



Memorandum

AUG 6 1993

Date

From

Bryan B. Mitchell *Bryan Mitchell*
Principal Deputy Inspector General

Subject

Financial Review of the National Institute of Environmental
Health Sciences' Use of Superfund Monies (A-04-92-04103)

To

Philip R. Lee, M.D.
Assistant Secretary for Health

The attached final report provides you with the results of our audit of the National Institute of Environmental Health Sciences (NIEHS) Superfund financial activities for Fiscal Year (FY) 1991. Our audit was conducted pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended. This act requires the Inspector General of each Federal organization with Superfund responsibilities, to conduct audits of all payments, obligations, reimbursements, or other uses of the Superfund. Through interagency agreements with the Environmental Protection Agency (EPA), NIEHS obligated \$41.8 million and disbursed \$26.5 million in Superfund resources during FY 1991.

Our audit disclosed that, with the exception of minor irregularities due to clerical errors, NIEHS generally administered the fund in accordance with Superfund legislation. However, we noted internal control weaknesses involving: (1) grantee audits; (2) preparing the budget; and (3) submitting reimbursement billings to EPA.

In the written response, the Public Health Service (PHS) generally concurred with the report recommendations and indicated that corrective action will be taken. A copy of PHS' response is included as an appendix to this report.

We would appreciate being advised within 60 days on the status of corrective actions taken or planned on each recommendation. Should you wish to discuss the issues raised by our review and recommendations, please call me or have your staff contact Daniel W. Blades, Assistant Inspector General for Public Health Service Audits, at (301) 443-3582. Please refer to the Common Identification Number A-04-92-04103 in all correspondence relating to this report.

Attachment

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**FINANCIAL REVIEW OF THE NATIONAL
INSTITUTE OF ENVIRONMENTAL
HEALTH SCIENCES' USE OF
SUPERFUND MONIES**



AUGUST 1993 A-04-92-04103

EXECUTIVE SUMMARY

This report provides the results of our audit of the National Institute of Environmental Health Sciences (NIEHS) Superfund financial activities for Fiscal Year (FY) 1991. Our audit was conducted to comply with provisions of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), as amended. The CERCLA requires the Inspector General (IG) of a Federal organization, with Superfund responsibilities, to conduct an audit of all payments, obligations, reimbursements, or other uses of the Superfund.

The NIEHS is a component of the National Institutes of Health (NIH), an agency of the Public Health Service (PHS) within the Department of Health and Human Services (HHS). The NIEHS receives overall direction from NIH. The NIH also provides billing services, and certain other administrative and professional services to NIEHS. The NIEHS is located at Research Triangle Park, North Carolina.

The NIEHS receives funds through an interagency agreement (IAG) with the Environmental Protection Agency (EPA) to carry out health related and other functions mandated to NIEHS by Superfund legislation. During the period October 1, 1990 through September 30, 1991, NIEHS' obligations of Superfund resources totaled \$41.8 million and disbursements totaled \$26.5 million.

Our audit disclosed that NIEHS generally administered the fund in accordance with Superfund legislation. Several corrective measures had been taken by NIEHS in response to recommendations contained in our prior report (A-04-91-04026 issued on July 1, 1992). Our recent work indicates, however, that there are additional areas requiring management attention and corrective action to ensure a more efficient and effective administration of the program.

Our review disclosed internal control weaknesses in the following areas:

- Grantee Audits The NIH did not have adequate procedures to ensure that independent audits for all Superfund grantees were being performed as required by 45 Code of Federal Regulations (CFR) 74.62. As a result, NIH and NIEHS were not aware whether audit requirements were being met or whether sanctions needed to be taken for grantees who had not submitted audit reports. This occurred because policies and procedures had not been established for adequate coordination between the HHS Office of Inspector General (OIG), Office of Audit Services (OAS), National External Audit Review Center (Center); NIH; and NIEHS to ensure that audit reports are submitted for all Superfund grantees.
- Budget Procedures The FY 1991 budget, included in the Superfund IAG with EPA, included unsupported indirect costs

and did not include an amount for an IAG with the Centers for Disease Control and Prevention (CDC), National Institute of Occupational Safety and Health (NIOSH).

- Reimbursement Billings The NIH did not bill EPA: for some accruals related to obligations over 3 years old; and for some other accruals which exceeded budgeted amounts, even though they could have been charged to other allowable budget amounts. Because of these inappropriate procedures and clerical errors, NIH underbilled EPA a total of \$53,237.

In our opinion, the internal control weaknesses are not material under the Federal Managers' Financial Integrity Act. However, we believe the deficiencies are significant matters that are reportable conditions meeting the reporting criteria of the government auditing standards. We are recommending that PHS: (1) establish procedures to ensure that audit reports are submitted for all Superfund grantees; (2) sanction grantees that are unwilling to have a proper audit in accordance with Office of Management and Budget (OMB) Circular A-133 or A-128; and (3) take immediate action to have all required audits performed. We are also recommending that PHS: (1) determine whether it is incurring significant amounts of indirect costs for its Superfund IAG, and if so, establish procedures for computing and billing these costs; and (2) make improvements in the budgeting process to ensure that the budget more accurately reflects anticipated obligations and disbursements. We are further recommending that PHS: (1) adjust intramural billings for the \$53,237 underbilled; and (2) revise its current billing procedures to ensure that future billings are accurate and complete.

In its written response, PHS generally concurred with the recommendations made in the audit report and indicated that corrective action will be taken.

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ABBREVIATIONS USED

CAN	Common Accounting Number
CDC	Centers for Disease Control and Prevention
CENTER	National External Audit Review Center
CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act of 1980
CIN	Common Identification Number
CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
FY	Fiscal Year
GMO	Grants Management Officer
HHS	Department of Health and Human Services
IAG	Interagency Agreement
NIEHS	National Institute of Environmental Health Sciences
NIOSH	National Institute of Occupational Safety and Health
NIH	National Institutes of Health
OAS	Office of Audit Services
OIG	Office of Inspector General
OMB	Office of Management and Budget
PHS	Public Health Service
SARA	Superfund Amendments and Reauthorization Act of 1986
UCB	University of California, Berkeley

BACKGROUND

The NIEHS, a component of NIH, is located at Research Triangle Park, North Carolina. The NIH provides NIEHS with overall direction, billing services, and other administrative and professional services. The NIH is an agency of PHS within HHS.

The CERCLA, Public Law 96-510, mandated the establishment of the Hazardous Substance Response Trust Fund, which is commonly known as Superfund. The CERCLA was extended and amended by the Superfund Amendments and Reauthorization Act of 1986 (SARA). The Superfund, managed by EPA, is a trust fund used to respond to emergency environmental conditions that are hazardous to health, and to pay for the removal of toxic substances.

The NIEHS receives its annual funding from EPA to carry out health related and other functions mandated to NIEHS by CERCLA. In carrying out its Superfund responsibilities, NIEHS awards the majority (over 96 percent) of its funds to other organizations for: (1) training persons who are engaged in hazardous waste removal, containment or emergency response activities; and (2) studying the short- and long-term effects of exposure to specific chemicals. The remaining funds are used for NIEHS' administrative costs. During the period October 1, 1990 through September 30, 1991, NIEHS obligated \$41.8 million (\$1.4 million for NIEHS administration and \$40.4 million for awards to other organizations). During this period NIEHS disbursed about \$26.5 million in Superfund resources (\$1.2 million for NIEHS administration and \$25.3 million for awards to other organizations). Of the \$26.5 million of disbursements, \$1.5 million was related to FY 1991 funds and \$25 million was related to prior periods.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of the audit was to determine whether documentation for NIEHS' FY 1991 Superfund financial transactions was sufficient, whether financial transactions were accurately recorded and reported, and whether the Superfund was otherwise administered pursuant to Superfund legislation. The audit was conducted to comply with section 111(k) of CERCLA, as amended by SARA, which requires the IG of each agency with Superfund activity to conduct an audit of all payments, obligations, reimbursements, or other uses of the Superfund.

The NIEHS has entered into agreements with universities, unions, and other nonprofit organizations which are subject to audit under Superfund requirements. Under the FY 1990 IAG between EPA and HHS/OIG/OAS, Region IX of the HHS/OIG/OAS conducted an audit of an award to the University of California, Berkeley (UCB). The audit covered the Superfund award made to UCB totaling approximately \$2 million. We reviewed the audit report issued by Region IX during our FY 1991 audit.

The NIH provided a financial transaction listing of Superfund obligations and disbursements recorded during the period October 1, 1990 through September 30, 1991. We reviewed a random sample of 100 non-grant disbursement transactions and related obligations totaling \$45,927 from a total of 1,469 disbursement transactions amounting to \$1,159,466. (The sample disbursements were related to obligations incurred in FY 1990 and 1991.) In addition, we identified \$960,442 in unliquidated non-grant obligations and reviewed a judgmental sample of 20 of these transactions totaling \$885,135. The associated disbursements for these transactions will be subject to review in future Superfund audits.

During FY 1991, NIEHS obligated \$40,432,937 for research and training grants. We verified the \$40,432,937 in obligation transactions to the grant award documents for all 27 research and training grants awarded. The scope of our audit did not include auditing disbursements by the grantees. These grants are subject to independent audits under OMB Circular A-133 or OMB Circular A-128.

We reviewed NIEHS' procedures for assessing a prospective grantee's likelihood of satisfactory performance in accounting for and managing Federal funds, and NIEHS' procedures for monitoring audit requirements for the grantees. We reviewed a judgmental sample of 5 of the 27 grants to determine whether NIEHS' procedures for reviewing the grantees' likelihood of satisfactory performance and NIEHS' monitoring procedures had been performed as described. We did not visit any grantee locations.

We determined whether NIEHS had obtained and used audit reports for Superfund grantees. We contacted the HHS/OIG/OAS/Center and the Audit Resolution Section of NIH to determine whether all 15 FY 1988 grantees had submitted audit reports in accordance with 45 CFR 74.62. We limited this review to FY 1988 grantees because FY 1988 funds would be used in FY 1989 and according to OMB Circular A-133 a grantee has 2 years after costs are incurred to have an audit completed. Therefore, audits would not be due on FY 1988 grants until FY 1991.

As part of our audit, we evaluated NIEHS' system of internal controls relevant to the nature, timing, and extent of the auditing procedures necessary to accomplish the objective of the audit. However, our audit did not include a comprehensive evaluation that would be necessary to express an opinion on the system of internal controls taken as a whole. For the purposes of this audit, we classified significant internal controls into eight categories:

- Funding Authority
- Personal Compensation and Benefits
- Payroll and Timekeeping
- Travel
- Other Contractual Services
- Grants, Subsidies, and Contributions
- Equipment
- Reporting

Our evaluation of internal controls included all of the categories noted above except for Personal Compensation and Benefits.

In addition to general tests of compliance with laws and regulations such as those covering cost principles, we performed tests of NIEHS' compliance with provisions of the following laws that are enumerated in the IAG between HHS and EPA: (1) section 601 of the Economy Act of 1932 and amendments thereto; (2) the Comptroller General (Comp. Gen.) Decisions 56 Comp. Gen. 275 (1977) and 57 Comp. Gen. 674 (1978), (inclusion of departmental overhead in interagency agreements); (3) section 104(i) of the CERCLA, (Functional Requirements of NIEHS); and (4) section 105(f) of the CERCLA, (Minority Business Utilization).

We conducted our audit in accordance with Government Auditing Standards applicable to financial related audits. Our review was performed at NIEHS in Research Triangle Park, North Carolina, and NIH in Bethesda, Maryland, during the period January 1992 through March 1992. Additional work was performed in the Raleigh Field Office during the period April 1992 through September 1992. The audit was performed under the EPA's IAG number DW75935464-01-1, between the EPA's OIG and HHS' OIG.

The PHS provided a written response dated July 1, 1993, to our draft report. In its written response, PHS generally concurred with the recommendations made in the draft report and indicated that corrective action will be taken. Our evaluation of the PHS comments follow the recommendations and the entire text of the comments is included as an appendix to this report.

FINANCIAL RECORDS

The NIEHS' Superfund transactions included in our review for the period October 1, 1990 through September 30, 1991 relate to FY 1987 through FY 1991 funds. The financial transactions were generally properly and accurately recorded with the exception of \$20,008 of obligations and \$20,478 of disbursements which were incorrectly recorded due to clerical errors. With these exceptions, supporting documentation showed that obligations were incurred and disbursements were made for valid Superfund activities. We found no indication of payments or other uses of the Superfund, other than those shown in NIEHS' records as obligations and disbursements.

An audit of UCB was conducted by OIG/OAS staff for grant number P42 ES04705-03. The audit period was from September 30, 1989 through September 29, 1990 and total costs audited were approximately \$2 million. The audit report, dated June 30, 1992, was issued under Common Identification Number (CIN) A-09-92-04019. The audit disclosed no problems that would affect, in a material way, the financial records we reviewed.

COMPLIANCE

Compliance with laws and regulations, contracts, grants, and IAGs applicable to NIEHS is the responsibility of NIEHS management. With respect to the items tested, NIEHS complied--except as described in the Findings and Conclusions section of this report--in all material respects, with the provisions of applicable laws and regulations. With respect to items not tested, nothing came to our attention that caused us to believe that NIEHS had not complied, in all material respects, with those provisions.

INTERNAL CONTROLS

The NIEHS is responsible for establishing and maintaining internal control systems used in administering Superfund programs. In fulfilling that responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of control procedures. The objective of internal control systems is to provide management with reasonable, but not absolute, assurance that resource use is consistent with laws, regulations, and policies; resources are safeguarded against waste, loss, and misuse; and reliable data are obtained, maintained, and fairly disclosed in reports.

Because of inherent limitations in any system of internal accounting controls, errors or irregularities may occur and not be detected. Also, projection of any evaluation of the systems to future periods is subject to the risk that procedures may become inadequate because of changes in conditions or that the degree of compliance with the procedures may deteriorate.

Although our audit did not disclose material irregularities, we noted certain matters involving the internal control structure and its operations that we consider reportable conditions based on reporting requirements of the Government Auditing Standards. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgement, could adversely affect the organization's ability to record, process, summarize, and report financial data consistent with the assertions of management in the financial reports.

FINDINGS AND CONCLUSIONS

Our review disclosed that: (1) NIH and NIEHS are not ensuring that grantees comply with the requirement to have audits conducted in accordance with 45 CFR 74.62; (2) NIEHS' Superfund budget included unsupported indirect costs of \$1,045,550 and did not include costs of \$876,000 for an IAG; and (3) on a few occasions NIH's billings to EPA were inappropriate and resulted in a total underbilling of \$53,237.

Grantee Audits

Title 45 of CFR, Part 74.62 defines the audit requirements for nonfederal audits for recipients and establishes that audit reports should be sent to the HHS/OIG/OAS. It provides that recipients that are not governments shall comply with OMB Circular A-133 and recipients that are governments will comply with OMB Circular A-128. All Superfund grantees are required to have a nonfederal audit conducted in accordance with 45 CFR 74.62.

Even though grant funds make up approximately 96 percent of total Superfund activity at NIEHS, adequate procedures were not in place to ensure that required independent audits for all Superfund grantees were being performed. As a result, NIH and NIEHS were not aware if audit requirements were being met or whether sanctions needed to be taken for grantees who had not submitted audit reports. In addition, without obtaining and reviewing these reports, NIH and NIEHS would have no assurance that accounting system weaknesses and unallowable costs that may have existed at the grantees were being detected and corrected.

We discussed with NIEHS officials how they ensured that grantees complied with audit requirements. According to NIEHS policy, a letter containing information about grants administration is mailed to all new prospective Superfund grantees when grant applications are received. This letter gives the prospective grantee information on how to obtain a copy of the PHS Grants Policy Statement. The PHS Grants Policy Statement (1991 Revision) section on audit requirements, page 8-24, states that:

"...45 CFR Part 74, Subpart H ...require recipients to comply with OMB requirements for audits conducted by, or at the discretion of, the recipient. The OMB requirements explain the scope, frequency, and other aspects of the audit."

The Superfund grant awards used by NIEHS contained a general reference that the provisions of both 45 CFR 74 and the Grants Policy Statement are applicable to the grant.

In addition, NIEHS conducts a semiannual meeting with all Superfund grantees. According to NIEHS' grants management personnel, the grantees are notified that an audit is required under the terms of OMB Circular A-133 or A-128. The NIEHS did not have follow-up procedures to ensure that audits were performed and reports were submitted to the Center. The NIEHS' grants management personnel believe that their procedures are adequate and that it is not their responsibility to ensure that audits are conducted and that audit reports are submitted to the Center.

However, section 101.3(a) of the Grants Administration Manual states that the grants management officer (GMO)

"...has overall responsibility for monitoring the grants process to ensure that all required business management actions are performed by the grantee and the Government in a timely manner, both prior to and after award...."

In addition, section 101.3(p)(1) states that:

"GMOs shall serve as the receipt point, or obtain assurances of receipt, for performance reports, financial status reports, and most other reports required by the terms and conditions of the grant...."

Therefore, the GMO is responsible for obtaining assurance that the audits are done and the reports provided to the appropriate officials.

Although NIEHS made some efforts to ensure that grantees are aware of their responsibilities to have audits conducted, the required audits were not always performed and submitted to the Center. The NIEHS entered into agreements with 15 grantees in FY 1988 to provide Superfund research and training. Of the 15 grantees, 9 were universities, 5 were labor unions, and 1 was a local government. We contacted the Center to determine whether they had received audit reports for the grantees. The Center was responsible for processing and ensuring the quality of external audit reports for 13 of the 15 grantees. We did not contact the Federal agencies which were responsible for the other two grantees. Of the 13, only 7 had submitted audit reports to the Center. Of the seven grantees that had submitted audit reports, six were universities and one was a union.

When audits are performed and the reports submitted to the Center, they are processed and forwarded to the PHS' Audit Liaison who is responsible for forwarding the reports to the NIH Division of Contracts and Grants, Audit Resolution Section. This section is responsible for clearing all audit findings. We contacted the Audit Resolution Section of NIH with the names of the 15 FY 1988 Superfund grantees to determine whether they had

received audit reports. They had received and processed only the seven audit reports processed by the Center.

Neither NIH nor NIEHS were aware that the remaining six grantees had not submitted audit reports to the HHS/OIG/OAS/Center. For audits beginning prior to January 1, 1990, OMB Circular A-110 required audits to be performed. Section 8 of OMB Circular A-133 makes the additional requirement for institutions of higher education and other nonprofit institutions for audits starting after January 1, 1990, that:

"...In cases of continued inability or unwillingness to have a proper audit in accordance with the Circular, Federal agencies must consider appropriate sanctions including:

- withholding a percentage of awards until the audit is completed satisfactorily;
- withholding or disallowing overhead costs; or
- suspending Federal awards until the audit is made."

Section 17 of OMB Circular A-128 makes similar requirements regarding sanctions for State and local governments.

Knowing which grantees have not submitted audit reports would provide the GMO with information needed to take follow-up actions and initiate sanctions, when needed.

Conclusions and Recommendations

Although NIEHS is notifying grantees that audits are required by a general reference to the CFR, the procedure does not appear to be effective since only 7 of the 15 grantees submitted audit reports to the Center. In addition, under the current procedures NIH and NIEHS would not be aware of those grantees which had not submitted audit reports and; therefore, could not take the appropriate sanctions. We recommend that PHS have the NIH:

1. Establish procedures to ensure that audit reports are submitted for all Superfund grantees.
2. Sanction grantees that are unwilling to have a proper audit in accordance with OMB Circular A-133 or A-128.
3. Take immediate action to have all required audits performed including the eight FY 1988 grantees for which NIH did not receive audit reports.

PHS Comments

The PHS' comments for each of the recommendations follows.

1. The PHS agreed that there should be procedures to ensure that audit reports are submitted for all HHS grantees. However, PHS believes that since the HHS/OIG/OAS is the cognizant HHS organization responsible for the audit of HHS awards the OIG should establish these procedures. The PHS further stated that they plan to discuss this issue with staff from the Office of the Secretary to obtain a satisfactory solution.
2. The PHS agreed to take the appropriate action for those grantees who do not provide audit reports.
3. The PHS has contacted each of the Superfund grantees in question and requested that they forward their audit reports to them. The PHS will forward these reports to the HHS/OIG/OAS for processing.

OIG Response

In regard to establishing procedures for ensuring that audit reports are submitted (Recommendation 1), we still believe that the Grants Administration Manual requires that the GMO serve as the receipt point, or obtain assurance of receipt, of the audit reports. Since grants make up approximately 96 percent of the expenditures under the Superfund program and the audit report is an important monitoring tool for grants; we believe that it is even more important that the GMO ensures that audit reports are submitted for this program.

Budget Procedures

The FY 1991 budget for the Superfund IAG with EPA, included unsupported indirect costs and did not include an amount for an IAG with CDC's NIOSH.

Indirect Costs

The FY 1991 IAG between EPA and NIEHS showed that \$1,045,550 was budgeted for indirect costs. In order to determine the reasonableness of the budgeted indirect costs, we discussed the method for computing the amount with NIEHS officials. The NIEHS had no basis or supporting documentation for the amount budgeted for indirect costs. Instead the budgeted amount was an estimate of the greatest amount that NIEHS officials felt the indirect costs could possibly be. Indirect costs were not obligated in the accounting records or billed to EPA.

In regard to indirect costs, EPA Comptroller Policy Announcement Number 91-04 defines actual costs that must be recovered by a performing agency under the Economy Act as:

"...indirect costs that are funded out of the performing agency's currently available appropriations and bear a significant relationship to the performing of the service or work."

IAG with NIOSH

The NIEHS and CDC entered into an \$876,000 IAG for services to be provided by the NIOSH. These funds are awarded to NIOSH to provide grants, contracts, and/or cooperative agreements to accredited institutions of higher learning to develop short courses to train professional employees to carry out their responsibilities in hazardous substance response and site remediation authorized by SARA. Our review showed that even though the IAG had been in effect since FY 1988, the NIEHS had not budgeted for the costs of this IAG. When this matter was discussed with NIEHS officials, they did not provide a reasonable explanation for this budgeting practice.

Conclusions and Recommendations

Improvements are needed in the budgeting process for the NIEHS Superfund. The Superfund budget should accurately reflect all anticipated obligations and disbursements. Past experience with obligations and disbursements should be considered when appropriate. Indirect costs should be determined by an acceptable method of determining actual significant indirect costs which meet the definition established in the EPA Comptroller Policy Announcement.

We recommend that PHS have NIH:

1. Determine whether it is incurring significant amounts of indirect costs for its Superfund IAG, and if so, establish procedures for computing and billing these costs.
2. Make improvements in the budgeting process to ensure that the budget more accurately reflects all anticipated obligations and disbursements.

PHS Comments

The PHS' comments for each of the recommendations follows.

1. The PHS concurred with the recommendation regarding indirect costs. In a January 1993 analysis of indirect costs, PHS was unable to substantiate any significant indirect costs that are not captured as direct costs; therefore, they do not believe that there is a need to bill the EPA for indirect costs under the IAG.

2. The PHS does not believe that there is a problem with the budget process. However, they do concur that mistakes were made filling out the Approved Budget table in the IAG documents. To ensure that these mistakes do not occur again, NIEHS has hired a full-time project officer to manage the IAG.

OIG Response

During our FY 1992 Superfund IAG audit, we will evaluate the adequacy of PHS' January 1993 analysis of indirect costs, and the conclusion that the indirect costs are insignificant.

Reimbursement Billings

The NIH had implemented new procedures to correct billing problems noted in prior audits (see the follow-up section of this report). The procedures were slightly different for intramural billings (billings for funds expended internally by NIEHS for administrative costs) and extramural billings (billings for grants made to external organizations). The new procedures were generally adequate to ensure that extramural billings were correct and supported, however, we found problems in intramural billings that still require action.

Under the new procedures, intramural work was to be billed quarterly based on accruals-to-date. However, we found that IAGs which were over 3 years old were not billed and Common Accounting Numbers (CAN)--cost centers which exceeded budgeted amounts established internally by NIEHS were no longer billed. The application of the inadequate procedures and clerical errors caused a net underbilling of \$53,237 for intramural funds.

As of September 1991, NIH records showed that EPA had not been billed for:

- \$15,214 of FY 1988 intramural accruals which were over 3 years old. During our audit period (October 1, 1990 through September 30, 1991) only those accruals related to FY 1989, FY 1990 and FY 1991 funds were being billed. This is an inappropriate procedure because disbursements were still being incurred during our audit period for FY 1988 funds which had been obligated in FY 1988.
- \$14,316 of FY 1988 intramural accruals that were incurred as of FY 1990. When the new procedures were implemented this billing was overlooked.
- \$42,758 of FY 1990 intramural CANs for which billing was suspended because accruals had exceeded internally established budgeted amounts. No further billings were made after a particular CAN reached the budgeted amount established on an internal document which is prepared by NIEHS for NIH to establish the agency to be billed and give

NIH the authority to bill that agency. This document was used inappropriately to limit the amounts billed. Six CANs account for Superfund activities for two functions; training and research. There are three CANs for each function. The SARA limits the NIEHS budget by function; but funds can be transferred between CANs in the same function. The NIH should continue to bill EPA up to the maximum allowable for a particular function.

Also for FY 1989, intramural billings exceeded accruals by \$19,051 due to clerical errors. To determine the amount to bill for intramural funds the accountant added detail accrual line items from the accounting records. When preparing the FY 1989 billing document detail line items were not accurately totaled.

Conclusions and Recommendations

Based on the results of our review, we believe that the following recommendations are necessary.

We recommend that PHS have NIH:

1. Adjust intramural billings for:

- the underbilling of \$15,214 of FY 1988 intramural accruals which were over 3 years old;
- the underbilling of \$14,316 of FY 1988 intramural accruals that had not been billed during FY 1990 or FY 1991;
- the underbilling of \$42,758 of FY 1990 intramural CANs for which billing was suspended because accruals had exceeded internally established budgeted amounts; and
- the overbilling of \$19,051 for FY 1989 intramural billings which exceeded accruals due to clerical errors.

2. Establish procedures to bill for intramural accruals related to obligations that are over 3 years old.

3. Establish procedures to ensure that EPA is billed for each function up to the total amount allowed under CERCLA as amended by SARA.

PHS Comments

The PHS concurred with the recommendations in this area. They indicated that the adjusting entries have been made or are in the process of being made. They stated that they are working on procedures regarding billing intramural accruals over 3 years old and billing up to the total amount allowed under CERCLA.

FOLLOW-UP ON PRIOR REVIEW

As part of our current audit, we followed up on the recommendations contained in our prior audit (CIN: A-04-91-04026 issued on July 1, 1992) to determine whether NIEHS had taken corrective measures in response to our report. The NIEHS had implemented several of our recommendations.

Reimbursement Billings

In our previous audit, we recommended that NIH revise its current billings for amounts over/underbilled, maintain adequate documentation to support the amounts billed, and maintain records which will enable the user to determine the status of Superfund activities.

The NIH had implemented procedures to correct billing problems noted in prior audits and the new procedures are generally adequate to ensure that billings are correct and supported with the exceptions noted under the caption "Reimbursement Billings" in the preceding Findings and Conclusions section of this report.

Cumulative disbursements for FY 1987 funds as of September 30, 1991 were \$2,742 less than the cumulative amount billed. This occurred because NIH billed EPA for obligations recorded in FY 1987 and in a subsequent fiscal year \$2,742 was deobligated. The billing to EPA was never adjusted to reflect this deobligation. The NIH provided us with documentation indicating that this amount was refunded to EPA in FY 1992. Although the correction was made outside our audit period, we reviewed the method used to refund the FY 1987 funds to EPA. We found that NIH had obligated the funds to be refunded and then disbursed them as if they were an actual disbursement. We discussed this procedure with NIH officials and were informed that the procedure was not appropriate. The correct entry would be to debit the revenue account and credit collections.

We also reported an overbilling of \$6,198 in our FY 1990 audit. The \$6,198 was disbursed in FY 1991 thus correcting the billings. However, NIH refunded the \$6,198 in FY 1992 by obligating and disbursing \$6,198. After discussing this matter with NIH officials, it was determined that the appropriate action would be to reverse this refund to EPA for \$6,198. Then no further action would be necessary.

Interagency Agreement

Our previous audit revealed a number of clerical errors within the IAG between NIEHS and EPA. All clerical errors in the IAG noted in our prior report have been corrected.

In the prior report, we recommended that the Director of NIH take a more aggressive role in ensuring the establishment of a timely executed IAG with EPA for Superfund activities. Although the IAG

between NIEHS and EPA for FY 1991 was executed only 2 months prior to the end of FY 1991, this was a slight improvement from the prior year. The FY 1990 IAG was executed only 2 days prior to the end of FY 1990.

Timekeeping Procedure

Our previous audit showed that timekeeping procedures were not always followed. We recommended that NIEHS establish written policies requiring mandatory completion of time reports by employees. The NIEHS has taken steps to ensure that timekeeping procedures are followed and stated that it continuously reemphasizes to its staff the need to comply with HHS policies and procedures on timekeeping. We noted no problems in our current review in this area.

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We would appreciate being advised within 60 days on the status of corrective actions taken or planned on each recommendation. Please refer to the Common Identification Number A-04-92-04103 in all correspondence relating to this report. Should you wish to discuss the issues raised by our review and recommendations, please call me or have your staff contact Daniel W. Blades, Assistant Inspector General for Public Health Service Audits, at (301) 443-3582.

APPENDIX



Memorandum

Date . JUL 1 1993

From Acting Assistant Secretary for Health

Subject Office of Inspector General (OIG) Draft Report "Superfund Financial Activities of the National Institute of Environmental Health Sciences for Fiscal Year (FY) 1991,"
To A-04-92-04103

Acting Inspector General, OS

Attached are the Public Health Service comments on the subject OIG draft report. We concur fully or in principle with the report's recommendations. However, our comments suggest alternative ways for assuring that audit reports, required of all Departmental grantees under various Office of Management and Budget circulars, are submitted to the Office of the Secretary for all Superfund grantees.

Audrey F. Manley
Audrey F. Manley, M.D., M.P.H.

Attachment

IG	_____
PDIG	_____
DIG-AS	_____ / _____
DIG-EI	_____
DIG-OI	_____
AIG-MP	_____
OGC/IG	_____ / _____
EX SEC	_____ / _____
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PUBLIC HEALTH SERVICE (PHS) COMMENTS ON THE OFFICE OF INSPECTOR
GENERAL (OIG) DRAFT REPORT "SUPERFUND FINANCIAL ACTIVITIES AT THE
NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES (NIEHS) FOR
FISCAL YEAR (FY) 1991," A-04-92-04103

OIG Recommendation

1. We recommend that PHS have the National Institutes of Health (NIH):
 - o Establish procedures to ensure that audit reports are submitted for all Superfund grantees.
 - o Sanction grantees that are unwilling to have a proper audit in accordance with Office of Management and Budget (OMB) Circulars A-128 or A-133.
 - ** o Establish procedures to include in the grant award document a specific reference to 45 Code of Federal Regulations (CFR) Part 74.62 which requires that the grantee have an audit conducted in accordance with OMB Circulars A-128 or A-133, as appropriate for the grantee type.
 - o Take immediate action to have all required audits performed for the eight FY 1988 grantees for which NIH did not receive audit reports.

PHS Comment

We believe that procedures should be established to ensure that audit reports are submitted for all Department of Health and Human Services (HHS) grantees, including Superfund grantees. However, we believe that these procedures should be developed at the Departmental level to ensure uniform, consistent practices throughout HHS.

Concerning the four issues contained in this recommendation, we have the following comments:

- o Establishment of procedures to ensure that audit reports are submitted for all Superfund grantees.

As noted above, we believe that there should be procedures to ensure that audit reports are submitted for all HHS grantees, including Superfund grantees. These procedures should track all recipients' (of HHS awards) compliance with the provisions of OMB Circulars A-128 and A-133 for the performance of the audits and transmittal of the required audit reports to HHS.

** OIG NOTE: This recommendation was not included in the final report.

We believe, moreover, that the OIG Office of Audit Services should establish this HHS-wide system. We believe that OIG should establish the system because it is the cognizant HHS organization responsible for the audits of HHS awards. As the cognizant organization, OIG either performs such audits itself or relies on audits performed by non-Federal auditors as prescribed in OMB Circulars A-128 and A-133.

Departmental regulations for the administration of grants already require that grantees submit audits performed under these circulars to the OIG for control and processing. Further, guidance provided by the President's Council on Integrity and Efficiency in a publication entitled "Federal Cognizant Agency Audit Organization Guidelines" states that each cognizant agency audit organization (e.g., OIG) should establish and maintain an inventory control system for all recipients to which the agency provides Federal financial assistance. For financial recipients who are not under the cognizance of HHS, such an inventory system would serve to track single audit reports due and received from those entities. For entities under HHS' cognizance, the system would build on this basic data by tracking detailed information on audit reports received.

We plan to discuss this issue with staff from the Office of the Secretary in order to obtain a satisfactory solution.

- o Sanction of grantees who do not provide the required audits.

The NIH will make every effort to ensure that Superfund grantees provide the required audits. Where the grantees do not provide such audits, NIH will take appropriate action.

- o Inclusion, in the notice of grant award, a special reference requiring the grantee to provide the audit mandated by OMB.

We do not believe that this is necessary because the notice of grant award already includes a provision specifying that the award is subject to the provisions of 45 CFR Part 74 or 92. These regulations incorporate the audit provisions of OMB Circulars A-133 or A-128 and require the grantee to have itself audited and to provide the report to OIG.

- o Have audits performed for all eight FY 1988 grantees for which NIH did not receive audit reports.

The NIEHS staff have contacted each of the Superfund grantees in question and requested that they forward their audit reports to them. Upon receipt of the audit reports, NIEHS will forward them to OIG's Office of Audit Services for processing.

OIG Recommendation

2. We recommend that PHS have NIH:
 - o Determine whether it is incurring significant amounts of indirect costs for its Superfund IAG [interagency agreement], and if so, establish procedures for computing and billing these costs.
 - o Make improvements in the budgeting process to ensure that the budget more accurately reflects all anticipated obligations and disbursements.

PHS Comment

We concur with the recommendation relative to indirect costs and have taken actions to implement it. The Comptroller General decision B-136318 states that "[S]ignificant indirect costs should be included in billings with respect to agreements. In addition, to be recoverable, indirect costs must be shown, either actually or by reasonable implication, to have benefitted the requisitioning agency, and that they would not have been otherwise incurred by the performing agency."

In a January 1993 report to NIH management on corrective actions taken to implement the last remaining unresolved issue in the Superfund report for FY 1987-1989 (CIN A-04-90-04003), NIEHS noted that it had completed an analysis of indirect costs attributable to the IAG with the Environmental Protection Agency (EPA). Based on this analysis, NIEHS was unable to (1) substantiate any additional significant administrative or other support costs that are not already being captured in the NIH accounting system as direct costs, or (2) identify costs that would not have otherwise been incurred. Therefore, we do not believe that there is a need to bill EPA for indirect costs under the IAG.

Regarding the budget issue, it should be noted that EPA is the prime participant in this process. EPA does request supporting documentation from NIEHS and NIH, but the amount requested for conducting the program activities is determined by EPA. The

amount that Congress appropriates for this function then becomes the amount of the IAG which, by definition, would cover all anticipated obligations and disbursements -- including the agreement between NIEHS and CDC's National Institute for Occupational Safety and Health (NIOSH).

In March 1988, NIEHS negotiated a five-year agreement with NIOSH for special training activities. The annual amount of this agreement is set at four percent of the amount appropriated for the research, development and training activity in the IAG with EPA. Thus, the agreement with NIOSH is funded out of the amount appropriated for the IAG, it is not an add-on to the IAG.

We do not believe that there is a problem with the budget process. However, mistakes in filling out a table contained in IAG documents -- specifically page 2, Part II, Approved Budget -- may have contributed to misunderstandings. The table on this section of the IAG document, negotiated between the NIEHS project officer and a counterpart at EPA, represents an estimated distribution of the already approved total. It consists of cost categories such as personnel, travel, and equipment, and results in a subtotal for direct costs. If appropriate, indirect costs could be added to this direct cost figure resulting in the total costs for the IAG. Since NIEHS and NIH have never established any indirect costs to add to the IAG, this section should have been left blank.

A review of records indicates, however, that mistakes were made on this document in FY 1991 and again in FY 1992. "In-house" costs were confused with, and recorded on the indirect cost line. These in-house costs represent the significant costs to NIEHS of administering the activities funded under the IAG and, as noted above, these are captured as direct costs in the NIH accounting system. We should note that no obligations were made for indirect costs; rather, the tables did not reflect the desired distributions of obligations among the direct cost categories.

To ensure that these mistakes do not occur again, NIEHS has hired a full-time project officer to manage the IAG. This individual is currently working to achieve optimal coordination among the various parties in NIEHS and EPA in executing the activities described in the IAG. As a result of these efforts, the approved budget table on page 2, Part II of the FY 1993 IAG does not include an indirect cost category, and the direct cost categories have been carefully scrutinized.

OIG Recommendation

3. We recommend that PHS have NIH:
- o Adjust intramural billings for the (1) underbilling of \$15,214 of FY 1988 intramural accruals which were over 3 years old; (2) underbilling of \$14,316 of FY 1988 intramural accruals that had not been billed during FY 1990 or FY 1991; (3) underbilling of \$42,758 of FY 1990 intramural CANs [Common Accounting Numbers] for which billing was suspended because accruals had exceeded internally established budgeted amounts; and (4) overbilling of \$19,051 for FY 1989 intramural billings which exceeded accruals due to clerical errors.
 - o Establish procedures to bill for intramural accruals related to obligations that are over 3 years old.
 - o Establish procedures to ensure that EPA is billed for each function up to the total amount allowed under CERCLA [Comprehensive Environmental Response, Compensation, and Liability Act of 1980], as amended by SARA [Superfund Amendments and Reauthorization Act of 1986].

PHS Comment

We concur and have either made the necessary accounting entries or are in the process of making the adjustments. Specifically, the \$15,214 in FY 1988 intramural accruals were billed in April 1993, and the \$19,051 overbilling was credited back to EPA in October 1992. The remaining adjustments are awaiting NIEHS' modification of the agreement for CAN totals.

As for the establishment of procedures to bill for intramural accruals related to obligations that are over three years old, NIH is in the process of determining the proper source to document and bill. We believe that the process can be completed before the end of FY 1993.

Finally, regarding the establishment of procedures to ensure that EPA is billed for each function up to the total amount allowed under CERCLA (as amended by SARA), NIH is working with program and budget officials to determine the procedures to be put in place to implement this recommendation. NIH expects that this project will extend into FY 1994.