

UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE INSPECTOR GENERAL FOR AUDITS
WESTERN DIVISION
75 HAWTHORNE STREET
19TH FLOOR, MAIL CODE I-1
SAN FRANCISCO, CA 94105-3901

September 30, 1998

MEMORANDUM

SUBJECT: Audit of Region 9's Controls Over Superfund
Oversight Cost Billings
Audit Report Number E1SFF8-09-0022-8100259

FROM: Truman R. Beeler /s/ *T.R. Beeler*
Divisional Inspector General for Audits
Western Audit Division

TO: Felicia Marcus
Regional Administrator
Region 9

Attached are two copies of our final report on Region 9's Controls Over Superfund Oversight Cost billings. The overall purpose of the audit was to assess the effectiveness of the Region's controls over Superfund Remedial Program oversight cost billings.

This audit report contains findings that describe issues of concern that the Office of Inspector General (OIG) identified and corrective actions that the OIG recommends. As such, this report represents the opinions of the OIG. Final determinations on the matters in this report will be made by EPA managers in accordance with EPA established audit resolution procedures. Accordingly, the findings described in this report do not necessarily represent final EPA position and are not binding upon EPA in any enforcement proceeding brought by EPA or the Department of Justice. We have no objections to the release of this report to the public.

If you or your staff have any questions about this report, please call me or Paul Jalbert at (415) 744-2445.

ACTION REQUIRED

In accordance with EPA Order No. 2750, you, as the Action Official, are required to provide this office with a written response to the audit report within 90 days of the final report date. For corrective actions planned but not completed by your response date, reference to specific milestone dates will assist this office in deciding whether to close this report. The OIG has no objection to the further release of this report at the discretion of the Action Official to the public or other interested parties.

PURPOSE

We completed an audit of Region 9's controls over billing of Superfund oversight costs. The overall purpose of the audit was to assess the effectiveness of the Region's controls over Superfund Remedial Program oversight cost billings. The specific objectives of this audit were to determine whether Region 9 (the Region):

- Established adequate procedures and internal controls to ensure that Superfund remedial action oversight costs are properly classified and accumulated;
- Billed and recorded remedial action oversight costs in a timely and effective manner; and
- Collected remedial action oversight costs in a timely manner.

On April 7, 1998, EPA's Office of the Comptroller and Office of Site Remediation Enforcement issued a joint memorandum to all regions entitled Plan for Achieving Timely Oversight Billing Under CERCLA. The memorandum requested regional support in implementing EPA's plan to achieve timely Superfund oversight cost billings by September 30, 1998. The memorandum also requested that each region provide an action plan to Headquarters by April 30, 1998. The Region responded on April 30th and its plan was considered in completing this audit.

BACKGROUND

Oversight costs are incurred by EPA while monitoring cleanup work being performed by responsible parties at "Enforcement-lead" Superfund sites. Such costs can include charges for EPA personnel (salary, indirect costs, and travel), as well as charges by EPA contractors or state employees. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authorizes EPA to recover its oversight costs from Responsible Parties (RPs) to help replenish the Superfund Trust Fund. Such recoveries are accomplished by the use of a Consent Decree (CD) or an Administrative Order on Consent (AOC). A CD is a legally binding enforceable agreement, approved by a judge, between EPA and the RPs. An AOC is a similar document, except that it has not been approved by the court.

The timing of Superfund oversight cost billings is generally set by the terms contained in the CD or the AOC. The CDs and AOCs usually contain provisions specifying that RPs will be billed for oversight costs incurred by the Agency on an annual basis or "no more than annually." EPA's Revised Core Financial Management Performance Measures (1997) specifies that Superfund oversight cost bills are to be prepared within 120 calendar days of the CD or AOC anniversary date, or within the time frames specified in the CD or AOC.

In the Region, three offices participate in the recovery of oversight costs from RPs. The activities of the offices are generally directed by a Memorandum of Agreement (MOA) which had been in

effect since 1990. The Superfund Site Cleanup (SSC) Branch is responsible for preparing oversight cost packages, the oversight cost bills, and sending the bills, known as demand letters, to RPs. The Financial Management Office (FMO) is responsible for compiling the cost summaries requested by the SSC Branch. The Office of Regional Counsel (ORC) has the lead role in cost litigation. ORC reviews draft demand letters for recovering oversight costs and approves them before they are sent to the RPs.

RESULTS OF AUDIT

We concluded that the Region's procedures and internal controls, if properly implemented, are generally adequate to ensure that Superfund remedial action oversight costs are properly classified, recorded, and billed to RPs. While over the past several years the Region had a significant backlog of unbilled oversight costs, by July 1998, through increased attention to the area, the Region had made significant progress in reducing the backlog. However, continued attention is necessary to assure that the Region is able to meet EPA's standard for preparing current oversight billings within 120 days of the CD or AOC anniversary date.

We also concluded that the Region has generally been successful in collecting Superfund remedial oversight costs in a timely manner.

We did identify some opportunities for the Region to improve its oversight billing process. These include:

- Evaluating current processes associated with the preparation of cost documentation packages for the purpose of identifying streamlining opportunities.
- Updating its 1990 MOA between the FMO, SSC Branch, and ORC to reflect current regional organizational responsibilities and functions.
- Strengthening written procedures for sending timely following-up on delinquent accounts receivable.
- Assuring that adjustments in accrued unbilled oversight costs reported to EPA Headquarters are properly documented and approved.

Progress Has Been Made in the Timeliness of Oversight Billings

The Region's efforts to reduce the backlog of unbilled Superfund remedial action oversight costs have produced positive results. This is evidenced in part by the number of such billings from fiscal 1996 to-date. The oversight billings have steadily increased each year. For fiscal 1998

(through July 10, 1998), 27 oversight billings were mailed; compared to a total of 17 for all of fiscal 1996. In addition, we noted that the costs being billed were for more current periods.

However, we found that the Region needs to continue to monitor its efforts in this area to assure that oversight billings are timely compared to EPA's standard for preparing timely bills. EPA's standard is that oversight billings should be prepared and mailed within 120 days of the CD or AOC anniversary date. For oversight billings made in fiscal 1998, we determined that only 4 of the 27 met the 120 day standard.

The following table includes some examples of the delays the Region has experienced in billing oversight costs:

Site	Billing Period End Date	Billing Date	Accrued/ Unbilled Amount	Billing Delay in Months
Atlas Asbestos	12/31/94	12/18/97	\$764,977	36
Fairchild San Jose	9/30/96	2/10/98	\$7,462	17
Van Waters & Rogers	9/30/96	1/29/98	\$37,485	16

Discussions with Regional personnel indicated several causes for the delays experienced in billing oversight costs. The causes include: (i) resource limitations; (ii) complexity of the cost package process and the need to reconcile cost data; and (iii) multiple approval processes. In addition, we believe that the Region needs to update its MOA between the three offices that have responsibility for oversight billing activities.

The Region has taken actions to alleviate some of the above causes. The SSC Branch recently hired a Cost Recovery Specialist to prepare billings, and the Region is reviewing and updating its 1990 MOA and procedures. These actions, when completed should provide some improvements. To further improve the process, the Region should consider streamlining the cost documentation being compiled in cases where the responsible parties have a good payment history. The time needed to compile cost documentation packages seems extensive and minimizing documenting activities or costs could free up limited resources to prepare other billings.

The Region's MOA between the FMO, SSC Branch, and ORC has not been updated since 1990. Since the MOA was executed, the Region has gone through a reorganization. As such, the MOA designation of responsible entities for the performance of duties is outdated. To assist employees in fulfilling their function relating to billing oversight costs, the MOA should be updated to reflect current organizational responsibilities and functions.

Delays in billing oversight costs can negatively affect the program. First, it delays the replenishment of the Superfund Trust Fund for moneys that RPs have agreed to reimburse the

Agency. This in turn delays the availability of Superfund money to work on other priority sites. Second, the longer the time period covered by an oversight cost bill, the more extensive the regional cost documentation package. This often leads to RPs asking for more support and explanations to substantiate the oversight costs billed.

Procedures for Following-Up on Delinquent Oversight Cost Accounts Receivables Could Be Strengthened

While the Region has been generally successful in collecting billed oversight costs, we believe that its procedures for following-up on delinquent payments could be strengthened. Our review of the collection status of the 27 fiscal 1998 (October 1, 1997 through July 10, 1998) oversight cost billings identified 8 (valued at \$1,094,094) that were in a delinquent status (i.e. not paid by the due date). However, the Region had not sent out dunning letters for any of these billings.

EPA's Resources Management Directives (RMDS) 2550, Chapter 14, Superfund Accounts Receivable and Billings, states that the "FMOs are required to...Issue dunning letters or bills on delinquent accounts receivables as appropriate and upon approval by the ORC." In addition, RMDS 2540, Chapter 9, Receivables and Billings, states that "follow up billings are the responsibility of the FMO and should be generated from IFMS." Finally, the standard language used in the Region's CERCLA Section 107 demand letter states that "...if payment is not received within thirty (30) days of receipt of this notice, interest on past costs incurred shall accrue from the date of receipt of this request for payment..."

Discussions with SSC Branch and FMO employees disclosed that there may be some confusion on which office is responsible for follow-up on delinquent accounts receivables. The FMO employees indicated that they had follow-up responsibility for bills they processed and that the program office has responsibility for follow-up on bills they send to RPs. In addition to its impact on the monies available to the Superfund Trust Fund, the Region may be losing interest on overdue amounts by not being more aggressive in following up on delinquent accounts receivable. In our opinion the RMDS provisions cited above establish responsibility for the FMO to follow-up on delinquent accounts receivable.

Plan to Bring Oversight Cost Billings Current

As mentioned in the PURPOSE section of this report, the Region provided EPA Headquarters with a plan to achieve current oversight cost billings by September 30, 1998. The Region's April 30, 1998 response to the EPA Headquarters addressed all components requested and included an action plan to bring the Region's oversight cost billings current by September 30, 1998.

We reviewed the Region's plan, and concluded that the Region may need to commit additional resources to the billing process and implement streamlining procedures to make the preparation of

oversight cost bills a more efficient process.

We also noted, that in its submission to Headquarters, the Region reported that the value of the September 30, 1997 accrued unbilled oversight costs had been reduced by \$9,060,687. The reduction represented over 40 percent of the September 30, 1997 accrued unbilled oversight costs. The reduction was identified to three sites with accrual decreases and one site with an accrual increase:

OII CD1 (Site ID 09P2)	(\$8,807,816)
Omega (Site ID 09BC)	(453,865)
Beckman (Site ID 0970)	(35,859)
El Monte (Site ID 097B)	<u>236,853</u>
Net	<u>(\$9,060,687)</u>

We inquired of the SSC Branch staff as to the basis for the above adjustments and were told that ORC had advised them that:

- The oversight costs related to the OII site were no longer billable under the CD because the responsible parties had expended the funds placed in escrow on site related work.
- The Omega and Beckman sites were not billable because there were no executed CDs or AOCs on these sites.
- The El Monte oversight costs were added because they had been overlooked when the 1997 accrued oversight costs were compiled.

The above explanations were provided near the end of our audit fieldwork and documentation was not readily available to support the explanations. Considering that the Region's reported adjustments are material to the 1997 billable oversight cost accruals, the Region should assure that the adjustments are appropriately documented, approved by appropriate Regional management, and supported by accounting entries.

RECOMMENDATIONS

We recommend that the Regional Administrator:

1. Evaluate current processes associated with the preparation of cost documentation packages for the purpose of identifying streamlining opportunities. The Region should consider minimizing the documentation being supplied to responsible parties (RP) on Superfund sites with good RP payment histories.
2. Update the Region's 1990 MOA to reflect current organizational responsibilities and functions relative to the billing of oversight costs in a timely manner.

3. Strengthen procedures for following-up on delinquent accounts receivable. The procedures should include clarifying responsibility for follow-up.
4. Assure that adjustments to accrued unbilled oversight costs reported to EPA Headquarters are appropriately documented and approved.

REGIONAL COMMENTS AND OIG EVALUATION

A draft audit report was provided to the Region on August 13, 1998 for comment. The Region's response, dated September 11, 1998, is summarized below and included as Appendix 1 to this report. Based on the Region's response, some changes were made to this final report. Because of the changes, portions of the Region's response no longer apply and, as such, have been deleted. An exit conference was held with Region 9 officials on September 28, 1998.

Region 9 Comments

The Region responded positively to the audit findings and recommendations as shown by the following excerpts from Appendix 1:

The Region generally supports the conclusions and recommendations in the draft report and has only limited comments to help clarify the text and recommendations.

The Region has made substantial progress toward the goal of ensuring that Superfund oversight costs are billed to the responsible party on a current basis. It fully expects to meet the goals outlined in the April 30, 1998 action plan, entitled 'Region 9 Plan for achieving timely billing oversight under CERCLA.' Under this plan, the Region expects to be current with 95% of its oversight bills by the end of this month.

In addition to taking aggressive steps to assure that it meets the goal of 95% current billing, the Region has also initiated actions to assure timely implementation of many of the actions recommended in the draft report.

Regional comments on specific sections of the report are summarized as follows:

Procedures for Following-Up on Delinquent Oversight Cost Accounts Receivables Could Be Strengthened: The response included an updated status on the eight delinquent bills, indicating that only three bills remained outstanding as of August 24, 1998, with a delinquent balance of \$22,509.

Plan to Bring Oversight Cost Billings Current: The response stated:

Our headquarters has recently confirmed that the Region has applied the correct interpretation and that the Region will be current if there are 'no more than 16 months of unbilled oversight costs.' ...As discussed above, the Region expects to be current with 95% of its oversight bills by the end of this month.

The Region's comments on each recommendation are summarized as follows:

1. "We are committed to updating the MOA by December 31, 1998."
2. "We agree that opportunities for streamlining should be pursued... The Region will take another look at the possibilities for minimizing the documentation for RPS, in particular those with good payment histories."
3. "We agree... During the first quarter for FY 1999, we plan to survey other Regions to benchmark best practices. We will then compare these practices to our own to determine any needed improvements."
4. "We agree that adjustments to unbilled oversight costs should be appropriately documented and approved."

OIG Evaluation

We consider the Region's comments to be responsive to our findings and recommendations.

With respect to following up on delinquent bills, the issue of who is responsible for the timely follow-up on unpaid bills remains a concern to this office. The Region's planned efforts to improve procedures based on benchmarking best practices should include establishing clear responsibility for follow-up activities.

SCOPE AND METHODOLOGY

Our audit covered the status of the Region's billings of oversight costs accumulated between 1990 and 1998, and management controls in effect during the same period. The audit also included an assessment of the Region's April 30, 1998 Plan for Achieving Timely Oversight Billing Under CERCLA.

Our audit included tests of documents and other auditing procedures as considered necessary under the circumstances. The audit included only oversight cost recovery activities for Region 9 Superfund sites with executed Consent Decrees or Administrative Orders on Consent. No other issues came to our attention which we believe warranted expanding the scope of the audit.

Our first objective was to determine whether Region 9 established adequate procedures and internal controls to ensure that Superfund remedial actions site costs are properly classified and

accumulated. We reviewed existing policies and procedures, identified strategies, and interviewed key personnel. We reviewed the internal controls regarding the timeliness of billing and the processes for preparing bills. We did not review the internal controls associated with the input and processing of information into the IFMS or any other automated record system. However, we did selectively test the recording of billed amounts as accounts receivable in IFMS.

Our second objective was to determine whether Region 9 billed and recorded reimbursable remedial action site costs in a timely manner. To accomplish this objective, we determined who was responsible for the accumulation of site costs, preparation of cost packages, review and approval of oversight billing packages, preparation of oversight bills, submission of bills. In addition we reviewed the Region's recordation procedures. We reviewed reports from the FMO which included 56 Superfund remedial sites. The audit included oversight cost billings in fiscal year 1997 and 1998, through July 10, 1998. We also judgementally selected 5 of the 56 sites and determined whether the bills and payments were recorded in IFMS timely.

Our last objective was to determine whether the Region collected reimbursable remedial action site costs in a timely manner. We obtained reports from the Superfund Site Cleanup Branch and the FMO. We reviewed the reports provided by the FMO and the SSC branch which included 56 Superfund remedial sites.

To accomplish the objectives we also interviewed Region 9 personnel within the SSC branch, the FMO, and the ORC. We reviewed Memoranda of Agreement documents, procedures used by the SSC Branch, FMO, and ORC, enforcement documents (AOC's and CD's), various tracking reports, billing status reports, cost summary packages, and site files.

We performed our audit in accordance with Government Auditing Standards issued by the Comptroller General of the United States. We conducted our fieldwork between February 1998 and July 1998. We reviewed Region 9's Fiscal Year 1997 Integrity Act Report to determine whether the oversight billing area was identified as a potential weakness during their annual Federal Managers' Financial Integrity Act (FMFIA) self-evaluation. The Region did not identify any material weaknesses or vulnerabilities pertaining to Superfund oversight billings or collections.

PRIOR AUDIT COVERAGE

This is the first OIG audit of Region 9's controls over the billing and collection of Superfund oversight costs. However, there have been three audits conducted by the OIG in other regional offices with similar objectives. The results of the following EPA OIG audits were considered in planning and conducting our audit:

- Region 3's Billing of Superfund Oversight Costs:
EPA OIG Report No. E5FFL7-03-0008-7100292

September 22, 1997.

•Region 2's Billing of Superfund Oversight Costs:

EPA OIG Report No. E1SFF8-02-0007-8100206

August 13, 1998.

•Billing and Collection of Superfund Site Oversight and Response Costs:

EPA OIG Report No. E1SFP6-11-0017-6400029

February 6, 1996.

These reports identified findings relating to EPA delays in billing and collecting Superfund oversight costs from responsible parties.

Appendix 1 - Region 9 Response to Draft Report

Appendix 2 - Report Distribution

NOTE: In the printed report, pages 11-14 contain Region 9's response to the draft report.

REPORT DISTRIBUTION

Office of the Inspector General

Acting Inspector General (2410)

Region 9

Regional Administrator (ORA-1)

Director, Policy and Management Division (PMD-1)

Director, Superfund Division (SFD-1)

Regional Counsel (ORC-1)

Audit Followup Coordinator (PMD-1)

Headquarters Office

Assistant Administrator for Solid Waste and Emergency Response (5101)

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Policy and Program Evaluation Division, Office of Site Remediation Enforcement (2273A)

Associate General Counsel, Solid Waste and Emergency Response Law Office (2366)

Director, Financial Management Division (2733F)

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