Office of Inspector General
Report of Audit

MANAGEMENT OF ASSISTANCE AND INTERAGENCY AGREEMENTS

OFFICE OF RESEARCH AND DEVELOPMENT ENVIRONMENTAL RESEARCH LABORATORY CORVALLIS, OREGON

Audit Report: E1FBF3-10-0069-4100214

March 21, 1994

INSPECTOR GENERAL DIVISION
CONDUCTING THE AUDIT:

WESTERN AUDIT DIVISION
SEATTLE BRANCH OFFICE
SEATTLE, WASHINGTON

PROGRAM OFFICE INVOLVED:

OFFICE OF RESEARCH AND DEVELOPMENT
ENVIRONMENTAL RESEARCH LABORATORY
CORVALLIS, OREGON

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

March 21, 1994

OFFICE OF
THE INSPECTOR GENERAL

MEMORANDUM

SUBJECT: Management of Assistance and Interagency Agreements
Office of Research and Development, Environmental Research Laboratory, Corvallis, Oregon
Audit Report No. E1FBF3-10-0069-4100214

FROM: Michael Simmons Michael Simmons
Associate Assistant Inspector General for
Internal and Performance Audits

TO: Gary J. Foley
Acting Assistant Administrator for
Research and Development

Jonathan Z. Cannon
Assistant Administrator for
Administration and Resources Management

This is our audit report on the management of assistance and interagency agreements by the Environmental Research Laboratory, Corvallis, Oregon (ERL-C). We appreciate the cooperative spirit of your headquarters and laboratory staff exhibited during this audit. The effective lines of communication we have maintained throughout this effort have enabled us to identify key opportunities to improve the use of interagency and assistance agreements at the laboratory.

ACTION REQUIRED

We have designated the Office of Research and Development as the action official for this audit. In accordance with our longstanding agreement outlined in EPA Order 2750, the action official is required to provide our office with a response to the audit report within 90 days of the final report date. For corrective actions planned but not completed by your response date, reference to specific milestone dates will assist us in deciding whether to close this report in our management tracking system. We also request, as the action official, that you coordinate your response with the Assistant Administrator for Administration and Resources Management for the audit issues and recommendation related to its operations. We remain ready to assist you in crafting your corrective action plan as needed.

EXECUTIVE SUMMARY

PURPOSE

The Office of Inspector General (OIG) has completed an audit of selected segments of the operations of the Environmental Research Laboratory, Corvallis, Oregon (ERL-C). Based on extramural resource management deficiencies found in recent audit work performed at the Environmental Protection Agency's (EPA) Office of Research and Development (ORD) environmental research laboratories, we performed a survey at ERL-C. The results of the survey indicated that an audit was warranted.

The objectives of the audit were to determine whether ERL-C management and staff:

- Properly used interagency and assistance agreements to meet EPA's research mission;
- Adhered to applicable statutes, regulations and EPA guidance when procuring interagency services and providing assistance funding; and
- Provided effective oversight and management of agreements to ensure that performance met the project goals and objectives.

BACKGROUND

As one of ORD's 12 laboratories, ERL-C is responsible for research in terrestrial and watershed ecology and for assessment of major environmental threats to inland ecological resources, such as forests, soils, wetlands, and wildlife. Research programs concentrate on the terrestrial and multimedia effects of pollutants as they move through air, soil, water, and the food chain. The research at ERL-C is organized into three branches: the Ecotoxicology Branch, the Terrestrial Branch, and the Watershed Branch.

To accomplish its research mission with strictly imposed Federal employment ceilings, ERL-C is dependent on extramural level-of-effort contracts, grants, cooperative agreements and interagency agreements. ERL-C used $21.1 million of its $29.6 million fiscal 1992 appropriations to support both on-site and off-site extramural activities. The remaining $8.5 million was used for salaries and expenses. The on-site extramural funding increased human resources at the

areas. These include: (i) ensuring that the scope of IAGs is for an independent, distinct project; (ii) establishing controls to identify potentially unallowable costs and ensuring that claimed costs are appropriate; (iii) identifying the use of contractors under IAGs; (iv) improving documentation of site visits; and (v) increasing the reliability and usefulness of its extramural database.

Because ERL-C did not have sufficient management controls over its assistance agreements and IAGs, some projects were managed less effectively; unallowable costs might have been reimbursed; EPA funds were used to pay for work requested by other agencies; and requirements for identifying contractor use and approval of sole-source procurements were circumvented.

FMFIA INADEQUATELY IMPLEMENTED

ERL-C did not properly implement FMFIA because it did not plan or perform reviews on assistance and interagency agreements. Without such reviews there is little opportunity to uncover management control weaknesses similar to those found during the audit.

RECOMMENDATIONS

1. We recommend that the Assistant Administrator for Administration and Resources Management (OARM) revise and clarify EPA guidance for IAGs by requiring that the provisions of the FGCA Act be applied to the selection of assistance agreements and that the selection decision be documented in the decision memorandum.

2. We also recommend that the Acting Assistant Administrator for Research and Development instruct the Director of ERL-C to:

- Take steps to ensure that the selection of the funding instrument is in accordance with the FGCA Act and that the basis for the selection, including the principal purpose of the agreement, is clearly explained in the decision memorandum.

- Take corrective action to ensure that grants, cooperative agreements and IAGs are appropriately used.

- Develop procedures and controls to ensure that each IAG is for an independent, distinct project with a clearly defined objective.

- Improve financial monitoring of assistance agreements and IAGs by:

  a. Requiring reviews of FSRs on cooperative agreements in relation to the recipients' progress reports and the project officers' evaluations.

  b. Establishing a system to ensure that all costs for funds-in IAGs are budgeted and accounted for and billed to other agencies.

  c. Requiring that project officers obtain and review detailed costs for funds-out IAGs prior to approving invoices for payment.

- Perform reviews of internal controls including:

  a. Scheduling and performing annual MCRs or AMCRs for extramural agreements including project officer activities; and

  b. Reviewing and, if necessary, revising ERL-C's event cycle documentation to address weaknesses disclosed by this audit.

AGENCY COMMENTS

ORD Comments

All except one of the recommendations in our report are addressed to ORD. In a response to the draft report, ORD concurred with all the recommendations and agreed to correct all of the deficiencies noted in the report. The response stated that the recommendations were constructive and that corrective actions in response to many of them should be designed not solely for ERL-C operations but for ORD operations generally. The complete text of ORD's comments is included in APPENDIX A of this report.

OARM Comments

OARM was partially responsive to our recommendation by stating that the Grants Administration Division had instituted a procedure requiring the project officer of other agencies to certify that assistance agreements awarded through IAGs were properly awarded.

CHAPTER 1

INTRODUCTION

PURPOSE

The Office of Inspector General (OIG) has completed an audit of selected segments of the operations of the Environmental Research Laboratory, Corvallis, Oregon (ERL-C). Based on extramural resource management deficiencies found in recent audits performed at EPA Office of Research and Development (ORD) environmental research laboratories, we performed a survey at ERL-C during November 1992. The results of the survey demonstrated that an audit was warranted.

The objectives of this audit were to determine whether ERL-C management and staff:

- Properly used interagency and assistance agreements to meet EPA's research mission;
- Adhered to applicable statutes, regulations, and EPA guidance when procuring interagency services and providing assistance funding; and
- Provided effective oversight and management of agreements to ensure that performance met the project goals and objectives.

BACKGROUND

ORD's mission is to provide high quality, timely scientific and technical information, products and assistance in support of EPA programs and goals. EPA's research program is conducted through 12 environmental research laboratories across the country employing about 1,900 scientific and administrative personnel and expending an annual operating budget of about $450 million. ORD's overall planning process engenders an applied research and development program focused on answering key scientific and technical questions as a basis for EPA's programmatic and regulatory decision-making. Short-term scientific and technical studies support immediate regulatory and enforcement decisions while a longer-term core research program extends the knowledge base of environmental science and anticipates environmental problems.

ERL-C is responsible for research in terrestrial and watershed ecology and for assessment of major environmental threats to inland ecological resources, such as forests, soils, wetlands, and wildlife. Research programs concentrate on the terrestrial and multimedia effects of pollutants as they move through air, soil, water, and the food chain. The research at ERL-C is organized into three branches: the Terrestrial Branch, the Watershed Branch, and the Ecotoxicology Branch.

To accomplish its research mission with strictly imposed Federal employment ceilings, ERL-C is dependent on extramural level-of-effort contracts, grants, cooperative agreements and interagency agreements. ERL-C used $21.1 million of its $29.6 million fiscal 1992 appropriations to support both on-site and off-site extramural activities. The on-site extramural funding increased human resources at the laboratory through the use of contractors and personnel working under assistance agreements, interagency agreements, and Intergovernmental Personnel Act assignments. Currently, contractors and other outside personnel represent nearly three-fourths of ERL-C's human resources.

As of March 1993, ERL-C funded 64 active assistance agreements (i.e., cooperative agreements and grants) which were awarded to 45 different institutions and 23 interagency agreements awarded to 13 different governmental agencies. In addition, ERL-C received funding through 13 reimbursable interagency agreements from 12 different organizations. The majority of the awards were funded under $250,000 and half of the assistance agreements were awarded competitively.

SCOPE AND METHODOLOGY

The overall objective of the audit was to determine if ERL-C was using its extramural funds in accordance with the provisions of applicable statutes, regulations, and EPA guidance. To assess ERL-C's management of extramural activities, we interviewed key laboratory personnel and performed extensive reviews of cooperative agreement, grant, and interagency agreement files. We also interviewed principal investigators and EPA grants specialists on specific agreements.

We judgmentally selected and performed reviews of 14 cooperative agreements, 1 grant, 7 funds-out interagency agreements, and 4 reimbursable interagency agreements. In addition, we did a limited review of three assistance agreements funded through interagency agreements. We limited our review to agreements which were active as of March 1993. The following chart summarizes audit samples and the universe of agreements managed by ERL-C.

AUDIT UNIVERSE AND RELATED SAMPLES

Funding Instrument	Universe (March 1993) Number	Universe (March 1993) Max. Value (millions)	Audit Sample Number	Audit Sample Max. value (millions)
CAs	63	$29.30	14	$13.30
Grants	1	$ .02	1	$ .02
Funds-out IAGs	23	13.80	7[a]	9.50
Reimbursable IAGs	13	1.10	4[b]	.50
Totals	100	$44.22	26	$23.32

[a] *Only six of the seven agreements were reviewed for management issues.*

[b] *Only three of four agreements were reviewed for management issues.*

Appendix C gives a listing of the grant, cooperative agreements, and IAGs reviewed.

The audit was performed in accordance with the Government Auditing Standards issued by the Comptroller General of the United States (1988 revision) as they relate to economy and efficiency and program results audits. Our audit included tests of management and related Federal Managers' Financial Integrity Act of 1982 (FMFIA) controls, policies, and procedures specifically related to the audit objectives. The ERL-C FMFIA activities were reviewed in accordance with EPA's implementing guidance.

The findings in this report describe weaknesses identified during the audit and our recommendations to correct the weaknesses. No previous audit reports have been issued regarding ERL-C on the areas covered and no follow-up work was necessary.

The audit field work was performed from April through June 1993 and included on-site work at ERL-C during April and May 1993. This report also contains information gathered during on-site survey work at ERL-C in November 1992.

The scope of this audit did not include extramural activities under contracts or purchase orders. Contracting activities were reported on in a prior OIG Survey Report on Contracting Activities at Environmental Research Laboratory - Corvallis (Survey Report No. E1JBG2-10-0080-3400019, dated February 3, 1993). Purchase orders will be reviewed separately and are not included in this report.

CHAPTER 2

ASSISTANCE AND INTERAGENCY AGREEMENTS IMPROPERLY USED

ERL-C did not always meet the provisions of the Federal Grant and Cooperative Agreement Act (FGCA Act), regulations, and EPA guidance on the proper selection and use of funding instruments. The FGCA Act requires that the principal purpose of the relationship established be considered when the selection of funding instruments is made and that controls be in place to ensure that agreements are used properly.

ERL-C did not have adequate documentation to support the selection and use of assistance agreements as opposed to contracts for 12 of 18 assistance agreements reviewed. In our opinion, seven of the agreements should have been contracts. ERL-C did not have adequate documentation to support the selection of assistance agreements instead of contracts for the other five agreements.

SOME ASSISTANCE AGREEMENTS SHOULD HAVE BEEN CONTRACTS

Based Upon Supporting Documentation	Awarded By ERL-C	Awarded Under IAGs	Totals
Should Be Contract	5	2[a]	7
Principle Purpose Not Clear	4	1	5
Correctly Awarded Agreements	6[b]	0	6
Totals	15	3	18

We found that 2 of 18 agreements were improperly used to obtain goods and services:

a *includes one agreement which was awarded through an IAG for the purchase of a computer;*

b *includes one agreement awarded to a university to fund a personnel position.*

In addition, two IAGs were made with foreign governments without a waiver of Agency policy.

ERL-C did not have adequate guidance to require that decisions to select funding instruments be documented and laboratory personnel were not sufficiently aware of the limitations on the use of agreements. As a result, ERL-C was making inappropriate use of grants, cooperative agreements, and interagency agreements; funds were inappropriately used; and foreign agreements may not have been appropriately monitored.

BACKGROUND

The FGCA Act establishes guidelines for selection of funding instruments. The legislative history (Senate Report 95-449) states that prior to passage of the FGCA Act:

> "No uniform statutory guideline exists to express the sense of the Congress on when executive agencies should use either grants, cooperative agreements or procurement contracts. Failure to distinguish between procurement and assistance relationships has led to both the inappropriate use of grants to avoid the requirements of the procurement system, and to unnecessary red tape and administrative requirements in grants."

The FGCA Act discusses the distinction between procurement and assistance relationships. When research is for the direct benefit of the government, it should be competed under procurement rules. The three types of funding instruments discussed by the FGCA Act and when it is appropriate to use them are described below:

> Contracts. To be used when the principal purpose of the relationship is the acquisition, by purchase, lease, or barter, of property or services for the direct benefit or use of the Federal government. This is a Federal purchase for Federal use.
>
> Grant Agreements. To be used when (a) the principal purpose of the relationship established is the transfer of money, property, services, or anything of value to the recipient to accomplish a public purpose of support or stimulation, and (b) no substantial involvement occurs between the Federal agency and the recipient during performance of the activity.
>
> Cooperative Agreements. To be used when (a) the principal purpose of the relationship established is the transfer of money, property, services, or anything of

value to the recipient to accomplish a public purpose of support or stimulation, and (b) substantial involvement occurs between the Federal agency and the recipient during performance of the activity.

PRINCIPAL PURPOSE OF AGREEMENTS NOT CLEARLY DOCUMENTED

ERL-C did not have adequate documentation to support the selection and use of assistance agreements instead of contracts. Our review of 18 assistance agreements disclosed that ERL-C's documentation was unclear on the principal purpose for 12 of them. The agreements had been awarded directly by ERL-C or through interagency agreements to non-Federal recipients.

Principal Purpose Not Clear for Directly Awarded Assistance Agreements

ERL-C did not have adequate documentation to support the types of funding instruments selected and directly awarded by ERL-C to non-Federal recipients. We found that 9 of 15 assistance agreements awarded to non-Federal recipients had documentation in the files that was conflicting or unclear about the principal purpose of the agreements. The documentation for five of the agreements (see Appendix C) showed that the principal purpose of the relationships between ERL-C and the recipients was to provide a direct benefit to the government and therefore, the funding instruments should have been competed under procurement rules and awarded as contracts.

Our review of assistance agreement files showed that the documentation consisted of decision memorandums and other correspondence that were written to justify award and funding under existing EPA programs. There were statements about how award of the agreements would result in accomplishment of ERL-C's mission and program goals. These statements also indicate that the principal purpose of the agreements was to provide a direct benefit to the government from these projects. Below are some examples:

CR816721 Oregon State University (OSU)
In July 1990, ERL-C entered into a cooperative agreement with OSU for $2.1 million. The project description in the agreement is, "To establish the statistical base for Environmental Monitoring and Assessment Program (EMAP) design and analysis activities needed in the next several years ... and to provide a framework for statistical training in the methods and theories needed for associated activities." According to the decision memorandum:

In March 1990 ERL-C entered into an interagency agreement with FS for $1.2 million. The purpose of the agreement was to station FS employees at ERL-C to assist in the administration of EPA programs. Under this agreement, ERL-C funded an extramural grant that was awarded by FS for $861,848 to The National Council of the Pulp and Paper Industry for Air and Stream Improvement (NCASI). However, file documentation indicates that the primary purpose of the grant is to directly benefit the Federal government. According to the IAG Statement of Work:

> The Forest Service will contract up to three environmental scientists from the National Council of the Pulp and Paper Industry (a non-profit research organization) to assist with various aspects of research in the following three programs:
>
> 1. Ecosystem Health ...
> 2. Global Biogeochemistry ...
> 3. Global Effects ...

The decision memorandum states:

> NCASI scientists will manage portions of the following projects:
>
> 1) Reforestation - Global;
> 2) EMAP - Forests; and
> 3) Circumpolar Project.

The use of a grant for the direct benefit of the government contravenes the provisions of the FGCA Act. This should have been awarded as a contract. Also, some of the grant funds were used to purchase a computer for use by ERL-C's on-site contractor. This inappropriate purchase is further discussed on page 13 under the subsection <u>Computer Equipment Acquired for Contractor's Use</u>.

<u>Database Modifications</u>

DW12934530, an IAG with the FS, contained a cooperative agreement (for $50,000) with Oregon State University (OSU). The IAG statement of work and the decision memorandum did not state what the cooperative agreement was for. At our request, the project officer was able to obtain documentation from the FS that stated that the purpose of the agreement with OSU was to extend ERL-C's Virtual Database Management System design so that it could be transferred to EPA's global climate research and be used in future programs.

This cooperative agreement with OSU is a procurement of database design services that directly benefits ERL-C. The project officer stated that this type of work would now be performed by an on-site contractor, Computer Sciences Corporation.

Performance of Rice Study

DW12934099, an IAG with the Department of Agriculture, Agricultural Research Service (ARS) had an extramural cooperative agreement with the University of Florida (UF). The IAG statement of work and decision memorandum did not state what work would be specifically performed by UF. Apparently ARS and UF were working jointly on the project. In the decision memorandum were the following statements:

> "This IAG relates directly to the stratospheric ozone/wetland rice research program ... These initial studies, coupled with the field studies in the tropics, will provide the information necessary to develop a focused, policy relevant risk assessment (of global climate change on rice growth)."

The IAG with ARS appears to be a procurement of research services for the direct benefit of ERL-C. Procurement of goods and services is an appropriate use of an IAG but is not appropriate for cooperative agreements. The roles of ARS and UF are so closely intertwined that it appears that UF services are being purchased along with ARS services.

The primary purpose of each of the assistance agreements in the examples above is a direct benefit to ERL-C by meeting program goals. The fact that contracts were not awarded to obtain the above goods and services gives the appearance that ERL-C is using IAGs to make inappropriate awards of grants and cooperative agreements to avoid the requirements of the procurement system.

In our opinion, the current guidance for IAG extramural agreements is too vague to ensure that the statutory requirements for the use of grants and cooperative agreements are being followed. According to Section 1, Paragraph 7J of the Interagency Agreement Policy and Procedures Compendium, IAG extramural agreements can be contracts, cooperative agreements or grants. The Compendium requires that:

> "The agreement shall also state that both agencies have the independent program authority other than the Economy Act to enter into the IAG and comparable assistance authority for such an extramural instrument."

We also believe that the existence of an IAG between two Federal agencies does not change the relationship and selection of funding instruments between the Federal government and non-Federal recipients. The above requirement that both agencies have the same authority should apply to the selection of the type of extramural agreement to be used under an IAG. However, the guidance does not specifically state that the FGCA Act should be applied to extramural agreements included in IAGs. EPA guidance for IAGs should be clarified by requiring that the provisions of the FGCA Act be applied to the selection of assistance agreements and that the selection decision be documented in the decision memorandum.

INAPPROPRIATE USE OF THE FUNDING INSTRUMENT

ERL-C did not always meet the provisions of the FGCA Act and EPA guidance because it did not have controls in place to ensure that agreements were used properly. We found that ERL-C personnel did not have an adequate awareness of requirements and controls for the appropriate use of the agreements. As a result, our review disclosed that 2 of 18 agreements reviewed were inappropriately used:

- A cooperative agreement was used to improperly fund a personnel position; and
- An IAG included a grant to a non-profit organization which was used to purchase a computer system for an ERL-C contractor's use.

ERL-C personnel stated that the inappropriate uses were to overcome personnel and funding limitations at the laboratory. They also said there was a lack of awareness on the part of ERL-C personnel of the limitations on the use of these agreements. The following is a discussion of the two agreements:

Personnel Acquired Through use of Assistance Agreements
ERL-C improperly used a cooperative agreement to fund an Intergovernmental Personnel Act (IPA) assignment. ERL-C entered into an IPA assignment with an OSU faculty member. The assignment was made to help EPA work toward better management, evaluation, and restoration of Superfund hazardous waste sites. At the same time, ERL-C awarded a cooperative agreement (CR819077) to OSU to fund the IPA assignment. The agreement was for $79,786 and was scheduled to run from October 1991 to September 1993. According to the cooperative agreement decision memo:

> "The primary objective of the proposed cooperative agreement ... is to fund a Personnel Assignment

> Agreement under the Intergovernmental Personnel Act. The purpose of the Personnel Assignment is to obtain an individual with expertise in terrestrial ecology, particularly with microorganism-plant interactions."

ERL-C officials informed us that restrictions on funding and a belief that it was appropriate to use cooperative agreements in this manner resulted in the IPA assignment being funded through a cooperative agreement.

In our opinion, this was an inappropriate use of a cooperative agreement because a person working under an IPA assignment acts as an EPA employee. Accordingly, we believe that an IPA should be paid through EPA's payroll system. It also appears that by using the cooperative agreement, research and development funds were improperly used to pay for this employee's salary.

Computer Equipment Acquired for Contractor's Use

ERL-C improperly used a grant awarded as part of an IAG to purchase a computer for use by an on-site contractor. ERL-C entered into an IAG (DW12934530) with the FS that included a grant with the NCASI for management services.

About $18,000 of the $861,848 grant was used to purchase a computer workstation. Documentation in the IAG file states:

> "Project 87 (The Reforestation Project) of the Global Climate Research Program is purchasing 1 Sun SparcStation through NCASI ... funded by a grant ... attached to IAG DW12934530 ... The workstation will be used for GIS (geographic information software) data analysis, modeling, and software development ... This SparcStation will be located at ERL/Corvallis in the Global Climate Research Program and used by NSI (Northrop Services, Inc.) personnel."

In May 1993, we found that the computer workstation was being used by an ERL-C on-site contractor employee. ERL-C personnel informed us that the inventory of EPA equipment was not accurate and that some of the equipment might not be appropriately tagged. They also stated that there might have been some funding difficulties in obtaining equipment for on-site contractors.

In our opinion, this is an improper use of a grant for two reasons: the primary purpose of the agreement is for ERL-C to receive a direct benefit from the grant which contravenes the provisions of the FGCA Act, and

the cost of the computer is more properly allocable to the NSI contract instead of the NCASI grant.

According to Office of Management and Budget (OMB) Circular A-122, "Cost Principles for Nonprofit Organizations":

> "A cost is allocable to a particular cost objective, such as a grant ... in accordance with the relative benefits received. A cost is allocable to a government award if it is treated consistently with other costs incurred for the same purpose in like circumstances and if it:
>
> (1) Is incurred specifically for the award
>
> (2) Benefits both the award and other work and can be distributed in reasonable proportion to the benefits received, or
>
> (3) Is necessary to the overall operation of the organization, although a direct relationship to any particular cost objective cannot be shown.
>
> Any cost allocable to a particular award or other cost objective under these principles may not be shifted to other Federal awards to overcome funding deficiencies, or to avoid restrictions imposed by law or by the terms of the award."

The relationship of the NSI contract to the computer workstation is one of direct benefit. The computer workstation was purchased under the grant and was being used by contractor personnel to perform the contractor's work. The cost of the computer workstation should be allocable to the contract and not the grant.

In our opinion, ERL-C may have shifted costs of the contract to the grant to overcome funding deficiencies or other restrictions. ERL-C should improve controls over its extramural agreement procedures to ensure that the appropriate funding instrument is used for the products or services required.

AWARD OF IAGs TO A FOREIGN GOVERNMENT WITHOUT A WAIVER

ERL-C awarded funds-in and funds-out IAGs with Environment Canada National Wildlife Research Center without obtaining required waivers. Funds-in IAGs are agreements where ERL-C provides the products or services for the benefit of another agency and receives payment from that agency. Funds-out IAGs are agreements where products or services are provided by another agency for the benefit of ERL-C and funds are paid to that agency.

In our opinion, these IAGs with Canada were improperly awarded. According to the Interagency Agreement Policy and Procedures Compendium, "No element of EPA is authorized to enter into an IAG with any foreign organization." The Compendium further states that the proper procedure requires EPA to enter into an IAG with the Department of State, unless an exception is made by the Office of International Activities (OIA). By not following the requirements for foreign agreements, ERL-C defeated Federal monitoring of funding instruments with foreign governments.

> Funds In-IAG. RWCN935019, from Environment Canada Biotechnology Section to ERL-C, was used to fund an $86,000 cooperative agreement with the University of Maryland. The IAG was entitled "Validation of Microcosm Interim Protocols for Competition and Survival Tests for Genetically Engineered Microorganisms" and was scheduled to run from February 1991 through September 1993.
>
> Funds Out-IAG. DWCN935524, with Environment Canada National Wildlife Research Center, was used to fund a $121,300 position of a foreign national at ERL-C. The purpose of the IAG was to have a technical expert provide scientific oversight and input for ERL-C's participation in a multi-agency effort to investigate the effects of alternative farming practices. The project was scheduled to run from May 1992 through April 1994 and the scientist was to work on-site at ERL-C. As of May 1993, ERL-C had taken steps to convert this IAG into a cooperative agreement based upon guidance from the Office of General Counsel.

At the time the IAGs were awarded, ERL-C personnel were not aware that they could not directly enter into agreements with foreign governments.

ERL-C personnel have taken the action described above to correct the use of IAGs with foreign organizations. However, improvements to procedures are needed. ERL-C currently uses a checklist to review IAGs for completeness, but the checklist does not clearly state the steps required to enter into an agreement with a foreign organization. The checklist

requires that a memorandum be sent to the Director of the OIA. The checklist should be revised to require that IAGs are made with the Department of State to obtain the services of a foreign organization, or that a waiver is obtained from OIA.

RECOMMENDATIONS

1. We recommend that the Assistant Administrator for Administration and Resources Management revise and clarify EPA guidance for IAGs by requiring that the provisions of the FGCA Act be applied to the selection of assistance agreements and that the selection decision be documented in the decision memorandum.

2. We recommend that the Acting Assistant Administrator for Research and Development instruct the Director of ERL-C to:

a. Take steps to ensure that the selection of the funding instrument is in accordance with the FGCA Act and that the basis for the selection, including the principal purpose of the agreement, is clearly explained in the decision memorandum.

b. Take corrective action to ensure that grants, cooperative agreements and IAGs are appropriately used. Specifically:

(1). IPA assignments of university staff to EPA should not be funded with cooperative agreements; and

(2). Controls over extramural agreement procedures should be improved to ensure that costs are not shifted to other agreements to overcome funding deficiencies.

c. Take steps to ensure that IAG review checklists are revised to require that IAGs are made with the Department of State to obtain the services of a foreign organization, or that a waiver is obtained from OIA.

AGENCY'S COMMENTS AND OIG EVALUATION

AGENCY COMMENTS

OARM Comments

OARM was partially responsive to our recommendation by stating that the Grants Administration Division had instituted a procedure requiring the project officer of other agencies to certify that assistance agreements awarded through IAGs were properly awarded.

OARM disagreed with some of the findings and conclusions in our report which related to recommendations made to ORD. One area of disagreement was our conclusion that five grants and cooperative agreements should have been awarded as contracts. OARM stated that our conclusions should not have been based upon wording in decision memorandums, but upon wording in statements of work.

It is OARM's position that these documents serve different purposes and the fact that files contain conflicting or unclear documentation about the principal purpose should be expected. Decision memorandums are written in large part to justify the use of EPA funds in support of each project. They have little bearing on whether a proposed project is appropriately awarded as a grant or a cooperative agreement. Statements of work are the primary documents reviewed by grants staff. Since each determination is a judgement, reasonable persons may differ as to the principal purpose of any agreement.

The response also stated that the Grants Administration Division is developing new guidance to aid in the selection between grants and cooperative agreements and contracts. The complete text of OARM's comments is also included in APPENDIX A of this report.

ORD Comments

In a response to the draft report, ORD concurred with all the recommendations and agreed to correct all of the deficiencies noted in the report. The response stated that the recommendations were constructive and that corrective actions in response to many of them should be designed not solely for ERL-C operations but for ORD operations generally. The complete text of ORD's comments is included in APPENDIX A of this report.

OIG EVALUATION OF AGENCY'S COMMENTS

We are pleased that Agency officials have accepted our recommendations and have already begun corrective actions. OARM's statement that the Grants Administration Division had instituted a procedure requiring the project officer of other agencies to certify that assistance agreements awarded through IAGs were properly awarded will help to solve some of the deficiencies identified in our report.

However, in our opinion, EPA also has some responsibility to ensure that assistance agreements awarded under IAGs meet the provisions of the FGCA Act. As discussed in Chapters 2 and 3 of this report, assistance agreements awarded under IAGs can be a significant portion of the IAG's scope of work and we noted some inappropriate uses of those agreements.

Regarding OARM's comments on the appropriate selection of extramural funding instruments, we concluded that some agreements did not meet the provisions of the FGCA Act based on our examination of pertinent documents in the agreement files including the scopes of work, decision memorandums, proposals, and correspondence.

It is also our opinion that decision memorandums and scopes of work should not contain conflicting principal purposes for the agreement merely because they are intended for different purposes. Because scopes of work might not always explicitly state the principal purpose of the agreement, we continue to recommend that the Agency takes steps to ensure that the selection of the funding instrument is in accordance with the FGCA Act and that the basis for the selection, including the principal purpose of the agreement, is clearly explained in the decision memorandum.

CHAPTER 3

MANAGEMENT OF ASSISTANCE AND INTERAGENCY AGREEMENTS NEEDS IMPROVEMENT

ERL-C needs to improve its management of assistance agreements and IAGs. While we found that the project officers met the requirements for obtaining technical reviews, monitoring progress, and meeting special conditions for assistance agreements, improvements are needed in several areas. These include: (i) ensuring that the scope of IAGs is for an independent, distinct project; (ii) establishing controls to identify potentially unallowable costs and ensuring that claimed costs are appropriate; (iii) identifying the use of contractors under IAGs; (iv) improving documentation of site visits; and (v) increasing the reliability and usefulness of its extramural database.

Because ERL-C did not have sufficient management controls over its assistance agreements and IAGs, some projects were managed less effectively; unallowable costs might have been reimbursed; EPA funds were used to pay for work requested by other agencies; and requirements for identifying contractor use and approval of sole-source procurements were circumvented.

BACKGROUND

The EPA Assistance Administration Manual (issued December 1984), the Project Officer's Handbook (issued March 1988), and the Interagency Agreement Policy and Procedures Compendium (issued May 1988) establish guidelines for management of assistance agreements and IAGs. The guidance states that the project officer is responsible for managing and monitoring the progress on extramural projects.

SCOPE OF WORK NOT PROPERLY MANAGED FOR INTERAGENCY AGREEMENTS

In three of six funds-out IAGs reviewed, we found that the scope of work did not cover a distinct project, as required. We believe that the combining of multiple, and sometimes unrelated, projects contributed to difficulties for project officers to manage the IAGs effectively.

The EPA Assistance Administration Manual requires that each IAG be for an independent, distinct project with a clearly defined objective. The activities under the agreement should

all serve the same objective throughout the project period. Unrelated activities should be funded under separate agreements. In addition, the IAG Handbook developed by ERL-C requires that the project officer review any change of scope to ensure that it is within the original scope of work.

The three IAGs that we identified with multiple projects are discussed below.

DW12934099 with ARS
ERL-C entered into this IAG with the ARS to perform rice studies. The IAG was amended to include a second project related to tree studies.

DW12934530 with FS
ERL-C entered into this IAG with the FS to perform several different projects. These projects covered many areas of environmental research including Global Climate Change, Ecosystem Health, Global Biogeochemistry, and Global Effects. These projects covered both the Global Climate Change and Air Pollution Effects Programs under ERL-C's Terrestrial Branch and the Environmental Monitoring and Assessment Program (EMAP) under the Watershed Branch.

Since our survey, ERL-C has taken steps to decrease the number of projects covered by IAG No. DW12934530. The work under EMAP has been cancelled and other areas of the project have been completed.

DW12935631 with FS
ERL-C entered into this IAG with the FS to perform three separate projects including: (i) plan and develop databases for geographic analysis; (ii) research the link between geography and environmental monitoring; and (iii) research on the scientific basis for ecological regionalization. In addition, a fourth project to produce a subregional map of Massachusetts was discussed in the Decision Memorandum (DM).

We also noted that in two of the three projects discussed above, the project officers could not locate or had not received all required progress reports. The project officer for the FS agreement (DW12934530) could not initially locate any required reports. After a subsequent search, the project officer did locate 12 of 15 reports and found that three had not been submitted to ERL-C. The project officer for the ARS agreement could not locate 4 of 12 progress reports because they had not been received or had been misplaced. In addition, project officers were often transferred to different projects and current project officers had difficulty locating documents related to the projects.

We concluded that a lack of training contributed to using one IAG for multiple projects. While the project officers believed that the tasks had been combined because they were related, they also noted that they had not received training on the management of IAGs.

INADEQUATE FINANCIAL MONITORING BY PROJECT OFFICERS

ERL-C personnel did not monitor the costs related to assistance agreements and IAGs. ERL-C personnel were not always aware of the requirements and did not have the necessary information to perform the required functions. As a result, the project officers did not adequately monitor costs claimed under the projects.

Financial Monitoring of Cooperative Agreements

ERL-C personnel were not receiving and reviewing the financial status reports (FSRs) for assistance agreements. In general, ERL-C personnel were unaware that they should receive the reports and as a result there were no reviews of claimed costs compared with progress on the projects.

The EPA Assistance Administration Manual recommends that the project officer review the FSRs in relation to the recipient's progress reports and the project officer's evaluation. This report should be provided by the Grants Administration Division, which has the main responsibility for monitoring costs.

The review of assistance agreement costs is an important internal control step to assure that progress is being made toward project completion within the budget. Also, the recommended reviews could identify potentially unallowable costs, such as costs incurred prior to the date of award.

As an example of potential unallowable costs, ERL-C granted funds for a conference which was scheduled to occur prior to the date of award. The possibility of unallowable costs claimed was not investigated by either the project officer or the grants specialist. The Gordon Research Institute received a grant for $24,950 to fund a research conference. The recipient held the conference July 1-5, 1991, prior to the date of the award which was July 18, 1991. The recipient may have claimed unallowable costs for this conference. The project officer, who was aware of the conference dates, did not have any information on costs claimed. The grants specialist did not have information on the conference dates but knew that the recipients had claimed $12,671 for a July 1991 conference.

ERL-C Underbilled Costs For Funds-in IAGs

ERL-C did not have a system in place to ensure that all costs were budgeted and actual costs were billed to recipients of EPA's services under IAGs. As a result, ERL-C did not recover all its costs related to reimbursable IAGs, and EPA funds were used to pay for work requested by another agency. Examples of these conditions are provided below:

RWFL934928 with the State of Florida
ERL-C agreed to assemble and prepare maps, data and reports concerning environmental factors relating to regionalization for the Florida Department of Environmental Regulation under an IAG awarded in January 1991. The budget of $160,000 included costs for travel and procurement. No costs for EPA salaries were budgeted, even though EPA personnel performed work in Florida on this project. The billings to the State of Florida were based on the budget.

RW21935113 with United States Department of Agriculture
ERL-C agreed to provide map plotting services for the Forest Service, Columbia River Gorge National Scenic Area under an IAG awarded in May 1991. The budget of $5,000 included only costs for supplies. No costs were included for procurement even though the work was to be performed by an EPA contractor. The billings were based on the actual cost of supplies and no other costs were included.

We also determined that neither of these agreements included ERL-C indirect costs (i.e., overhead). Yet, ERL-C has a policy to include a 15 percent overhead on all costs of IAGs.

When EPA enters into an IAG with another Federal agency or a State or local government, it should recover all costs. The Intergovernmental Cooperation Act requires that salaries and other identifiable costs of providing services be paid to the executive agency by the State or local government making the request. In addition, the Economy Act states that the basis for costs of interagency agreements among Federal agencies should be actual cost. The Economy Act states that "a bill submitted or a request for payment is not subject to audit or certification in advance of payment. Proper adjustment of amounts paid in advance shall be made as agreed to by the heads of the agencies or units on the basis of the actual cost of goods or services provided."

We attribute part of the above condition to the lack of training in the management of IAGs. ERL-C project officers stated that they had not received any training on IAGs. In addition, ERL-C did not have a system in place to ensure that all the costs of the project were budgeted and that actual

costs were accumulated for billing purposes. As a result, EPA funds were expended to cover the cost of work for other Federal agencies and State and local governments.

Financial Monitoring of Funds-out IAGs

In four of six funds-out IAGs reviewed, project officers approved payments for services provided without a review of detailed costs for the billings. The guidance for IAGs requires specific costs for the billings. According to the Project Officer's Handbook, project officers, as part of monitoring the progress of work done, are to:

> "... Receive and review detailed cost information submitted by other Federal agencies. If this information is not included on or with vouchers submitted for payment, the Project Officer shall contact the other agency and obtain the information. At the same time, he shall notify CFMC (Cincinnati Financial Management Center) of the lack of cost information and the need to withhold payment."

During our review we found that ERL-C project officers received, signed, and returned EPA payment approval forms to the accounting office in Cincinnati without a review of detailed cost information from the other agencies. There was no assurance, other than a project officer's general knowledge of project progress, that costs billed by other agencies were reasonable or related to the work performed.

As a result, we could not determine if billings from other agencies were reasonable or related to work performed because there was no detailed support for the billings. In our opinion, the review of detailed cost information from other agencies is a significant management control that ERL-C project officers should follow.

USE OF A CONTRACTOR NOT ALWAYS DISCLOSED

The award document for IAGs (EPA Form 1610-1) did not always disclose the use of a contractor, as required. As a result, the Federal Acquisition Regulation (FAR) requirements for identifying contractor use and approval of sole-source procurements were circumvented.

According to Section 1, Paragraph 7J of the Interagency Agreement Policy and Procedures Compendium, if a contractor will be used under an IAG, the name of the contractor, contract amount, and the percentage, if any, to be funded by EPA should be identified on the EPA Form 1610-1. The Compendium also states that when using another agency's funds for a contract, EPA must consider requirements in the FAR and

obtain approval of the sole-source justification from the Office of Acquisition Management.

We noted an IAG where ERL-C did not meet the contractor disclosure requirement. ERL-C supplied contractor employees under the U.S. Army Biomedical Research and Development Lab funds-in interagency agreement awarded in July 1989. The IAG was for $255,000, of which $205,000 has been obligated. Under the IAG, ERL-C will develop and adapt bioassay test methods for direct and site assessments of contaminated wetland areas. The budget for the agreement includes costs for salaries, travel, equipment, supplies, procurement and indirect costs. With the exception of the sixth and most recent amendment, no costs were budgeted for procurement. The laboratory stated on Form 1610-1 that no costs would be expended for procurement. However, we found that all costs to date and all expected costs were/will be incurred by Mantech Environmental Technologies, Inc., an EPA contractor.

The Form 1610-1 was incorrectly completed and did not clearly state the intent to use contractors for the project because, in our opinion, the project officers have not had adequate training on the management of interagency agreements. As a result, ERL-C personnel did not follow FAR requirements including those for competition or approval of sole-source justification.

SITE VISITS NOT DOCUMENTED

Site visits performed by project officers were not always documented, as required. As a result, an important management tool was not used and the grants specialist did not receive information on the project progress.

For 9 of the 15 assistance agreements that we reviewed, we were able to determine that project officers had made site visits. However, the project officers did not prepare or were unable to locate a trip report for five of the nine site visits. The project officers were not always aware of the requirement to prepare a trip report.

The EPA Assistance Administration Manual requires the project officer to prepare a trip report after performing a site visit. This report should highlight the project officer's findings and evaluate the quality of work being performed. The project officer should provide this information to the grants specialist assigned to the project.

It is important for the project officer to document work performed on the project. A trip report not only documents the information for the current project officer's reference but also provides valuable information to anyone else who may

work on the project in the future. In addition, this information can help the grants specialist in managing the award.

EXTRAMURAL AGREEMENT DATABASE INACCURATE

The database system developed by ERL-C to track extramural agreements had many errors and could not be used by management as a reliable source of information. To be an effective management tool, a database system needs to be accurate.

ERL-C had developed an internal database system to track its large number (approximately 100) of extramural agreements. The database included information such as the project number, recipient, title, dollars obligated, and project officer. The system was developed primarily to provide a listing of projects and to notify project officers when a new funding package must be prepared.

We reviewed six database fields: project number, project recipient, project period, cumulative dollars obligated, total project dollars allowed, and competition. There were errors in all database fields reviewed except the identification of project recipient. Of the agreements included in our universe, there were errors in 43 percent of the project entries. As a result, the information could not be relied upon and we had to review each file to determine which agreements were active as of March 1993.

ERL-C officials stated that the database system had become a low priority and was not updated on a regular basis and that they were aware of the inaccuracies in the system.

We believe that the database system is a significant management control that is valuable in managing extramural activities. If accurate, the information would give management an overview of all the current extramural activities. In our opinion, an accurate and complete database system is significant to the decision-making process for the multi-million dollar extramural program at ERL-C.

RECOMMENDATIONS

We recommend that the Acting Assistant Administrator for Research and Development instruct the Director of ERL-C to:

1. Develop procedures and controls to ensure that each IAG is for an independent, distinct project with a clearly defined objective.

2. Improve monitoring of assistance agreements and IAGs by:

   a. Requiring reviews of FSRs on cooperative agreements in relation to the recipient's progress reports and the project officers's evaluation.

   b. Providing training for project officers on the use and management of IAGs.

   c. Establishing a system to ensure that all costs for funds-in IAGs are budgeted and accounted for and billed to other agencies.

   d. Requiring that project officers obtain and review detailed costs for funds-out IAGs prior to approving invoices for payment.

3. Establish procedures to ensure that FAR requirements are met and that the use of contractors is disclosed on IAG award documents.

4. Require project officers to document site visits by making trip reports.

5. Take steps to ensure that the extramural agreement database is accurate.

AGENCY'S COMMENTS

In a response to the draft report, ORD concurred with all the recommendations and agreed to correct all of the deficiencies noted in the report. The complete text of ORD's comments is included in APPENDIX A of this report.

CHAPTER 4

FMFIA INADEQUATELY IMPLEMENTED

ERL-C has not adequately implemented the Federal Managers' Financial Integrity Act (FMFIA) of 1982, as it applies to grants, cooperative agreements and IAGs. Internal control evaluations for cooperative agreements, grants, and IAGs have not been planned or performed, and event cycle documentation is not complete. ERL-C personnel have not been aware of how to implement evaluation procedures and the requirement for event cycle documentation for grants. As a result, weaknesses of internal controls for assistance agreements and IAGs were not detected, reported, or corrected.

BACKGROUND

FMFIA requires that each executive agency establish internal accounting and administrative controls in accordance with standards prescribed by the Comptroller General. OMB Circular A-123 and EPA Resources Management Directive 2560 prescribe the policies and procedures for Agency implementation of FMFIA requirements. The FMFIA process consists of the following activities:

- Risk Assessments every year to identify vulnerable operations;
- A Management Control Plan (MCP) covers a 5 year period and lists the reviews to be performed each year; and
- Internal Control Reviews (ICRs) and Alternate Internal Control Reviews (AICRs) annually.

The FMFIA activities that we reviewed at ERL-C included the annual reporting of control weaknesses, performance of internal control reviews, planning of the reviews, and preparation of the internal control documentation used as a basis for the reviews. We reviewed these FMFIA activities in accordance with EPA's implementation of the FMFIA process.

ORD's Office of Research Program Management (ORPM) provides guidance on implementation and performance of FMFIA tasks. ORPM guidance uses slightly different terminology in describing FMFIA activities. ORPM refers to ICRs as Management Control Reviews (MCRs) and AICRs as Alternative Management Control Reviews (AMCRs).

According to ORPM Transmittal No. 92-197, reviews (MCRs and AMCRs) are to be conducted annually. The scheduling and completion of these reviews are submitted to the Agency as Management Control Plans (MCPs). There are three types of reviews:

> Management Control Reviews are based upon event cycle documentation and include a review of all control objectives and techniques. The results are written in a report which states who performed the review, the methods used, conclusions, and recommendations.
>
> Alternative Management Control Reviews are based upon event cycle documentation and include a review of at least one control objective and one control technique. The results are also written in a report containing the same types of information.
>
> Other Reviews include OIG audits, GAO audits, contractor studies, program office studies, congressional reviews and similar evaluations of management controls. These other reviews can be classified as FMFIA reviews if they meet the criteria of the above (MCR and AMCR) reviews.

In order to perform MCRs and AMCRs, event cycle documentation must be prepared. According to a ORPM memorandum FY 1992 Internal Control Documentation, dated June 2, 1992:

- A major compliance requirement for ... the Office of Research and Development (ORD) under ... FMFIA is documentation of our Internal Control Program. One principal category is Event Cycle Documentation (ECD).
- ECD identifies the primary processes and responsibilities of each major operating office, i.e., Assessable Unit (ERL-C) ... It is to be reviewed annually and updated prior to submission of annual assurance letters.
- Assessable Unit Managers (i.e., ERL-C Lab Director) must certify to the completeness and accuracy of their respective Event Cycle Documentation ...

There can be a number of event cycles identified with the processes and responsibilities of a laboratory. Each event cycle has documentation that consists of internal control objectives and techniques. The number of objectives for each event cycle and the number of techniques for each objective will depend on the complexity and significance of the process being documented.

MATERIAL WEAKNESSES NOT REPORTED IN THE FISCAL 1992 ANNUAL REPORT

ERL-C did not consider its extramural management program to be a material weakness in fiscal 1992 even though ORD has declared it a material weakness in its program since fiscal 1990. Our review of ERL-C FMFIA procedures found that the laboratory had not performed any reviews to determine if its internal control objectives and techniques for grants, cooperative agreements, and IAGs were operating effectively. Without a review of its controls, the laboratory did not identify any weaknesses. As a result, significant internal control weaknesses in procedures for cooperative agreements and IAGs identified in Chapters 2 and 3 of this report were not detected and reported in the annual FMFIA report.

REVIEWS OF INTERNAL CONTROLS WERE NOT PERFORMED BY ERL-C

ERL-C has not performed any MCRs or AMCRs of internal controls over cooperative agreements and IAGs. ORPM guidance states that MCRs and AMCRs should be performed annually. ERL-C personnel stated that they did not know who at the laboratory should perform the reviews.

Management Control Reviews. ERL-C has not performed any MCRs for extramural agreements or other activities of the laboratory. MCRs are a review of all control objectives and techniques of an event cycle. MCRs provide the opportunity to test the adequacy of internal control objectives and techniques to control the use of funds and accomplish program objectives. The testing of all objectives and techniques together can detect weaknesses that are not covered by existing cycle documentation. By not performing MCRs, ERL-C was unaware of internal control weaknesses.

As an example of undetected weaknesses, we found that an IAG with the Forest Service (DW12934530) included a number of extramural agreements. One extramural agreement was a cooperative agreement for $50,000 with Oregon State University to provide database design services. Our review and discussions with the project officer determined that the extramural agreement should have been a contract instead of a cooperative agreement. According to the FGCA Act, this situation could be considered an avoidance of the procurement system requirements.

ERL-C's IAG event cycle documentation did not include control objectives and techniques to evaluate the type of extramural agreement that should have been used in accordance with the FGCA Act and did not include extramural agreements made through IAGs. As a result, there was a gap in the internal control techniques that needs to be corrected.

Alternative Management Control Reviews. We found that no AMCRs had been planned or performed. By not performing AMCRs or MCRs ERL-C had not tested the adequacy of any of its internal control objectives and techniques for extramural agreements and was unaware of internal control weaknesses.

To illustrate undetected weaknesses as a result of not performing AMCRs, we found that ERL-C had entered into a cooperative agreement (CR819077) with Oregon State University to fund an Intergovernmental Personnel Act (IPA) assignment. The agreement provides funds for a university faculty member to work at the laboratory. However, the funding of IPA assignments by cooperative agreement is an inappropriate use of the agreement. The IPA assignment should have been funded directly through EPA payroll or by the university. The effect of using a cooperative agreement to fund an IPA is to inappropriately "reprogram" research and development funds to pay for salaries and expenses.

It is apparent that the reviews performed by the ERL-C administrative office were not effective in detecting this type of improper use of a cooperative agreement. By not performing an AMCR, the internal control procedures of the administrative office have not been tested. Had an AMCR been performed, this weakness should have been detected.

ERL-C should review and if necessary revise its event cycle documentation. It should then start performing AMCRs to test its internal controls and revise its ECD and internal control procedures based upon the results of the reviews.

MCR-AMCR Reviewer Not Appointed. According to the ERL-C internal control coordinator, MCRs and AMCRs have not been performed because ERL-C management did not know who should perform them. In our opinion, ERL-C management should appoint one or more staff who are familiar with the guidance for extramural agreements and the procedures used at the laboratory to be responsible for FMFIA activities. The reviews should include project officers as well as administrative office activities.

MANAGEMENT CONTROL REVIEWS WERE NOT PLANNED

ERL-C has not planned to perform any management control reviews (MCRs) or alternative management control reviews (AMCRs) for grants, cooperative agreements and IAGs. According to FMFIA guidance, the reviews should be scheduled in Management Control Plans. However, ERL-C's FMFIA procedures were not adequate to ensure that the reviews were planned. As a result, MCRs and AMCRs of extramural agreements had not been performed and none were scheduled.

According to FMFIA guidance issued by the ORPM, FMFIA requires that annual reviews be conducted to evaluate the adequacy of management controls to detect and prevent fraud, waste, and mismanagement. The scheduling and completion of these reviews are submitted to the Agency as Management Control Plans (MCPs).

A review of the FY 1992 management control plan showed that ERL-C had not scheduled MCRs for any of its activities. The plan consisted of AMCRs and other reviews. We found that none of the AMCRs addressed internal control objectives and techniques for cooperative and interagency agreements. The only mention of any review of cooperative and interagency agreements was a reference to this OIG audit. ERL-C personnel stated that it was an oversight that AMCRs had not been scheduled.

The lack of planned reviews weakens ERL-C's controls over its FMFIA program. Documenting scheduled MCRs and AMCRs in the Management Control Plan creates a record that can be used for evaluating performance of reviews at year-end. At year-end, reviews completed can be compared to the MCP to determine which reviews have not been done. The result of not planning reviews is that they will not be performed and non-performance will not be detected.

GRANTS NOT INCLUDED IN CRITICAL EVENT CYCLES

ERL-C did not have event cycle documentation for all extramural agreements types. Event cycle documentation is a FMFIA program requirement and starting point for subsequent internal control procedures. The documentation must be annually certified as complete by the Laboratory Director. There was a grant being administered by the laboratory but there was no event cycle documentation for grants. ERL-C managers were not aware of any grants at the laboratory and no grant event cycle documentation was prepared. As a result, grants were not subject to FMFIA internal control review procedures, and the Laboratory Director misreported that event cycle documentation was complete in his annual certification.

RECOMMENDATIONS

We recommend that the Acting Assistant Administrator for Research and Development instruct the Director of ERL-C to:

1. Appoint personnel, who are familiar with the guidance for extramural agreements and laboratory procedures, to perform reviews of internal controls to include:

   a. Scheduling and performing annual MCRs or AMCRs for extramural agreements including project officer activities; and

   b. Reviewing and if necessary revising ERL-C's event cycle documentation to address weaknesses disclosed by this audit.

2. Improve procedures to require that MCPs are complete and specifically include MCRs and AMCRs of grants, cooperative agreements, and IAGs.

3. Revise event cycle documentation to include internal control objectives and techniques for grants.

4. Include all weaknesses disclosed by internal control reviews in the year-end FMFIA reports and that those reports reflect complete cycle documentation.

AGENCY'S COMMENTS

In a response to the draft report, ORD concurred with all the recommendations and agreed to correct all of the deficiencies noted in the report. The complete text of ORD's comments is included in APPENDIX A of this report.

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

JAN 24 1994

OFFICE OF
RESEARCH AND DEVELOPMENT

MEMORANDUM

SUBJECT: Management of Assistance and Interagency Agreements at ERL-Corvallis, Draft Audit Report No. E1FBF3-10-0069-

FROM: Gary J. Foley
Acting Assistant Administrator
for Research and Development (8101)

TO: Michael Simmons
Associate Assistant Inspector General
for Internal and Performance Audits (2421)

In response to your December 6, 1993 memorandum, we have reviewed the draft audit report on Management of Assistance and Interagency Agreements at the Corvallis Laboratory and concur with all the findings.

Your audit staff has identified some important deficiencies in our existing internal control and management systems. We will correct all deficiencies noted in the report.

We accept all of the recommendations in the report. We find them to be constructive and we intend that our corrective actions in response to many of them should be designed not solely for ERL-C operations but for ORD operations generally. We are still in the process of defining responsibilities and deadlines for these corrective actions and will be submitting our complete list to you on February 1, 1994.

Thank you for the opportunity to provide this response.

cc: Jonathan Cannon
Courtney Riordan

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

JAN 13 1994

OFFICE OF ADMINISTRATION AND RESOURCES MANAGEMENT

MEMORANDUM

SUBJECT: Comments on December 6, 1993, Audit of Corvallis, Oregon Laboratory--E1FBF3-10--0069

FROM: Jonathan Z. Cannon
Assistant Administrator

TO: Michael Simmons
Associate Assistant Inspector General for Internal and Performance Audits (2421)

This is the Office of Administration and Resources Management comments on and response to the December 6, 1993, draft audit report on the Corvallis Laboratory (Audit Report Number E1FBF3-10-0069).

We question the audit's conclusion that five of the Corvallis grants and cooperative agreements reviewed should have been awarded as contracts. The audit report primarily depends on reviews of decision memorandums to support the conclusions.

The EPA Assistance Administration manual includes an outline of a decision memorandum (Chapter 15, Figure 3) which includes "Relationship of Project to Program's Mission." Decision memorandums are written in large part to justify the use of EPA funds in support of each project, often by project officers with no authority to commit funds. Approval officials who receive the memorandums have many demands on funds available and use the memorandums to determine whether a proposed project is the best use of EPA funds when compared to other priorities. For example, on page 8, the report says a project should have been a contract because the decision memorandum states--

> This data will contribute to the Agency's policy decisions regarding acid deposition.

While this language makes clear the project represents a worthwhile use of EPA resources, it does not necessarily imply the principal purpose of the project is for the direct use and benefit of the Federal government. Clearly, it would be inappropriate to use funds for activities not consistent with and necessary to EPA's mission.

In future audits, we recommend that auditors also review statements of work to determine the principal purpose of each project. This is the primary document reviewed by grants staff. Since each determination is a judgement based on grant guidance and GAD grants specialists' training and experience, as in any judgement case, reasonable persons may differ as to the principal purpose of any agreement.

To provide additional documentation in determining whether a proposed project should be funded as a grant or cooperative agreement, GAD will issue revised guidance for HQ decision memorandums by March 1, 1994, to require that the memorandums include better explanations of the support or stimulation aspects of each project. Also, as we have previously advised the Inspector General, GAD is developing new guidance to aid in the selection between grants and cooperative agreements and contracts.

With respect to Interagency Agreements, we can neither agree nor disagree with the audit report's conclusions that at least two of the grant/cooperative agreements awarded by other agencies should have been contracts. We do disagree with the auditors method for making those determinations. For funds out IAGs, as in the case of cooperative agreements, the EPA decision memorandums are written for EPA use in determining whether a project warrants funding with EPA funds. To determine whether another agency correctly awarded a grant or cooperative agreement with those funds, it would be necessary to review the other agency's statements of work for the assistance agreements as well as that agency's legislation. Because of this difficulty, GAD took action last year to reduce the likelihood that other agencies will use EPA funds for activities under grants or cooperative agreements that should be funded under contracts. When funds out agreements indicate that the other agency will use some of the funds for a grant or cooperative agreement, GAD requires the other agencies' project officers to submit a statement similar to the following--

> I have reviewed the work proposed to be conducted under the IAG referenced above. I have concluded the principal purpose of the work under the grant or cooperative agreement will be to support or stimulate the receiving organization to accomplish a public purpose. In my opinion, the principal purpose of the project activities is not for the direct use and benefit of EPA or the other Federal Agency.

Also, GAD has taken action to assure that agreements with foreign governments are approved by the appropriate agencies by assuring the agreements are coordinated with the Offices of International Activities and General Counsel. Further, we have determined that it is inappropriate to award funds-out IAGs to foreign countries. We ended that practice before the beginning of FY 1993. We also recommend that you delete the audit report's reference (page 15) to the use of the State Department as discussed in the Compendium. We have determined the State Department has very little authority to provide funds directly to foreign

governments. We now require that funds which EPA provides directly to foreign governments be awarded only under grants or cooperative agreements.

Finally, as the report states on page 17, the Compendium of Interagency Agreement Procedures is a guidance document. Although it states that IAGs must be awarded for specific projects, there are many cases when it is better to award a single IAG for a number of related projects. The GAD specialists and Award Official review each proposed IAG in accordance with the guidance, but allow award of multi-activity agreements when it appears justified. This is the case with respect to some of the IAGs cited in the report. Further, what constitutes a specific project is dependent on the view of each reviewer. In the case of the EMAP agreement, the reviewer concluded that EMAP was a specific project. The project under the Forest Service project was for computer system work and again, the grants specialist concluded it was a specific project. The audit report must be made clear as to what specific aspects about the multi-activity agreements resulted in problems.

In addition to these general comments, we have attached a list of specific comments. If you have questions concerning our comments, please call Scott McMoran on (202) 260-4392, the award official for IAGs or Millie Lee on (202) 260-5252, the award official for grants and cooperative agreements.

Attachment

cc: Sallyanne Harper
Gary Foley
Courtney Riordan

ATTACHMENT

Specific Comments

- Page 7--The fact that files contain conflicting or unclear documentation about the principal purpose should be expected as each document is to serve different purposes. That statement should be revised to reflect the fact that it would be improper for an approval official to authorize use of funds for activities that were not necessary for and directly related to EPA's mission. Thus, these decision memorandums have little bearing on whether a proposed project is appropriately awarded as a grant or a cooperative agreement.

- Page 8--GAD staff have reviewed the statement of work for the University of Maine cooperative agreement and we believe it supports the award of the agreement.

- Page 10--The conclusion that the activities carried out under Forest Service grants were for the direct use and benefit of the Federal government can only be made by reviewing the Forest Service's statements of work. This IAG was awarded under the authority of EPA's cooperation provisions as well as the Economy Act. This means that the project was for more than the purchase of services for the direct use and benefit of EPA. It was also intended to support a cooperative project.

- Page 16--Recommendation 2.b.(1) should be revised to state that IPA Assignments of University staff to EPA should not be funded with cooperative agreement funds. IPA assignments to EPA recipients can be funded with grant and cooperative agreement funds when the assignee is working on an EPA supported project.

- Page 34--The "maximum amounts" shown on the table for funds out IAGs generally exceeds the amounts awarded by EPA. This gives a false picture of the amount of funds in question.

- Page 35--The table heading should read' "Funds-in Interagency Agreements."

GAD Response to OARM Recommendations

- Page iv, Number 1.--Since October 1993, GAD required other agencies' project officers to certify that EPA funds used for grants and cooperative agreements will be awarded consistent with the Federal Grant and Cooperative Agreement Act. We now require, from the other agencies' project officers a statement similar to the following--

I have reviewed the work proposed to be conducted under EPA Interagency Agreement (DW #). I have concluded the principal purpose of the work to be performed under the grant will be to support or stimulate the receiving organization to accomplish a public purpose. In my opinion, the principal purpose of the project activities is not for the direct use and benefit of this Department or EPA.

- Page 16--Number 1. See response above.

APPENDIX B

GLOSSARY OF ACRONYMS AND ABBREVIATIONS

AICR	-	Alternative Internal Control Review
AMCR	-	Alternative Management Control Review
ARS	-	United States Department of Agriculture, Agriculture Research Service
CA	-	cooperative agreement
DM	-	Decision Memorandum
ECD	-	Event Cycle Documentation
EMAP	-	Environmental Monitoring and Assessment Program
EPA	-	Environmental Protection Agency
ERL-C	-	Environmental Research Laboratory, Corvallis Oregon
FAR	-	Federal Acquisition Regulation
FGCA	-	Federal Grant and Cooperative Agreement Act of 1977
FMFIA	-	Federal Managers' Financial Integrity Act of 1982
FS	-	United States Department of Agriculture, Forest Service
FSR	-	financial status report
FY	-	Fiscal Year
IAG	-	interagency agreement
ICR	-	Internal Control Review
IPA	-	Intergovernmental Personnel Act
Max.	-	Maximum
MCP	-	Management Control Plan
MCR	-	Management Control Review
NCASI	-	National Council of the Pulp and Paper Industry for Air and Stream Improvement
OARM	-	Office of Administration and Resources Management
OIA	-	Office of International Activities
OIG	-	Office of Inspector General
OMB	-	Office of Management and Budget
OPPE	-	Office of Policy, Planning and Evaluation
ORD	-	Office of Research and Development
ORPM	-	Office of Research Program Management
OSU	-	Oregon State University
R&D	-	Research and Development
S&E	-	Salary and Expense
UM	-	University of Maine

GRANTS, COOPERATIVE AND INTERAGENCY AGREEMENTS SAMPLED

Recipient	Number	Date Awarded	Maximum Amount
Grant Agreement:			
Gordon Research Institute	CR818386	07/19/91	$ 24,950
Cooperative Agreements:			
California State University, Los Angeles	CT902628	07/27/92	$ 267,336
Desert Research Institute, University and Community College System of Nevada *	CR820759	11/01/92	$ 530,664
International Rice Research Institute	CR817426	10/01/90	$5,033,243
Lund University	CR820629	10/01/92	$ 24,500
Oregon State University *	CR816721	07/03/90	$2,142,243
Oregon State University	CR819077	10/01/91	$ 79,786
Oregon State University	CR817682	10/01/90	$ 249,972
Maine, University of	CR816261	01/01/90	$1,824,966
Missouri, University of *	CR819075	11/15/91	$ 322,854
South Dakota State University	CR820664	10/01/92	$ 355,751
State University of New York *	CR816242	02/12/90	$1,240,000
Terrene Institute	CR820226	07/20/92	$ 47,500
Texas A&M Research Foundation *	CR820767	09/28/92	$1,085,724
Vermont, State of	CR815196	07/01/88	$ 106,901

* Assistance agreements that should have been awarded as contracts.

GRANTS, COOPERATIVE AND INTERAGENCY AGREEMENTS SAMPLED

Recipient	Number	Date Awarded	Maximum Amount
Funds-out Interagency Agreements:			
United States Department of Agriculture (USDA), Agriculture Research Service	DW12934099	09/01/89	$ 477,167
USDA Forest Service (FS) Pacific Northwest Forest and Range Experiment Station	DW12934530	03/01/90	$2,687,982
USDA FS, Pacific Northwest Forest and Range Experiment Station	DW12935631	06/01/92	$4,900,000
Environment Canada, National Wildlife Research Center	DWCN935524	05/01/92	$ 246,300
Department of Energy, Richland Operations Office Battelle Pacific Northwest Laboratory	DW89935183	08/01/91	$ 230,000
Department of Interior, U.S. Fish and Wildlife Service	DW14935634	07/01/92	$ 326,045
Department of Interior, U.S. Fish and Wildlife Service	DW14935644	06/15/92	$ 673,503
Assistance Agreements Funded under Funds-out Interagency Agreements:			
Florida, University of funded by DW12934099	-	-	$ 289,340
Oregon State University funded by DW12934530	-	09/01/90	$ 50,000
NCASI funded by DW12934530	-	-	$ 861,848

GRANTS, COOPERATIVE AND INTERAGENCY AGREEMENTS SAMPLED

Recipient	Number	Date Awarded	Maximum Amount
Funds-in Interagency Agreements:			
USDA FS Columbia River Gorge	RW12935113	05/01/91	$ 5,000
U.S. Army Biomedical R&D Laboratory	RW21934093	07/01/89	$ 255,000
Environment Canada, Biotechnology Center	RWCN935019	02/25/91	$ 86,000
Florida Department of Environmental Regulation	RWFL934928	01/01/91	$ 160,000

APPENDIX D

REPORT DISTRIBUTION

Office of Inspector General

Inspector General (2410)

EPA Headquarters

Assistant Administrator for Administration and Resources Management (3101)

Audit Liaison, Office of Administration and Resources Management (3101)

Assistant Administrator for Internal Activities (2610)

Office of General Counsel (2310)

Assistant Administrator for Research and Development (8101)

Director, Grants Administration Division (3903F)

Director, Office of Research Program Management (8102)

Audit Liaison, Office of Research and Development (8102)

Director, Office of Environmental Process and Effects Research (8401)

Comptroller (3301)

Agency Follow-up Official (3101)

Office of Congressional Liaison (1302)

Office of Public Affairs (1702)

Corvallis, Oregon

Director, Environmental Research Laboratory

External

General Accounting Office