



U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Audit Report

EPA Should Improve Its Contractor Performance Evaluation Process for Contractors Receiving Recovery Act Funds

Report No. 10-R-0113

April 26, 2010



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Abbreviations

CO	Contracting Officer
CPARS	Contractor Performance Assessment Reporting System
DCAA	Defense Contract Audit Agency
EPA	U.S. Environmental Protection Agency
EPAAR	EPA Acquisition Regulation
FAR	Federal Acquisition Regulation
FMR	Financial Monitoring Review
NIH CPS	National Institutes of Health Contractor Performance System
OAM	Office of Acquisition Management
OIG	Office of Inspector General
OMB	Office of Management and Budget
PO	Project Officer
QAP	Quality Assurance Plan
PPIRS	Past Performance Information Retrieval System
RCRA	Resource Conservation and Recovery Act
SRRPOD	Superfund/RCRA Regional Procurement Operations Division

Cover Illustration: The logo for the American Recovery and Reinvestment Act of 2009.



At a Glance

Catalyst for Improving the Environment

Why We Did This Review

We conducted this audit of the process to evaluate contractors that received or are expected to receive American Recovery and Reinvestment Act of 2009 (Recovery Act) funds from the U.S. Environmental Protection Agency (EPA) to determine whether EPA completed contractor performance evaluations in a timely manner and considered all sources of information during the contractor performance evaluation process.

Background

In July 2009, EPA decided to obligate approximately \$211 million in Recovery Act funds to Superfund contractors. Office of Management and Budget Recovery Act guidance requires agencies to actively monitor contracts to ensure that performance, cost, and schedule goals are met. The guidance emphasizes the importance of completing timely contractor performance evaluations.

For further information, contact our Office of Congressional, Public Affairs and Management at (202) 566-2391.

To view the full report, click on the following link:
www.epa.gov/oig/reports/2010/20100426-10-R-0113.pdf

EPA Should Improve Its Contractor Performance Evaluation Process for Contractors Receiving Recovery Act Funds

What We Found

EPA had not completed in a timely manner 30 of 36 (83 percent) of the required contractor performance evaluations for contractors awarded Recovery Act funds. Contracting officers (COs) are required to complete and document the evaluation within 95 business days after each 12 months of contract performance. On average, EPA completed the evaluations 109 business days late, generally because there was no system in place to monitor evaluation timeliness. Consequently, contractor past performance evaluation information was not available to EPA when it awarded a new Recovery Act contract totaling \$5.4 million. Consideration of contractor performance prior to award reduces the risk of providing funds to a contractor with a history of poor performance.

Further, COs did not consider all available sources of information when preparing performance evaluations for contractors to which they awarded Recovery Act funding. When preparing the performance evaluation of a contractor, the CO is required to use information from the technical and contracting offices. EPA did not always provide the Financial Monitoring Review, Defense Contract Audit Agency, and Office of Inspector General report directly to COs. COs found the database in which the Office of Acquisition Management houses this information difficult to access. As a result, EPA awarded \$109 million in Recovery Act funds to contractors with cost control and other performance issues.

What We Recommend

We recommend that the Assistant Administrator for Administration and Resources Management develop a system to monitor and verify the timeliness of performance evaluations, revise Quality Assurance Plan requirements, maintain reports in an electronic system that COs can access, and require COs to consider annual performance evaluation results. EPA agreed with the findings and provided corrective action plans for addressing all of the recommendations in the report.



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

OFFICE OF
INSPECTOR GENERAL

April 26, 2010

MEMORANDUM

SUBJECT: EPA Should Improve Its Contractor Performance Evaluation Process
for Contractors Receiving Recovery Act Funds
Report No. 10-R-0113

FROM: Melissa M. Heist
Assistant Inspector General for Audit

Melissa M. Heist

TO: Craig E. Hooks, Assistant Administrator
Office of Administration and Resources Management

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. EPA managers, in accordance with established resolution procedures, will make final determinations on matters in this report.

The estimated cost of this report – calculated by multiplying the project's staff days by the applicable daily full cost billing rates in effect at the time – is \$429,334.

Action Required

In responding to the draft report, the Agency provided corrective action plans for addressing all of the recommendations. Therefore, a response to the final report is not required. The Agency should track corrective actions not implemented in the Management Audit Tracking System. We have no objections to the further release of this report to the public. The report will be available at <http://www.epa.gov/oig>.

If you or your staff have any questions regarding this report, please contact Janet Kasper at (312) 886-3059 or kasper.janet@epa.gov, or Michael Davis at (513) 487-2363 or davis.michaeld@epa.gov.

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Chapter 1

Introduction

Purpose

In 2009, the U.S. Environmental Protection Agency (EPA) planned to obligate approximately \$211 million in American Recovery and Reinvestment Act of 2009 (Recovery Act) funds to Superfund contractors. Considering contractor performance evaluations for prior contracts reduces the risk that EPA will award Recovery Act funds to contractors with a history of poor performance. We conducted this audit of EPA Recovery Act contractors to determine whether EPA completed contractor performance evaluations in a timely manner and considered all sources of information when performing contractor performance evaluations.

Background

Recovery Act Guidance

The Recovery Act provided EPA with \$7.2 billion to stimulate the national economy, including \$600 million to the Hazardous Substance Superfund program for site clean-up.

On March 26, 2009, EPA's Office of Acquisition Management (OAM), within the Office of Administration and Resources Management, issued a flash notice titled *Initial Implementing Contract Guidance Document for the American Recovery and Reinvestment Act*. This notice indicated the Agency's procurement strategy was to combine the use of existing contracts and new acquisitions to obligate funding to meet Recovery Act requirements. The notice also outlined the Agency's plan to use existing Headquarters and regional Superfund contracts for Recovery Act environmental clean-up, including Remedial Action Contracts, Emergency and Rapid Response Services contracts, and Superfund Technical Assessment and Response Team contracts.

On April 3, 2009, the Office of Management and Budget (OMB) issued *Updated Implementing Guidance for the American Recovery and Reinvestment Act of 2009* to help agencies implement the Act. Section 6.3 states:

Agencies should actively monitor contracts to ensure that performance, cost, and schedule goals are being met, including . . . completing timely contractor performance evaluations that accurately reflect the contractor's actual performance, supported by appropriate documentation.

Contractor Performance Evaluations

In May 2000, OMB's Office of Federal Procurement Policy issued *Best Practices for Collecting and Using Current and Past Performance Information*, which stated that contractors' past performance was a good indicator of future performance.

EPA Acquisition Regulation (EPAAR) 1509.170-5 states EPA contracting officers (COs) and technical evaluation panels shall use contractor past performance evaluations when making decisions about future EPA acquisitions, and to inform other agencies and departments about a contractor's performance on an EPA contract. The regulation requires COs to complete contractor performance evaluations in a timely manner and use the National Institutes of Health Contractor Performance System (NIH CPS) to record evaluations for all contract performance periods. COs must initiate a contractor performance evaluation within 5 business days after the end of the performance period and finalize the evaluation within 90 business days after evaluation initiation. The complete EPA contractor performance evaluation process involves various Agency staff:

- The CO initiates the evaluation in the NIH CPS at the end of each 12-month contract performance period and then notifies the project officer (PO) that the evaluation has been initiated.
- The PO contacts the contracting officer representatives and requests that these representatives evaluate the contractor performance and submit scores and any accompanying narrative. The PO summarizes the scores and narrative, enters the information into NIH CPS, and notifies the CO that all information is in the system.
- The CO then communicates to the contractor that the scores are available for review in NIH CPS. The contractor has 30 days to provide final input, at which point the CO finalizes the scores in the system.

EPA Quality Assurance Plans

EPA uses Quality Assurance Plans (QAPs) to ensure COs award and administer their contracts in a high-quality manner, as well as ensure staff remains up to date on changes in the acquisition environment. Under EPA's QAP, each contracting office within EPA is required to develop, implement, and maintain its own unique QAP to ensure its contracting processes and products are compliant with governing rules and are consistently of high quality. OAM's Policy, Training, and Oversight Division performs QAP reviews on a 3-year cycle to assess how effectively each organization's QAP was implemented and sustained.

Noteworthy Achievements

EPA Region 7 has taken a number of actions to safeguard Recovery Act funds. The Region's Recovery Act Implementation Plan is intended to ensure quality and compliance in all aspects of contract activities relating to the Recovery Act. The plan requires activities such as weekly meetings between contract and program staff to foster good communications; the use of a Recovery Act checklist for all actions, including press releases, award notices, and modifications; and the preparation of a Memorandum of Contractor Performance documenting the assessment of the contractor's performance based on the findings of each weekly meeting. The Region 7 plan assists in administering and monitoring contracts with Recovery Act funds.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. These standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective.

We conducted the audit from May 2009 to March 2010. We obtained an understanding of the contractor performance evaluation process through analysis of laws, regulations, and guidance. We reviewed the Federal Acquisition Regulation (FAR), EPA Recovery Act guidance, EPAAR, EPA's Acquisition Handbook, the EPA Contract Management Manual, OMB guidance, and U.S. Government Accountability Office reports to understand regulations and directives governing contractor performance evaluations. We reviewed EPA's Fiscal Year 2008 Integrity Act Assurance letters prepared by the Office of Administration and Resources Management and the Office of Solid Waste and Emergency Response to determine whether they identified any weaknesses related to contractor performance evaluations; the letters did not identify any such weaknesses.

We visited OAM in Washington, DC, and EPA Region 3 in Philadelphia, Pennsylvania. We interviewed COs, POs, and contracting officer representatives in EPA Headquarters and Regions 2, 3, 4, 5, 7, 8, and 10; OAM managers; and others to gain an understanding of the contractor performance evaluation process. We reviewed contractor performance evaluations in NIH CPS and analyzed Defense Contract Audit Agency (DCAA) and EPA Office of Inspector General (OIG) audit reports, Financial Monitoring Review (FMR) reports, EPA QAPs, the EPA Recovery Act Stewardship Plan, and an EPA regional implementation plan.

In July 2009, we acquired a list of Recovery Act Superfund contract awards from EPA's Financial Data Warehouse. We also requested and received an OAM list of planned Recovery Act contracts. As of July 2009, EPA provided Recovery Act funds to 17 different contractors by adding funds to 23 existing contracts and awarding 2 new contracts. EPA awarded funds through Remedial Action Contracts, Emergency and Rapid Response Services contracts, and Superfund Technical Assessment and Response contracts.

The contracts we reviewed had 12-month periods of performance that ended between June 2006 and January 2009. We determined evaluation timeliness using the 95 business days defined in EPAAR.¹ We selected a sample of seven contracts with late evaluations and interviewed their associated COs, POs, and/or CO/PO supervisors to determine why the performance evaluations were late and what the process is for reviewing CO and PO work.

We analyzed findings from 9 FMR reports, 50 DCAA reports, and 1 OIG report to identify contractor performance problems. We compared the reported problems to the performance evaluations from NIH CPS to determine whether the COs reflected the findings in the evaluations. We then selected 4 of 14 contracts and interviewed the POs and COs to determine the extent of their knowledge of the reports and how the Agency factored performance problems into the evaluation process.

Prior Report

On December 6, 2004, the OIG issued Report No. 2005-P-00001, *Response Action Contracts: Structure and Administration Need Improvement*. We reported that EPA did not document performance evaluations in a timely and consistent manner as required. EPA agreed with the report recommendations and implemented corrective action. OAM's corrective action was to conduct reviews every 6 months to ensure timely completion of contractor performance evaluations. The Associate Director of OAM's Superfund/Resource Conservation and Recovery Act (RCRA) Regional Procurement Operations Division stated that the division had conducted 6-month contractor performance reviews but that the reviews ceased as the issue became "less visible and less of a vulnerability."

¹ The 95 business days in our analysis did not exclude holidays.

Chapter 2

EPA Did Not Complete Timely Contractor Performance Evaluations

EPA had not completed 30 of 36 (83 percent) of the required contractor performance evaluations in a timely manner for contractors awarded Recovery Act funds. COs are required to complete and document the evaluation in NIH CPS within 95 business days after each 12 months of contract performance. On average, EPA completed the evaluations 109 business days late, generally because there was no system in place to monitor evaluation timeliness. Consequently, contractor past performance evaluation information was not available for EPA when it awarded a new Recovery Act contract totaling \$5.4 million. Considering contractor past performance prior to award reduces the risk of providing funds to a contractor with a history of poor performance.

Timeframes Exist for Completing Evaluations

As per FAR 9.104–1(c), contractors must have a satisfactory performance record to do business with the government. EPA and other federal agencies should be aware of prospective contractors' performance before awarding new contracts, especially contractors that had been deficient in the past.

EPAAR 1509.170 requires COs to complete contractor evaluations within 95 business days after the end of each 12 months of contract performance. COs are required to finalize the evaluations in NIH CPS, which feeds into the U.S. Department of Defense Past Performance Information Retrieval System (PPIRS). PPIRS serves as the single, government-wide repository for contractor performance information.

Evaluations Not Completed in a Timely Manner

As of June 3, 2009, 30 of the 36 evaluations in our review (83 percent) had not been completed within the required 95 business days (Table 2-1). We determined that EPA planned to add Recovery Act funds to 23 existing contracts and issue 2 new contracts (25 total contracts).

Table 2-1: Evaluation Information in NIH CPS

Evaluation Status	No.	Percent
Evaluations Completed in a Timely Manner	6	17
Evaluations Completed Late	21	58
Evaluations Initiated But Not Completed	8	22
Required Evaluations Not Initiated	1	3

Source: OIG analysis of evaluations in the NIH CPS as of June 3, 2009.

Based on the contract award dates, we found that EPA should have completed 36 annual evaluations for 18 of the 25 contracts. Based on our review of contract evaluation information in NIH CPS, 30 of these evaluations were late. We defined “late” as any performance evaluation not completed within 95 business days of the performance period end. The average number of days late for completed evaluations was 109 business days. The average number of days late for those not completed was 68 business days. See Appendix A for a schedule of performance evaluations not completed in a timely manner.

The Superfund/RCRA Regional Procurement Operations Division (SRRPOD) Associate Director and Service Center Manager stated that QAPs are a tool with which management can oversee contractor performance evaluation timeliness. For example, the QAP that SRRPOD issued in January 2009 stated that on an ongoing basis, Service Center Managers/Team Leaders will perform centralized oversight and monitoring of SRRPOD’s NIH CPS system past performance data entry.

Our review of 13 Agency QAPs determined that 7 did not include information on contractor performance evaluations. We compared the regions that included performance evaluation information in their QAPs to the timeliness of their evaluations. While regions that had performance evaluation information in their QAPs completed five of the six evaluations in a timely manner, these regions also had late evaluations. The QAPs and performance evaluations we reviewed showed no correlation between the existence of performance evaluation information in the QAP and the timeliness of the evaluations.

As previously noted, in December 2004, the OIG issued an audit report (2005-P-00001) noting that EPA did not document contractor evaluations in a timely and consistent manner.

Various Reasons Noted for Late Evaluations

COs and POs provided multiple reasons for not completing evaluations in a timely manner:

- Other work took priority.
- Staff transitioned without evaluation finalization.
- Staff was unfamiliar with the NIH CPS system.

- Staff allowed the contractor additional time to provide comments on EPA's evaluation.
- Staff used alternative evaluation schedules that were not compliant with EPAAR.

These reasons notwithstanding, we found that EPA does not have a system to monitor the timeliness of evaluations. OAM managers asserted that the office used the QAP process to monitor contractor performance evaluations. However, we found that not all QAPs included information on contractor performance evaluations. Performance evaluations were inconsistently included in QAPs because EPA's current QAP policy does not require their inclusion. Additionally, of the six QAPs that had performance evaluation information, the information was not specific and made general references to conducting contractor evaluations in NIH CPS annually. Only the SRRPOD QAP had specific information on performance evaluations.

Evaluation Information May Not Be Available to Contracting Officials

When EPA documents evaluations in an untimely manner or not at all, selection teams within EPA and other federal agencies do not have current contractor evaluation information to consider when making new contract awards. For example, EPA awarded a new contract totaling \$5.4 million in Recovery Act funds to a contractor whose past performance evaluations were not completed.

OAM officials said contractor past performance evaluations are one of many factors considered when assessing whether contractors are likely to be successful in controlling contract costs and meeting contract expectations. EPA uses other information, such as questionnaires to previous contractor clients, to avoid awarding contracts to contractors with a history of performance problems. While these other information sources are available, untimely evaluations may increase the risk that EPA and other federal agencies would award contracts to contractors with cost control and other performance issues.

EPA Plans to Modify QAP Policy to Meet New OMB Requirements

The Agency plans to modify its QAP policy by June 30, 2010 to meet new OMB requirements. On July 29, 2009, OMB's Office of Federal Procurement Policy issued a memorandum to agencies regarding improving access to, and the use of, contractor performance information. By December 31, 2009, OMB required agencies to establish and submit for review internal procedures for evaluating and reporting on contractor performance. The new OMB requirements emphasize the importance of quality performance evaluations, an item not included in EPA's QAP policy. The new OMB requirements include:

. . . developing a process for evaluating and validating the quality and timeliness of contractor performance evaluations, which shall include corrective action plans for addressing any delinquent and/or incomplete reports and performance metrics to measure compliance and quality regularly.

In December 22, 2009, OAM issued a memorandum to OMB's Office of Federal Procurement Policy stating that as part of its transactional oversight, OAM would revise EPA acquisition handbook guidance to require that QAPs include contractor performance evaluations starting in March 2010. On April 15, 2010, OAM committed to updating the acquisition handbook by June 30, 2010.

Recommendations

We recommend that the Assistant Administrator for Administration and Resources Management:

- 2-1 In accordance with OMB's directive, institute a process that would provide management with information to monitor the timeliness and quality of contractor performance evaluations.
- 2-2 Revise its QAP requirements to include the timeliness and oversight of contractor performance evaluations.

Agency Comments and OIG Evaluation

In responding to the draft report, EPA agreed to take action to address all of the recommendations and provided milestone dates. The planned corrective action meets the intent of the report recommendations.

- **Recommendation 2-1.** OAM plans to begin using the U.S. Department of Defense Contractor Performance Assessment Reporting System (CPARS) on May 1, 2010, to replace the NIH CPS. According to EPA, CPARS provides an enhanced and more effective capability to monitor the timeliness and quality of contractor evaluations. COs must also certify the accuracy and completeness of the information entered.
- **Recommendation 2-2.** OAM will revise the acquisition handbook by June 30, 2010, to include oversight of contractor past performance evaluation reviews as part of the QAPs.

Chapter 3

EPA's Contractor Performance Evaluations Do Not Consider All Available Sources of Information

COs did not consider all available sources of information when preparing performance evaluations for contractors that were awarded Recovery Act funding. In accordance with FAR 42.1503(a), when preparing a contractor performance evaluation, COs should use information from the technical and contracting offices. EPA did not always provide the FMR, DCAA, and OIG report directly to COs, and COs found the database in which OAM housed the information difficult to access. As a result, EPA awarded \$109 million in Recovery Act funds to contractors with cost control and other performance issues.

Federal Acquisition Regulation Requires Soliciting Input

FAR 42.1503(a) requires agencies to have procedures that solicit input for the performance evaluation from technical, contracting, program, and administrative contracting offices and, where appropriate, end users of the product or service. EPA's acquisition handbook and EPAAR 1509.170-5 also require performance evaluations of contractors. SRRPOD described this function as a normal part of a CO's duties.

SRRPOD managers said COs are responsible for using FMR, DCAA, and OIG reports during pre-award and contractor performance evaluations. FMRs are internal audits of a contract performed by the financial analysts of OAM's Financial Analysis and Oversight Service Center. DCAA audits are generally contractor specific, and an issue identified in a DCAA audit report usually applies equally to all of a contractor's federal contracts. The OIG issues audit reports of EPA and its contractors to promote economy and efficiency and to prevent and detect fraud, waste, and abuse.

EPA Did Not Consider FMR, DCAA, or OIG Reports

EPA's process to evaluate contractor performance did not consider FMR, DCAA, or OIG reports. EPA planned to add Recovery Act funds to 23 existing contracts and to issue 2 new contracts. We reviewed these contracts to determine whether issues identified in applicable FMR, DCAA, or OIG reports were reflected in performance evaluations. Of the 25 contracts, 19 had FMR, DCAA, or OIG reports issued between 2006 and 2009. We found that 15 contracts had relevant performance issues identified in the audit reports. Of those, the reported issues were not reflected in performance evaluations of 11 contracts (Table 3-1).

Table 3-1: Contracts with Reported Issues Not Reflected in Performance Evaluations

Number of contracts receiving Recovery Act funds reviewed	25
Number of contracts with FMR, DCAA, or OIG reports issued (2006-2009)	19
Number of contracts with relevant performance issues identified in reports	15
Number of contracts where relevant performance issues were not reflected in evaluations	11

Source: OIG analysis of contracts.

For example, EPA conducted an FMR for a contractor in 2006 and noted issues relating to employee training on the difference between indirect and direct costs and deficiencies in timekeeping policy and procedures. DCAA reported similar issues in 2008. In 2009, an OIG site visit to the contractor noted these deficiencies continued to exist. However, under cost control in the contractor performance evaluation, the contractor received scores of “4 – excellent” for the periods ending January 2007 and 2009, and a score of “3 – good” for the period ending January 2008. EPA had awarded the contractor \$8.5 million in Recovery Act funds as of November 2009.

EPA issued an FMR for another contractor in 2007 and noted a business relations issue and two cost control issues. The contractor did not show all the indirect cost rates in the invoices, preventing the PO from verifying the billed indirect costs. In addition, the contractor did not comply with contract clauses requiring that the contractor compare average cost per labor hour to total actual cost per labor hour. Further, the contractor did not meet the required Small Disadvantaged Business Concerns, Women-Owned Small Business Concerns, and Service-Disabled Veterans Concerns. The annual period of performance for the contract ended December 31, 2007. The CO completed the performance evaluation on August 5, 2008, and gave the contractor performance evaluation scores of “4 – excellent” in Cost Control and Business Relations. EPA reported to the OIG that it planned to award the contractor \$300,000 in Recovery Act funds.²

The four COs interviewed relied primarily on the performance evaluation information collected by the PO. POs are responsible for collecting performance evaluation data from the contracting officer representatives and documenting contractor performance evaluations in NIH CPS. Only one of the four POs interviewed received copies of the FMR, DCAA, or OIG reports.

COs told us they used contractor performance evaluations when considering the award of new contracts or option years under existing contracts. Incorporating deficiencies identified in FMR, DCAA, and OIG reports into performance evaluations would result in more comprehensive evaluations.

² Planned EPA obligations were reported in lieu of actual obligation amounts because EPA has yet to award the planned obligation.

Contracting Officers Are Not Aware of Available Contractor Performance Information

COs may not be aware of FMR, DCAA, and OIG reports about a contractor they are evaluating. Each type of report is distributed differently, resulting in the CO being potentially unaware of a report that may contain information the CO should consider when evaluating the contractor. The distribution of each type of report is shown in Table 3-2.

Table 3-2: Distribution Process for FMR, DCAA, and OIG Reports

Type of Report	Distribution			
	OAM Database	CO for Contract Reviewed	All COs Working with Contractor	Financial Administrative Contracting Officer
FMR	X	X		
DCAA	X		X	X
OIG				X

Source: Interviews with EPA staff.

COs provided several reasons for not knowing about FMR, DCAA, and OIG reports:

- COs were not notified that Financial Administrative Contracting Officers received the DCAA reports.
- While COs could access the centrally available database to check whether reports were available, some did not and others reported difficulty in accessing the database.
- COs were not aware of reports that addressed a contractor's actions in another EPA region.

Contracts May Be Awarded to Contractors with Performance and Cost Control Issues

When EPA awarded funding to contractors and did not consider all sources of information, it increased the risk of fraud, waste, abuse, and mismanagement of Recovery Act funds. EPA awarded \$109 million in Recovery Act funds to contractors with cost control and other performance issues.

For example, between June and September 2009, EPA awarded \$31 million in Recovery Act funds to a contractor for whom an FMR and OIG report identified performance issues. In 2007, an FMR report noted four cost control issues and one business relations issue, including the contractor double-billing EPA for subcontract costs. The annual period of contract performance ended June 2007, and EPA provided evaluation scores of "4 – excellent" in Cost Control and

Business Relations. The second annual period of performance ended in June 2008, and EPA provided performance evaluation scores of “5 – outstanding” in Cost Control and “3 – good” in Business Relations, even though problems continued. In April 2009, the OIG issued a memorandum to the Acting Regional Administrator, Region 5, regarding performance and cost control issues. Region 5 stated it would consider the issues when deciding whether to award future contracts.

EPA must ensure that recipients are able to effectively administer and manage Recovery Act–funded projects. Contractors with internal control weaknesses may unknowingly or knowingly violate federal regulations. One of the crucial accountability objectives in OMB’s Recovery Act Implementation Guidance is to ensure “funds are used for authorized purposes and potential for fraud, waste, error, and abuse are mitigated.” Contractor performance evaluations should be an integral factor in awarding new contracts and option periods, and EPA should consider information in FMR, DCAA, and OIG reports.

Recommendations

We recommend that the Assistant Administrator for Administration and Resources Management:

- 3-1 Maintain FMR, DCAA, and OIG reports in an electronic system that COs can access.
- 3-2 Require COs to access the centrally available OAM database for all applicable reports and consider results in annual contractor performance evaluations.

Agency Comments and OIG Evaluation

In responding to the draft report, EPA agreed to take action to address all of the recommendations and provided milestone dates. The planned corrective action meets the intent of the report recommendations.

- **Recommendation 3-1.** OAM expects to consolidate all FMR, DCAA, and OIG reports on a shared server by June 2011. In the interim, OAM has undertaken enhancements to the report distribution process to ensure that all relevant COs and their operations managers directly receive the reports.
- **Recommendation 3-2.** OARM will post a hot tips article on the OAM’s Intranet site by June 2010, encouraging all COs to use information available in all reports and consider the results in the annual contractor performance evaluations.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed To Amount
2-1	8	In accordance with OMB's directive, institute a process that would provide management with information to monitor the timeliness and quality of contractor performance evaluations.	O	Assistant Administrator for Administration and Resources Management	5/01/2010		
2-2	8	Revise its QAP requirements to include the timeliness and oversight of contractor performance evaluations.	O	Assistant Administrator for Administration and Resources Management	6/30/2010		
3-1	12	Maintain FMR, DCAA, and OIG reports in an electronic system that COs can access.	O	Assistant Administrator for Administration and Resources Management	6/30/2011		
3-2	12	Require COs to access the centrally available OAM database for all applicable reports and consider results in annual contractor performance evaluations.	O	Assistant Administrator for Administration and Resources Management	6/30/2010		

¹ O = recommendation is open with agreed-to corrective actions pending
C = recommendation is closed with all agreed-to actions completed
U = recommendation is undecided with resolution efforts in progress

Appendix A

OID Review of Planned Recovery Act Contracts

Table A-1: Schedule of Performance Evaluations Not Completed in a Timely Manner

OID Calculation - Required Evaluations	Contract Number	EPA Evaluations Periods in NIH CPS	OID Analysis of Evaluations					No. Days Late
			Timely	Ongoing Count of Evaluations:			No. Days Late	
				Timely	Not Timely	Not Completed and Late		
1	EP-S1-06-01	07/03/2006-07/04/2007	N		X			105
2		07/05/2007-07/04/2008	N		X			144
3	EP-S1-06-03	09/22/2006-09/21/2007	N		X			26
4		09/21/2007-09/20/2008	N		X			33
5	EP-W-05-049	10/01/2005-09/30/2006	Y	X				-
6		10/01/2006-09/30/2007	N		X			143
7		10/01/2007-09/30/2008	N			X		82
8	EP-S3-07-03	06/01/2007-05/31/2008	N		X			162
9	EP-S3-07-05	07/01/2007-06/30/2008	Y	X				-
10	EP-S3-07-07	06/21/2007-06/20/2008	N		X			9
11	EP-S3-07-06	08/09/2007-08/08/2008	N		X			95
12	68-W-99-043	06/17/2005-06/16/2006	N		X			13
13		06/17/2006-06/16/2007	N		X			250
14		06/17/2007-06/17/2008	N				X	158
15	EP-S4-07-04	09/20/2007-09/19/2008	N			X		89
16	EP-S5-06-01	03/14/2006-03/13/2007	N		X			337
17		03/14/2007-03/13/2008	N		X			75
18	EP-S5-06-02	06/29/2006-06/28/2007	N		X			199
19		06/29/2007-06/28/2008	N		X			46
20	EP-W-06-021	02/24/2006-02/23/2007	Y	X				-
21		02/23/2007-02/24/2008	Y	X				-
22	EP-W-06-004	11/21/2005-11/20/2006	Y	X				-
23		11/21/2006-01/20/2007	N		X			18
24		11/21/2007-11/20/2008	N			X		45
25	EP-W-06-006	01/13/2006-01/12/2007	Y	X				-
26		01/13/2007-01/12/2008	N		X			93
27		01/13/2008-01/12/2009	N			X		8
28	68-S7-04-01	12/11/2005-12/10/2006	N		X			282
29		12/11/2006-12/10/2007	N		X			151
30		12/11/2007-12/10/2008	N			X		31
31	EP-S5-06-04	09/14/2006-09/14/2007	N		X			36
32		09/14/2006-09/13/2008	N			X		93
33	EP-S7-06-02	01/01/2006-12/31/2006	N		X			10
34		01/01/2007-12/31/2007	N		X			62
35		01/01/2006-12/31/2008	N			X		16
36	EP-S4-07-02	09/20/2007-09/19/2008	N			X		89
				6	21	8	1	

Source: OIG analysis of contractor performance evaluations.

Note: This table lists 13 of the 17 contractors we reviewed during this audit. The additional four contractors did not have evaluations required during our field work.

Appendix B***Agency Response to Draft Report***

April 15, 2010

MEMORANDUM

SUBJECT: Response to Draft Audit Report: EPA Needs to Improve Its Contractor Performance Evaluation Process for Contractors Receiving Recovery Act Funds, Project OA-FY09-0880

FROM: Craig E. Hooks
Assistant Administrator

TO: Janet Kasper
Director of Contracts and Assistance Agreement Audits
Office of the Inspector General

Thank you for the opportunity to comment on the draft report entitled “EPA Needs to Improve Its Contractor Performance Evaluation Process for Contractors Receiving Recovery Act Funds,” dated March 8, 2010. We are in general agreement with the findings and recommendations, and will ensure all corrective actions are completed as required.

Comments on Recommendations:

Recommendation 2-1: In accordance with OMB’s directive, institute a process that would provide management with information to monitor the timeliness and quality of contractor performance evaluations.

Response: We concur with this recommendation. Starting May 1, 2010, the Office of Administration and Resources Management (OARM) will begin using the Department of Defense’s Contractor Performance Assessment Reporting System (CPARS), in lieu of the National Institute of Health’s Contractor Performance System (CPS), which has been used for the past 15 years. CPARS is a newer system, which will allow the Agency to monitor the timeliness and due dates of contractor evaluations in a more effective manner, as well as provide enhanced reporting capabilities to all levels of contract management. CPARS also provides training and templates for users to ensure that substantive and quality comments are entered regarding a contractor’s performance while requiring that the Contracting Officer (CO) or those designated as the Assessing Official review and certify the accuracy and completeness of the information entered.

Recommendation 2-2: Revise its QAP requirements to include the timeliness and oversight of contractor performance evaluations.

Response: We concur with this recommendation. The Acquisition Handbook, Chapter 4.2, “Quality Assessment Plans,” is being revised to include contractor Past Performance Evaluation Reviews as an oversight activity. We expect the revised Chapter to be finalized by June 30, 2010

Recommendation 3-1: Maintain FMR, DCAA, and OIG reports in an electronic system that COs can access.

Response: We concur with this recommendation. These reports currently reside in the Open Doc/Content Management System Hummingbird Doc Open (PD DOCS) electronic system, which is available to all Headquarters contracting staff. Unfortunately, Research Triangle Park, Cincinnati and the Regional COs cannot access this system. We expect to consolidate all such reports eventually on a shared server. However, this is presently a long-term goal which will occur after the implementation of EPA’s Acquisition System which will be completed by mid December 2010. We anticipate that the reports will be consolidated on a shared server by June 2011. In the interim, significant enhancements have been undertaken over the past three months to the report distribution process, to ensure that all cognizant COs and their operations managers directly receive Financial Monitoring Review (FMR), Defense Contract Audit Agency (DCAA), and Office of Inspector General (OIG) audits reports.

Recommendation 3-2: Require the COs to access the centrally available OAM database for all applicable reports and consider results in annual contractor performance evaluations.

Response: We concur with this recommendation. OARM will post a hot tips article on the Office of Acquisition Management’s intranet site by June 2010, encouraging all COs to use information available in all reports, and consider the results in the annual contractor performance evaluations.

Should you have any questions regarding this response, please contact John Gherardini, Acting Director, Office of Acquisition Management, at (202) 564-4310.

cc: John Gherardini
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Appendix C

Distribution

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