened releases of hazardous substances that may endanger public health or environment. CERCLA establishes requirements for closed and abandoned hazardous waste sites, provides for liability of persons responsible for releases of hazardous waste, and establishes a trust fund to provide for cleanup when no responsible party can be identified. RCRA was enacted in 1976 and regulates the management of solid waste (e.g., garbage), hazardous waste, and underground storage tanks holding petroleum products or certain chemicals. The RCRA hazardous waste program regulates commercial businesses as well as Federal, State, and local Government facilities that generate, transport, treat, store, or dispose of hazardous waste. These entities are regulated to ensure proper management of hazardous waste from the moment it is generated until its ultimate disposal or destruction.

The hazardous waste appropriations are used to identify, test, and clean up hazardous waste sites on property under the jurisdiction, custody, and control of USDA and to defray administrative and legal costs associated with hazardous materials management activities. Between fiscal years (FY) 1988 and 2000, Congress appropriated approximately \$204 million in hazardous materials funds to USDA (see exhibit B). These are no-year funds that remain available to USDA until expended. Un-obligated funds are carried over from one FY to the next.

The Hazardous Materials Management Program (HMMP) was established after a 1985 nationwide inventory of USDA facilities identified numerous issues concerning storage, handling, disposal of hazardous substances and wastes, and thousands of potential sites with releases or potential releases of hazardous substances, including underground fuel and chemical storage tanks, abandoned mines, landfills, trespass dumps, and illegal drug lab wastes.

The Departmental approach to hazardous materials cleanup began in FY 1988 with the establishment of a central fund account and an initial

departmental appropriation of \$2 million (see exhibit B). A central fund was established to ensure that funds were allocated according to priority and need.

Until November 1997, the Assistant Secretary for Administration had been responsible for the HMMP appropriations. In November 1997, the Secretary reorganized the authorities and responsibilities of HMMP within USDA "to signal the importance" of the program. The Secretary transferred the Department's Federal facilities and program environmental compliance effort from the Assistant Secretary for Administration to the Under Secretary for Natural Resources and Environment.

On January 15, 1999, the Secretary of Agriculture established the USDA Hazardous Materials Policy Council (HMPC) to direct and coordinate pollution prevention, control, and abatement within USDA. The HMPC is chaired by an appointee of the Secretary and consists of senior policy representatives of the affected USDA mission areas and agencies and the Office of the General Counsel (OGC). By memorandum, dated April 14, 1999, the Secretary assigned to HMPC lead responsibility for USDA's hazardous materials management and Federal facilities compliance activities, with the HMPC Chairman coordinating program direction with the assistance of an Executive Director. The director of the USDA Hazardous Materials Management Group (HMMG) serves as the Council's Executive Director. The HMMG, which serves as staff to the HMPC, was placed organizationally under Departmental Administration for administrative support.

The HMMG, acting as the program and technical staff for the HMPC, coordinates and oversees the HMMP. This includes administering HMMP funds and collecting, analyzing, and reporting information on agencies activities and expenditures in support of the HMMP.

The HMPC Executive Director/HMMG Director reports to the HMPC Chairman for both management and policy direction. The Assistant Secretary for Administration and the HMPC Chairman are responsible for presenting the USDA Hazardous Materials Management budget request to the Office of Management and Budget (OMB) and Congress. The HMPC Chairman is responsible for reporting on hazardous materials management and Federal facilities compliance program accomplishments to Congress, OMB, and the U.S. Environmental Protection Agency (EPA). Decisions on the allocation of funds to USDA agencies from the USDA central hazardous waste management account are the responsibility of the HMPC.

Each Under Secretary of the Department is delegated responsibility for ensuring that facilities under his/her authority comply with the Federal

Facilities Compliance Act and related environmental regulations. This includes any State and local standards and regulations that might apply. Agencies are responsible for carrying out HMMP and accounting for funds used. Agencies have designated environmental coordinators to coordinate HMMP activities with HMMG. The environmental coordinators assemble and prioritize annual budget requests and related documentation in accordance with the instructions provided by HMMG, update their agency's HMMP program of work at the start of and throughout the FY, manage and report on HMMP project activities and funds, prepare annual accomplishments reports, and, in coordination with agency accounting personnel, reconcile agency financial records with those of the National Finance Center (NFC).

In addition to internal systems individual agencies may use, HMMG maintains a spreadsheet-based system for (1) identifying and tracking HMMP projects and activities, (2) requesting HMMP and agency funding, (3) documenting HMMP fund allocations, (4) establishing HMMP goals and priorities, and (5) reporting HMMP program accomplishments.

The projects and activities performed within HMMP are limited to those required by and conducted pursuant to the requirements of CERCLA, RCRA, and Pollution Prevention Act.

OBJECTIVES

The objectives of the audit were to (1) determine if the policies and procedures for the planning and budgeting process were adequate to provide the needs of HMMP, (2) evaluate systems and procedures used to plan, monitor, manage, account for, and report on the availability and use of HMMP funds, (3) determine if obligation and cost data utilized by agencies and HMMG were complete and accurate, and (4) determine if HMMP funds were used for authorized purposes.

SCOPE

The audit was performed in accordance with Government Auditing Standards. We evaluated policies and procedures applicable to the Department's management of HMMP funds. Our review was performed at HMMG and at the five agencies or offices receiving the largest share of the HMMP appropriations. Work was performed at the national offices of the Forest Service (FS), Agricultural Research Service (ARS), Farm Service Agency (FSA), Farm Credit Program (FCP), Commodity Credit Corporation (CCC), and OGC. These agencies received \$15.2 million (97 percent) of the \$15.7 million of HMMP funds for FY 1999. We reviewed each agency's and office's procedures for determining HMMP budget requests, examined the basis for distributing and redistributing funds, and determined if cost data used by

agencies and HMMG were complete and accurate. We also reviewed a sample of 100 statistically selected HMMP fund transactions from a universe of 102,314 transactions to determine if the funds were used for authorized purposes. We visited Argonne National Laboratory (ANL) in Argonne, Illinois, a contractor performing hazardous materials compliance work for CCC and one FS Regional Office.

The audit was conducted from January 2000 through April 2001 and focused on program activities from FY 1999 through FY 2000. Other FY's were reviewed as necessary.

METHODOLOGY

To accomplish the audit objectives, we conducted interviews, performed record reviews, and made inquiries at HMMG and affected USDA mission areas. Our examination consisted of the following:

- Assessed Departmental and agency organizational controls and policies and procedures for managing hazardous materials funds.
- Reviewed prior audit reports and other examinations performed by the Office of Inspector General (OIG) and the General Accounting Office.
- Interviewed HMPC and HMMG and agency officials regarding policies, procedures, and responsibilities for program management.
- Evaluated program compliance at five USDA agencies/offices receiving the largest share of HMMP funds in FY 1999 to include a review of accounting and other program records.
- Evaluated each agency's budgeting and planning process to determine if the agency followed prescribed guidelines.
- Contacted agency field sites to discuss fiscal operations and to obtain source documents for sampled financial transactions.
- Requested a USDA environmental scientist to perform an assessment of ANL's methods, and procedures for site identification, assessment, and clean up.
- Reviewed a sample of 100 expenditure transactions selected from a universe of 102,314 transactions covering FY's 1996 through 1999 to evaluate the use of program funds. Because of computer related problems, NFC was unable to provide disbursement data for February 1999.

FINDINGS AND RECOMMENDATIONS

CHAPTER 1	HMMP FUNDS ACCOUNTABILITY AND COSTS WERE NOT ADEQUATELY MONITORED
------------------	--

FINDING NO. 1

HMMG and agencies need to improve their monitoring and controls over HMMP funds. HMMG used its spreadsheet-based reporting system and program reviews to assess

agency performance and project management, but neither provided sufficient oversight of funds accountability. Only two of the five agencies (ARS and FS) reviewed had internal review processes. One agency, ARS, had documented policies and procedures for management and accountability of HMMP funding. However, neither agency's reviews identified residual funds that could be de-obligated or redirected to other projects. As a result, we found (1) unliquidated obligations (residual funds) of about \$1.8 million that were not de-obligated and redirected to other cleanup projects and (2) one agency did not adhere to the plan of work for which HMMP funds were allocated.

OMB Circular A-123 requires management structures that include accountability and cost effective controls that ensure: (1) programs achieve their intended results, (2) resources are used consistent with agency mission, (3) programs and resources are protected from waste, fraud, and mismanagement, (4) laws and regulations are followed, and (5) reliable and timely information is obtained, reported and used for decision making.

The FY 1999 restructuring of the HMMP for department-wide leadership led to the development and implementation of a strategic plan that covers organizational structure and procedures, objectives and measurements, and performance goals. The strategy is based on agencies being responsible for planning and executing projects and activities needed to meet the goals and objectives of the HMMP. The current structure of the HMMP was established in January 15, 1999, when the Secretary established the HMPC to provide departmental leadership of the HMMP and to ensure consistency in the program across all agencies. Under the current structure, HMPC has made significant progress in responding to our prior audit recommendations and addressing issues identified during this audit. During FY 2000 HMPC obtained authority to carry out its assigned responsibilities, developed a hazardous materials management

strategic plan, and revised Departmental Manual 5600-1, Environmental Pollution, Prevention, Control and Abatement Manual to redefine program responsibilities.

The HMMG's monitoring system does not provide assurance that agencies maintain program fund accountability and adhere to plans of work. The Departmental Manual¹ provides for the HMMG to conduct periodic reviews of HMMP (program and project) files, financial data, and reports to assess accuracy and completeness and to ensure data consistency across agencies. HMMG may also request agency representatives to conduct or assist with these reviews. The HMMG has conducted some reviews using a checklist prescribed under RCRA and the Code of Environmental Management Principles, but with limited staff, the reviews were infrequent and were not designed to evaluate agency fund accountability. Two of the five agencies we reviewed (FS and ARS) had formal review processes that generally evaluated regulatory compliance.

- FS National and regional office staff conducted environmental audits to ensure that projects met regulatory requirements. These audits did not address HMMP funds accountability and they generally were not forwarded to the HMMG for review.
- ARS had implemented an On-site Assistance Review Program. The reviews are designed to ensure that projects are reaching their targeted goals and are in compliance with regulatory requirements. Although reports are available for review, ARS does not forward copies of the reports to the HMMG.

The other agencies did not conduct reviews.

The HMMG uses an electronic spreadsheet to facilitate monitoring and assist in carrying out its oversight responsibility, but its data is not always complete and accurate. Agencies did not accurately report the status of HMMP fund obligations or the status of projects. Budget requests were made for projects previously reported as completed, or projects were reported as new although funds were previously obligated to the projects. For example, of the 48 projects FS reported as completed at the end of FY 1998, we identified 7 projects for which additional budget requests were made in FY's 1999 and 2000 (e.g., Project No. 0513540001, an on-going project prior to FY 1997, was reported as completed at the end of FY 1998, but additional funds were requested in FY 1999).

¹ Departmental Manual 5600-1, Chapter XI, Amendment 2, December 1, 2000.

The following fund accountability issues could have been detected or prevented had an adequate monitoring system been implemented.

- **Unliquidated Obligations (Residual Funds) Were Not De-obligated Timely** – Agencies had not de-obligated residual funds when the projects were completed. As of October 31, 2000, 4 of the 5 agencies had residual funds totaling \$1,813,809 that remained after the projects were completed (see table 1).

Table 1

Agency	Projects Completed	Residual Funds
FSA-FCP	105	\$1,457,507
FS	48	131,592
ARS	7	115,019
OGC ¹		109,691
Totals	160	\$1,813,809

¹ Funds are not obligated by project

Once funds were reported as obligated, the agencies did not provide any subsequent accountability to the HMMG on the disposition of the funds. ARS, FS, and OGC personnel were not aware of the residual funds. FSA State office personnel were aware of the FCP funds and were awaiting guidance from the national office as to how to dispose of the residual funds. Because the agencies had not performed closeouts of the completed projects, the residual funds remained idle for extended periods when they could have been redirected to other projects. Examples were:

- Project No. 70C-92-24000 - On September 23, 1992, the Maryland FSA State office obligated \$208,185 of HMMP funds to clean up an environmental hazard on an inventory farm. A contract was awarded to the U.S. Army Corp of Engineers who completed the work and issued a final report in March 1995. The Corp was paid a total of \$110,989. The State Environmental Coordinator stated that the cleanup work was completed and the residual funds of \$97,196 (\$208,185 - \$110,989) should be de-obligated.
- Project No. 70T-92-03001 - On August 28, 1992, \$25,000 was obligated for this Arkansas project. An investigation of the inventory property disclosed that the contaminant source was not located on the property. Although no cleanup efforts were required, the \$25,000 remained obligated even though FSA determined

on January 13, 1993, it was not responsible for the cleanup. The State Coordinator stated that he informed the national office that the funds should be de-obligated.

- Project No. 70C-95-09001 - On December 20, 1994, \$396,500 was obligated for cleanup on a Florida inventory farm. Cleanup was completed on May 12, 1998, but a residual fund of \$161,438 was not de-obligated.

The FSA National Office Environmental Coordinator told us he was aware that there were some residual funds balances, but due to other collateral duties he had not had time to follow up with the States and de-obligate the residual balances.

Subsequent to the December 5, 2001, exit conference, we were notified that ARS, FS and OGC reconciled their HMMP fund accounts. HMMG allowed ARS and FS to redirect the residual funds to other projects and the OGC de-obligated and turned in residual funds.

- **CCC Did Not Adhere to the Plans of Work for Which HMMP Funds Were Allocated** – CCC's hazardous material compliance activities are carried out through an agreement with the Department of Energy (DOE) and its contractor ANL. Because of its inability to obtain accurate information at the outset of site activity, ANL determines its budget requests on broad estimates rather than actual work planned or predetermined cost estimates. CCC did not submit revised project estimates to HMMG when changes occurred in ANL's planned activities.

The HMMP budget process allows each agency to determine and prioritize its own hazardous materials activities. Agencies are responsible for developing prioritized budget requests and performance goals for projects and activities they propose to fund with HMMP and agency appropriations. This information serves as the basis for their HMMP fund allocations.

For FY 1999, we compared the budget estimates CCC submitted to the HMMG with estimates ANL submitted to CCC. We found that budget estimates were not revised and submitted to HMMG when changes occurred in plan of work activities. (See table 2.)

Table 2

Project	CCC Budget	ANL Budget	ANL FY 1999 Expenditures
Multiple Sites	\$0	\$0	\$ 589,453
Adams	1,000,000	400,000	38,888
Agra	63,000	0	0
Canada	400,000	0	59,615
Ceresco	0	0	339,603
Funk	0	0	7,737
Kennesaw	0	0	10,363
Raymond	237,000	237,360	146,303
Gladstone	0	0	1,173
Hubbard	200,000	0	364,794
Milford	800,000	800,000	503,418
Bendena	0	400,000	6,901
Frankfort	0	0	808,588
Navarre	300,000	0	0
Everest	0	600,000	0
Hubbard	0	199,930	0
Ramona	0	0	84
York	0	0	775
Total	\$3,000,000	\$2,637,290	\$2,877,695

Although budget requests are prepared nearly two years in advance, the actual work performed should be based on the program of work and cost estimates updated at the beginning of each fiscal year.

ANL determined the scope of work, how it was to be carried out, and developed project cost budgets. ANL provided the financial accounting for project costs and was given little guidance with regard to fiscal accountability, cost effectiveness, or oversight of costs incurred. For example, ANL does not maintain files in a manner in which cleanup costs can be readily identified by site/project. In FY's 1999 and 2000, ANL charged \$1,282,175 (26.7 percent) of total expenditures of \$4,794,399 for the 2-years to a general management account (see table 3).

Table 3

	Expenditures		Total
	FY 1999	FY 2000	
General Hazardous Waste Management	\$589,453	\$692,722	\$1,282,175
Total Expenditures	\$2,844,322	\$1,950,077	\$4,794,399
Percent			26.7

Because these expenditures cannot be identified to a specific project, pursuit of recovery from other parties that may be responsible for the contaminant source could be jeopardized. A recent settlement action involving two other parties responsible for contamination at the Bruno, Nebraska, site illustrates the need for more specific accounting of project costs. Because of ANL's method of accounting, potential cost recovery will be decreased due to all site assessment cost not being identified. Project files which track project status, cost estimates, and project expenditures should be maintained.

Prior to FY 1998, ANL focused its attention on the identification of the contaminant source rather than the identification and pursuit of other parties that may be potentially responsible for contamination at or near CCC's formerly owned or operated grain bin sites. In correspondence forwarded to us after the audit exit conference, CCC stated that recent changes in the program have placed more emphasis on identification and pursuit of potentially responsible parties (PRP) and the technical program has been changed accordingly. In 2001, CCC began an effort to better integrate PRP search activities into the program. The developed procedures to address PRP issues at former grain storage sites are now in place. New site work is being conducted in accordance with these procedures, with the overall objective being the facilitation of cost recovery when warranted. Also in 2001, CCC conducted a PRP analysis at sites that had been previously characterized.

The HMMG relied on agency personnel to monitor project activities and had not established procedures to prevent agencies from deviating from approved plans of work. While deviation from planned activities may be warranted in some cases, such deviation impacts on priority setting and could result in the more critical project needs not being met.

RECOMMENDATION NO. 1

Assign technically qualified staff to conduct and/or monitor program reviews and amend procedures for conducting program reviews to ensure agencies assess funds accountability

and comply with departmental procedures.

Agency Response

In the August 28, 2002, response to the draft report, the Assistant Secretary for Administration agreed with the recommendation. The response did note the following.

*Actions Taken: * * * We believe the current Department-wide efforts to improve financial management, link budgets and performance, and implement unit-cost methods under the Government Performance and Results Act and the President's Management Agenda will continue to ensure appropriate [Hazardous Materials Management Account] HMMA expenditures particularly, given the overall size of the HMMP.*

However, we agree that full implementation of the provisions of Chapter XI of DM 5600-1 requiring USDA agencies to grant OCFO read-only access to the account(s) in which they manage HMMA funds, is still needed. In addition, one to two financial audits will be conducted each year with at least one being conducted by a certified auditing firm under contract. Candidates for these audits are large projects with total obligations (for all years) exceeding \$1 million or for projects for which USDA is attempting to recover response costs. We are currently preparing to issue a contract for an audit of the New World Mine response and escrow accounts and are reviewing costs in anticipation of litigation for additional sites in the Forest Service. All cost recovery packages will receive routine reviews for completeness, accuracy, and legal defensibility.

OIG Position

The agency response did not fully address the recommendation. To achieve management decision, we need documentation of the staff assigned to conduct and/or monitor program reviews and the procedures for conducting the reviews to ensure that agencies assess funds accountability and compliance with departmental procedures.

RECOMMENDATION NO. 2

Require FCP, FS, ARS, and OGC to reconcile their HMMP fund accounts and de-obligate and return to the HMMP \$1,813,809 of residual funds for completed projects or seek

HMMP's approval to redirect the residual funds to other agency projects (see table 1).

Agency Response

In the August 28, 2002, response to the draft report, the Assistant Secretary for Administration agreed with the recommendation. The response did note the following.

Action Taken: On November 27, 2001, the Executive Director of HMPC sent a memorandum to the heads of all agencies receiving HMMA funds, not just those in this audit. The memo requested a thorough review of unexpended obligations to identify residual funds that could be de-obligated. Responses were due by January 14, 2002. FS, ARS, OGC, and other USDA agencies completed the task in a timely fashion. OGC returned all its residual funds, which totaled \$34,701. That amount plus all of OGC's carryover HMMA funds were transferred, totaling \$231,294, were used to pay part of the costs of the anthrax cleanup in USDA facilities in the metropolitan Washington, DC area.

Both ARS and FS identified their residual funds and requested HMPC approval to retain them and reprogram them to other projects. The HMPC approved this request at its January 17, 2002, meeting. Several small USDA agencies replied that they had no residual funds.

In a May 9, 2002, memorandum, the Chair of the HMPC asked FSA to complete action on this item by July 1, 2002. In a June 17, 2002, reply, the FSA Administrator indicated that about \$806,000 had been confirmed for de-obligation and that another \$758,000 was still be[ing] investigated. In August 2002, FSA de-obligated \$1,424,063.39 and has indicated they are still processing potentially outstanding receipts totaling \$30,809.86. The \$1.4M will be immediately transferred to the Forest Service to cover critical projects that have been stopped due to the reallocation of Forest Service funds for wild land fire suppression. This item is now substantially complete. We will continue to work with FSA to complete their efforts and to determine that there are no residual funds in FYs 1988-1991 and 1996-2002. The \$1.4M was de-obligated from FYs 1992-1995.

OIG Position

We agree with management decision.

RECOMMENDATION NO. 3

Require each agency to promptly complete closeout reviews for all completed projects and return residual fund balances to HMMG for redistribution to other HMMP activities.

Agency Response

In the August 28, 2002, response to the draft report, the Assistant Secretary for Administration agreed with the recommendation. The response did note the following, "Action Taken: Beginning with the accomplishment report for FY 2002, agency heads will be asked to also provide written attestation that all residual funds have been de-obligated and are either reallocated within the agency to established priority projects or returned to HMMG for redistribution."

OIG Position

We agree with the management decision.

RECOMMENDATION NO. 4

Establish controls to ensure that agencies adhere to approved plans of work or submit revised plans and budget estimates when material changes occur.

Agency Response

In the August 28, 2002, response to the draft report, the Assistant Secretary for Administration agreed with the recommendation. The response did note the following.

Chapter XI of DM 5600-1 requires agencies to maintain project files with up-to-date information on their projects, including cost estimates, priorities, status, regulatory information, and financial information. As projects proceed and more information on the actual nature and extent of contamination becomes available after investigation and design, it is not unusual for circumstances, costs, the scope and timing of needed work, and priorities to change. The HMMA is designed to accommodate the changes in scope and costs as estimates become more accurate.

Actions Taken: Our actions to address execution of technically complex and uncertain cleanup projects is to staff these projects with the most experienced personnel possible; to consult with stakeholders; to have project and agency personnel periodically review and report on the status of their priorities, projects, programs of work, performance targets, and performance; and to have HMMG review agency reports.

We recognize deviations from original budget requests and start-of-year programs of work are inevitable and usually justifiable but that they can call into question program credibility. The spreadsheet-system now in use represents the primary means of documenting the course of its overall program. It is the tracking and control system in this area. * **

** * * HMMG has taken - and continues to take - a number of steps to improve consistency in the program of work. However, greater consistency ultimately depends on the agencies improving their program management systems. Most agencies have been very responsive, improving their program management techniques, priority-setting, and stakeholder coordination. In these agencies, there are still deviations, but they almost always result from unanticipated findings (e.g., more or less contamination than expected), delays (e.g., regulatory reviews not completed in a timely fashion, bid protests), or emergencies (e.g., an incident requiring immediate attention to prevent harm to human health or the environment). Because there are still deviations, and to document justifications for deviations, all agencies are required to request the approval of the Executive Director of the Policy Council for reallocation of amounts exceeding \$50,000 in advance and to analyze the impact on performance targets.*

* * * * *

OIG Position

To achieve management decision, we need documentation of the effective date of procedures requiring agencies to request the approval of the Executive Director of the Policy Council for reallocation of budget estimates exceeding \$50,000 or when material changes occur in approved plans of work.

CHAPTER 2	CCC'S AGREEMENT WITH DEPARTMENT OF ENERGY (DOE) AND ITS CONTRACTOR ANL NEEDS TO BE RE-EVALUATED
------------------	--

FINDING NO. 2

CCC has a contractual agreement with DOE to have its contractor ANL carry out the corporation's environmental compliance requirements at grain bin storage sites. The 12-year old agreement needs to be re-evaluated. The agreement is broadly stated and does not provide elements necessary to ensure ANL's performance. The agreement gives ANL responsibility to carry out environmental compliance activities but is unclear as to CCC's role or responsibilities. From FY 1988 through FY 2000, ANL has been awarded more than \$57 million for 41 projects (see exhibit C), but CCC has not provided sufficient oversight to ensure that efficient methods and effective cost controls are used. CCC relied on ANL to establish the scope and methods for site characterizations with few restrictions on time and costs and minimal CCC involvement (see Finding No. 1). ANL was given primary control of CCC's hazardous waste compliance activities because of the corporation's limited knowledge and expertise in the field of hazardous waste management. ANL determined the scope of site characterization work and how it was to be carried out; prepared project cost estimates, performed the site characterizations, and accounted for project cost. CCC used ANL as its primary contractor for site characterizations and has never conducted a competitive assessment or selection for the work.

Agreement Does Not Ensure Contractor Performance

In October 1988, CCC entered into an agreement with the DOE to have ANL, a Government owned, contractor-operated laboratory assist CCC in addressing hazardous materials environmental compliance at formerly owned or operated facilities (e.g., grain storage elevators). The agreement lacked specificity on the terms and conditions for overall program performance and oversight as well as program funds accountability. The agreement and subsequent work orders outlined ANL's role in carrying out CCC's environmental compliance activities but did not clearly delineate CCC's oversight responsibilities. Also the agreement was unclear as to the authority under which the agreement was entered.

The agreement between CCC, DOE, and ANL has not been reevaluated in the 12 years it has been in effect. At the onset of the agreement, ANL

was to provide technical support and environmental management oversight of other contractors who were to conduct site assessments. Through a series of work proposals, ANL's responsibilities shifted from primarily an oversight role to a more involved role of site assessment and determining alternative techniques for site characterization. ANL prepares the work proposals, determines the scope of work, budgets for the services, and performs the work. At the time of the 1988 agreement, CCC believed ANL was the only source to provide the services.

The contractual relationship between CCC, DOE, and ANL has also raised concern with HMPC. Of particular concern was that the work proposals CCC uses for ANL do not delineate all essential work elements and relationships such as (1) dispute resolution, (2) funds accountability and performance reporting, (3) documentation of CCC's oversight responsibilities for ANL's actions, and (4) controls to enable cost recovery actions against other responsible parties. HMPC expressed concern that CCC has used ANL as its primary contractor for all of its site characterization work and has never conducted a competitive selection for any of the work. The HMPC expressed further concern regarding the adequacy of CCC's contractor oversight. HMPC believes CCC needs to assign technically qualified full-time personnel to review and direct all contractor activities to ensure that the Government and not its contractor makes key program and funding decisions.

Neither the agreement nor an addendum of additional terms or the work proposals cites any statutory reference under which the agreement was entered. Correspondence on file at CCC and ANL showed that the agreement was entered into under the Economy Act of 1932. DOE requires agencies requesting its services to provide a written statement that entering into an agreement with DOE is in compliance with the requirements of the Economy Act of 1932 and Federal Acquisition Regulations. The Economy Act requires a "Determination & Findings" which shall state that (1) the use of an interagency acquisition is in the best interest of the Government; and (2) the supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source. Neither CCC, DOE, nor ANL had documentation of the Determination & Findings.

An OGC Attorney told us that CCC's status as a Government corporation exempts it from Federal Acquisition Regulations and OMB Circular A-76, Performance of Commercial Activities. Although CCC is covered under the Economy Act, it may opt to use its Charter Act as the authority to enter into agreements with other Federal agencies. According to CCC officials, the agreement was entered into under authority of Section 11 of The CCC Charter Act. While the Charter Act provides authority to enter

into agreements with other Federal agencies, it does not provide any guidelines on the structure or content of an agreement. The government-to-government agreements do not require specificity on terms and conditions nor is a statutory reference required to be cited on the agreement.

Since FY 1988, ANL has been awarded \$57 million for its work of which \$26.7 million was HMMP appropriated funds. Regardless of what authority the agreement is based upon, procurement of services with Federal funds should represent the best value.

To ensure that the agreement continues to be the best source for CCC to meet its environmental compliance requirements, CCC should assess the services ANL provides and determine if all phases of environmental compliance are best performed by ANL, or whether portions of the work could be contracted out to other sources through the competitive process.

Contractor Defines Scope of Work

CCC gave ANL broad authority to establish the methods and procedures used to conduct the environmental activities. Until recent staffing changes, CCC had little involvement in defining the scope of work or establishing the methodology for site assessment. Because of its staff's limited expertise, CCC allowed ANL to determine the scope of work to be performed and develop project cost budgets. As a result, CCC had no assurance that the work was performed timely, met standards, or was cost efficient.

In response to a prior OIG audit, Audit No. 50600-2-At, Cleanup Costs Incurred Under Selected Interagency Agreements, September 1992, CCC acknowledged that it possessed neither the technical capabilities to undertake site cleanup or contracting experience to conduct competitive solicitations of environmental investigations or engineering services. The agreement with DOE was to have ANL provide these needed services. At the initiation of the interagency agreement in 1988, the scope of work was limited to overseeing the work of other contractors. Over the years, ANL's work has evolved into carrying out almost all of CCC's site assessment activities. ANL determines the scope and methodology for the work to be performed and prepares the work proposals for CCC.

Because of CCC staff's limited expertise, it has relied on ANL to carry out its environmental compliance activities. While CCC assigned two staff environmental specialists to coordinate with ANL, both employees performed other duties and were limited in the amount of time available to

monitor ANL's performance. Both CCC staff members agreed that they gave ANL too much responsibility, and did not provide the proper oversight of ANL's work. The HMPC also expressed concerns regarding the adequacy of CCC's professional staff for contractor oversight. HMPC believes CCC needs to assign technically qualified personnel to review and direct all contractor activities to ensure that the Government and not its contractor makes key program and funding decisions.

Since the audit fieldwork was performed, CCC restructured and increased its environmental staff. CCC believes it now has technically qualified personnel on staff but maintains that it may be in the best interest of the program to retain private sector engineering expertise to be used when significant issues arise and CCC could benefit from the additional analysis.

At our request, a HMMG environmental scientist performed an overview of ANL's methods and procedures for site identification and assessment. The scientist's review of three projects (Ceresco, Nebraska, and Canada and Frankfort, Kansas), selected at random, and discussions with ANL's quality control manager indicated that ANL's standard approach is to appraise a site within a regional framework then focus on delineation of contamination at the CCC site. This method was used at all three sites.

The scientist stated that the information obtained from development of regional models may be of value to parties outside of USDA, but ANL's approach goes far beyond the effort necessary to determine the extent of USDA's liability for past contamination at the CCC sites. ANL's approach is to first establish a conceptual model of regional geology, hydrogeology, and hydrochemistry, rather than to focus on establishing the extent to which CCC owned/operated sites are the source of contamination. For example, in the scientist's review of phase I work plans for the Ceresco, Nebraska, and Frankfort, Kansas, projects, he questioned whether the regional geological cross section that ANL constructed in its interpretive cross section of the region was a necessary use of funds in determining USDA's liability for past contamination. In both cases, the cross sections for the regional model were at a considerable distance from the CCC site identified with the contamination.

The scientist believed that the investigations should have worked outward from the CCC site rather than from the regional hydrology inward as ANL does. According to the scientists, the first approach should have been to confirm that the site is or was actually a CCC site, then determine whether contamination is still on or under the site and whether a plume of contamination extends towards or to a point of concern. This should be

done within a site inspection framework², rather than as a remedial investigation/feasibility study³ as ANL currently does. The goal of the site inspection framework is to avoid unnecessary expenditures on data collection.

An EPA engineer who was primarily responsible for oversight of work at a former CCC grain bin site in Murdock, Nebraska, and who assisted another engineer at a grain bin site in Bruno, Nebraska, contends that while ANL follows the protocol as required by the National Contingency Plan for site characterization it goes far beyond what is necessary to meet requirements. The engineer stated that ANL's work has led to developing a trademark for site characterization and its research in other areas has resulted in valuable information, however, for the number of sites that will require cleanup, it may not be the most economical approach. The engineer stated that USDA could possibly achieve more for its money if ANL was not allowed to do the extensive work it does at every site.

Another engineer with EPA, who has been involved with ANL's work, stated that since ANL is primarily a research facility it does more site characterization studies than are done by most engineering firms. He stated that at the Bruno, Nebraska, site, ANL's protracted study of the site was unnecessary. He stated that ANL probably incurred more costs studying the site than the actual cleanup would have cost.

RECOMMENDATION NO. 5

Require CCC to re-evaluate its agreement with the DOE to ensure that (1) use of the interagency agreement is in the best interest of the Government and (2) the supplies or

services cannot be obtained as conveniently or economically by contracting directly with a private source.

Agency Response

In the August 28, 2002, response to the draft report, the Assistant Secretary for Administration agreed with the recommendation. The response did note the following.

CCC concurs with the recommendations that this agreement be reevaluated in order to determine if it is in the best interest of the Government and that the supplies and services provided cannot be obtained as economically by contracting directly with a private source.

² 40 CFR 300.410(d) or 420(c), dated July 1, 1996

³ 40 CFR 300.430, dated July 1, 1996

CCC does not rely on ANL for "all phases of environmental compliance". Other contractors are used for response actions including removals, remedial actions, engineering design, and operation and maintenance activities. The ANL agreement is used for CERCLA activities at the grain bin sites only and not for other non-HMMP environmental activities conducted by CCC.

OIG Position

To achieve management decision, we will need timeframes for CCC to re-evaluate its agreement with DOE to ensure (1) use of the interagency agreement is in the best interest of the Government and (2) the supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source.

RECOMMENDATION NO. 6

Require CCC to establish the scope of work performed under its agreement with DOE to ensure that the work performed is efficient and cost effective.

Agency Response

In the August 28, 2002, response to the draft report, the Assistant Secretary for Administration agreed with the recommendation. The response did note the following.

Action Taken: CCC has taken a more proactive role in the development of annual work plans with ANL. CCC's work plans and budgets are developed based on priorities established through dialog with the appropriate federal and state regulatory agency. Budgets developed by ANL are developed after similar dialog with CCC. Monthly status meetings between CCC and ANL are being conducted as a matter of routine. It is at these meetings where any changes to the pending program are discussed. These changes might occur as a result of a change in regulatory priorities, the discovery of an unanticipated contaminant exposure, legal proceeding, among other factors. An additional step has been added to this process requiring a written authorization from CCC to ANL for any changes to the proposed work plan to occur, or for any new work not otherwise specified in the program of work to take place.

When HMMG requests a budget estimate from CCC for a given fiscal year, the budget that CCC submits is developed based on the above mentioned factors as well as other considerations. These include anticipated response requirements, operations and maintenance needs, settlement agreements with communities, EPA mandates, and agreements with state regulatory agencies.

Once these considerations are taken into account, it can be determined what resources are available for ongoing and future site characterization activities. The determination as to how to allocate the resources in the budget is made by CCC.

In early 2001, CCC/USDA began an effort to better integrate potentially responsible parties (PRP) search activities into the program. Procedures to address PRP issues at former grain storage sites are now in place. Also in 2001, CCC conducted a PRP analysis at sites that have been previously characterized. Also, all new site work is being conducted with these procedures in place, with the overall objective being the facilitation of cost recovery when warranted.

Although PRP's have routinely been identified as part of the CCC site characterization process, it is the decision of CCC/USDA whether or not to pursue additional PRP's at CCC sites. Until recently, CCC's focus had been identification of contaminant source areas. As we proceed through the investigation phase we may identify additional PRP's and pursue them as appropriate. In addition, as previously mentioned, CCC agrees to request approval from HMMG for project reallocation over \$50,000.

OIG Position

We agree with management decision.

RECOMMENDATION NO. 7

Require that CCC assign full-time personnel to review and direct its contractor's activities and ensure that key program and funding decisions are made by CCC staff.

Agency Response

In the August 28, 2002, response to the draft report, the Assistant Secretary for Administration agreed with the recommendation. The response did note the following.

Action Taken: During the time since the audit was initiated, CCC has significantly restructured its environmental staff. The current staffing level and background of those individuals is as follows:

*GS-14 Program Manager for Hazardous Waste Activities
M.S., Environmental Science and Engineering*

*GS-14 Environmental Compliance Specialist
B.S. Environmental Education*

*GS-13 Environmental Protection Specialist
M.S. Geology*

*GS-13 Budget Specialist
B.S. Business Administration*

CCC has technically qualified personnel currently on staff. However, it may be in the best interest of the program to retain private sector engineering expertise to be used when significant technical issues arise for which CCC could benefit from additional expertise and analysis.

With respect to program decision, the CCC program manager has directed that ANL activities proceed only following written authorization from the CCC program office.

OIG Position

We agree with management decision.

EXHIBIT A – SUMMARY OF MONETARY RESULTS

Finding Number	Recommendation Number	Description	Amount	Category
1	2	Residual funds were not de-obligated	\$1,813,809	FTBPTBU De-obligations

FTBPTBU – Funds to be put to better use.

**EXHIBIT B – USDA HAZARDOUS MATERIALS MANAGEMENT
APPROPRIATIONS FOR FISCAL YEARS 1988 THROUGH 2000**

Fiscal Year	Appropriation	Obligation	Carryover Amount
1988	\$2,000,000	\$744,000	\$1,256,000
1989	5,000,000	3,467,000	\$2,789,000
1990	19,927,000	17,762,000	\$4,954,000
1991	24,757,000	17,087,000	\$12,624,000
1992	26,350,000	36,784,000	\$2,190,000
1993	16,000,000	16,470,000	\$1,720,000
1994	15,802,000	16,945,000	\$577,000
1995	15,695,000	15,157,462	\$1,114,538
1996	15,700,000	14,641,850	\$2,172,688
1997	15,700,000	13,742,236	\$4,130,452
1998	15,700,000	19,020,066	\$810,386
1999	15,700,000	15,204,782	\$1,305,604
2000	15,700,000	16,376,108	\$629,496
Totals	\$204,031,000	\$203,401,504	

EXHIBIT C – SCHEDULE OF REIMBURSEMENTS TO ARGONNE NATIONAL LABORATORY

Fiscal Year	CCC Agency Funds	HMMP Funds	Total
1988	\$200,000		\$200,000
1989	243,000		243,000
1990	496,000		496,000
1991	927,000		927,000
1992	1,054,000	\$4,550,298	5,604,298
1993	1,430,000	2,342,100	3,772,100
1994	3,659,000	2,809,170	6,468,170
1995	4,040,000	2,848,446	6,888,446
1996	4,367,041	4,555,817	8,922,858
1997	3,900,000	1,401,897	5,301,897
1998	3,665,000	2,634,550	6,299,550
1999	3,950,658	2,637,290	6,587,948
2000	3,000,000	2,950,000	5,950,000
Totals	\$30,931,699.00	\$26,729,568.00	\$57,661,267.00

EXHIBIT D – AUDITEE'S RESPONSE TO THE DRAFT REPORT

Page 1 of 6



United States
Department of
Agriculture

Office of the
Assistant Secretary
for Administration

1400 Independence
Avenue SW

Washington, DC
20250-0103

MEMORANDUM

TO: Richard D. Long
Assistant Inspector General
For Audit

FROM: Lou Gallegos *John Durino*
Assistant Secretary for Administration

SUBJECT: OIG Audit: Management of Hazardous Materials Management Funds,
Hazardous Materials Management Program (50801-12-At)

AUG 28 2002

Thank you for the opportunity to respond to the recommendations contained in the subject draft audit report of the Hazardous Materials Management Program. We appreciate the effort undertaken by the Office of the Inspector General in recommending improvements to the management of our program. We believe many significant improvements have been undertaken to address your findings and recommendations and others will be undertaken where appropriate. Attached for your information are our comments and actions taken.

Please let me know if you need any additional information or clarifications. You may contact Russ Ashworth, Director of the Office of Property and Procurement Management at (202) 720-9448, or Blake Velde, the Acting Director, Hazardous Materials Management Group at (202) 205-0906.

Attachment

CC: HMPC Members
Audit Coordinator - DA

AN EQUAL OPPORTUNITY EMPLOYER

**Management of Hazardous Materials Management Funds,
Hazardous Materials Management Program (50801-12-At)
Response and Action Taken**

Recommendation 1. Assign technically qualified staff to conduct and/or monitor program reviews and amend procedures for conducting program reviews to ensure agencies assess funds accountability and comply with departmental procedures.

Actions Taken: Each year, the Hazardous Materials Management Group (HMMG), the Hazardous Materials Policy Council (HMPC), and/or the Office of the Chief Financial Officer (OCFO) issue instructions on allowable uses of the Hazardous Materials Management Account (HMMA) funds, and agency heads are required to provide written attestations to the completeness and accuracy of the data, including financial data, they are submitting for the annual accomplishments report, and subsequent responses to the annual Congressional appropriation hearings. The OIG audit found no instances of inappropriate use of funds, strongly supporting our position that this approach has been effective and that past problems are now greatly improved and corrected. We believe the current Department-wide efforts to improve financial management, link budgets and performance, and implement unit-cost methods under the Government Performance and Results Act and the President's Management Agenda will continue to ensure appropriate HMMA expenditures particularly, given the overall size of the HMMP.

However, we agree that full implementation of the provisions of Chapter XI of DM 5600-1 requiring USDA agencies to grant OCFO read-only access to the account(s) in which they manage HMMA funds, is still needed. In addition, one to two financial audits will be conducted each year with at least one being conducted by a certified auditing firm under contract. Candidates for these audits are large projects with total obligations (for all years) exceeding \$1 million or for projects for which USDA is attempting to recover response costs. We are currently preparing to issue a contract for an audit of the New World Mine response and escrow accounts and are reviewing costs in anticipation of litigation for additional sites in the Forest Service. All cost recovery packages will receive routine reviews for completeness, accuracy, and legal defensibility.

Recommendation 2. Require FCP, FS, ARS, and OGC to reconcile their HMMP fund accounts and de-obligate and return to the HMMP \$1,813,809 of residual funds for completed projects or seek HMMP's approval to redirect the residual funds to other agency projects.

Actions Taken: On November 27, 2001, the Executive Director of HMPC sent a memorandum to the heads of all agencies receiving HMMA funds, not just those in this audit. The memo requested a thorough review of unexpended obligations to identify residual funds that could be de-obligated. Responses were due by January 14, 2002. FS, ARS, OGC, and other USDA agencies completed the task in a timely fashion. OGC returned all its residual funds, which totaled \$34,701. That amount plus all of OGC's carryover HMMA funds were transferred,

totaling \$231,294, were used to pay part of the costs of the anthrax cleanup in USDA facilities in the metropolitan Washington, DC area.

Both ARS and FS identified their residual funds and requested HMPC approval to retain them and reprogram them to other projects. The HMPC approved this request at its January 17, 2002, meeting. Several small USDA agencies replied that they had no residual funds.

In a May 9, 2002, memorandum, the Chair of the HMPC asked FSA to complete action on this item by July 1, 2002. In a June 17, 2002, reply, the FSA Administrator indicated that about \$806,000 had been confirmed for de-obligation and that another \$758,000 was still be investigated. In August, 2002, FSA de-obligated \$1,424,063.39 and has indicated they are still processing potentially outstanding receipts totaling \$30, 809.86. The \$1.4M will be immediately transferred to the Forest Service to cover critical projects that have been stopped due to the reallocation of Forest Service funds for wild land fire suppression. This item is now substantially complete. We will continue to work with FSA to complete their efforts and to determine that there are no residual funds in FYs 1988-1991 and 1996-2002. The \$1.4M was de-obligated from FYs 1992-1995.

Recommendation 3. Require each agency to promptly complete closeout reviews for all completed projects and return residual fund balances to HMMG for redistribution to other HMMP activities.

The definition of a “complete” project or activity in Chapter XI of DM 5600-1 includes de-obligation and return or reprogramming of all unexpended obligated (i.e., residual) funds. Under this definition, an agency cannot claim a project or activity is complete until this and other actions have been done.

Actions Taken: Beginning with the accomplishment report for FY 2002, agency heads will be asked to also provide written attestation that all residual funds have been de-obligated and are either reallocated within the agency to established priority projects or returned to HMMG for redistribution.

Recommendation 4. Establish controls to ensure that agencies adhere to approved plans of work or submit revised plans and budget estimates when material changes occur.

Chapter XI of DM 5600-1 requires agencies to maintain project files with up-to-date information on their projects, including cost estimates, priorities, status, regulatory information, and financial information. As projects proceed and more information on the actual nature and extent of contamination becomes available after investigation and design, it is not unusual for circumstances, costs, the scope and timing of needed work, and priorities to change. The HMMA is designed to accommodate the changes in scope and costs as estimates become more accurate.

Actions Taken: Our actions to address execution of technically complex and uncertain cleanup projects is to staff these projects with the most experienced personnel possible; to consult with stakeholders; to have project and agency personnel periodically review and report on the status

of their priorities, projects, programs of work, performance targets, and performance; and to have HMMG review agency reports.

We recognize deviations from original budget requests and start-of-year programs of work are inevitable and usually justifiable but that they can call into question program credibility. The spreadsheet-system now in use represents the primary means of documenting the course of its overall program. It is the tracking and control system in this area. That the OIG was able to detect the deviations it did validates the effectiveness of this system even though it may not be perfect.

If there is a problem, it is the deviations themselves. HMMG has taken – and continues to take – a number of steps to improve consistency in the program of work. However, greater consistency ultimately depends on the agencies improving their program management systems. Most agencies have been very responsive, improving their program management techniques, priority-setting, and stakeholder coordination. In these agencies, there are still deviations, but they almost always result from unanticipated findings (e.g., more or less contamination than expected), delays (e.g., regulatory reviews not completed in a timely fashion, bid protests), or emergencies (e.g., an incident requiring immediate attention to prevent harm to human health or the environment). Because there are still deviations, and to document justifications for deviations, all agencies are required to request the approval of the Executive Director of the Policy Council for reallocation of amounts exceeding \$50,000 in advance and to analyze the impact on performance targets.

FS has been particularly cooperative in the areas of improving project and funds controls. It is nearing completion of implementing its own tracking database, GENSS. Although this system is not linked directly to financial management systems, it requires users to enter key documentation on project needs, priorities, reprogramming of funds, and funds use.

FSA has agreed to request approval of its reallocations consistent with other agency practices. FS, ARS and APHIS already are requesting HMMG approval for significant reallocations over \$50,000.

Recommendation 5. Require CCC to re-evaluate its agreement with the DOE to ensure that (1) use of the interagency agreement is in the best interest of the Government and (2) the supplies or services cannot be obtained as conveniently or economically by contracting directly with a private source.

CCC concurs with the recommendation that this agreement be reevaluated in order to determine if it is in the best interests of the Government and that the supplies and services provided cannot be obtained as economically by contracting directly with a private source.

CCC does not rely on ANL for “all phases of environmental compliance”. Other contractors are used for response actions including removals, remedial actions, engineering design, and operation and maintenance activities. The ANL agreement is used for CERCLA activities at the grain bin sites only and not for other non-HMMP environmental activities conducted by CCC.

Recommendation 6. Require CCC to establish the scope of work performed under its agreement with DOE to ensure that the work is efficient and cost effective.

Action Taken: CCC has taken a more proactive role in the development of annual work plans with ANL. CCCs work plans and budgets are developed based on priorities established through dialog with the appropriate federal and state regulatory agency. Budgets developed by ANL are developed after similar dialog with CCC. Monthly status meetings between CCC and ANL are being conducted as a matter of routine. It is at these meetings where any changes to the pending program are discussed. These changes might occur as a result of a change in regulatory priorities, the discovery of an unanticipated contaminant exposure, legal proceeding, among other factors. An additional step has been added to this process requiring a written authorization from CCC to ANL for any changes to the proposed work plan to occur, or for any new work not otherwise specified in the program of work to take place.

When HMMG requests a budget estimate from CCC for a given fiscal year, the budget that CCC submits is developed based on the above mentioned factors as well as other considerations. These include anticipated response requirements, operations and maintenance needs, settlement agreements with communities, EPA mandates, and agreements with state regulatory agencies.

Once these considerations are taken into account, it can be determined what resources are available for ongoing and future site characterization activities. The determination as to how to allocate the resources in the budget is made by CCC.

In early 2001, CCC/USDA began an effort to better integrate potentially responsible parties (PRP) search activities into the program. Procedures to address PRP issues at former grain storage sites are now in place. Also in 2001, CCC conducted a PRP analysis at sites that have been previously characterized. Also, all new site work is being conducted with these procedures in place, with the overall objective being the facilitation of cost recovery when warranted.

Although PRPs have routinely been identified as part of the CCC site characterization process, it is the decision of CCC/USDA whether or not to pursue additional PRPs at CCC sites. Until recently, CCC's focus had been identification of contaminant source areas. As we proceed through the investigation phase we may identify additional PRPs and pursue them as appropriate. In addition, as previously mentioned, CCC agrees to request approval from HMMG for project reallocation over \$50,000.

Recommendation 7. Require that CCC assign full-time personnel to review and direct its contractor's activities and ensure that key program and funding decisions are made by CCC staff.

Action Taken: During the time since the audit was initiated, CCC has significantly restructured its environmental staff. The current staffing level and background of those individuals is as follows:

GS-14 Program Manager for Hazardous Waste Activities

M.S., Environmental Sciences and Engineering

GS-14 Environmental Compliance Specialist
B.S. Environmental Education

GS-13 Environmental Protection Specialist
M.S. Geology

GS-13 Budget Specialist
B.S. Business Administration

CCC has technically qualified personnel currently on staff. However, it may be in the best interest of the program to retain private sector engineering expertise to be used when significant technical issues arise for which CCC could benefit from additional expertise and analysis.

With respect to program decisions, the CCC program manager has directed that ANL activities proceed only following written authorization from the CCC program office.

ABBREVIATIONS

ANL	
Argonne National Laboratory	4
ARS	
Agricultural Research Service	3
CCC	
Commodity Credit Corporation	3
CERCLA	
Comprehensive Environmental Response Compensation and Liability Act.....	1
DOE	
Department of Energy.....	15
EPA	
Environmental Protection Agency.....	2
FCP	
Farm Credit Program.....	3
FS	
Forest Service	3
FSA	
Farm Service Agency	3
FY	
Fiscal year	1
HMMA	
Hazardous Materials Management Account.....	11
HMMG	
Hazardous Materials Management Group.....	2
HMMP	
Hazardous Materials Management Program	1
HMPC	
Hazardous Materials Policy Council	2
NFC	
National Finance Center	3
OGC	
Office of the General Counsel	2
OIG	
Office of Inspector General.....	4

OMB
Office of Management and Budget 2

PRP
Potentially Responsible Parties 10

RCRA
Resource Conservation and Recovery Act 1

USDA
United States Department of Agriculture 1