December 1992

EPA Office of Inspector General Report to Congress

HIGHLIGHTS Fiscal 1992

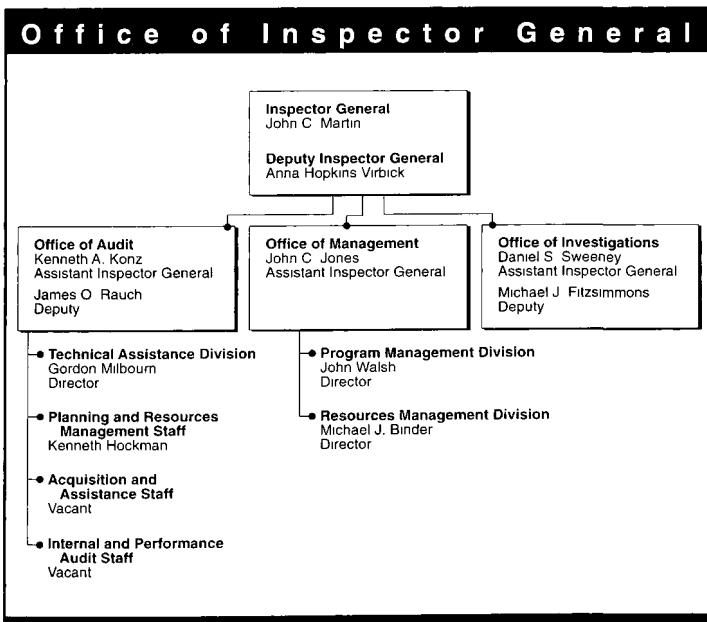
Office of Inspector General

The Inspector General Act of 1978 (P.L. 95-452), as amended, created Offices of Inspector General (OIG) to consolidate existing investigative and audit resources in independent organizations headed by Inspectors General. At EPA, the OIG's role is to review EPA's financial transactions, programs, and administrative activities; investigate allegations or evidence of possible criminal, civil, and administrative violations; and promote economic, efficient, and effective operations within the Agency. For fiscal 1992, the OIG received $41.2 million and was authorized 366 full-time equivalents.

The EPA Inspector General reports directly to the Administrator and the Congress and has the authority to:

- Initiate and carry out independent and objective audits and investigations,
- Issue subpoenas for evidence and information,
- Obtain access to any materials in the Agency,
- Report serious or flagrant problems to Congress,
- Select and appoint OIG employees,
- Fill Senior Executive Service positions,
- Administer oaths, and
- Enter into contracts.

The Inspector General is appointed by, and can be removed only by, the President. This independence protects the OIG from interference and allows it to function as the Agency's fiscal and operational watchdog.



OIG Divisional Inspectors General are listed on the inside back panel.

Profile of Activities and Results

Information reported in the semiannual report for the period ending March 31, 1992, may have been adjusted subsequent to the end of that period. Consequently, totals for the semiannual periods ending March 31 and September 30, 1992, may not add to the fiscal year totals presented below.

Audit Operations (Dollars in Millions)	**Fiscal 1992**
• Questioned Costs - Total*	$348.3
- Federal Share	$245.2
• Recommended Efficiencies (Funds be Put to Better Use) Total*	$199.7
- Federal Share	$194.1
• Costs Disallowed to be Recovered - Federal Share (costs which EPA management agrees are unallowable and is committed to recover or offset against future payments)	$ 70
• Costs Disallowed as Cost Efficiency - Federal Share (funds made available by EPA management's commitment to implement recommendations in OIG performance or preaward audits)	$ 14.4
• Recoveries from Audit Resolutions of Current and Prior Periods (cash collections or offsets to future payments)**	$ 59.8
• EPA Reviews Performed/Issued by OIG	1,962
• Reports Resolved (agreement by Agency officials to take satisfactory corrective action)***	493
Investigative Operations	
• Fines and Recoveries (including civil)	$4.9
• Investigations Opened	255
• Investigations Closed	243
• Indictments of Persons or Firms	29
• Convictions of Persons or Firms	60
• Administrative Actions Taken against EPA Employees	29
Fraud Detection and Prevention Operations	
• Debarments, Suspensions, Voluntary Exclusions, and Settlement Agreements (actions to deny persons or firms from participating in EPA programs or activities because of misconduct or poor performance)	79
• Hotline Cases Opened	81
• Legislative and Regulatory Items Reviewed	156
• Personnel Security Investigations Adjudicated	1,066

* Questioned Costs (Ineligible, Unsupported and Unnecessary/Unreasonable) and Recommended Efficiencies (Funds be Put to Better Use) are subject to change pending further review in the audit resolution process.

**Information on recoveries from audit resolution is provided by the EPA Financial Management Division and is unaudited.

***Reports resolved are subject to change pending further review.

High Risk Areas of Concern to the OIG

Contract Management

EPA relies extensively on contractors to assist in carrying out its mission to clean up past pollution problems, develop national policy, and set the environmental agenda for the future. As a result of our audits and the efforts of others over the past year, EPA has initiated steps to correct its many basic contract management problems.

Financial Management

The OIG has repeatedly reported that EPA's accounting systems do not provide complete, consistent, reliable and timely data for Agency decision making. Although EPA has devoted considerable time to improving the Agency's overall performance in the area, results have been less than anticipated. We will continue emphasizing audits in the financial management areas.

Scientific Data Integrity

Accurate and reliable scientific data is crucial to EPA's accomplishment of its mission as a regulatory agency. However, audits and investigations show that EPA is not always getting the research for which it pays, nor is such research always accurate or objective.

Information Resources Management (IRM)

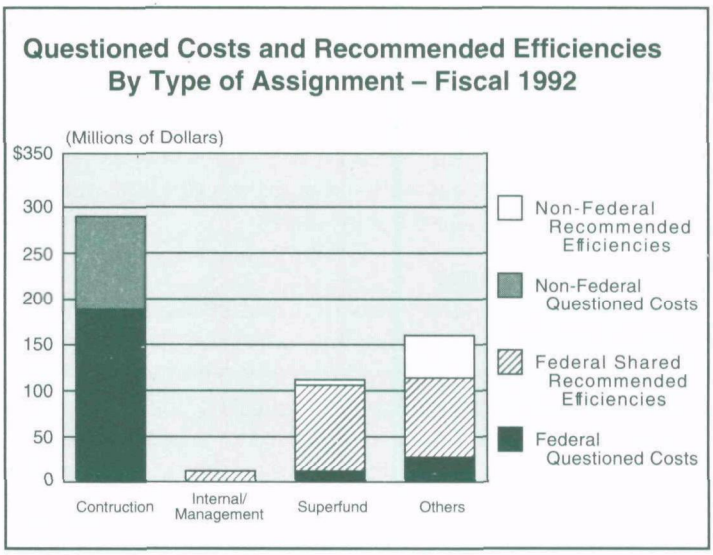
EPA's IRM program is still hampered by many problems including: (1) significant cost overruns and delays in developing and implementing information systems; (2) material data quality deficiencies; and (3) exposure of the Agency's most sensitive information systems to access by unethical users.

Enforcement

Although EPA management has worked diligently to improve EPA's enforcement program, our audits of EPA's water, pesticide, Resource Conservation and Recovery Act and Superfund programs show continuing instances of ineffective Federal and State enforcement.

Audit Followup and Implementation of Corrective Actions

Information in the Agency's Management Audit Tracking System has not been reliable, and the Agency's Semiannual Reports to Congress on audit followup activity have been inaccurate. As a result of our reviews, EPA has elevated corrective action on our finding to the highest management levels and appears committed to making improvements.



Examples of Significant Audits

The following represents examples of some of our most significant types of findings. They should not be considered representative of the overall adequacy of EPA management.

Mismanagement of Contractor Jeopardizes Agency's Control of Operations and Procurement Practices

A general laissez-faire culture affected EPA's management of its support contract with the Computer Sciences Corporation (CSC). EPA heavily relied on CSC for development, enhancement, operation, and maintenance of most of its critical information and financial management systems, lessening its own control over critical program operations. Also, EPA administered the CSC contract as a personal services contract, violating Federal procurement regulations. EPA assumed responsibilities for supervising, hiring/firing, evaluating, promoting, and training CSC employees who performed on site and spent $154,000 for their training for which CSC should have paid.

Some of CSC's actions created the appearance of the contractor performing functions so intimately related to the public interest that they should be performed only by Federal employees. An organizational conflict of interest existed because CSC assigned itself work and managed its contract with EPA. Free movement of personnel between EPA and CSC for over a decade increased the risk of individual conflicts of interest. *The Agency generally agreed with our findings and initiated a comprehensive program to improve its contract management activities.*

Inadequate Procurement and Contract Monitoring at Duluth Laboratory

We found questionable events involving support contracts at EPA's Duluth laboratory. Shortly before leaving government service in 1985, an EPA scientist solicited work through the Small Business Administration for a company he owned, AScI, which provided toxicological support services. Federal criminal law prohibits government employees from soliciting work on behalf of a contractor. EPA contracting officials knew of this potential conflict of interest. Nevertheless, 8 months after the scientist left the Agency, AScI received a $1 million sole-source contract from EPA. This was contrary to EPA regulations prohibiting such awards to former employees within 1 year of their leaving the Agency. In 1990, EPA contracting officials approved and processed three sole-source toxicological support services contracts, each at slightly less than $3 million, avoiding the competitive procurement that is required when certain small business contracts are over $3 million in value. *The Agency took a number of corrective actions in response to our recommendations.*

After 12 Years, EPA's Information Resources Management Problems Continue

EPA has over 500 information systems as well as computer models supporting its mission. We found that the absence of top management central direction and control over EPA's Information Resources Management (IRM) program contributed to many of the continuing deficiencies including adversely impacting the IRM contract management process, information system development and operation, and EPA's ability to accomplish its cross-media mission. EPA had not established an integrated long-range IRM planning and budgeting process to help acquire, manage, and use its computer resources. Also, the Agency had not instituted a comprehensive, independent quality assurance program to ensure that its mission-critical information systems operate effectively and accurately. EPA experienced serious and costly data integrity and software problems in its operational information systems. Finally, EPA had no assurance that its valuable and mission-critical information resources are adequately protected from fraud, abuse, and unauthorized manipulation. *The Agency fully agreed with our findings and took a number of corrective actions.*

After $581 Million and 27 Years of Mismanagement, Puerto Rico Still Failed To Meet Water Standards

Despite tremendous Federal financial participation and numerous court ordered actions, the Puerto Rico Aqueduct and Sewer Authority (PRASA) continued to be a poorly run utility. Although we found improvements during our on-site tours of 23 of PRASA's wastewater treatment facilities, significant deficiencies still remained. Many were noticeably understaffed, poorly operated and maintained, undersupplied and violating National Pollutant Discharge Elimination System and Clean Water Act (CWA) requirements. PRASA's highly bureaucratic organizational structure caused inordinate delays in equipment repair or replacement. Also, PRASA did not provide sufficient training and did not hold managers accountable for safety violations until an accident occurred. PRASA's financial position was

overstated because provisions were not made for uncollectible receivables of $21.6 million, identifiable bad debts ranging from $2.9 to $14 million were not written off, large accounting adjustments were not sufficiently supported, and appropriate accounting procedures and practices were not always followed. Sufficient revenues were not being received because of ineffective and inefficient collection procedures. *The Agency agreed with the report's major findings, but added that its sustained rigorous enforcement has produced an increasing level of grantee compliance with the CWA.*

Underground Storage Tank Inventory Not Reliable

The national inventory of underground storage tanks (UST) is unreliable for allocating resources and measuring EPA's progress in minimizing the impact of leaking tanks on human health and the environment.

Groundwater provides drinking water for half of the Nation's population. EPA's current inventory shows there are about 1.8 million tanks subject to Federal regulation. However, EPA does not maintain a complete and accurate national inventory and the inventory may be understated by 40 percent for individual states. EPA had not provided adequate guidance and oversight to ensure the accuracy, reliability, and completeness of the data provided by the States nor had EPA required the States to periodically update their inventories. EPA and the States rely primarily on tank owners' voluntary compliance with the requirement to register their tanks. Because of the unreliability of the data, the allocation of Federal funds to EPA regions for cleaning up leaking tanks may be inequitable (of the $53.2 million available in fiscal 1991, EPA allocated $38 million to its 10 regions based in part on the number of petroleum tanks reported in the region). *The Agency agreed to implement several of our recommendations to improve data reliability.*

Actions Needed to Better Ensure the Integrity of Data Supporting Pesticide Registrations

EPA was not effectively implementing its Good Laboratory Practices (GLP) Program. As a result, the Agency lacked assurance that the data submitted by independent laboratories in support of pesticide registrations and regulatory decisions was accurate and reliable. However, GLP inspections have not targeted studies which support chemicals that are under regulatory review. The program lacks standards for accepting or rejecting laboratory studies. As of July 1, 1992, approximately 2,247 audits had identified significant deficiencies during GLP inspections. Ninety-six percent of these audits, however, had no impact on the registered status of the pesticide product. Laboratory studies were often selected for audit for pesticides that had already been canceled or rejected by the Agency during the scientific review. *The Agency generally agreed with our findings and provided corrective action plans for each of the recommendations.*

Nearly $63 Million of Questioned Costs Claimed for Philadelphia, Pennsylvania, Project

EPA awarded twelve grants to the City of Philadelphia to modify and upgrade the Northeast Water Pollution Control Plant to meet National Pollutant Discharge Elimination System permit requirements and to improve sludge management. The grantee claimed $20,603,639 of ineligible costs under those grants, including $8,679,712 of costs associated with abandoned systems and equipment. We also questioned $42,355,847 of unsupported costs, including engineering and

construction costs associated with uncompleted and inoperable facilities and costs of construction deficiencies needing inspection.

Over $26.5 Million of Ineligible and Unnecessary Costs Claimed for Underutilized Russian River Project

EPA awarded three grants totalling $27,720,178 to plan, design, and construct a wastewater treatment plant for the Russian River County Sanitation District, Guerneville, California. The grantee claimed $8,344,066 of ineligible construction, engineering, legal and administrative costs. We identified $707,629 of eligible costs not claimed by the grantee which were offset against the above questioned costs. We also questioned $18,247,400 of claimed costs as unnecessary because (1) the facility was operating at only 41 percent of its design capacity and (2) change orders could not be reconciled to source documents.

Los Angeles Claims $14.3 Million of Ineligible and Unreasonable Costs

EPA awarded a grant for $14,373,882 to the City of Los Angeles for planning, designing, and constructing the Los Angeles/Glendale Water Reclamation Plant. We questioned $2,174,976 of the costs claimed by the grantee under that grant as ineligible, including construction costs applicable to inoperable, abandoned, and oversized equipment. We also questioned $12,198,906 of claimed costs as unreasonable because the grantee did not (1) comply with special grant conditions concerning the elimination of sewage overflows and the reclamation of wastewater, (2) maintain force account records in sufficient detail to demonstrate benefit to the project, and (3) limit engineering fees to the maximum amount considered reasonable for this type of construction.

Alternative Remedial Contracting Strategy Fails to Accelerate Cleanups of Hazardous Waste Sites

In an effort to expedite cleanups of hazardous waste site, EPA decided to change its approach by adopting the Alternative Remedial Contracting Strategy (ARCS). Under this concept, the remediation of each site becomes the responsibility of a single contractor as long as performance is satisfactory. We found that ARCS failed to meet the Agency's goal of expediting the remediation or cleanup of Superfund sites in Regions 1, 3, and 5. Of 68 work assignments issued during the first 2 years of the ARCS program, only seven had been completed as scheduled, 19 had been completed beyond their schedule, and most of the remaining assignments will have exceeded EPA's goal by over 1 year (11 by more than 2 years) if completed as planned. In Region 3, the cleanup of sites was delayed because of ARCS contractors' ineptitude. Delays in Regions 1 and 5 were attributed to misdirected site samples, inexperienced contractor and EPA personnel, and a lack of adequate contractor personnel. *The Agency generally accepted our recommendations for improving the implementation of the program.*

Better Administration Needed of Superfund Contractor-Operated Sample Management Office

EPA's ineffective monitoring of its Sample Management Office contractor, which assists with the management and administration of the Contract Laboratory Program (CLP), resulted in inadequate consideration of performance histories in selecting laboratories to analyze samples. As a result, EPA used laboratories with poor performance histories to analyze samples, while laboratories with superior performance histories were not used to their capacity. Sample results are pivotal in deciding how to clean up a hazardous waste site. Further,

lack of competition increased EPA's vulnerability to how the contractor controls samples, cost inefficiencies, and confusion over the respective roles of the Agency and the contractor. EPA sometimes improperly influenced the contractor to assign tasks to specific contractor personnel, creating the appearance that a personal services relationship existed between the Agency and the contractor or that the contractor performed inherently governmental functions. *The Agency generally agreed with our findings and recommendations.*

Report Resolution

During fiscal 1992, the Office of Inspector General issued 1,962 reports and closed 493. Of the 339 reports in the follow-up system at year end, 102 reports remained for which no management decision was made within 6 months of issuance.

For the reports closed, $70 million of questioned costs were disallowed for recovery, and $14.4 million were agreed to by EPA management as funds that could be put to better use. The Agency reported cost recoveries from current and prior periods of $11.8 million in cash collections and $48 million in offsets against billings.

Assessed Penalties Against RCRA Violators Have Increased But Should Be Higher

In September 1989 we reported that under the Resource Conservation and Recovery Act (RCRA) EPA had assessed penalties which were in some cases insufficient to eliminate the economic benefits of violators' noncompliance, were not sufficient for the gravity of the offense, were excessively mitigated, and were not properly documented. Our followup report found that while improvements in the RCRA enforcement program were evident, the Agency's corrective actions on our recommendations were not timely or fully successful. The regions had not submitted required penalty calculation worksheets with 11 of 17 final Consent Agreements/Final Orders submitted to the Office of Solid Waste and Emergency Response (OSWER), and OSWER had not always followed up with the regions when the required documents were not attached. In addition, OSWER conducted no formal reviews of proposed or assessed penalties during fiscal 1991. As a result, conditions similar to those previously reported still existed.

EPA Continued to Negotiate Unreasonably High Equipment Rates on Emergency Response Cleanup Services (ERCS) Contracts

Our September 1986 report showed that EPA was in a poor negotiating position during the award of the initial Superfund ERCS contracts because of limited competition and lack of contractor cost data to support contractor-proposed fixed equipment rates. Our March 1992, followup report found that the Agency had taken many of the actions needed to improve its ERCS contracts. However, after 10 years, EPA continued to rely on price analysis rather than cost data to determine the reasonableness of fixed equipment rates negotiated with contractors. Competition was still limited. EPA was updating its data base of ERCS labor and equipment rates and will encourage Headquarters and regional contracting officers to use the data for price analysis.

Investigative Activities

During this fiscal year, our investigative efforts resulted in 29 indictments, 60 convictions and $4.9 million of fines and recoveries from individuals or entities which defrauded the Agency.

Superfund Contract Laboratory Program Investigation

The Office of Investigations has a major investigative initiative underway within the Superfund program, directed at fraud in the Contract Laboratory Program (CLP). Laboratory analyses under the CLP are the empirical basis for the entire Superfund program. Based on testing for the presence of hazardous chemicals by these laboratories, the Superfund program decides which cleanups to initiate and how to carry them out. Fraudulent analyses could result in a danger to the public health and safety as well as the unnecessary expenditure of cleanup funds. In addition, fraudulent analyses could hinder the Department of Justice's efforts to collect the cost of cleanups from the responsible parties. Several examples follow.

New York Lab President Convicted of Fraud

The president of Nanco Environmental Services, Inc., of Dutchess County, New York, was convicted in September 1992 of mail fraud and submitting false statements to EPA, as well as conspiring to submit false statements. Arun Gaind, the president, and Sohail Jahani, a supervisor, engaged in a scheme of setting back the dates on the computer data systems to which gas chromatograph/mass spectrometer instruments were attached in order to make it appear that laboratory analyses of soil and water samples were performed within EPA-approved holding times when, in fact, they were not. Jahani pleaded guilty in May 1992 to conspiracy to defraud EPA, and James Daly, another supervisor at Nanco, pleaded guilty in October 1991 to causing false submissions to be made to EPA.

Lab Firm Vice President Pleads Guilty

In July 1992, Richard Posner, a former vice president of United States Testing Company of Hoboken, New Jersey, a subsidiary of SGS North America, Inc., pleaded guilty to a charge of making a false statement to EPA. Posner admitted that he caused company employees to falsify information contained in his laboratory's report on the chemical analysis of a performance evaluation test submitted by EPA as part of its laboratory evaluation procedure. In April 1991, the company was ordered to pay a $100,000 criminal fine and to repay the entire contract price of $869,487 as restitution to the United States.

Two Lab Employees Banned from CLP

Two employees of Analytical Services Corp., Darren Cothren and Randy Creighton, have admitted to falsifying data submitted to EPA. The two have agreed to a pre-trial diversion agreement which includes being banned from CLP work for 3 years. Lee Kidd, former manager, admitted directing the two employees to falsify data. Analytical Services had previously pleaded guilty to making a false claim and was fined $500,000.

EPA Computer Supplier Made False Claims

American Coastal Industries, Inc. (ACI), a former supplier of computer equipment and software to EPA, pleaded guilty in July 1992 to making false claims to EPA. The corporation was fined $600,000 and ordered to pay restitution in the amount of $1.11 million, as part of a civil settlement. This case arose from an OIG audit and subsequent criminal investigation which revealed that ACI had intentionally submitted false cost or pricing certifications and had overcharged EPA approximately $600,000 under a contract to provide personal computers and related products to EPA. The contract, with a potential value of $67.5 million, was the largest small business set-aside contract ever awarded by EPA and one of the largest in the nation.

Defendants Sentenced, Fined in Texas Telemarketing Scheme

Seventeen of 18 individuals indicted in Dallas in a telemarketing fraud case have been sentenced. All were found guilty. Douglas Cox of Arlington, Texas, received the longest prison term, 10 years. He was also fined $5,577 and court costs, and will be on probation for 3 years after his release. The others sentenced had jail terms ranging from home confinement for 4 months to 6-1/2 years in prison. Another defendant, United Financial Group of Beverly Hills, California, which processed charge card orders in the scheme, was fined $350,000. The sentences to the defendants totalled over 34 years in prison, $352,750 in fines, and restitution to private individuals of $101,750. These cases resulted from a joint investigation by the EPA OIG and the U.S. Postal Inspection Service.

Agency Gains Settlement Under Program Fraud Civil Remedies Act

The Inspector General Division of the Office of General Counsel negotiated an agreement with an EPA employee who admitted to submitting two fraudulent taxi vouchers for reimbursement. Under the agreement the employee paid $700, more than ten times the amount of the fraud, as a civil penalty under the Program Fraud Civil Remedies Act.

Suspension and Debarment Activities

EPA's policy is to do business only with contractors, grantees, and persons who are responsible, honest, and who comply with applicable rules and regulations. EPA enforces this policy by suspending or debarring any organization or person for acting improperly, having a history of substandard work or willfully failing to perform on EPA or other Federally funded activities. Suspensions and debarments deny participation in Agency programs and activities to those who represent a business risk to the Government. Both procurement and nonprocurement debarments or suspensions by one agency are effective in all agencies.

In fiscal 1992, 79 debarment or suspension actions arising out of OIG audits or investigations were taken, including the following examples.

- Charles A. Donohoo Jr., a demolition contractor operating in Jefferson County, Kentucky, was debarred for 3 years by EPA following his December 1989 conviction for improper removal of asbestos, in violation of the Clean Air Act. The Court also convicted Donohoo of failure to notify EPA of a release of asbestos, in violation of the Comprehensive Environmental Response, Compensation, and Liability Act.
- Dominic Nicassio, Inc. (DNI), Dominic Nicassio, Western Pennsylvania Minority Enterprises Inc. (WPME), and Eugene Minard all allegedly participated in a scheme to fraudulently obtain EPA-funded sewer construction contracts totalling millions of dollars by misrepresenting that WPME was a legitimate minority business enterprise. EPA debarred WPME and Minard for 3 years. In addition to their suspensions for 1 year, EPA debarred DNI and Nicassio for 2 additional years.

Personnel Security Program

The Personnel Security Program is one of the Agency's first line defenses against fraud, using background investigations to review the integrity of EPA employees and contractors. During fiscal 1992, 1,066 investigations were reviewed. Examples of resulting actions follow.

- The access of four contractor employees to Confidential Business Information was terminated for failing to list, on the SF-86, Questionnaire for Sensitive Positions, previous drug usage, continuous usage of controlled substances, and conviction for assault.
- Three employees resigned rather than face possible disciplinary action for failure to list previous convictions for assault, claiming degrees not awarded, and failure to list previous terminations.

Hotline Activities

The OIG Hotline Center opened 81 new cases and completed and closed 83 cases during fiscal 1992. Of the cases closed, 15 resulted in environmental, administrative, or prosecutive action. We also received 5,232 calls in which callers were referred to the appropriate program office, State agency, or other Federal agency for assistance.

The following are examples of corrective action resulting from calls to the OIG Hotline Center:

- A complainant alleged that an EPA employee was conducting personal business on Government time and was using a Government computer to facilitate the operation of a furniture business which the employee owned. A review of the complaint disclosed that the employee had used Government time, equipment (computer, printer, paper, toner), and employees to operate a personal business. As a result, the employee was given a written reprimand and strongly cautioned that any future misconduct could result in severe disciplinary measures.
- A complainant alleged that an EPA employee had abused the Federal Telecommunications System by accepting long distance telephone calls on a daily basis. A review of the complaint disclosed that the employee had accepted over $400 in collect calls and used approximately 36 hours of Government time on those calls. Further investigation revealed that the employee had also submitted falsified travel vouchers for people in the office and had kept the money. As a result, the employee entered into a Pretrial Diversion Agreement which included 40 hours of community service and restitution of $2,022 to EPA. In addition, the employee was terminated from EPA.

If you are aware of any fraud, waste, or mismanagement, please contact the EPA Inspector General Hotline or the appropriate Divisional Inspector General listed on the inside back panel.

- Information is confidential.
- Calls can be made toll free on (800) 424-4000. Callers in area code 202 may also use (202) 260-4977

Remember —Act Like It's Your Money—It Is!

Divisional Inspectors General

Region	Subject	Name	Telephone
Headquarters	Audit (Headquarters Audit Division)	Edward Gekosky	(703) 308-8222
	Audit (Financial Audit Division)	Melissa Heist	(202) 260-1479
	Investigations (Washington Field Division)	Francis C. Kiley	(703) 308-8282
	Investigations (Procurement Fraud Division)	Emmett Dashiell	(202) 260-0053
1 & 2	Audit	Paul McKechnie	(617) 565-3160
	Investigations	Robert M. Byrnes	(212) 264-0399
3	Audit	Paul R. Gandolfo	(215) 597-0497
	Investigations	Martin Squitieri	(215) 597-9421
4 & 6	Audit	Mary Boyer	(404) 347-3623
	Investigations	James F. Johnson	(404) 347-2398
5	Audit	Anthony C. Carrollo	(312) 353-2486
5,7 & 8	Investigations	Allen Fallin	(312) 353-2507
7 & 8	Audit	Nikki Tinsley	(913) 551-7824
9 & 10	Audit	Truman R. Beeler	(415) 744-2445
	Investigations	H. Brooks Grfflin	(415) 744-2465