

Accounts Receivable Management Practices in Region 6
January 2001

SUPERFUND

**REGION 6's ACCOUNTS RECEIVABLE
MANAGEMENT PRACTICES**

Joint OSRE/OCFO/OIG Review

Review # 2001-S-5

January 2001

Accounts Receivable Management Practices in Region 6
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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

JAN 19 2001

MEMORANDUM

SUBJECT: Superfund: Joint OECA/OCFO/OIG Review
Region 6 Final Report on Superfund Accounts Receivable Management

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TO: Myron O. Knudson, Director
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Lawrence Starfield, Regional Counsel
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Mr. John Eagles, Chief
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The purpose of this memorandum is to transmit our attached "Superfund: Regional Accounts Receivable Management Practices" Region 6 final report. As you know, a headquarters team from the Office of Enforcement and Compliance Assurance (OECA), the Office of the Chief Financial Officer (OCFO), and the Office of Inspector General (OIG) jointly conducted the review in your region. This final report incorporates comments received from your staff in Region 6. It cites several areas where the region could improve its Superfund accounts receivable process and also includes recommendations to address these areas.

We thank you for your time and attention during our visit and your comments and actions taken as a result of this review. Should you or your staff have any further questions or concerns about this report, please contact Bruce Pumphrey on 202-564-6076.

Attachment

cc: Buddy Parr, Region 6
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CHAPTER 1

INTRODUCTION

This report summarizes the results of our review of Region 6's procedures for managing Superfund accounts receivable from establishment through collection, with an emphasis on tracking and collecting overdue accounts receivable. This program evaluation review was a joint, cooperative endeavor involving three separate EPA offices: the Office of Enforcement and Compliance Assurance's Office of Site Remediation Enforcement (OSRE), the Office of the Chief Financial Officer's Financial Management Division (FMD), and the Office of Inspector General (OIG).

We believe this review highlights the importance of the Agency's, as well as the Department of Justice's (DOJ), management of its Superfund accounts receivable and the many related issues challenging both Headquarters and Regional offices. The results of this review will benefit the EPA Superfund and financial management programs by: 1) highlighting the issues raised by representative Headquarters and Regional EPA managers and staff; 2) reinforcing positive existing practices; and 3) proposing recommendations for improving future collection activities.

BACKGROUND

In 1980, Congress established the Superfund program by passing the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and amended it in 1986 with the Superfund Amendments and Reauthorization Act (SARA.) The Superfund program provides Federal clean-up authority and funds to address problems posed by abandoned or uncontrolled hazardous waste sites. Under CERCLA, a trust fund (i.e., Hazardous Substance Superfund) was established to help finance the costs of cleaning up these sites. CERCLA also provides the President with authority to pursue potentially responsible parties (PRPs) to perform or pay for the study and clean up of Superfund sites.

Section 107 of CERCLA authorizes EPA to recover all Federal costs (including oversight) associated with cleaning up a Superfund site. This authority is instrumental in replenishing the Superfund Trust Fund and also provides incentives to Potentially Responsible Parties (PRPs) to perform the clean up themselves. Recovery is initiated through negotiation with or legal action against a Superfund PRP. DOJ works with EPA to recover these costs and also has responsibilities for enforcing and collecting debts arising from Superfund cost recovery actions.

Since the beginning of the Superfund program, EPA has obtained approximately \$4 billion in commitments/settlements from PRPs or court-ordered judgments against PRPs to reimburse the Agency for past costs, bills to pay oversight costs, fines, penalties and cash-out settlements for future response work. Of that amount, over \$2.8 billion has been collected and returned to the Superfund Trust Fund. Approximately \$200 million has been written off as uncollectible, primarily the result of judgements against insolvent parties. Approximately \$976 million remains uncollected, some of which has yet to come due.

PURPOSE

The Agency is currently working on several initiatives to improve its fiscal management of the Superfund enforcement program. During 1998-1999, both OSRE and FMD made a concerted effort to achieve an up-to-date billing for Superfund oversight costs. After improving the billing process, attention shifted to the collection of outstanding accounts receivable (i.e., cost recovery, fines and penalties, and cashouts) to return monies owed to the Federal government resulting from these enforcement actions to the Superfund Trust Fund. For this collection initiative, several analyses of accounts receivable data have been completed.

At the time of the Region 6 review, in March 2000, our analysis indicated that nationally there was approximately \$420 million in total outstanding accounts receivable greater than 120 days delinquent. Of the \$420 million, EPA had collection responsibility for \$138 million, and DOJ had collection responsibility for \$282 million. Also, \$166 million was considered potentially collectible, \$114 million was under appeal at DOJ, and \$140 million was deemed doubtful for collection. Region 6 had approximately \$127 million (or 30% of the total) in outstanding accounts receivable of which \$3 million is at EPA and \$124 million at DOJ. Of the \$127 million, \$4 million was considered potentially collectible, \$104 million was under appeal at DOJ, and \$19 million was deemed doubtful for collection.

Because of the important mission of the Superfund program and the large amount of dollars involved in cost recovery, the OIG had planned to do some work in this area. However, upon receiving OSRE's invitation, we decided to join OSRE and FMD to jointly review EPA's management of the Superfund accounts receivable process. The purpose of this joint review was to:

- identify accounts receivable management issues;
- identify best practices that facilitate the management and collection of outstanding Superfund receivables; and
- develop recommendations for improving and/or streamlining the process for better efficiency at EPA Headquarters, regions, and DOJ.

SCOPE AND METHODOLOGY

OSRE, FMD, and the OIG formed a team to develop a methodology for conducting the review. The team concluded that the most effective approach for accomplishing our objective was to conduct on-site reviews in several regions to:

- discuss and gain a better understanding of the Region's policies and procedures for managing Superfund accounts receivable and collections; and
- identify areas in the regional and national process that could be improved, including areas where Headquarters should provide better guidance and support.

The team selected Region 6 as the first of three regions to be reviewed based on the relatively large dollar amount and age of their delinquent accounts receivable.

Interviews with Program, ORC and FMO Staff

The team held a joint meeting with personnel within the Superfund Division (referred to herein as the Program Office (PO)), the Superfund Branch of the Office of Regional Counsel (ORC), and the Financial Management Office (FMO) to discuss the overall policies and procedures supporting the regional Superfund accounts receivable process. Prior to our visit, we provided the Region with a questionnaire which formed the basis of our discussions. The questionnaire was a global survey regarding the accounts receivable process with subjects ranging from establishing and recording accounts receivable, through billing and handling of overdue and uncollectible debts.

Site Specific Review of Selected Accounts Receivable

To further facilitate our analysis of regional policy for handling accounts receivable, we selected a representative sample of overdue accounts receivable for site specific review. Data in EPA's Integrated Financial Management System (IFMS) as of 1/14/00 showed that Region 6 had 26 outstanding accounts receivable greater than 120 days delinquent totaling \$127.1 million. Of the \$127.1 million, the region had referred \$123.8 million to DOJ for collection and EPA had responsibility for addressing the remaining \$3.2 million which could include referrals to DOJ. We selected 11 of the 26 overdue receivables totaling approximately \$109 million for our site specific review. We included at least one receivable from each status code entered by the Region focusing on those having large past due amounts that were also significantly overdue. We included a larger number of receivables in status code 21 (i.e., oversight under appeal) because 16 of the Region's receivables were reported in that category. The age of the receivables

reviewed ranged from 409 to 2996 days delinquent. We interviewed staff responsible for the receivable, in most cases the ORC and FMO, to identify reasons for the delinquency, actions taken by the Region to obtain payment or resolution, and any future efforts to be undertaken. We discuss the results of our review in Chapter 2 of this report. Appendix A contains a more detailed summary of each site we reviewed.

Reconciliation of Regional data in IFMS and DOJ Tracking Systems

As part of this initiative, EPA is working with DOJ to reconcile all Superfund open accounts receivable (current and past due) recorded in IFMS as being DOJ's collection responsibility with the data found in DOJ's tracking systems. The purpose of this reconciliation is to identify inconsistencies between the respective tracking systems, determine whether or not EPA referred amounts are consistent with those at DOJ and ensure that there is mutual understanding of each agency's respective collection responsibilities. We chose Region 6 as the first region for this systems reconciliation because it manages a comparatively small number of Superfund accounts receivable. In addition, DOJ has two offices (i.e., Executive Office of the United States Attorneys (EOUSA) and Nationwide Central Intake Facility) that process Superfund accounts receivable using two separate data systems. Both offices process collections for Region 6 which enabled us to reconcile EPA amounts against DOJ's systems.

Upon completion of the national reconciliation, we intend to present our results to DOJ and work cooperatively with them to develop procedures for enhancing the tracking of Superfund receivables in both Agencies' systems.

The Joint Management Review was conducted to improve Agency operations and was not an audit. The review was conducted by a team of Agency personnel not all of whom were auditors. Therefore, the review was not conducted using auditing standards. Any resultant products are not according to generally accepted government auditing standards as described in the June 1994 Revision of GAO's *Government Auditing Standards*. However, some auditing techniques were used by the joint management team during its review.

CHAPTER 2

REVIEW OF SUPERFUND ACCOUNTS RECEIVABLE PROCESS IN REGION 6

During the Region 6 review, we determined that there are three primary offices in the Region that have a role in the accounts receivable process: the PO, ORC, and FMO. Each office has a distinct role in ensuring that: accounts receivable documentation is prepared and/or forwarded timely; accounts receivable are properly recorded and tracked, changes in accounts receivable status are communicated between offices; and proper follow up actions for disputed and delinquent accounts receivable are initiated as required. In Region 6, the PO, in particular the Cost Recovery Section, plays an important role as the "middle man" for the ORC and FMO by acting as a liaison to both offices on all accounts receivable issues requiring ORC follow up.

To ensure that each office involved in the cost documentation process understand their roles and responsibilities, the Region developed a Memorandum of Understanding (MOU) and standard operating procedures. The MOU was developed in 1993 to define the individual roles and responsibilities of the ORC, PO and FMO in the cost documentation process and describe the actual steps for establishing and recording accounts receivable. Additionally, the Region has a set of "Desk Procedures for Accounts Receivable" which specify procedures for establishment, collection, billing and handling of delinquent accounts. The region has also documented policy on "Oversight Billing Procedures."

Region 6 is generally following Agency policy provided in Chapter 14, Superfund Accounts Receivable and Billings, of the OCFO's Resources Management Directives System (RMDS) 2550D and Chapter 9, Receivables and Billings, RMDS 2540 when managing its Superfund accounts receivable. For example, Chapter 14 states that the FMO or the PO is to prepare and send a bill to the debtor within 5 days of determining that a debt is owed to EPA. If the PO prepares the bill, a copy of the bill and all supporting documentation must be provided to the FMO in order to establish the account receivable. Region 6 has documented procedures which conform to these requirements. The PO prepares a Cost Documentation Schedule and delivers to the FMO which is used as a guide for requesting packages. The FMO assembles, reconciles, evaluates and certifies all cost documentation, prepares the total cost documentation package or the unreconciled SCORES report and forwards it to the PO for review. The PO will mail out the bill with a cover letter and supporting cost documentation and then return a dated billing document with cover letter to Finance. Upon receipt of the dated billing document from the PO, the FMO sets up the account receivable.

Based on our discussions with each office, we have determined that their roles and responsibilities in the regional Superfund accounts receivable process are as follows:

Results of Site Specific Review of Selected Accounts Receivable

As discussed in Chapter 1, we selected several accounts receivable for site specific review. Generally, our results indicate that most of Region 6's overdue accounts have been around for some time and are difficult to resolve -- although the Region has put considerable effort into doing so. The Region also has made the decision to give priority to newer accounts receivable ensuring that they do not become delinquent rather than devote extensive resources to pursuing the older receivables with little or no chance of collection. As such, at the time of the review, there were no delinquent accounts receivable for cost recovery actions or oversight bills issued in the previous 13 months. The individual results of our site specific review are summarized in Appendix A.

Some of the problems we identified during our site specific review are listed below:

- One receivable (VERTAC) in the amount of \$104 M accounted for approximately 80% of the Region's total overdue amount. It is the result of a court ordered judgement that is currently under appeal. Region 6 estimates that it will be at least one year before there is any resolution. Thus, collection activities will be suspended pending the outcome of the appeal.
- The Region has reservations about writing-off a receivable in the amount of \$263,336, delinquent by 2996 days, because the write-off might establish a precedent with the PRP who is also a PRP at numerous other Superfund sites.
- A claim against two deminimis parties for \$3,642, 1054 days delinquent, was forwarded to treasury for collection on 12/2/98.
- Several cases have remained in informal dispute resolution for lengthy periods of time without resolution based on PRP claims such as: 1) EPA's failure to bill according to the terms of the settlement agreement, 2) the bill included inadequate cost documentation, and 3) disputed costs were contained in the bill. In several cases, the Region indicated that recent discussions had occurred and they expected resolution of the dispute shortly. We will use IFMS to track the progress of these overdue accounts receivable.

Results of EPA DOJ Reconciliation

EPA's initial review in August 1999 found six cases totaling \$122.9 million in IFMS which could not be reconciled with reports generated from DOJ systems, and three cases totaling \$26.7 million reflected in IFMS that could not be identified by DOJ. DOJ began reconciling these discrepancies and was able to provide us with information on the status of all nine cases. We provided Region 6 with the results of the reconciliation for their information.

One significant finding that came out of the Region 6 reconciliation is that while there is a common data link, the Superfund Site Spill ID number (SSID), that could allow EPA to positively match accounts receivable with DOJ information, this data has not always been entered into DOJ's systems. DOJ has agreed that the SSID number will be required for all cases in their systems thus providing this important link.

MATTERS FOR CONSIDERATION

Based on our review we have identified four general areas where changes could be made in Region 6 which could improve the accounts receivable process and lead to increased collections.

We have not included formal recommendations because this report is designed to provide information as the result of a joint, cooperative review between OSRE, FMD, and OIG. Region 6 may want to consider some of the recommendations discussed below in managing Superfund accounts receivable:

I. Information Exchange/Timely and Accurate Recording of Superfund Accounts Receivables

Issue: Certain Superfund Accounts Receivable are not being recorded in a timely manner.

The Agency does not record Superfund accounts receivable in its IFMS accounting system until legal liability has been proven/established in the form of a settlement agreement or judgment. In accordance with the current DOJ IAG, DOJ/ENRD will provide a copy of the cover page and signature page of entered consent decrees, or a copy of the court order indicating entry of the decree, to EPA's FMD within seven days of receipt. FMD will transmit the documents to the appropriate Regional FMO. Region 6 stated that they had experienced delays of several months in receiving these documents from DOJ. Although the situation has improved greatly within the past 6 months to a year, the Region indicated that it continues to encounter delays in receiving final entered judicial documents. Delays in receiving this information can have the following impact on the accounts receivable process:

- Accounts Receivable are not established/recorded in a timely manner
- Payment may be received by the Region, but due to the delay in establishing the receivable there is no record against which to post payment. The payment will then go into EPA's "Suspense account" until the supporting documentation is received to establish the account receivable. While these amounts are in suspense, they cannot be deposited in the Superfund Trust Fund and do not accrue interest.

- The region may be unaware that a receivable is already delinquent; consequently, they cannot accurately, or timely, calculate interest related to the delinquency.

Issue: In a limited number of cases, Regions were not notified when DOJ determined that a judgement had been appealed or a particular debt was uncollectible.

On occasion, DOJ has failed to forward sufficient documentation or correspondence advising the Agency of changes in the status of debts or close outs. When DOJ fails to notify EPA of changes in the status of debts or when they close their claims files, these debts will continue to languish unnecessarily on the Agency's books which then inflates the Agency's assets as reported in its financial statements.

Recommendations

DOJ

- Require DOJ to notify EPA in writing (e.g., Debt Closeout and Surveillance Letters) and to provide source documents (e.g., bankruptcy settlements and associated discharge notices) concerning changes affecting the collectibility or final disposition of debts. EPA recommends that the IAG be modified to require DOJ to provide such documents to the ORC and FMO within 30 days of entry of the decree or judgement or change in status of the collectibility of the debt.
- Establish one point of contact for judicial source documents at DOJ.
- Request that DOJ provide the Region with the newly created payment report on a quarterly basis.

Region 6

- Request that all three regional offices continue to place more emphasis on discussing the status of outstanding delinquent debts to determine final disposition (e.g., ORC follow up, refer to DOJ, write-off) of these debts.

Headquarters/DOJ/Region 6

- Revise provisions of the EPA/DOJ Memorandum of Understanding (and associated portions of the EPA/DOJ IAG) to ensure that documents necessary to establish accounts receivable and update changes in the status are transmitted to EPA by DOJ in a timely fashion.

- Conduct an analysis of the lag time between: 1) the entry of the consent decree and receipt of the documentation by EPA and 2) the receipt of the consent decree by EPA and the establishment of the associated account receivable in order to identify specific instances where accounts receivable are not being established in a timely manner.
- Examine the resulting information to identify: 1) which accounts receivable are not being established in a timely manner because EPA or DOJ did not provide the necessary documentation 2) any EPA regions or U.S. Attorneys Offices regularly experiencing significant delays. Provide the findings to FMD for review and discussion with DOJ at quarterly meetings.
- Continue to explore the options and legal ramifications of establishing accounts receivable through the electronic notification process or other alternative means (e.g., electronic facsimile of info, e-mail). Region 6 reported that the information currently provided in electronic format the DOJ "Debts Assessed Report" has been useful.

II. Internal Regional Communications/Information Exchange

ISSUE: Although the three offices involved in managing Superfund Accounts Receivable have established close working relationships, changes to the internal communications procedures could result in a more efficient process.

While Region 6 has regular communications/discussions regarding the status of accounts receivable, their process appeared somewhat inefficient with communications between the FMO and the PO, and separate communications between the PO and ORC. While Region 6's process seems to be effective in communicating the status of accounts receivable, its efficiency could be enhanced by having all affected parties (i.e., FMO, Program, and ORC) communicating concurrently. Numerous issues regarding the status, disposition and planned action regarding overdue receivables could be resolved more easily and quickly through periodic face-to-face discussions between all three offices and would provide a better understanding of specific issues affecting collection and information needs of each office.

Recommendations

Region 6

- Establish a standing Accounts Receivable Team with representatives from each of the three affected offices and schedule regular team meetings (e.g., monthly or quarterly). One of these meetings should occur at or near fiscal year end to help ensure the accuracy of the accounts receivable numbers within IFMS and the Agency's annual financial statements.

- Alternatively, address this issue by way of existing cost recovery teams that include these offices and establish overdue accounts receivable as a standing agenda item at those meetings.

III. National and Regional Data Management/Data Quality

Issue: Region 6 created a separate data system for tracking Superfund accounts receivable because neither IFMS or CERCLIS contain all the information needed to manage its accounts receivable. In addition, it is difficult to retrieve data using the MARS reporting system.

The region uses two separate information systems to track aging accounts receivables. The primary tracking system is EPA's IFMS located at EPA Headquarters. Receivables are recorded and tracked in IFMS by the FMO. As the Agency's official accounting system, IFMS is also the Agency's official system for tracking accounts receivable. The FMO staff tracks the status of receivables on a monthly basis and provides information for all receivables to the PO. IFMS generates the "Aged Billing Report" daily and the "Accounts Receivable Dunning" report based on the delinquency period of the account receivable. Using these reports, the FMO staff identifies all overdue accounts receivable.

The Superfund Cost Recovery Section developed a second PC based system, the Accounts Receivable Tracking System (ARTS), to track accounts receivable at a greater level of detail than that provided in IFMS. In some cases, IFMS did not contain the data fields necessary to track accounts receivable. For example, IFMS tracks accounts receivable at the debtor level but does not contain the CERCLIS site name or DOJ case name to allow users to easily identify the site and corresponding receivable. In addition, IFMS cannot track the name of the EPA case attorney responsible for coordinating enforcement of the overdue receivable. ARTS, however, allows the Region to track detailed comments on the status of outstanding receivables and create custom reports for specific purposes. The PO does not have access to IFMS therefore ARTS is the mechanism that allows adequate tracking of accounts receivable in that office. The IFMS is the regional recognized system.

Further, retrieving data from IFMS in a report format that meets the Region's accounts receivable tracking needs is difficult. Although the OCFO has made substantial strides in this area by making accounts receivable data available through the Data Warehouse, on EPA's intranet site, additional work in this area would be helpful in meeting the Region's data needs.

The FMO and PO meet monthly to conduct a base reconciliation of the information in ARTS and IFMS, and perform a more in-depth reconciliation every six months. At this meeting aging receivables are identified, allowance for doubtful accounts updated, and the appropriate IFMS accounts receivable status codes are assigned.

While this approach appears to be effective, maintaining a separate system to meet the Region's needs results in the inefficiency of all of the regional systems and may result in data quality problems inherent with duplicative data entry.

Issue: Much of the data required by the Regions is contained in several information systems (i.e., CERCLIS, IFMS, and DOJ's TALON and CLASS).

The region requires information from all of these systems in order to effectively track and report on Superfund accounts receivable. Although these systems generally contain a common identifier (i.e., EPA SSID number) that could be used to link the data, the data resides on different platforms and is written in different software applications making it difficult to integrate. Although the ability to use the common identifier exists, it has not always been required in DOJ's systems and is not necessarily available when trying to reconcile data.

Issue: The Region has reported overdue status codes inaccurately or inconsistently in IFMS.

During our site specific interviews, we found several instances where the IFMS overdue status codes were coded incorrectly. This occurs for a number of reasons. In some instances, the FMO is not properly informed of changes in the status of an account receivable. This was the case with VERTAC which was coded as SC 3, Referred to DOJ, when it should have been coded as SC 16, On Appeal at DOJ, because the PRP is appealing a cost recovery judgment.

In other cases there was confusion over the use of IFMS' Accounts Receivable status codes. It was determined that there was some ambiguity in the codes that limited their utility. For example, we reviewed IFMS for Superfund accounts receivable that were in a bankruptcy status for the Region. The data system has two accounts receivable status codes that identify whether a site is in bankruptcy, codes 11 and 15. Code 11 classifies the debtor as in bankruptcy due to delinquent debts. Code 15 classifies the debtor as in bankruptcy with the case being handled by DOJ. We reviewed two bankruptcy sites in Region 6 and held discussions with regional personnel about the sites. Region 6 coded one site (William Gurley) 15 and another site (Gurley Refining Company) 11. We discovered an additional site (R. A. Caldwell, Jr.) after we held further discussions with Region 6 personnel. They coded this site 10. IFMS classifies accounts receivable status code 10 as "delinquent debts that EPA has referred to regional counsel for further deliberation."

We held discussions with FMD about the difference in the status codes. The FMD official explained that the difference is DOJ's involvement in the bankruptcy. In our discussions with ORC, they confirmed that all three sites identified during our review were in a bankruptcy status. We believe a clearer or more detailed definition of the accounts receivable status codes

would help regional personnel correctly identify the receivable's status. Also, upon notification from ORC, the accounting section can ensure that IFMS shows the appropriate status code.

Recommendations

To address the issues identified above, it is suggested that the following steps be taken:

Region 6

- Consistent with the recommendations in section II above, Regions should initiate routine reviews and reconciliations to determine the accuracy of IFMS accounts receivable data and corresponding accounts receivable Status Codes.

Headquarters - OCFO/OSRE

- Examine the feasibility of integrating data from existing information systems (i.e., IFMS, CERCLIS, and TALON and CLASS) to meet the Regions' information needs for effective receivables management.

Headquarters - OCFO

- Identify and implement short term enhancements to the Data Warehouse that would facilitate and enhance accounts receivable management pending the findings of the workgroup results of recommendation 2 above.
- Review existing IFMS AR Status Codes to eliminate any overlap and ambiguity in interpretation by adding new or revised codes as required. Existing AR Status Code definitions should be reviewed to determine if they need to be clarified or revised to ensure that they can be properly applied and recorded in IFMS.

DOJ

Determine if DOJ would allow EPA to access its TALON and CLASS systems similar to its now defunct Lands Docket Tracking System.

IV. Account Receivable Enforcement/Collection of Delinquent Debt and Write-Offs

Issue: In Region 6, there were specific cases where debts had been determined to be uncollectible but the Region was unclear on the appropriate write-off procedures pertaining to Superfund debts.

Specifically, the Regions are uncertain under what authority these debts can be written-off and which Agency official(s) has the authority to write-off the debt. In addition, a recent Headquarters workgroup developing policies related to the enforcement of accounts receivable identified issues unique to the collection and write-off/compromise of CERCLA settlement funds/claims. This workgroup raised issues concerning whether the prevailing authorities (i.e., Federal Claims Collection Act (FCCA), Debt Collection Act (DCA), Debt Collection Improvement Act (DCIA), or CERCLA) used for non-Superfund debt also apply to the collection or write-off of overdue CERCLA settlement funds. To clarify the process for enforcing/collecting overdue accounts receivable, on April 6, 2000 OSRE issued the "Interim Guidance on the Referral Process and Timing for Collection of Delinquent Debts Arising under Superfund Judicial or Administrative Settlements." This guidance interprets CERCLA as the prevailing authority for the enforcement/collection of overdue Superfund receivables. However, the write-off process for post-settlement/post-judgement CERCLA debts remains unclear; consequently, uncollectible Superfund debts shown as being open in IFMS continue to accrue interest and inflate the Agency's assets and claims to accounts receivable. Due to the lack of specific authorities and guidance for writing-off Superfund debts, the Agency has used the authorities provided under the FCCA, DCA, and DCIA to write-off Superfund debts in the past. Under the DCIA, debts may not be written-off by the Agency until the debts have been provided to Treasury for cross-servicing (i.e., debt collection). If the amount referred to Treasury cannot be collected and is returned to the Agency, this amount may be written-off only at that time.

Issue: Although the Region has clearly established roles and responsibilities for the three offices involved in the Superfund accounts receivable process, it needs to develop and document the requirements for each of the offices more fully as to procedures for delinquent and uncollectible debts.

The Region has an MOU in place which outlines the respective roles and responsibilities of the Program, Finance, and Office of Regional Counsel with respect to Superfund cost documentation and Desk Procedures for Accounts Receivable. The content of this documentation, relates primarily to the preparation of cost and work performed documentation in support of cost recovery negotiations, litigation, and issuance of bills for "future response costs" (e.g., oversight costs). The MOA contains no mention as to the respective roles and responsibilities in regard to enforcement/collection, and write-off of accounts receivable.

Recommendations

Headquarters -OCFO OSRE OGC/DOJ

- OSRE, in conjunction with OCFO, DOJ, the Regions, and Office of General Counsel should establish a workgroup to develop a policy on the authorities and procedures for writing-off CERCLA debt. OSRE has already begun researching this issue in an attempt to determine under what authorities CERCLA debts can be written off. OSRE's research

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to date indicates that DOJ has the authority to write-off these amounts. Although research will continue in this area, DOJ is uncertain if they can redelegate this authority to EPA.

- OCFO, in conjunction with OSRE should prepare accounts receivable training and workshops to be conducted for regional POs, FMOs and ORCs.
- The OCFO should revise its Chapter 14, RMDS 2550D, "Superfund Accounts Receivable and Billings" to ensure that the roles and responsibilities section of this document is current and all remaining sections are also revised to make the document as current as possible. Specifically, situations unique to the billing, collection, enforcement, and write off of Superfund debts should be addressed..

Region 6

- Ensure that allowances for doubtful accounts are established and/or revised as needed. This action requires the FMO and PO to review the status of delinquent accounts receivable to determine the likelihood of collection and establishing, or adjusting, allowances for amounts deemed to be uncollectible.
- Discuss and revise the MOUs and Desk Procedures between the FMO, PO, and ORC to clarify their respective roles and responsibilities with respect to all aspects of cost recovery actions, including the establishment, tracking, enforcement/collection, and write-off of accounts receivable.
- More direct involvement with the ORC in the monthly discussions with the FMO and PO on aging accounts receivable and sites which are in dispute. Provide all attorneys with Superfund montly reports from ARTS on overdue receivables.
- Routinely enforce the provisions of the CD or AOC pursuant to stipulated fines and penalties. Regions should use discretion in assessing penalties depending on the facts of the case.

CONCLUSION

Although we have cited several areas where the Region can make improvements, we believe that overall the Region is doing an effective job of managing its accounts receivable. It is apparent that each office involved in the accounts receivable process knows its role and successfully carries it out. When the accounts receivable process changes or is not clear, the Region promptly issues guidance clarifying these changes. More importantly, an open line of communication between these offices has enabled them to effectively manage their accounts receivable. The ability to communicate and discuss changes in the status of accounts receivable is perhaps the most important key to managing accounts receivable. Without constant

communication, open accounts receivable that should either be closed or referred could languish unnecessarily for extended periods of time.

On the other hand, there are a number of outstanding receivables, which have been around for several years (See Appendix A). All three regional offices should continue to place more emphasis on discussing the status of outstanding delinquent debts to determine final disposition (e.g., ORC follow up, refer to DOJ, write-off) of these debts. Routine follow up on these delinquencies will enable the Agency to enforce and collect debts when possible, and to more accurately report the status of its assets.

APPENDIX A

SUMMARY OF ISSUES AT SELECTED SITES

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Site	Age	Amount	Issues	Resolution
VERTAC SC 16	409	\$104M	Final judgment in favor of U.S. for past costs at the Vertac site plus any additional response costs incurred by the U.S. after 5/31/98. Hercules and Uniroyal Chemical filed notices of appeal. Issues include: 1) claim that retroactivity is unconstitutional 2) due process 3) divisibility of harm; 3) cancer potency factor for dioxin should have been subjected to rulemaking 4) EPA Worker safety provisions and 5) claim that EPA conducted arbitrary and capricious risk assessments.	On March 16, 2000, the Region filed a brief in response to the PRPs appeals. The Region has concerns regarding the strength of liability for some of the issues. Oral arguments were set for June 12th. The PRPs have indicted that if they lose the appeal they will go to the Supreme Court. The ORC indicates that it will be at least a year before any potential resolution.
ARCO SC 10	2996	\$263K	The PRPs have invoked dispute resolution. This is an AOC for RI/FS. EPA entered into an agreement with Amoco and ARCO specifically citing in the enforcement agreement sum certain past cost of 39k. The PRPs have paid this amount and are disputing liability for any past costs other than the 39K. Approximately \$106k is in dispute.	ORC plans to brief management and recommend that the disputed amount be written off or adjusted including approximately \$80k in interest. Region has reservations about writing this off because ARCO and AMOCO are PRPs at numerous other Superfund sites and they do not want to establish a precedent. Time frame for completion depends on ORC resources.

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Site	Age	Amount	Issues	Resolution
GURLEY REFINING CO. SC 11	2822	\$2.2M	Gurley Pit Site is a fund financed Remedial Action which is completed. PRPs were held liable for costs incurred and issued a declaratory judgment for future response costs. Gurley declared bankruptcy but a bankruptcy court ruled that he had fraudulently placed assets in his wife's name. This placed these substantial assets into Mr. Gurley's bankruptcy estate. The Gurleys have appealed.	Awaiting appeals court judgment. Which may take two to three years to resolve. The bankruptcy court recently authorized a payment of \$500k in partial reimbursement of the 1992 judgment for the Gurley Pit now intends to file a cost recovery action for its remaining Gourley Pits costs pursuant to a 1992 declaratory judgment for future site costs.
MARCO OF IOTA SC 18 (Referred to Treasury)	1054	\$3.6k	This is a \$5 million cleanup at an Oil Recycling facility. EPA settled with 121 de minimi parties three of which did not pay. One was a bankruptcy. The two remaining parties, B&M Operating and Brown & McKenzie are responsible for this delinquent.	EPA forwarded this to Treasury for cross servicing on 12/2/98. EPA has not heard from the Treasury Department or the de minimi parties. EPA is considering withdrawing contribution protection. EPA also plans to contact Treasury for status report.

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Site	Age	Amount	Issues	Resolution
PRAT REFINERY (4 ARS) SC 21 (Disputed Oversight Costs)	2922	\$1.2M	<p>The site is an abandoned crude oil refinery in NM where PRPs ENG and ARC are still addressing groundwater contamination. Under an AOC El Paso Natural Gas and ARC completed the RI/FS from 10/89 to 4/92.</p> <p>Issue is disputed oversight costs. EPA has demanded \$1.2 M for oversight of RI/FS. PRPs dispute amounts in two categories: EPA costs and contractor costs and believe indirect costs are excessive. PRPs also contend bills have not been timely.</p>	<p>The Region has made two demands for payment. EPA has been unable to provide the PRPs with the cost documentation they have requested. The Region had a meeting planned for 4/20/00 to discuss a potential resolution.</p> <p>PRP is paying undisputed costs. SOL date is approaching on this site.</p>
BAYOU SORREL STEERING SC 21 (Disputed Oversight Costs)	1740	\$252k	<p>The Bayou Sorrel Steering Committee (BSSC) disputes EPA oversight costs under CD. EPA's original oversight bill for 10/1/93 - 9/30/94 was for \$245K. Bayou Sorrel has paid \$48.5K as payment in full. BSSC has requested cost documentation to establish that adjusted oversight amount of \$143,435 are "necessary costs". BSSC also questions whether the charges are for previous fiscal years.</p>	<p>The Region adjusted the original amount of "undocumented prior costs - annual allocation for Fluor Daniel Contracting" from \$184.7K to \$143.4k in 1995</p>

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Site	Age	Amount	Issues	Resolution
DUTCH TOWN SC 21 (Disputed Oversight Costs)	1726 1762	\$459k \$262k	Subject to an AOC and CD settling parties, including Shell, Exxon, BP as well as local parties, agreed to reimburse oversight and response costs incurred by EPA. On 7/17/92 they invoked dispute resolution citing insufficient documentation. Also claim untimely billing, indirect costs are not properly chargeable as response costs or oversight costs, costs inconsistent with N.P. Charges at site are now up to \$776.7 and parties have continued to invoke dispute resolution.	The Region scheduled a meeting with the settling parties for 3/29/00 to discuss outstanding cost reimbursement issues. On 3/20/00 the Region summarizing outstanding costs in anticipation of the meeting. Since 7/29/97 the Region has not billed approximately \$162k. Settling parties have paid undisputed amounts. Time frame for completion depends on OR resources.
DALLAS HOUSING AUTHORITY SC 21 (Disputed Oversight Costs)	592	\$377k	This was an AOC for one OF(2) which in 1993 was divided into 5 OF. The Region allocated costs incorrectly to this OF. EPA had to adjust these costs amount the 5 operable units which took approximately three years. EPA then billed DHA for this three year period. On 6/16/98 DHA informally appealed over nine areas of concern including: 1) EPA did not comply with term of AOC re: annual billing 2) OF 2 closed in 95 but some assessed costs are for 1996, 1997 & 1998 3) questions regarding indirect costs and annual allocation.	EPA met with DHA on 6/19/98 to discuss the areas of concern. Most issues were resolved. DHA wants to make installment payments. EPA has good relationship with PRPs and would like to comply. Region thinks DHA will pay their fair share. OR is to prepare letter to DHA. Time frame for completion depends on OR resources. and EPA

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Site	Age	Amount	Issues	Resolution
MID-SOUTH WOOD SC 21.(Disputed Oversight Costs)	2678	\$280k	This site is a wood treatment plant still in use. O&M Trust Fund was established and approximately 300k deposited to cover funds estimated to be needed for O& M. By invoice in 92 and 94 EPA requested payment of O&M. On 6/30/95, O&M Trust invoked dispute resolution based on EPA not billing for three years and Rohm-Haas.	<p>Trust has made offer of all of O&M Trust's remaining cash and cash equivalent plus assignment to EPA of remaining capital credits in exchange for release, assumption and covenant not to sue.</p> <p>EPA is considering options since site is showing new signs of contamination. Negotiations were to begin shortly on new contamination and exactly how best to pay for treatment::</p> <p>Funds from PRP trust could be used to complete work</p> <p>EPA could provide funding to state to complete site work and treat this amount as a cost recovery and use fund dollars to complete site work.</p>

