



**Office of Inspector General**  
**Report of Audit**

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**PERFORMANCE  
PARTNERSHIP  
GRANTS**

**Region 6 Oversight of  
Performance Partnership Grants**

**Report No. 1999-000208-R6-100282**

**September 21, 1999**

Inspector General Division  
Conducting the Audit

Central Audit Division  
Dallas, Texas

Region Covered

Region 6

Program Offices Involved

Multimedia Planning and  
Permitting Division

Water Quality Protection  
Division

Compliance Assistance and  
Enforcement Division

Auditors Conducting Audit:

Dan Howard  
David Johnson

September 21, 1999

**MEMORANDUM**

**SUBJECT:** Region 6 Oversight of Performance Partnership Grants  
Report No. 1999-000208-R6-100282

**FROM:** Bennie S. Salem  
Divisional Inspector General

**TO:** Gregg Cooke  
Regional Administrator  
Region 6

Attached is our report entitled *Region 6 Oversight of Performance Partnership Grants*. We discussed our findings with your staff and issued a draft report. We summarized your comments in the final report and included your complete response in Appendix I.

**ACTION REQUIRED**

In accordance with Environmental Protection Agency (EPA) Order 2750, you, as the action official, are required to provide this office a written response to the audit report within 90 days of the final audit report date. For corrective actions planned but not completed by the response date, reference to specific milestone dates will assist in deciding whether to close this report.

This audit report contains findings that the Office of Inspector General (OIG) has identified and corrective actions OIG recommends. This audit report represents the opinion of OIG, and the findings in this audit report do not necessarily represent the final EPA position. Final determinations on matters in this audit report will be made by EPA managers in accordance with established EPA audit resolution procedures.

We have no objections to the release of this report to the public. If you have any questions, please contact me at (913) 551-7831 or Dan Howard, Auditor, at 5-3160. Please refer to the report number on all related correspondence.

Attachment

## EXECUTIVE SUMMARY

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### INTRODUCTION

The Environmental Protection Agency's (EPA) 1997 strategic plan states that the President's "performance partnership" reinvention initiative provides for increased flexibility in how a program is run in exchange for increased accountability for results. Performance partnerships are EPA's new approach to working with states and tribes (recipients) to better implement environmental programs and achieve environmental results. A performance partnership grant (PPG) is a critical tool for EPA's implementation of performance partnerships. Both performance partnerships and PPGs represent a significant shift in how EPA and its partners work together to address human health and environmental protection.

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### OBJECTIVES

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Our specific audit objectives were to answer the following questions:

- Is Region 6 effectively implementing its PPG program to ensure that recipients accomplish overall PPG objectives?
- Has Region 6 negotiated PPG work plans that include adequate programmatic accountability?
- Does Region 6's oversight ensure that recipients accomplish PPG work plan objectives?

**RESULTS IN BRIEF**

**REGION 6  
IMPLEMENTATION OF  
THE PPG PROGRAM  
COULD BE IMPROVED**

The Region could have been more effective in implementing the PPG program to ensure that overall program goals and objectives were accomplished. The PPG program's goals are to reduce administrative burdens and costs, provide flexibility, strengthen partnerships, and improve environmental results. Some administrative savings have occurred. However, flexibility has been limited, partnerships need strengthening, and PPG work plans focus primarily on program activities versus environmental results. Oklahoma and Texas chose not to negotiate environmental priorities and goals across grant programs with the Region. Regional and State officials did not always agree on individual roles and responsibilities. States have been reluctant to provide reporting beyond what is in the national databases without additional funding. As a result, all the benefits that EPA thought the program would provide were not realized in terms of accomplishing overall goals and objectives. Further, Region and State staff could not demonstrate whether the program had resulted in improved environmental results and human health.

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**PPG WORK PLANS  
NEED BETTER  
ACCOUNTABILITY  
PROVISIONS**

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The Region had not negotiated work plans that include adequate programmatic accountability. The work plans did not contain all core measures, did not clearly define all PPG commitments, and were not finalized prior to the start of the Oklahoma and Texas fiscal year. The Region did not require all core measures be adopted in the agreements. Further, Oklahoma and Texas did not consider that core measures are required and stated that the Environmental Council of States did not bind them to core measures. Also, the two States have not been willing to commit to core measures that cannot be drawn from existing databases. Work plans were not always submitted timely and negotiations were not always initiated and completed timely. As a result, the Region and the two States cannot always determine or demonstrate whether environmental performance or improvements have been accomplished. Additionally, without defining

commitments until well into the fiscal year, States' programmatic accountability is limited.

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**REGION 6 OVERSIGHT  
COULD BE IMPROVED**

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The Region did not, in all instances, ensure that PPG work plan objectives were accomplished. The Region and Texas were able to negotiate a multimedia enforcement Memorandum of Understanding that did not limit the Region's oversight capabilities, and work plan objectives were clear. Barriers that hindered Regional oversight of Oklahoma stemmed from limitations contained in the fiscal 1996 Umbrella Agreement with Oklahoma and clarity of work plan objectives. Further, Regional oversight was not always coordinated among programs. As a result, Regional staff spent time and resources supporting several ways to evaluate work plan objectives rather than on measuring or determining environmental results.

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**RECOMMENDATIONS**

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We recommend that the Regional Administrator work with the Region and its states to enhance and improve the effectiveness of the current Regional PPG program. The Region and its states should continue to identify areas where administrative savings can be achieved and to develop self assessment strategies which identify states' overall highest priorities necessary to improve human health and the environment. Further, the Region and its states should highlight and communicate successful efforts to improve partnerships, particularly enforcement partnerships. In addition, the Region and its states should develop work plans which commit to and clearly identify environmental indicators, core performance measures, and describe program activities related to appropriate environmental statutes, regulations and EPA or state policies.

**REGION 6 COMMENTS  
AND OIG EVALUATION**

Region 6 generally agreed with our findings and recommendations.

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## CHAPTER 1 INTRODUCTION

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### PURPOSE

The Environmental Protection Agency's (EPA) 1997 strategic plan states that the President's "performance partnership" reinvention initiative provides for increased flexibility in how a program is run in exchange for increased accountability for results. Performance partnerships are EPA's new approach to working with states and tribes (recipients) to better implement environmental programs and achieve environmental results. A performance partnership grant (PPG) is a critical tool for EPA's implementation of performance partnerships. Both performance partnerships and PPGs represent a significant shift in how EPA and its partners work together to address human health and environmental protection.

This audit is part of the Office of Inspector General (OIG) PPGs and National Environmental Performance Partnership System (NEPPS) Issue Area Plan dated September 1998. OIG made a commitment to assess EPA's PPG program implementation and determine what improvements were needed to ensure EPA implemented the program effectively and achieved environmental results.

Our specific audit objectives were to answer the following questions:

- Is Region 6 effectively implementing its PPG program to ensure that recipients accomplish overall PPG objectives?
- Has Region 6 negotiated PPG work plans that include adequate programmatic accountability?
- Does Region 6's oversight ensure that recipients accomplish PPG work plan objectives?
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## BACKGROUND

### PPG Authority and Purpose

Beginning in fiscal 1996, EPA received authority to award PPGs. PPGs were part of EPA's effort to improve how EPA and its partners protect the environment. A PPG is a multi-program grant made to a recipient from funds allocated and otherwise available for a specific environmental program. PPGs provide recipients with the option to combine grant funds from two or more specific environmental grants (such as those authorized under the Clean Water Act or those used to implement the Clean Air Act) into one or more PPGs. Recipients may then use PPGs to fund activities that are within the scope of the programs included in their PPG. Recipients may include any of the 17 eligible grant programs in their PPG.

EPA developed PPGs as a response to recommendations from various internal and external stakeholders to increase recipient flexibility, achieve administrative savings by streamlining the grants process, strengthen EPA partnerships with recipients, and help recipients improve environmental results. These recommendations formed the basis for the PPG program's purposes and goals.

PPGs are intended to improve the performance of environmental protection programs by providing recipients with greater flexibility in how they manage and implement programs that use grant funds. This increased flexibility will enable recipients to better coordinate and integrate activities which were fragmented in many statutes, regulations, and programs. PPGs should facilitate funding of activities such as pollution prevention, multimedia permits and enforcement, and community-based environmental protection. PPGs are also intended to reduce an administrative burden and ultimately, improve environmental results.

EPA designed PPGs to encourage improved environmental results by linking program goals with program outcomes and by increasing the use of environmental indicators and program performance measures. Environmental indicators

provide information on the environmental conditions, trends, and results. Program performance measures gauge progress in meeting agreed upon goals. Indicators and performance measures create a foundation for better reporting, monitoring, and assessment of state, tribal, and national environmental conditions.

All PPGs are required to contain a legally binding set of work plan commitments. PPG program commitments may be contained in categorical work plans, in a performance partnership agreement, or in a tribal environmental agreement (we will refer to all of these documents as PPG work plans). A categorical work plan would be the same as that prepared for a categorical grant. A performance partnership agreement is a negotiated agreement between a region and a state that describes jointly developed goals, objectives, and priorities and may include work plan commitments that are the basis for the PPG. The agreements typically include the strategies to be used in meeting the PPG commitments, the roles and responsibilities of the state and EPA, and the measures to be used in assessing progress.

Two of five states in Region 6, Oklahoma and Texas, had PPGs in 1998 and 1999. Texas had a Performance Partnership Agreement (PPA) that included its work plan. Oklahoma had a fiscal 1996 Environmental Performance Partnership Agreement (Umbrella Agreement) and used a Focus Plan as its annual work plan for fiscal 1998 and 1999. Louisiana entered into a PPA in February 1998, with the goal of working toward a PPG. Arkansas is in the early stages of negotiation of a PPG.

PPG Program Organizational Structure

EPA developed interim guidance in 1996 and 1998 that served as the operating guidance for states and tribes interested in applying for PPGs. Regional offices were to use this operating guidance to develop and implement their PPG programs.

The Region has designated a Mentor Director for each

state. The Mentor Director for Oklahoma is the Division Director for Water and the Mentor Director for Texas is the Division Director for the Multimedia Planning and Permitting Division. The Region also had a work group made up of the project officers for each media included in each PPG. The negotiations and oversight are media specific, with project officers responsible for their program.

Relationship between PPGs and the National Environmental Performance Partnership System

On May 17, 1995, state and EPA leaders signed a *Joint Commitment to Reform Oversight and Create a National Environmental Performance Partnership System*. The objective of this agreement was to accelerate the transition to a new working relationship between EPA and states—one which reflected the advancement made in environmental protection over the preceding 2 decades by both states and EPA. In addition, the agreement recognized that existing policies and management approaches must be modified to ensure continued environmental progress.

EPA PPG guidance, dated October 6, 1998, states that the key goals that this new partnership agreement shares with PPGs are:

To allow States and EPA to achieve improved environmental results by directing scarce public resources toward the highest priority, highest value activities; to provide States with greater flexibility to achieve those results; to improve public understanding of environmental conditions and choices; and to enhance accountability to the public and taxpayers.

Under performance partnerships, EPA and its partners are expected to achieve more integrated environmental management and enhanced environmental results. This new partnership should also enable EPA and its partners to move progressively beyond relying on numbers of permits issued, inspections made, or other similar measures, to

performance measures that more directly reflect changes in environmental quality.

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**SCOPE AND  
METHODOLOGY**

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We performed our audit in accordance with *Government Auditing Standards* (1994 Revision) issued by the Comptroller General of the United States. Our review included an analysis of program records and other auditing procedures we considered necessary. We conducted our fieldwork from January through July 1999. Our review included Oklahoma and Texas fiscal 1998 and 1999 PPGs, work plans, end-of-year reports, and the proposed Oklahoma fiscal 2000 work plan. We performed our fieldwork at Region 6, the Oklahoma Department of Environmental Quality (ODEQ), and the Texas Natural Resources Conservation Commission (TNRCC).

See Exhibit 1 for scope and methodology details.

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**PRIOR AUDIT  
COVERAGE**

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OIG has not issued any audit reports related to the Region's PPG program implementation. However, OIG conducted a joint management assistance review with Regional staff of Texas 1997 PPA/PPG. As a result of the management assistance review, OIG and regional staff suggested that the State and Region 6 staff: (1) document reasons for not including a core measure and obtain approval from headquarters, (2) work toward performance measures which are better indicators of environmental outcomes, (3) assure that the PPA is clear on all activities that are to be performed, (4) share information openly, (5) agree on a Consolidated Enforcement Memorandum of Understanding, and (6) resolve \$2 million in unexpended funding.

In 1996, OIG issued three special reports on demonstration grants awarded to North Dakota, Massachusetts, and New Hampshire. These grants were predecessors to PPGs and contained similar objectives including providing states with

more flexibility to address their priorities. The demonstration grant audits found that: (1) regional internal turf battles and statutory restrictions were barriers to moving resources to address priority environmental problems; (2) states still used activity-based performance measures due to inadequate guidance or incentive; and (3) some measures were not time-specific, quantifiable, or adequate to provide accountability. The reports found positive aspects of the demonstration grants including some administrative efficiencies and increased cross-media enforcement activities.

The U.S. General Accounting Office issued *ENVIRONMENTAL PROTECTION: Collaborative EPA-State Effort Needed to Improve New Performance Partnership System*, dated June 21, 1999. The audit found that the development of outcome measures has been impeded by an absence of baseline data, inherent difficulty in quantifying certain results, difficulty of linking program activities to environmental results, and considerable resources needed for high-quality performance measurement. The audit also found that EPA's oversight of states participating in the new system had not been reduced as anticipated. Among the factors complicating EPA's oversight was: (1) statutory and/or regulatory requirements in some cases prescribed the kind of oversight required of states by EPA, (2) reluctance by EPA staff to reduce oversight without the measures in place to ensure that environmental quality would not be compromised, and (3) the inherent difficulty in "letting go" on the part of some EPA staff that have implemented the existing EPA-state oversight arrangement for years. The audit also identified a number of reported benefits associated with the new system that included improving communication about program priorities between EPA and state program staff and allowing states the option to shift resources and funds under the PPG program.

## CHAPTER 2

### REGION 6 IMPLEMENTATION OF THE PPG PROGRAM COULD BE IMPROVED

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The Region could have been more effective in implementing the PPG program to ensure that overall program goals and objectives were accomplished. The PPG program goals are to reduce administrative burdens and costs, provide flexibility, strengthen partnerships, and improve environmental results. Some administrative savings have occurred. However, flexibility has been limited, partnerships need strengthening, and PPG work plans focus primarily on program activities versus environmental results. Oklahoma and Texas chose not to negotiate environmental priorities and goals across grant programs with the Region. Regional and State officials did not always agree on individual roles and responsibilities. States have been reluctant to provide reporting beyond what is in the national databases without additional funding. As a result, all the benefits that EPA thought the program would provide were not realized in terms of accomplishing overall goals and objectives. Further, Region and State staff could not demonstrate whether the program had resulted in improved environmental results and human health.

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#### **PPG GUIDANCE DEFINES PROGRAM PURPOSES AND GOALS**

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PPG guidance, dated July 1996 and October 6, 1998, describes four goals of the PPG program.

**Administrative Savings.** Recipients and EPA can reduce administrative burdens and costs by reducing the number of grant applications, budgets, work plans, and reports.

**Flexibility.** Recipients will have the flexibility to address their highest environmental priorities, while continuing to address core program requirements.



Strengthened Partnerships. EPA will develop partnerships with recipients where both parties share the same environmental and program goals and deploy their unique resources and abilities to jointly accomplish those goals.

Improved Environmental Results. PPGs will encourage recipients to improve environmental results and more effectively link program activities with environmental goals and program outcomes; and develop innovative pollution prevention, ecosystem, and community-based strategies.

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**RECIPIENTS HAVE  
ACHIEVED SOME  
ADMINISTRATIVE  
SAVINGS**

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Oklahoma and Texas have achieved some administrative savings in terms of reduced reporting, through the filing of only one grant application and one Financial Status Report (FSR) versus numerous grant applications and FSRs. The Region and the two States have worked together to identify reports that could be eliminated. Texas officials noted that reporting requirements had been reduced from 250 to approximately 140 under the PPA and that they could use their legislative strategy document for the PPA document. Oklahoma officials used their Focus Plan to serve both the purposes of a work plan for EPA and providing measures for their State budget. However, both States still had to maintain specific cost information because of state legislative requirements.

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**RECIPIENT USE OF  
FLEXIBILITY HAS BEEN  
LIMITED**

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Oklahoma and Texas have not fully achieved the flexibility goal of the PPG program. Recipients have the flexibility to address their highest environmental priorities, while continuing to address core program requirements. However, the Region, Oklahoma, and Texas had not negotiated environmental goals and objectives across grant programs. Oklahoma had never moved funds from one program to another to address its highest environmental priorities. Texas had only shifted carryover funds.

Regional officials commented that under the 1996 guidance, states had options, and Oklahoma and Texas chose not to negotiate environmental priorities across programs. They also stated that there have been very significant changes from the past, the program has evolved, and the Region now has better guidance. An Oklahoma official stated that under a prototype PPA, a state would do a self assessment of its overall environmental goals to look at the environmental problems of the state and write a report about how the resources would be spent. However, Oklahoma's reasons for entering into a PPA were primarily to define the roles of the state and federal government and administrative savings. The official further stated that the fundamental reason for leaving money in a particular media specific program is because certain fees support certain specific media programs.

Texas submitted strategic plans that addressed environmental priorities, but Regional officials stated that these priorities were by media and not across different programs. Further, the Region and State have not come to a consensus on the overall State environmental priorities. As a result, the Region and the State are determining the priorities after the end of the fiscal year and have had disagreements over how to spend carryover funds. Region 6 only required a Texas self assessment to justify the shifting of unexpended funds for fiscal 1997 and 1998 individually, rather than a self assessment which would identify the State's overall long-term environmental priorities across programs. The Region and Texas have negotiated shifts for unexpended funding for fiscal 1997 and 1998. However, for both years, agreement on how to spend the carryover funds took nearly a year after the end of the fiscal year (August 31). The Region approved the fiscal 1997 carryover of \$2.5 million on April 29, 1998, and the 1998 carryover of \$1.6 million on May 10, 1999. Texas also submitted a request to shift projected unexpended funding for fiscal 1999 to the Region in April. To date, the Region has not approved a shift for fiscal 1999.

Without determining priorities upfront, states may not be addressing their highest overall environmental priorities. For example, in a May 10, 1999 letter approving shifts for unexpended funds to cover a backlog in wastewater permits in Texas, a Regional official informed the State that it had not met all fiscal 1998 performance measures. Several Resource Conservation and Recovery Act (RCRA) authorization packages were overdue by more than several years. Further, these same concerns were raised in the Texas fiscal 1998 end-of-year report and the fiscal 1999 midyear report. In addition, Regional officials have raised concerns that the air is getting worse within the State and commented that the shifted funds were unexpended Air and RCRA funds.

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**PPG WORK PLANS  
FOCUS PRIMARILY ON  
PROGRAM ACTIVITIES  
VERSUS  
ENVIRONMENTAL  
RESULTS**

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While the Region has made some progress toward shifting state focus to program outcomes, the Texas PPA and the Oklahoma Focus Plan still concentrate primarily on program outputs. PPGs encourage recipients to improve environmental results and more effectively link program activities with environmental goals and program outcomes and develop innovative pollution prevention, ecosystem, and community-based strategies. However, states have been reluctant to provide reporting beyond what is in the national data bases without additional funding. An Oklahoma official commented that establishing environmental indicators depends on the State receiving additional funding.

Oklahoma and Texas have recently recognized the need for establishment of better environmental indicators. Texas recognized the need to improve its environmental indicators and has established the State Environmental Assessment group to develop the indicators. Regional officials met with Oklahoma officials in October 1998 to discuss the need to move toward environmental indicators and, according to Regional officials, Oklahoma responded that it would consider environmental indicators. A Regional official pointed out that the proposed 2000 Focus

Plan does include some environmental indicators. For example, “By 2005, the number of young children with high levels of lead in their blood will be significantly reduced from the early 1990’s.”

The Region also recognized that it still has a need to work with the two States to develop better environmental indicators. A Regional official stated that “we believe that some of the measures that Texas identified as environmental indicators were misleading or were more in the line of ‘efficiency’ measures. Oklahoma did not even identify outcome measures or environmental indicators. We recognize we have a challenge in bringing this dimension to the PPAs.”

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**PARTNERSHIPS  
SHOULD BE  
STRENGTHENED**

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Disagreements between the Region, Oklahoma, and Texas have weakened the partnership for some programs. A goal of the PPG program is to develop partnerships with states and tribes where both parties share the same environmental and program goals and jointly deploy their unique resources and abilities to accomplish those goals. Oklahoma and Texas officials have expressed concerns about the need for better coordination, the program still being treated as if it were separate categorical grants, and the disagreement over how to shift unexpended funds. These disagreements are causing a rift in the partnership for some programs.

The Region had disagreements with both States. The Region and Oklahoma have had disagreements over the roles and responsibilities of the two agencies, primarily for enforcement. An Oklahoma official commented that the partnership has been improved in every area except enforcement. Officials from both States raised concerns that the Region still wants to know how the money is spent by media. The Region has had disagreements with Texas over how to treat unexpended funds because they have not come to a consensus on the same environmental and program goals prior to development of the PPA.

**CONCLUSION**

Not all of the benefits that EPA thought the PPG program would provide were realized in terms of seeing and measuring environmental improvements. While Oklahoma and Texas have achieved some administrative savings, flexibility has been limited because the Region and the two States chose not to negotiate the States' highest environmental priorities. Further, state work plans continue to focus primarily on program activities versus environmental results and, therefore, improved environmental results and human health could not be determined or demonstrated. As a result of disagreements over the shifting of funds and Regional and state roles and responsibilities, the PPG goal of developing partnerships to share environmental and program goals needs to be strengthened.

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**RECOMMENDATIONS**

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We recommend that the Regional Administrator:

- 2-1. Work with states to identify other areas where additional administrative savings could be achieved.
- 2-2. Assist states in developing a self assessment strategy and reach a consensus on the state's overall highest environmental priorities.
- 2-3. Assist the Texas State Environmental Assessment Group in the development of environmental indicators.
- 2-4. Assist Oklahoma and Texas in developing and reporting environmental indicators.
- 2-5. Assist Oklahoma in defining the direction the State would like to go under the Performance Partnership Program.
- 2-6. Highlight and communicate successful efforts to improve partnerships throughout the Region, particularly enforcement partnerships.

**REGION 6 COMMENTS  
AND OIG EVALUATION**

The Region agreed with our findings and recommendations and commented:

- S** We support the comments about the Texas request to shift funds when core commitments, such as RCRA authorization activities, have not been completed. The RCRA oversight reports have documented that the State has not completed all RCRA core commitments.
  
- S** We believe some of the measures that Texas identified as environmental indicators were misleading or were more in line of “efficiency” measures. Oklahoma did not even identify outcome measures or environmental indicators. We recognize we have a challenge in bringing this dimension to the PPAs.

## **CHAPTER 3**

### **PPG WORK PLANS NEED BETTER ACCOUNTABILITY PROVISIONS**

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The Region had not negotiated work plans that include adequate programmatic accountability. The work plans did not contain all core measures, did not clearly define all PPG commitments, and were not finalized prior to the start of the Oklahoma and Texas fiscal year. The Region did not require all core measures be adopted in the agreements. Further, Oklahoma and Texas did not consider that core measures are required and stated that the Environmental Council of States (ECOS) did not bind them to core measures. Also, the two States have not been willing to commit to core measures that cannot be drawn from existing databases. Work plans were not always submitted timely and negotiations were not always initiated and completed timely. As a result, the Region and the two States cannot always determine nor demonstrate whether environmental performance or improvements have been accomplished. Additionally, without defining commitments until well into the fiscal year, States' programmatic accountability is limited.

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#### **REGULATIONS AND GUIDANCE DEFINE WORK PLAN COMPONENTS**

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The 1996 PPG guidance outlines PPG work plan requirements as the basis for the management and evaluation of performance under the grant agreement. The PPG work plan should include core program commitments (goals, performance measures, program activities) derived from statutes, regulations, and standing legal agreements between EPA and recipients. Performance measures that are PPG program commitments must be time-specific, measurable, quantifiable, and verifiable. In addition, EPA encourages all recipients to adopt outcome and output oriented performance measures that track program performance and environmental conditions and trends.

Appropriate accountability provisions are essential in designing the new PPG program. The PPG guidance states that a fundamental goal of EPA's efforts to design accountability provisions into PPGs is to begin moving federal, state, and tribal programs toward the use of results-oriented measures of environmental and program performances that are understandable and meaningful to the public. Further, the work plan should also establish procedures (e.g., midyear and end-of-year reviews, reporting requirements, joint activities) that EPA and the recipient will use for evaluating accomplishments, discussing progress, and making adjustments to meet milestones. The PPG guidance states that EPA should work with recipients to balance the need to maintain core program requirements with the need to incorporate program flexibility and move toward program performance measures and environmental indicators.

Core performance measures are a limited set of national measures designed to help gauge progress toward protection of the environment and human health, as well as provide a national picture of the status of the environment. EPA and ECOS developed core performance measures to help focus EPA and state attention on improving how they measured the effectiveness of their environmental protection efforts.

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**WORK PLANS DID NOT  
CONTAIN ALL CORE  
MEASURES**

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The fiscal 1998 and 1999 Oklahoma and Texas agreements did not contain all the core performance measures. National core performance measures, which are to be incorporated in state agreements, were agreed to by EPA and ECOS and adopted for fiscal 1998 and only slightly modified for fiscal 1999. EPA and ECOS agreed to fiscal 2000 core performance measures in April 1999, which are to be used in the fiscal 2000 agreements. Oklahoma and Texas did not consider that core measures are required and have claimed that ECOS did not represent them and cannot bind them.



The Oklahoma agreements did not contain all the core measures. Oklahoma has been very reluctant to make changes to the Focus Plan; therefore, Regional program staff and their counterparts in Oklahoma developed matrices and addendums to the Plan. These matrices and addendums include only some of the core measures because Oklahoma would not agree to all the core measures, according to Regional officials. Further, these matrices and addendums were negotiated at the program level, and Oklahoma's senior management did not consider them to be binding. An Oklahoma official commented that they did not want to commit to expand the reporting requirement beyond what is in the delegation agreements. A Regional official commented in a letter dated September 1998, that the fiscal 1999 Focus Plan did not address the core performance measures, nor did it stipulate specific objectives or milestones that will be achieved to address the core performance measures.

Oklahoma submitted a draft Focus Plan for fiscal 2000 with significant changes in April 1999, which is still under negotiation. The Plan does provide an attachment that lists all the core measures. Changes to the Oklahoma Focus Plan for fiscal 2000 were the result of internal State pressures and not a result of Regional actions. The State Office of Finance required performance measures because of a law passed by the State Legislature.

Further, a joint management assistance review conducted by the Region and the Office of Inspector General, dated April 8, 1998, noted that the Texas 1998 PPA did not include all core measures. For example, core measures for RCRA and core measures for Air were not included. The 1999 PPA still did not contain these core measures.

**OKLAHOMA'S PPG  
COMMITMENTS WERE  
NOT CLEARLY  
DEFINED**

The Oklahoma Focus Plan for 1998 and 1999 was mainly a listing of job descriptions that did not clearly define PPG commitments. Oklahoma has been very reluctant to make changes to the Focus Plan; therefore, the Region has attempted to get what it needed through matrices and addendums. These matrices and addendums provide more detail; however, Oklahoma senior management did not consider the matrices and addendums to be binding documents. According to Region program staff, they do not use the Focus Plan to determine if Oklahoma is meeting its commitments. Regional and State officials want the fiscal 2000 Focus Plan to be just one document that defines PPG commitments, thereby eliminating the matrices and addendums.

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**WORK PLANS WERE  
NOT FINALIZED PRIOR  
TO STATES' FISCAL  
YEAR**

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The Region and the two States have not defined work plan commitments until well into the States' new fiscal year. Work plan commitments are the programmatic basis for the PPG award and consist of environmental indicators, performance measures, and descriptions of program activities. By not defining these commitments until well into the new fiscal year, the Region and States cannot ensure that the environmental commitments will be accomplished.

The Oklahoma draft Focus Plan for fiscal 2000, received by the Region in April 1999, had not been formally negotiated as of the date of our review. Negotiations for fiscal 1999 were not started until after the start of Oklahoma's fiscal year. A Regional official, in a September 25, 1998 letter (3 months into the State's new fiscal year), commented that he had not received copies of the 1999 Focus Plan until mid to late July. He was concerned that copies should have been sent to the Region for review no later than May 1, 1998, prior to the State's new fiscal year. He commented that this resulted in not having an agreed upon document for all programs. 40 CFR Part 35 states that an applicant should submit a complete

application at least 60 days before the start of the budget period.

The fiscal 1999 Texas PPA, revised January 1999, was not issued until 4 months into the new fiscal year.

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**CONCLUSION**

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As a result of the lack of core measures, the Region and the two States cannot always demonstrate the progress toward protection of the environment and human health nor provide a Regional picture of the status of the environment. Core measures were developed to help focus EPA and state attention on improving how the effectiveness of their environmental protection efforts was measured.

Without clearly defining commitments until well into the fiscal year, States' accountability is limited. Also, it is not clear what the Region monitors to ensure that environmental improvements are accomplished.

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**RECOMMENDATIONS**

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We recommend that the Regional Administrator:

- 3-1. Work with Oklahoma to ensure that the final version of the fiscal 2000 and future Focus Plans contain all applicable core measures and are clear on how the measures will be addressed.
- 3-2. Require that all PPG work plans contain and address all applicable core measures.
- 3-3. Work with Oklahoma and Texas earlier in the process to negotiate the work plans. Meet prior to States' development of the work plans to discuss expectations.
- 3-4. Require timely submittal of work plan proposals and assure that negotiations are completed before the start of the fiscal year.

**REGION 6 COMMENTS  
AND OIG EVALUATION**

Region 6 provided comments to clarify portions of the report, and we have incorporated these comments and modified the report as appropriate.

Region 6 generally agreed with our findings and recommendations. For RCRA, the Region commented that it supports the comments in the report about delays in finalizing negotiated work plan commitments. It further commented that it is initiating discussions with each State at an earlier date than in previous years, to complete work plan negotiations in a more timely manner. For example, the State of Oklahoma fiscal 2000 RCRA work plan was approved by EPA on August 13, 1999, 2 months sooner than the approval for fiscal 1999. The State of Texas fiscal 2000 RCRA work plan is near approval. As you are aware, the Texas fiscal 2000 program year begins on September 1, 1999. However, the Region also commented that:

- The presentation of conclusions regarding Accountability Provisions (Chapter 3) contains some broad statements that are not necessarily true in all programs in both States. This chapter focuses on our track record regarding core measures, but does not adequately recognize the effort we make to assure that all statutory requirements are addressed and committed to.

- Also, we disagree with the sentence that states, "Negotiations of work plans were not initiated timely, and time frames for the process were not established." We typically do a good job of issuing HQ and Regional guidance as early as possible in the spring (thus starting the negotiation process). We have an established date for submittal of applications and a goal of awarding funds within 90 days of their receipt in the Region.

However, this may not have been reflected in Oklahoma's case for fiscal years (FY) 1998 and 1999 since Oklahoma requested that the grant cycle coincide with their State FY. In order to be responsive to the State's needs, this moved their schedule up by three months and may have caused much confusion at the State and EPA. We acknowledge that we often are still negotiating well into the first quarter ... but, it is not because we have no established time frames .... it is because we often miss those deadline for a wide variety of causes.

## CHAPTER 4

### REGION 6 OVERSIGHT COULD BE IMPROVED

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The Region did not, in all instances, ensure that PPG work plan objectives were accomplished. The Region and Texas were able to negotiate a multimedia enforcement Memorandum of Understanding (MOU) that did not limit the Region's oversight capabilities, and work plan objectives were clear. Barriers that hindered Regional oversight of Oklahoma stemmed from limitations contained in the fiscal 1996 Umbrella Agreement and clarity of work plan objectives. Further, Regional oversight was not always coordinated among programs. As a result, Regional staff spent time and resources supporting several ways to evaluate work plan objectives rather than on measuring or determining environmental results.

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#### PPG GUIDANCE REFERS TO STRENGTHENING PARTNERSHIPS

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The PPG guidance refers to strengthening partnerships between EPA and recipients. NEPPS emphasizes the need to reduce EPA oversight or use differential oversight and increase technical assistance. However, neither stated that EPA should eliminate its oversight. An important aspect of the PPG program is for regions to determine the appropriate amount of oversight needed while providing the maximum amount of flexibility for recipients to accomplish environmental results. The PPG work plan is the key document holding the recipient responsible, and regions must ensure that those commitments in the work plan are accomplished and adequately documented.

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#### REGION 6 AND TEXAS WERE ABLE TO AGREE ON ENFORCEMENT ROLES

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The joint MAR, issued in April 1998, recommended that the Region's Compliance Assurance and Enforcement Division and Texas negotiate a workable MOU that had been committed to in the fiscal 1997 PPA, dated October 1996. As a result, the Region and Texas were able to negotiate a multimedia enforcement MOU, dated April

1999, that is much less restrictive than the Oklahoma Umbrella Agreement.

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**LIMITATIONS IN  
OKLAHOMA  
AGREEMENT HINDER  
REGIONAL OVERSIGHT**

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Regional oversight of Oklahoma has been hindered by enforcement limitations contained in the fiscal 1996 Umbrella Agreement. The Umbrella Agreement is still in place and has never been updated. The Umbrella Agreement limits the Region's ability to perform oversight and implement Office of Enforcement and Compliance Assurance guidance. According to Regional officials, there was a push in 1996 by Oklahoma and senior management in the Region to sign the Umbrella Agreement so that it would be the first to be signed. Regional officials commented that the Region made a mistake in approving the Umbrella Agreement because of the limitation of the Region's oversight role, specifically the authority for over-filing and inspections. According to a Regional official, based on the previously negotiated delegation agreements for various programs, the Umbrella Agreement incorrectly defined the roles of the Region and the State, since it contradicted the delegation agreements. The State contended that the roles listed in the Umbrella Agreement are all-inclusive (if it is not listed here it does not apply). Regional officials commented that they are now living with this agreement and they have been talking for over a year about renegotiating it. The officials believe issues with the Umbrella Agreement are hurting the Region and State relationship.

Regional officials stated that they had a side agreement to negotiate a multimedia enforcement MOU which would define what they would do under the PPA. Negotiations on a multimedia MOU have been ongoing for the past 2 ½ years. Therefore, Regional enforcement personnel relied on other than the Umbrella Agreement and Focus Plan for authority to perform oversight inspections in Oklahoma. Further, the Oklahoma enforcement partnership has been weakened due to the dispute over roles and responsibilities regarding inspection activities. As a result, Regional

officials believe that they cannot use the PPA, but must use the delegation agreements and old categorical enforcement MOUs, some of which go back to the 1980's to find authority to perform oversight.

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**OKLAHOMA'S  
UNCLEAR OBJECTIVES  
FURTHER LIMITED  
REGIONAL OVERSIGHT**

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Oklahoma Focus Plan objectives were not clear, which made it difficult for the Region to determine State accomplishments. As a result, Regional program personnel relied on other than the Focus Plan to determine accomplishments under the grant. Regional personnel relied on matrices, addendums, old categorical enforcement MOUs, statutory requirements, primacy agreements and program memorandums of agreements with the State.

Documents used vary by program. For RCRA, the matrices are used as what the State is held accountable for, since at times the numbers in the Focus Plan may differ from the matrix. For Air, both the Focus Plan and the addendum are used. For the Underground Injection Control and Public Water System programs, the project officer does not rely on the Focus Plan, but instead on regulations and primacy agreements. As a result, Regional staff spent additional time and resources supporting several ways to evaluate program performance rather than on measuring or determining environmental results.

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**REGIONAL OVERSIGHT  
WAS NOT  
EFFECTIVELY  
COORDINATED**

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Oklahoma and Texas officials have both raised concerns about the lack of coordination within the Region resulting in their feeling they have to deal with multiple EPAs. Both States believed that Regional oversight is still performed the same as under categorical grants. For example, mid-year and end-of-year reviews were performed individually by program and were not consolidated.

A Texas official commented that he had hoped that the Region's reorganization would result in better coordination and that the State would have one primary contact for the



grant. However, he commented that the Region is still doing oversight separately by media. Texas officials were concerned that the Region is back to doing separate media midyear reviews that are not coordinated. They commented that the Region is not consolidating its report process and that Texas had consolidated its reporting. For example, he commented that the State sends one consolidated report for its midyear report, but the Region cannot coordinate comments to the report. He stated that when the report gets to the Region, it is torn apart by media and then comments to the State are done by media.

The annual reports submitted by Oklahoma and Texas do not give a good reflection of progress under the PPG. Therefore, the Region relies on progress reporting by the individual programs, database information, conference calls by media, etc. Further, as discussed in the MAR of the Texas PPG, the annual report does not always provide a true picture of what is happening in the State. For example, in reading the report one would find no documentation that the Dallas-Ft. Worth area is not meeting ozone attainment, and meets the requirements for a bump-up from moderate to serious. Regional officials still have similar concerns that environmental indicators are misleading.

Regional program staffs do not believe that the Oklahoma annual report told what was accomplished, and commented that commitments were so vague in the Focus Plan, that the annual report could not tell them what was accomplished.

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**CONCLUSION**

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Regional oversight has been fragmented by specific program and is not effectively coordinated. As a result, Regional staff spent time and resources supporting several ways to evaluate work plan objectives rather than on measuring or determining environmental results.

**RECOMMENDATIONS**

We recommend that the Regional Administrator:

- 4-1. Work with Oklahoma to ensure that the final versions of the fiscal 2000 and future Focus Plans are clear on how measures will be addressed.
- 4-2. Renegotiate the Oklahoma Umbrella Agreement or enter into an enforcement MOU that clearly defines the oversight roles and does not inappropriately limit EPA's authority.
- 4-3. Work toward a more unified approach to oversight by:
  - S Developing a more unified oversight strategy among the Regional staff to ensure that the States accomplish the PPG work plan objectives.
  - S Working with Oklahoma and Texas to develop an end-of-year report that better reflects the environmental outcomes of the PPG.

**REGION 6 COMMENTS  
AND OIG EVALUATION**

Region 6 generally agreed with our findings and recommendations.

## EXHIBIT 1

### SCOPE AND METHODOLOGY

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Our first objective was to determine if Region 6 effectively implemented its PPG program to ensure that recipients accomplished overall PPG objectives. Our review of the Region's PPG program included:

- S Interviewing PPG project officers for air, water, and hazardous waste programs, regarding their roles and responsibilities related to the PPG program.
- S Reviewing national and regional PPG guidance and policy to determine program requirements and consistency between national and regional guidance.
- S Interviewing regional program managers and staff regarding their knowledge of PPG program goals and their implementation of those goals.
- S Reviewing PPG project officers' performance standards to determine if they have measures related to effectively implementing the program.
- S Evaluating PPG program coordination and communication among regional and state staff to determine if the Region's process was effective.
- S Evaluating the Region's organizational placement of PPG program responsibilities to determine whether the placement facilitated effective program implementation.
- S Interviewing a judgmental sample of state managers and program staff regarding the Region's actions to effectively implement its PPG program and accomplish program goals. We interviewed staff from ODEQ in Oklahoma City, Oklahoma; and the TNRCC in Austin, Texas.
- S Reviewing information from the April 1998 MAR of the Texas 1997 PPG, and 1998 and 1999 work plans to determine if similar issues existed.
- S Reviewing the Region's Federal Managers' Financial Integrity Act report for fiscal 1998 to determine whether the report disclosed any material weaknesses related to the PPG program and the Region's actions to address those weaknesses.

Our second objective was to determine if Region 6 negotiated PPG work plans that included adequate programmatic accountability. Our review of recipients PPG work plans included:

- S     Reviewing national and regional guidance to determine the requirements for PPG work plans.
- S     Interviewing Regional officials to determine its PPG work plan negotiation process to determine how PPG work plan commitments were negotiated, who participated, and how disputes were addressed.
- S     Reviewing a judgmental sample of state work plans for fiscal 1998 and 1999 to determine whether required work plan elements were included such as core performance measures. We also reviewed the work plans to determine whether commitments included outcome measures and that those measures were verifiable, measurable, quantifiable and time-specific. We reviewed the 1999 Texas work plan and evaluated whether suggestions from the April 1998 Management Assessment Review were implemented. We limited our review of the work plans to commitments related to the air, water, and hazardous waste programs.
- S     Interviewing regional program staff to determine whether they used work plans and how they ensured the work plans had adequate programmatic accountability.

Our third objective was to determine if Region 6's oversight ensured that recipients accomplished PPG work plan objectives. Our review of the Region's oversight of PPG work plans and funds included:

- S     Reviewing PPG project officers' files to obtain information on the methods and actions used to monitor and evaluate PPG activities.
- S     Interviewing regional staff and reviewing PPG project files to determine whether the Region had an agreement with recipients on the extent of PPG oversight and end-of-year reporting requirements.
- S     Interviewing regional program managers and staff regarding their oversight of PPG commitments and whether they reviewed and used PPG end-of-year reports.
- S     Evaluating a judgmental sample of PPG end-of-year reports for fiscal 1998 to determine if recipients accomplished all work plan commitments and described

progress toward environmental goals. We reviewed the 1998 state end-of-year reports for Oklahoma and Texas.

**APPENDIX I**  
**AGENCY RESPONSE**

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September 7, 1999

MEMORANDUM

SUBJECT: Response to OIG's Draft Audit Report on Performance Partnership Grants  
Audit Report Number 1999-000208-CAD6

FROM: Lynda F. Carroll /s/ by Lynda F. Carroll  
Assistant Regional Administrator  
for Management (6MD)

TO: Bennie S. Salem  
Divisional Inspector General  
Central Audit Division

The Office of Inspector General's (OIG) draft audit report on Performance Partnership Grants, Region 6's Oversight of Performance Partnership Grants, report number 1999-000208-CAD6, dated August 5, 1999, has been reviewed as requested. The review of the draft audit report was made by the staff of the Region 6 Compliance Assurance and Enforcement Division (6EN), Multimedia Planning and Permitting Division (6PD), and Water Quality Protection Division (6WQ). The comments for Region 6 on subject draft audit report are reflected on the attachment.

Thank you for the opportunity to comment on the subject draft audit report. If you have any questions, please call me, or you can contact Jim Ealey, Audit Resolution Coordinator, Resource Branch at (214) 665-6534.

Attachment

cc: Boyce (6OIG)

The following comment are furnished in response to the OIG's draft audit report on Performance Partnership Grants, Region 6's Oversight of Performance Partnership Grants, report number 1999-000208-CAD6, dated August 5, 1999:

**MULTIMEDIA PLANNING AND PERMITTING DIVISION (6PD)**

The Multimedia Planning and Permitting Division concurs with the findings/conclusions and recommendations presented in the report

**RCRA Grants and Authorization Section (6PD-G)**

- The Executive Summary mentions that the work plans are not finalized prior to the start of the Oklahoma and Texas fiscal years. This comment, to date, is correct; however, no funds are awarded until program activities, equal to that level of funding, have been negotiated with the States. This is the case for partial awards of forward funding. It should be noted that forward funding is not often provided to the State of Texas.
- We support the comments in the report about delays in finalizing negotiated work plan commitments. We are initiating discussions with each State at an earlier date than in previous years, to complete work plan negotiations in a more timely manner. For example, the State of Oklahoma FY 2000 RCRA work plan was approved by EPA on August 13, 1999, two months sooner than the approval for FY 1999. The State of Texas FY 2000 RCRA work plan is near approval. As you are aware, the Texas FY 2000 program year begins on September 1, 1999.
- For the State of Texas and Oklahoma, a work plan matrix is prepared that documents the negotiated commitments. For the State of Oklahoma we relied on the Focus Plan in addition to the prepared matrix. The State will revise the Focus document to reflect the RCRA commitments for FY 2000.
- We support the comments about the Texas request to shift funds when core commitments, such as RCRA authorization activities, have not been completed. The RCRA oversight reports have documented that the State has not completed all RCRA core commitments.

**Pesticides Section (6PD-P)**

- We are concerned about the lack of availability to have specific goals and milestones in the work plan. The only item that we were allowed to put into the work plan was the very broad overall scope of the Pesticides in Groundwater State Management Plan (PMP) program. No specific time lines or milestones were allowed. After the PMP Rule is signed and published in the Federal Register, there will be some very specific actions and dates that will have to be met, and it appears we will not be able to put them in the PPG work plan.

- Regarding TNRCC’s concern over media-specific oversight, the Pesticides program has to do media-specific oversight because we have no connection to any of the other programs that are covered under this PPG. This requires us to deal individually with the TNRCC program personnel responsible for our program and to do specific oversight with those people.

**Air State and Tribal Operations Section (6PD-S)**

- The Air Program negotiated specific “outputs” linked to core performance measures in accordance with our Office of Air and Radiation national guidance with both Oklahoma and Texas. Since many air program core performance measures are very broad and long range goals, certain activities are identified for states to complete on an annual basis to meet an objective one to three years in the future. These priorities, as opposed to outcome measures or “environmental priorities” are measurable in terms of State progress from year to year. An example is, if a state is required by the Clean Air Act to submit a State Implementation Plan two years from now, regulation development, monitoring, modeling, etc., would be required in year one to meet the deadline in year two.
- We believed some of the measures that Texas identified as environmental indicators were misleading or were more in line of “efficiency” measures. Oklahoma did not even identify outcome measures or environmental indicators. We recognize we have a challenge in bringing this dimension to the PPAs.
- Regarding the statement that we must rely on documents other than the PPA to ensure the states accomplish PPG objectives that are not much different from categorical grants. The whole concept of NEPPS is streamlining. Why should a PPA reiterate all the conditions of an MOU or delegation agreement when those documents are as binding as the PPG? Both states’ PPAs contain language committing to meeting provisions of MOUs and delegation agreements. So, in our oversight, we consider all these documents holistically.
- Regarding TNRCC’s desire to “have one primary contact for the grant” (page 19); unfortunately, the organizational structures of both of our organizations do not lend themselves for employing a sole source contact. The use of a sole source contact would funnel communication to and from our organizations that would further delay timely responses from program to program.
- Regarding TNRCC’s desire for consolidated reporting and coordinated comments to its report. Experience and communication with TNRCC staff have indicated that attempts made in FY 1997 and 1998 to consolidate reporting and comments back to TNRCC only resulted in the same “tearing apart” of these documents for distribution to each media.



- We hope that TNRCC's ongoing reorganization will reduce our need to conduct the Air Program's yearly negotiations and perform mid- and end-of-year reviews with four separate divisions, those being Division of Border Affairs, Division of Air Quality, Planning and Assessment, Division of Air/New Source Review, and the Division of Air/Operating Permits.

**WATER QUALITY PROTECTION DIVISION (6WQ)**

The Water Quality Protection Division (6WQ) concurs in general with the findings/conclusions and recommendations presented in the report. However, we still wish that the report would mention that the problems experienced in Region 6 are not unique and seem to coincide quite well with what is being experienced in other Regions.

**Assistance Programs Branch (6WQ-A)**

- The presentation of conclusions regarding Accountability Provisions (Chapter 3) contains some broad statements that are not necessarily true in all programs in both States. This chapter focuses on our track record regarding core measures, but does not adequately recognize the effort we make to assure that all statutory requirements are addressed and committed to.
- Also, we disagree with the sentence that states, "Negotiations of work plans were not initiated timely, and time frames for the process were not established." We typically do a good job of issuing HQ and Regional guidance as early as possible in the spring (thus starting the negotiation process). We have an established date for submittal of applications and a goal of awarding funds within 90 days of their receipt in the Region. However, this may not have been reflected in Oklahoma's case for fiscal years (FY) 1998 and 1999 since Oklahoma requested that the grant cycle coincide with their State FY. In order to be responsive to the State's needs, this moved their schedule up by three months and may have caused much confusion at the State and EPA. We acknowledge that we often are still negotiating well into the first quarter ... but, it is not because we have no established time frames .... it is because we often miss those deadline for a wide variety of causes.

**COMPLIANCE ASSURANCE AND ENFORCEMENT DIVISION (6EN)**

The Compliance Assurance and Enforcement Division (6EN) had no comments to offer on subject draft audit report.

## APPENDIX II ABBREVIATIONS

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ECOS	Environmental Council of States
EPA	Environmental Protection Agency
FSR	Financial Status Report
MOU	Memorandum of Understanding
NEPPS	National Environmental Performance Partnership System
ODEQ	Oklahoma Department of Environmental Quality
OIG	Office of Inspector General
PPA	Performance Partnership Agreement
PPG	Performance Partnership Grant
RCRA	Resource Conservation and Recovery Act
TNRCC	Texas Natural Resource Conservation Commission
Umbrella Agreement	Oklahoma Environmental Performance Partnership Agreement

## APPENDIX III DISTRIBUTION

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Director, Office of External Affairs (6XA)  
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Regional Library

### Oklahoma Department of Environmental Quality

Mr. Steve Thompson, Deputy Executive Director  
P.O. Box 1677  
Oklahoma City, OK 73102

### Texas Natural Resource Conservation Commission

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