



OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Audit Report

New Mexico Environment Department Costs Claimed Under Cooperative Agreement No. V986338-01

Report No. 2004-4-00015

March 31, 2004

This audit report contains findings that describe problems the Office of Inspector General (OIG) has identified and corrective actions the OIG recommends. The report represents the opinion of the OIG, and findings contained in this report do 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.

Report Contributors:

Keith Reichard
Les Partridge

Abbreviations

CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
OIG	Office of Inspector General
OMB	Office of Management and Budget
State	New Mexico Environment Department



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

OFFICE OF
INSPECTOR GENERAL

March 31, 2004

MEMORANDUM

SUBJECT: Report No. 2004-4-00015
New Mexico Environment Department - Costs Claimed Under Cooperative
Agreement No. V986338-01

FROM: /s/ *Michael A. Rickey*
Michael A. Rickey
Director, Assistance Agreement Audits

TO: Richard Greene
Regional Administrator
Region 6

We have examined the costs claimed by the New Mexico Environment Department (State) under Environmental Protection Agency (EPA) cooperative agreement No. V986338-01. This cooperative agreement was awarded under the provisions of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended by the Superfund Amendments and Reauthorization Act of 1986. The multi-project cooperative Agreement supports both multi-site and core activities of the State Superfund Oversight Section, Voluntary Remedial Program, and Grants and Planning Section.

We questioned \$11,588 of the total Federal share claimed of \$2,919,205 as ineligible, because the State did not fully match its 10-percent cost sharing requirements for its core program activities. Also, the State did not submit timely and complete financial status reports as required by the regulations and the terms of the cooperative agreement.

This audit report contains findings that describe problems the Office of Inspector General (OIG) has identified and corrective actions the OIG recommends. The report represents the opinion of the OIG, and findings contained in this report do not necessarily represent the final EPA position. The OIG has no objection to the release of this report to any member of the public upon request.

On February 13, 2004, we issued a draft report to the State for comments. On March 23, 2004, the State provided comments on the draft report, and agreed with all findings and recommendations.

Action Required

In accordance with EPA Manual 2750, EPA is required to provide this office with a proposed management decision specifying the Agency's position on all findings and recommendations in this report. The draft management decision is due within 120 days of the date of this transmittal memorandum.

If you have questions concerning this report, please contact Keith Reichard, assignment manager, at (312) 886-3045.

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Independent Auditor's Report

We have examined the total outlays reported by the New Mexico Environment Department (State) under the Environmental Protection Agency (EPA) cooperative agreement No. V986338-01, as shown below:

Financial Status Reports			
Date Submitted	Period Ending	Cumulative Total Outlays Claimed	Federal Share
06/05/02*	9/30/01	\$1,446,917	\$1,446,917
12/02/02**	9/30/02	\$1,472,289	\$1,472,289
		\$2,919,206	\$2,919,206

* Included all sites except the North Railroad Avenue and Fruit Avenue sites.

** Included only the North Railroad Avenue and Fruit Avenue sites.

The State certified that the outlays reported on the *Financial Status Reports* (Standard Form 269A) were correct and for the purposes set forth in the cooperative agreement. The preparation and certification of the claim was the responsibility of the State. Our responsibility is to express an opinion on the claim based on our examination.

Our examination was conducted in accordance with the *Government Auditing Standards*, issued by the Comptroller General of the United States, and the attestation standards established for the United States by the American Institute of Certified Public Accountants. We examined, on a test basis, evidence supporting the reported outlays, and performed such other procedures as we considered necessary in the circumstances (see Appendix A for details). We believe that our examination provides a reasonable basis for our opinion.

In our opinion, except for the outlays questioned (see Results of Audit), the reported outlays on the *Financial Status Reports* present fairly, in all material respects, the allowable outlays incurred in accordance with the criteria set forth in the cooperative agreement. We also found one area of regulatory noncompliance during our examination. The following sections provide details on our examination.

/s/ *Keith Reichard*

Keith Reichard

Assignment Manager

Field Work End: December 31, 2003

Background

On September 15, 1999, EPA awarded Cooperative Agreement Number V986338-01 to the State. The following table provides some basic information about the authorized project period and the funds awarded under the cooperative agreement covered by this audit.

Cooperative Agreement No.	EPA Share *	Local Share	Total Costs	Project Period
V986338-01	\$3,623,095	\$41,468	\$3,664,563	10/01/99 - 09/30/03

* The EPA share was 90 percent of total costs for the Cimarron site and State's core activities. For all other sites the EPA share was 100 percent of total cost.

This cooperative agreement was authorized under Section 104 of the Comprehensive Environmental Response, Compensation and Liability Act to provide financial support for: (1) pre-remedial activities, including pre-screening, preliminary assessments, site inspections, integrated assessments, expanded site inspections, and preparation of National Priority List packages; (2) EPA-lead management assistance activities, including preparation and review of remedial inspections/feasibility studies, records of decision, remedial design/remedial action, and closure documents; (3) State-lead activities for Fruit Avenue and North Railroad Avenue plume sites; (4) voluntary remediation activities, including the development of refined risk-based cleanup standards, and targeted brownfields assessments; and (5) core program activities such as administrative, non site-specific activities, legal services, record keeping and reporting services, and clerical support.

To assist the reader in obtaining an understanding of the report, key terms are defined below:

Reported Outlays: Program expenses or disbursements identified by the State on the *Financial Status Report* (Standard Form 269A).

Questioned Outlays: Outlays that are: (1) contrary to a provision of a law, regulation, agreement, or other documents governing the expenditure of funds; (2) not supported by adequate documentation; or (3) not approved by a responsible agency official.

Results of Audit

Summary of Questioned Outlays

As noted in the following table, we questioned \$11,588 claimed under the cooperative agreement as unallowable.

Category/Sites	Reported Outlays	Unreported State Match (Note 1)	Total Outlays	Questioned Outlays (Note 2)
Core Program Activities	\$368,645	\$28,085	\$396,730	\$11,588
Cimarron Site	\$4,661	\$1,154	\$5,815	\$0
All Other Sites	\$2,545,900	\$0	\$2,545,900	\$0
Totals	\$2,919,206	\$29,239	\$2,948,445	\$11,590

Note 1: The State did not report its cost share or match in the financial status reports. The cooperative agreement required the State to match 10 percent of the total costs for the Cimarron site and the State's core activities. The State did provide documentation to support a portion of its match. Accordingly, for reporting purposes, we have included the documented State match in the columns entitled "Unreported State Match" and "Total Outlays."

Note 2: The State did not fully match its 10 percent costs sharing requirements for its core program activities under the cooperative agreement. As a result, the State overdrew the Federal Share by \$11,588 [$\$368,645 - (\$396,730 \times 90\%)$].

State's Response

The State agreed with the findings and the need for: (1) EPA to recover the \$11,588 of excess Federal outlays claimed for core program activities, and (2) the State to report its costs sharing or match in all future financial status reports.

Regulatory Noncompliance

The State did not submit timely and complete financial status reports as required by the cooperative agreement and Federal regulations. The EPA's project officer was also concerned with the untimely submission of the financial status reports, and was unable to get the State to submit timely reports after repeated written and verbal attempts to obtain the reports timely. The provisions of 40 CFR 31.41 and the special conditions of the cooperative agreement required the State to submit quarterly progress reports within 30 days of the end of each Federal fiscal quarter. During the period covered by our audit,

the State submitted 10 of the 12 quarterly financial status reports that were due. However, only one report was submitted timely.

In addition, none of the financial status reports included the State's match as discussed above in Note 1. In addition, some of the financial status reports did not include financial information by site as required by 40 CFR 35.6670.

As a result, Region 6 did not have sufficient information to make an assessment of the State's progress in meeting the cooperative agreement's objectives, or determine whether the unexpended funds were adequate to complete all work required.

State's Response

The State agreed with the finding and has added one more staff person to the Grants Section in hopes of rectifying some of the issues.

Recommendations

We recommend that EPA Region 6:

1. Recover \$11,588 of excess Federal outlays claimed for core program activities.
2. Require the State to report its costs sharing or match in all future financial status reports.
3. Continue to closely monitor the State's submission of quarterly financial status reports to ensure that the reports are complete and submitted timely. If the State continues to submit incomplete and untimely financial status reports, we recommend that Region 6 temporarily withhold cash payments pending the correction of the deficiencies by the State.

Scope and Methodology

We performed our examination in accordance with the *Government Auditing Standards*, issued by the Comptroller General of the United States, and the attestation standards established by the American Institute of Certified Public Accountants. We also followed the guidelines and procedures established in the Office of Inspector General Audit Process Handbook, dated November 5, 2002.

We conducted this examination to express an opinion on the financial status reports, and determine whether the State was managing its EPA cooperative agreement in accordance with applicable requirements. To meet these objectives, we asked the following questions:

1. Is the State's accounting system adequate to account for cooperative agreement funds in accordance with 40 CFR 35.6279?
2. Does the State maintain an adequate labor distribution system that conforms with requirements of Office of Management and Budget (OMB) Circular A-87?
3. Is the State properly drawing down cooperative agreement funds in accordance with 40 CFR 31.21?
4. Do the State's procurement procedures for contractual services comply with 40 CFR 35.6550?
5. Is the State complying with its reporting requirements under 40 CFR 31.41 and 35.6650?
6. Are the costs claimed/incurred under the cooperative agreement adequately supported and eligible for reimbursement under the terms and conditions of the cooperative agreement, OMB Circular A-87, and applicable regulations?
7. Is the State meeting its matching or cost sharing requirements under 40 CFR 35.6235?

In conducting our examination, we reviewed the project files and obtained the necessary cooperative agreement information for our examination. We interviewed the project officer and the grants specialist to determine whether they had any concerns that needed to be addressed during our examination. We also interviewed State personnel to obtain an understanding of the accounting system and the applicable internal controls. We obtained and reviewed the single audit reports to determine whether there were any reportable conditions and recommendations addressed in those reports.

We reviewed management's internal controls and procedures specifically related to our objectives. Our examination included reviewing the State's compliance with OMB Circular A-87; Title 40 CFR Part 31; Title 31 CFR Part 205, and the terms and conditions of the cooperative agreement. We also examined the reported costs on a test basis to determine whether the costs were adequately supported and allowable under the terms and conditions of the cooperative agreement, OMB Circular A-87, Title 31 CFR Part 205, and applicable regulations. We conducted our field work from April 5, 2003, to December 31, 2003.

After gaining an understanding of the State's financial management system, we reconciled the claimed costs with the State's general ledger. Based on our judgment, we reviewed selected transactions to determine whether the costs were allowable. For personnel and fringe benefits, we reviewed costs from all projects. For all other direct costs, we tested transactions on a judgmental basis. In total, we tested 17.94 percent of the reported costs.

State's Response

March 23, 2004

Mr. Michael A. Rickey, Director
Assistance Agreements Audits
US Environmental Protection Agency
Office of Inspector General
Washington, D.C. 20460

Dear Mr. Rickey,

Below please find the New Mexico Environment Department's responses to your audit report of February 13, 2004. I appreciate the time and effort by your staff and look forward to rectifying our deficiencies as noted within the report. Additionally, I look to these types of audits as a management tool given that this new administration is working hard on raising the bar on grants administration and fiscal practices throughout the department.

Our responses are as follows:

Recommendations:

- 1. Recover \$11,588 of excess federal outlays claimed for core program activities:** NMED concurs with this recommendation. Staff whose salary is paid by general fund allocate in-kind match to meet the state share when their work is a legitimate and allowable charge to Superfund. These allocations are documented on time sheets and recorded in NMED labor-financial control systems. Audit of these staff time sheets will be increased. Match was also incorrectly calculated based upon the federal grant share considered as 90% of costs and 10% of that required as the state share match. Instead match needs to be made on total costs inclusive of state in-kind match costs, essentially match on the federal share plus match on the match or about 11.2% match. Errors made in calculations of indirect terms have been rectified.
- 2. Require the State to report its costs sharing or match in all future financial status reports:** This recommendation has been adopted and implemented by NMED recently. This requirement was not previously known to NMED until the audit by the Office of Inspector General this year. Completing the reports as required will also act as a self-informing way to assure that match is documented and sufficient to meet grant terms.

3. **Continue to closely monitor the State's submission of quarterly financial status reports to ensure that the reports are complete and submitted timely. If the State continues to submit incomplete and untimely financial status reports, we recommend that Region 6 temporarily withhold cash payments pending the correction of the deficiencies by the State:** NMED will work to its best abilities to make timely reports as required by EPA Superfund grant terms. The Department has added one more staff person to the Grants Section in hopes of rectifying some of these issues.

Should you have any questions and/or require additional information, please contact me at (505)476-3728.

Sincerely,

Rick Martinez

Rick Martinez, Director
Administrative Services Division

Distribution

Region 6

Regional Administrator (Action Official)
(responsible for report distribution to recipient.)
Director, Superfund Division (6SF)
Audit Coordinator (6MD RC)

Headquarters

Director, Grants Administration Division (3903R)
Agency Followup Official (the CFO) (2710A)
Agency Audit Followup Coordinator (2724A)
Associate Administrator for Congressional and Intergovernmental Relations (1301A)
Associate Administrator for Public Affairs (1101A)
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