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

SEP 18 1995

OFFICE OF  
THE INSPECTOR GENERAL

MEMORANDUM

SUBJECT: Report on EPA's Acquisition of Analytical Support  
Report No. E1SKF4-07-0053-5100483

FROM: Elissa R. Karpf *Elissa R. Karpf*  
Deputy Assistant Inspector General  
for Acquisition and Assistance Audits

TO: Sallyanne Harper, Acting  
Assistant Administrator  
for Administration and Resources Management

Elliott P. Laws  
Assistant Administrator  
for Solid Waste and Emergency Response

We reviewed the Environmental Protection Agency's (EPA) acquisition of analytical support services at Region 7 and Headquarters, and identified that acquisition of analytical support services was not adequately planned. Our objective was to determine whether EPA's contracting strategy to obtain analytical support services was efficient and effective. We evaluated available planning information and concluded the review at the end of survey.

In our opinion, acquisition planning represents a potential weakness in EPA contracts management. The Office of Acquisition Management should address acquisition planning as part of their upcoming fiscal year 1996 systematic review strategy, since similar deficiencies may exist in acquisition planning for other contracts.

RESULTS IN BRIEF

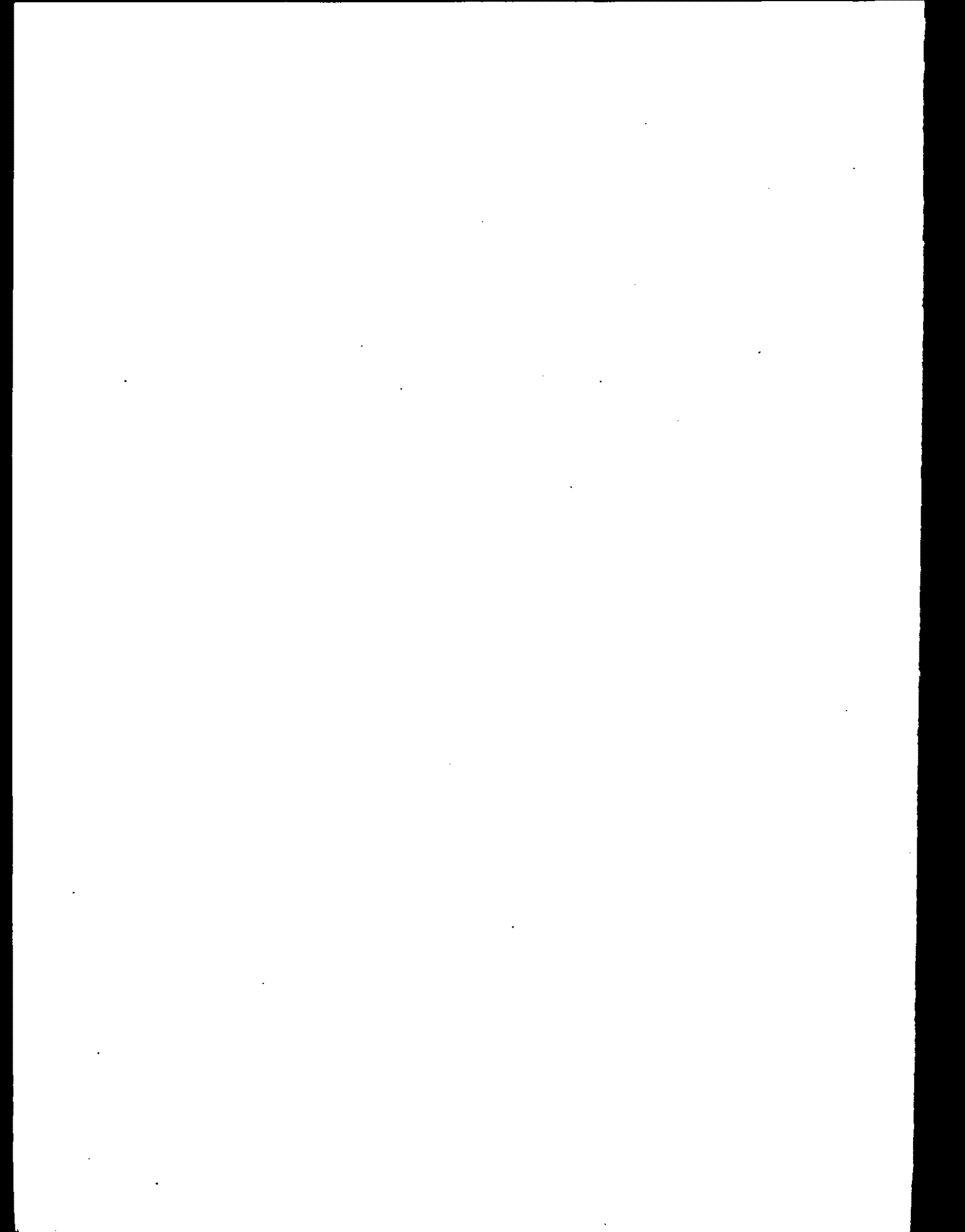
EPA has not properly planned for the upcoming Environmental Services Assistance Team (ESAT) contract replacement or for overall analytical services acquisition. The Federal Acquisition Regulation (FAR) requires EPA to plan acquisitions and conduct market surveys to ensure that it meets its needs in the most effective, economical, and timely manner.

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The Office of Emergency and Remedial Response (OERR) within the Office of Solid Waste and Emergency Response (OSWER) prepared a Superfund long-term strategy for analytical services to support its programs. However, the strategy did not adequately address how to obtain the services economically and efficiently.

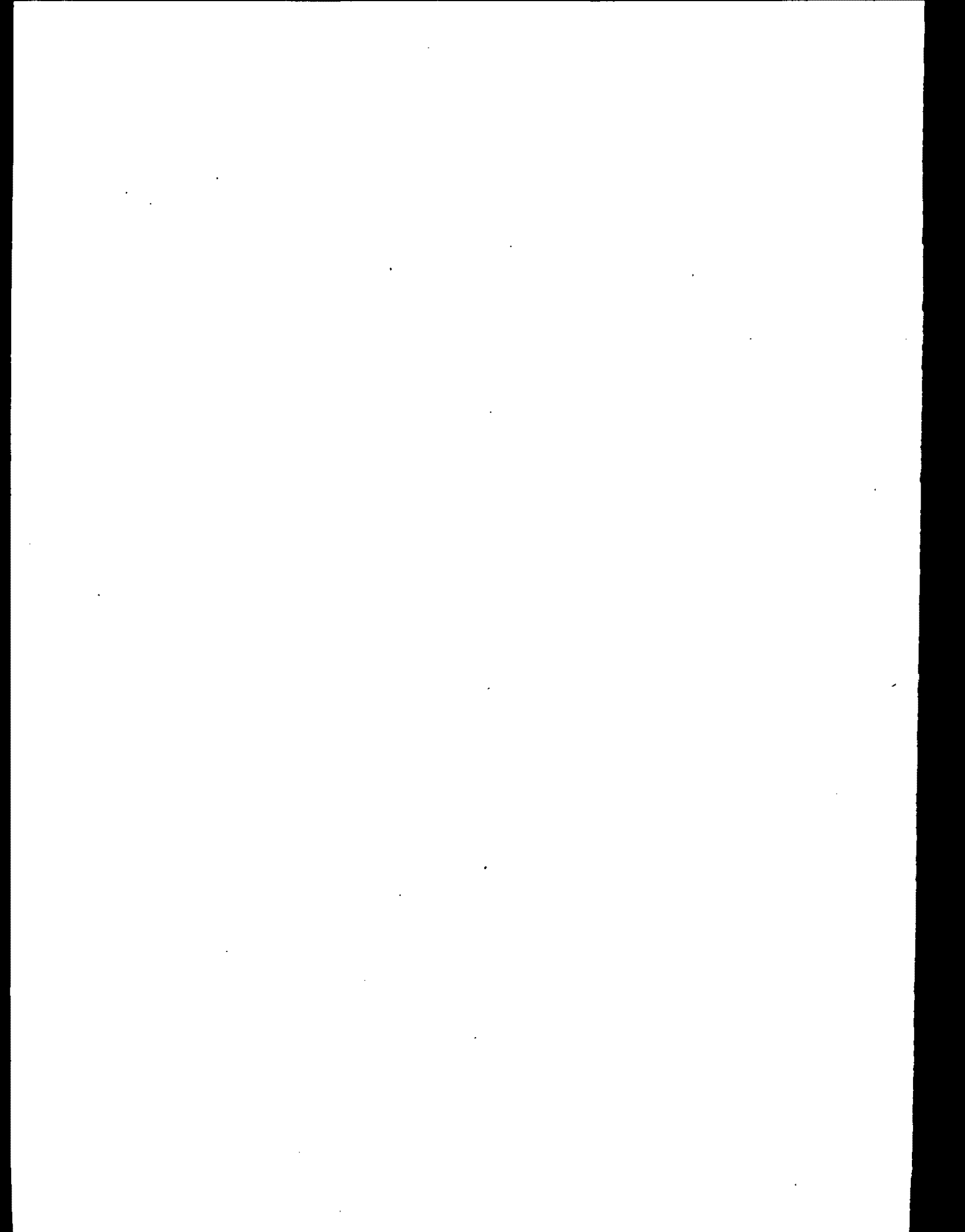
The Office of Acquisition Management (OAM) within the Office of Administration and Resources Management (OARM) completed the individual written acquisition plan for the ESAT contracts in April 1995. The plan was based on estimated contractor support hours and skills needed, instead of estimated sample analyses.

Although OSWER and OARM have taken positive action to improve the ESAT contracts, actions planned in response to the recommendations were not adequate. OSWER and OARM needed to seek information from the analytical services industry and the regions to make cost comparisons and write better contracts. OSWER needs to track historical services to estimate the quantities of analytical samples needed. It needed to use market research to develop specific services descriptions and performance requirements. In addition, it needed to compare cost data to analyze Government versus contractor performance. OSWER should be working toward buying sample analyses at specific quality levels instead of buying contractor hours. Buying clearly defined services shifts the burden of performance risk to contractors while reducing EPA's contract administrative burdens.

#### ACTION REQUIRED

This report makes several recommendations to the Assistant Administrator for Solid Waste and Emergency Response and the Acting Assistant Administrator for Administration and Resources Management. We are designating the Assistant Administrator for Solid Waste and Emergency Response as the primary action official. As such, the primary action official should take the lead in coordinating the Agency's official response to this report so that the 90-day timeframe for response is met. Thus, the Acting Assistant Administrator for Administration and Resources Management is a secondary action official and should coordinate with the primary action official.

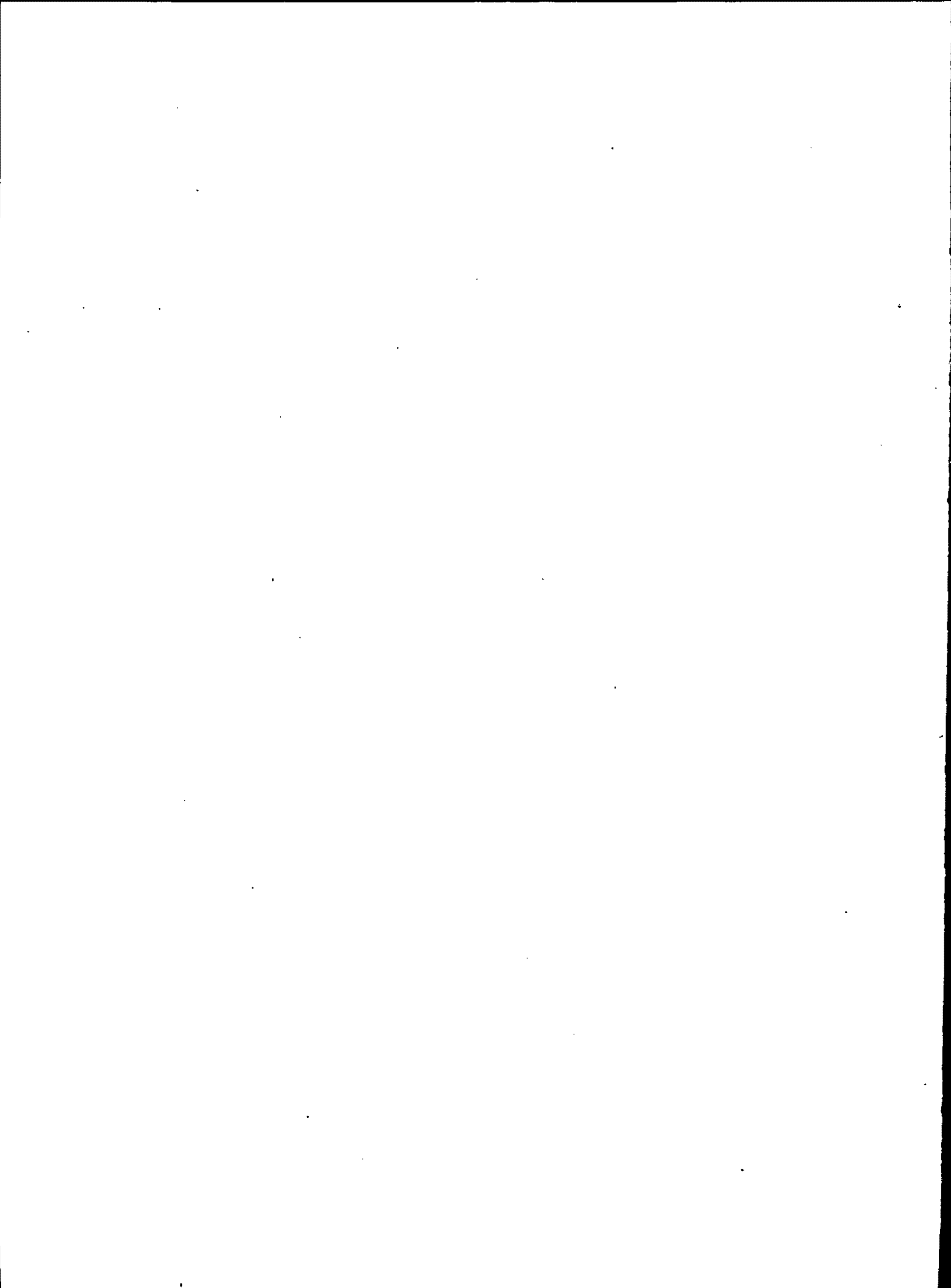
In accordance with EPA Order 2750, the primary action official is required to provide this office a written response to the audit report within 90 days of the final report date. For corrective actions planned but not completed by your response date, reference to specific milestone dates will assist this office in deciding whether to close this report. If you do not agree with the proposed recommendations, we will consider other actions you propose in order to correct the deficiencies noted in the report. We have no objections to the further release of this report to the public.



This audit report contains findings that describe problems the Office of Inspector General (OIG) has identified and corrective actions OIG recommends. This audit report represents the opinion of OIG. Final determinations on matters in this audit report will be made by EPA managers in accordance with established EPA audit resolution procedures. Accordingly, the findings described in this audit report do not necessarily represent the final EPA position and are not binding upon EPA in any enforcement proceeding brought by EPA or the Department of Justice.

Should you or your staff have any questions about this report, please contact Bennie Salem, Acting Divisional Inspector General for Audit, Central Division, at (913) 551-7878.

Attachment



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## BACKGROUND

EPA collects, analyzes, and evaluates sample data from many pollution sources in its administration of environmental laws. To accomplish this, EPA operates its own laboratories with in-house personnel and onsite ESAT contractor personnel. EPA also obtains support through the Contract Laboratory Program (CLP) and various other analytical support contracts including the Regional Environmental Collection and Analysis Program (RECAP) contract in Region 7.

In 1987, EPA developed the ESAT contracts because EPA's in-house resources and contractor laboratories did not meet Superfund's analytical needs. EPA has always provided the contractor with laboratory equipment and facilities. Currently, two ESAT zone contracts provide analytical support for EPA's ten regions. In addition, ESAT provides support for the Resource Conservation and Recovery Act program and other non-Superfund analytical efforts. Through December 1994, total costs for the two ESAT zone contracts were over \$67 million. The existing contracts expire in September 1995 and EPA plans larger replacement contracts.

The National Academy of Public Administration (NAPA) November 1994 report, Getting the Job Done, emphasized that acquisition planning is a critical element in the contracting process. The report emphasized that contracting personnel should be involved early in the acquisition process. NAPA reported that a fundamental cause of contract management problems was a division of contract authority between program and contracting offices, and that program offices institute and virtually complete acquisition planning before they involve contracting personnel.

OARM implements policies and procedures governing EPA's acquisition management. Within OARM, OAM's Contracts Management Division (CMD) at Research Triangle Park, North Carolina, organizes and directs EPA's procurement support function for the analytical support services contracts. CMD provides guidance and contract assistance to EPA's programs, and assures compliance with laws, procurement regulations, and policy.

OSWER provides technical support and evaluation of solid waste and emergency response activities for EPA's ten regions. Within OSWER, OERR's Analytical Operations Branch is responsible for identifying analytical support requirements.

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OERR issued its Long-Term Contracting Strategy (LTCS) on August 31, 1990, to: (1) analyze the long-term contracting needs of the Superfund program, and (2) design a Superfund contracts portfolio to meet needs over a ten year period. The LTCS recommended decentralizing the ESAT contracts in 1995 to enhance competition and provide flexibility to respond to specific regional needs. However, the LTCS did not address acquisition planning beyond the decentralization issue.

In April 1991, OERR established the Delivery of Analytical Services (DAS) task force to develop the Superfund strategy for analytical services delivery. In a January 1993 memorandum, the OERR Director approved a DAS strategy for the regions to obtain and manage 75 percent of analytical services, including regional ESAT contracts. The DAS task force had three goals: (1) to assess Superfund's long-term needs for analytical services; (2) to establish the roles and responsibilities of private parties, EPA contractors, and EPA staff in addressing these needs; and (3) to provide the framework for Superfund analytical services delivery to Superfund over the next decade. However, the final DAS report did not address these three goals.

Both the LTCS and DAS proposed regionalizing the analytical services contracts to improve competition. OERR attempted to move in this direction with regional ESAT (RESAT) contracts. However, disagreement between OERR and the regions regarding additional contract support personnel caused OERR to abandon its plans to completely regionalize the contracts.

In June 1993, OSWER established a national workgroup to develop strategies for the RESAT contracts. The workgroup identified procurement milestones, developed the solicitation and statement of work, and developed a strategy to address contract vulnerability issues. The workgroup did not take full advantage of its opportunity to do the following:

- identify performance requirements,
- analyze government versus contractor performance,
- determine a cost effective provider of services,
- develop a detailed analytical support history,
- determine whether supplying Government-furnished property is in accordance with the FAR, and
- improve contract type and method.

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In August 1993, OERR and OAM established a workgroup to review the LTCS. The workgroup evaluated analytical services needs considering capacity, number of contracts required, placement and management of contracts, and workload and resource distribution. The workgroup concluded that the existing portfolio of contracts was adequate, although the number of contracts would be decreased. The workgroup generally recommended against decentralizing the ESAT contracts. In a June 30, 1994 memorandum, the OSWER Assistant Administrator stated that two regional pilot ESAT contracts would be awarded. Two zone ESAT contracts would be awarded to cover the remaining regions.

#### SCOPE AND METHODOLOGY

To identify Region 7 analytical support contracting strategies, costs, management controls, and contractor work allocations, we reviewed contract documents from October 1992 through March 1993 and interviewed key Environmental Services Division and Contract Operations and Management personnel at Kansas City, Kansas. To assess national strategies for Superfund analytical support, we reviewed the LTCS and DAS files and RESAT workgroup planning documents in Washington, D.C; the Superfund Lead Region Coordinator's files at Region 8, Denver, Colorado; and ESAT contract files in Research Triangle Park, North Carolina. Region 8 represented the other regions as the Superfund Lead Region for fiscal 1993 and 1994. Also, we interviewed key personnel at the Analytical Operations Branch and OAM in Washington, D.C., and CMD in Research Triangle Park, North Carolina. We performed fieldwork from June 1994 to November 1994.

We conducted our survey in accordance with Government Auditing Standards (1988 Revision) issued by the Comptroller General of the United States. Issues identified in our survey of Region 7 activities concerned national analytical support strategies and contracting activities. Accordingly, we expanded our survey and evaluated those strategies. No other significant issues came to our attention that warranted expanding the scope of our review.

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## FINDINGS AND RECOMMENDATIONS

### OERR and OAM Should Use Acquisition History and Market Research to Plan Acquisition of Analytical Support Services

OERR and OAM have not adequately planned either the ESAT replacement contracts or the overall analytical support services contracting strategy. Current planning deficiencies mirror past analytical services acquisition practices. The FAR requires agencies to perform advance planning to develop item descriptions and performance requirements, conduct market research, and consider Government versus contractor performance when planning major acquisitions.

OERR did not sufficiently evaluate its acquisition history to define its requirements and integrate in-house and contractor efforts or perform required market research. Instead, OERR relied on justifications which were appropriate when it first began contracting for analytical services, but which may no longer be relevant. Analysis of EPA uses of analytical services and an expanded analytical services industry should provide a better base for decisions and allow OERR and OAM to address FAR and EPA requirements to obtain products and services fairly and economically.

Major acquisitions should be supported by plans that address all significant considerations affecting the acquisition. FAR 7.104(a) recommends that EPA begin acquisition planning as soon as the need is identified, and review and revise its plans as significant changes occur. FAR 7.102 requires EPA to conduct market surveys and plan its needs in the most effective, economical, and timely manner. FAR 7.103(c) and (d) requires the agency head to establish criteria and thresholds at which increased detail is required as acquisitions become more complex and costly and to establish procedures for writing plans either on a system basis or on an individual basis, depending on the acquisition. The FAR gives EPA latitude for acquisition planning. FAR 7.104(b) and (c) recommend that the planner consult appropriate personnel to determine type, quality, quantity, and delivery requirements; and coordinate with and secure the concurrence of the contracting officer in all acquisition planning.

EPA's Contracts Management Manual, chapter 1, paragraphs 1.9(a) and (b), require the contracting officer to prepare written acquisition plans for Superfund acquisitions with a threshold of

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\$25 million and to obtain input from the program office, legal counsel, and a cost/price analyst. Also, the Manual requires: (1) annual acquisition plans, (2) individual acquisition plans, and (3) an individual contract management plan. The Manual indicates that acquisition planning is applicable on a system basis.

OERR and OAM said they did long-term planning, but did not complete the individual written acquisition plan for the ESAT contract until April 1995. OERR and OAM did not determine the performance and delivery requirements for the replacement contract, nor fully analyze and document technical, business, and management issues that might affect the acquisition. OAM stated it waited for information from OERR before it drafted an acquisition plan. However, the need for the contract was known as long ago as 1990 when the LTCS recommended the 1995 contracts be decentralized.

OERR's and OAM's prior history with ESAT contracts did not reflect better planning than the current planning. The offices approved the 1991 written acquisition plan on February 19, 1991, after the solicitation package was issued February 15, 1991. The 1995 acquisition plan was approved on April 6, 1995. It provided for the issuance of the solicitation on April 17, 1995, with an award date of December 15, 1995, over 2 months after the current contract expires.

#### Tracking Historical Services Helps Quantify Needs

Although EPA issues sample protocols widely used by industry, the 1995 ESAT contracts will be a cost reimbursement level-of-effort contracts because specific performance requirements were not developed. The acquisition plan stated that performance requirements were too broad, varied, and uncertain to define. The 1995 ESAT contracts will include broad, umbrella statements of work similar to the 1991 contracts.

FAR 7.105(b)(6) and 10.002(b) require EPA to describe the products to be used in the acquisition and whenever practicable to state requirements in terms of functions to be performed or performance required. Furthermore, FAR 16.103(c) advises that contracting officers should avoid protracted use of cost-reimbursement contracts after experience provides a basis for firmer pricing.

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The 1995 ESAT solicitation resembled the 1991 contracts. Similar to the 1991 contracts, the solicitation described a broad range of work requiring many skills, such as analytical support, data review, quality assurance, and training, to cover the varying regional requirements. The 1995 solicitation and the 1991 contracts listed the contractor personnel education and experience requirements, estimated workyears by labor classification in general terms, and obligated the contractor to devote a specified level of effort for a stated time.

Although OERR recognized a need for long range planning in developing the LTCS and forming the DAS task force, the results stopped short of identifying technical, business, management, and other significant considerations necessary to support an overall or individual acquisition plan. OERR did not devise procedures or systems for analyzing type, appropriateness, or cost of current analytical services. The DAS workgroup attempted to gather information to determine whether current analytical support services sources were appropriate or cost effective. It concluded that the desired information was incomplete on in-house and contracted activities, total quantities, and costs. OERR was tracking the cost of analytical services provided by the CLP contractors, but was not tracking services provided by other contractors. Consequently, DAS did not conclude whether one provider was more cost effective than another provider.

OERR did not develop information to make informed decisions regarding the regions' analytical support services contract needs. OERR did not request input on detailed regional analytical support services specifications, products, services, estimated quantities, contract history, categorizing or packaging the sample work, and delivery timeframes. OERR requested the regions to provide estimated ESAT workyears of effort for analytical support. Thus, OERR could not state its requirements in terms of required performance.

Our Region 7 review disclosed that the Region's Environmental Services Division did not perform an in-depth analysis of the activity and related cost among its four providers of analytical services. We were unable to determine the cost per sample or perform any comparative analysis because the Environmental Services Division did not track activity and related costs on a sample type basis.

OERR could have used some analysis performed by the DAS task force and information available in the regions to develop

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descriptions of analytical tests and/or functional requirements. The DAS task force collected information on the available analytical resources, numbers of samples, complexity of analyses, and costs that it could have used to define contract requirements.

OERR could benefit from Region 7's experience with its RECAP contract and its own CLP contracts. Although we acknowledge RECAP has problems and is a time and materials contract, it may be a step in the right direction because the Region issued performance-based statements of work and some fixed price delivery orders. The contractor was given greater freedom in choosing the most appropriate analytical method, and assumed more responsibility to deliver analyses that met the Region's analytical services needs. OERR's procedures to identify routine analytical services for its CLP contracts may also be a step in the right direction. The CLP contracts are fixed price contracts. However, OERR did not incorporate this approach into an overall acquisition strategy to improve acquisitions. OERR may be subject to criticism because adequate information was not collected and analyzed to support and justify the ESAT acquisition efforts.

Several options to specify work may better describe the sample analysis products. Analysis could be grouped by organic and inorganic analysis; by media such as water, solids, or gas; or by type of equipment needed to perform analysis. Delivery timeframes could provide another means to categorize the requirements.

#### Market Surveys Help Package Requirements

OAM did not perform market research to package requirements to appeal to expanded industry capabilities. Advance market surveys could have helped package the contract to appeal to potential contractors, take advantage of existing suppliers, and reduce costs. FAR 7.102 and 7.105(b)(2)(i) require agencies to conduct market surveys to promote and provide for full and open competition. FAR 7.105 (b)(1) states that if all or part of the acquisition is for commercial products, EPA should address the results of market research and analysis and show their impact on various parts of the plan.

In its January 1994 Competition Report, OAM committed to planning as required by the FAR. OAM stated it would conduct market research, package requirements to appeal to industry



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capabilities, conduct surveys of present and potential contractors to determine how EPA could increase competition, and take proactive measures to increase the number of proposals received.

OAM's market research did not carry forward the recommendations of the DAS Future Directions workgroup. In 1992, the workgroup noted that analytical methods, instruments, and data handling systems were continually improving, and recommended that any effort to improve delivery of analytical services include the flexibility to take advantage of these improvements. OAM's market research consisted of publishing a synopsis in the Commerce Business Daily prior to the release of the proposal request in order to ascertain interest among potential offerors. A Commerce Business Daily synopsis was published on December 19, 1994, requesting small business input. OERR stated the ESAT contract solicitation provided flexibility because the contractor was onsite and could provide analysis on short notice. However, by requiring contractors to use Government facilities and equipment, the ESAT contract solicitations did not provide the flexibility to take advantage of improved industry technology.

#### Cost Comparisons Identify Economical Sources

OERR did not compare costs to support mixed use of in-house and multiple contractor sources to do similar work. This mixture evolved as EPA and the commercial industry grew. OERR continued to rely on its initial justifications for mixing in-house workyears, onsite contractors, and external contractors to perform similar sample analysis without considering cost. Because it did not analyze costs, OERR continued practices which might not provide EPA the best quality service at the most economical price.

Generally, Government policy is to rely on commercial sources to supply the products and services it needs. When commercial sources are available, the Government should perform a cost comparison between contracting out and performing the work in-house to determine who should do the work. If the cost estimates to perform the work commercially are less than the cost to perform the work in-house using Government personnel, equipment, and facilities, then the work should be performed commercially. If certain functions are inherently Governmental in nature, these functions should be performed by Government employees. The 1993 National Performance Review supports this policy and encourages

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moving toward practices which will allow Government personnel to choose the "best value" products.

OERR never justified that performing some sample analysis in-house was less costly or that contracting out certain functions, such as quality assurance, was not contrary to inherently governmental functions policies. Instead, OERR originally decided to contract for onsite contractors because it lacked the resources to do all of the work in-house and had excess facilities and equipment. However, it continued to use both in-house personnel and contractors for similar analytical services. The 1991 ESAT acquisition plan stated that because the Government did not possess the capability to do all the work, requirements for cost comparisons did not apply. The 1995 acquisition plan stated a cost comparison was not anticipated because it was believed that the contract costs would be found reasonable. The latter judgment was not sufficient because it assumed OERR had performed an initial cost comparison between performing the analysis in-house or contracting for the services.

OERR did not define which work was more economical and appropriate under which method. OERR had not requested the regions to track the cost of performing sample analysis activities in-house versus using the ESAT contractors and various external commercial sources to determine their cost effectiveness. OERR based its determination to retain some work in-house on a desire to maintain some technical expertise. In Region 7, cost to perform the specific sample types was not a primary factor in determining which source to use, although prices varied substantially among the various sources. The Region did not monitor the cost on a per sample basis for the various sources to perform similar analyses. In addition, the DAS workgroup was unable to obtain sufficient information from the regions to perform any cost comparisons of its own. Different contracts and in-house personnel were both identified as the most cost beneficial by various OERR and Region 7 staff, but none of the parties could provide a documented, detailed cost comparison by sample type or other documented justification for their statements.

OERR and OAM provided equipment for in-house contractors without considering the FAR provisions governing Government-furnished equipment. OERR and OAM did not direct recent planning efforts toward increasing reliance on contractors to furnish equipment and reducing equipment furnished by EPA. A General Accounting Office report criticized the National Aeronautics and Space

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Administration for not complying with FAR provisions intended to ensure that the Government provided equipment only when contractors could not provide it, and EPA may be vulnerable to similar criticism for the ESAT contract. FAR 45.302-1(a) states that agencies shall not furnish equipment for any purpose, except for five specific exceptions. The ESAT contract did not appear to meet the requirements of any of the exceptions. However, EPA has recognized there is a problem with their utilization of Government-furnished equipment and is currently addressing this property issue and planning corrective action

The 1995 and 1991 acquisition plans did not document how providing equipment would reduce costs. EPA provided Government facilities and equipment to the ESAT contractors but not to other commercial sources for analytical support services. Decisions related to facilities and equipment will directly impact cost considerations related to continuing to use the support services of onsite contractors. OERR and OAM should justify any decisions, such as providing facilities and equipment, which impact the contract cost.

#### CONCLUSION

Although OERR expended considerable resources in developing analytical support services strategies, results of the efforts did not provide for improved services. In developing the strategies, OERR recognized that it needed to identify its future analytical needs, but stopped short of doing so. Instead, it focused on decentralizing the services.

OAM did not develop an adequate acquisition plan to replace the expiring ESAT contracts. The decision to break the ESAT replacement contracts into two zone and two regional contracts may improve competition by providing more contracts to compete among contractors, but without further analysis, neither the contracts nor competition can be significantly improved. Requirements for analytical services need to be better defined to achieve desired contract goals and reduce cost.

OERR and OAM need a strategy to develop a contract history vital to specifying the types and quantities of analytical tests EPA needs to support its programs. OERR and OAM did not conduct market research and perform cost comparisons that would aid in designing contracts to obtain better results at cheaper prices while transferring more of the risk to the contractor. Consequently, EPA may be wasting valuable resources by paying more for services than necessary.

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## RECOMMENDATIONS

We recommend that the Assistant Administrators for OSWER and OARM require OERR and OAM to:

1. Work together to develop an analytical support services acquisition strategy. The first step should be to gather services needs information and costs of current services from all program offices to develop the strategy.
2. Plan future analytical services acquisitions to address the technical, business, management, and other significant considerations required by the FAR. Specifically,
  - clearly define analytical services type, quality, quantity, and delivery requirements and develop a system for regions to track costs to obtain these services;
  - survey the analytical support industry to determine how private industry describes its requirements in contracts for services, and then use this information to describe EPA needs;
  - identify the services that should be performed in-house and exclude them from contract considerations;
  - compare the current cost of services that can be contracted out and identify the most economical alternatives; and
  - document significant decisions such as market survey results; service descriptions; and in-house performance versus contractor performance, including contractor use of Government-furnished facilities and equipment.
3. Plan to meet minimum analytical services needs with replacement ESAT contracts until better needs determinations can be developed.
  - Reconsider contract options before the end of the first year and document justifications for extending ESAT replacement contracts if new procurement actions are not initiated;
  - analyze the work currently done by the ESAT contractor to estimate work on a sample basis, not workyears, and to identify work that should be done by other

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- contractors, work that should be done in-house, and work that must be done by the ESAT contractor;
- determine whether the work must be done at an EPA facility using EPA equipment; and
  - develop plans to improve the contract method and type.

#### AGENCY COMMENTS AND OIG EVALUATION

OSWER RESPONSE: OSWER disagreed with the report and stated the OIG report did not reflect the manner in which analytical services acquisitions are planned and carried out, and did not adequately acknowledge the comprehensive strategy that was developed and implemented. OSWER stated replacement ESAT contracts provide EPA with a cost-effective approach for maximizing the use of regional equipment; providing needed flexibility in sample analysis; providing the ability to use improved methods, instruments, and data handling systems; and minimizing the risks to data integrity.

OSWER stated estimating work on a sample basis for ESAT is not realistic, since a very large number of variations can exist for a particular type of analysis. The ESAT analytical support tasks are best performed onsite to conserve cost, maximize the use of regional laboratory facilities and equipment, and minimize the risk to the Government for obtaining unusable data.

OARM RESPONSE: OARM disagreed with the report and stated that the overall analytical support services strategy was extensively planned in accordance with the FAR. OARM stated the ESAT statement of work contained narrowly focused, analytically based tasks. It could not define performance further, due to the uncertainties inherent in the regions' requirements and the need to provide flexibility in these contracts.

The RESAT workgroup considered the exact issues which the draft report contends were not analyzed, including developing the performance and delivery requirements. OARM further stated it complied with requirements regarding market surveys, contract types, and justification for providing the contractor with facilities and equipment. OARM cited A-76 that allows continuing existing contracts, if cost is reasonable and performance is satisfactory.

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OIG EVALUATION: Although OSWER's and OARM's responses referenced various planning documents including results of the DAS and RESAT workgroups, the two offices had not adequately planned acquisitions of analytical support services. We agree that the RESAT and DAS workgroups identified most of the issues we reported, but their results did not evidence the market research and cost analysis needed to improve acquisitions. Further, the workgroups were not held accountable for resolving identified issues. DAS was not intended or carried out as a comprehensive acquisition strategy. RESAT was directed more at refining the contract terms to eliminate past criticisms, rather than to improve contracting. OARM's market surveys did not address the intent of our issue or our recommendation. Our issue is that OARM should ask industry to help identify the best way to contract for analytical services. How does private industry categorize its sample work and define its contract requirements? After OARM obtains this information, it will be in a better position to help OSWER define analytical services contract requirements.

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

JUN 7 1995

OFFICE OF  
ADMINISTRATION  
AND RESOURCES  
MANAGEMENT

**MEMORANDUM**

SUBJECT: OARM Response to OIG Report on Survey of Acquisition of Analytical Support, Report No. E1SKF4-07-0053-XXXX

FROM: *for* Jonathan L. Cannon, Assistant Administrator  
Office of Administration and Resources Management (3101)

TO: Elissa R. Karpf, Deputy Assistant Inspector General  
Acquisition and Assistance Audits (2421)

Thank you for the opportunity to review the subject draft report. The attached comments reflect our response. We ask that you give these comments careful consideration in the preparation of the draft survey report.

My staff met with your staff on several different occasions to discuss the findings of the survey. There remain, however, two broad issues of concern in the draft report. We believe the OIG has generally confused the issues of advanced acquisition planning with the specific documentation requirements of the Federal Acquisition Regulation (FAR). It also appears that the OIG has inappropriately mixed issues regarding OMB Circular A-76 cost comparisons with other FAR-related cost benefit decisions.

Consequently, we disagree with the majority of the findings as presented in the draft report and with the conclusion concerning the serious nature of the findings. While we basically agree with the intent of the recommendations, we have complied with those that are applicable to the current Environmental Services Assistance Team (ESAT) solicitation, and mechanisms are in place to ensure that the other recommendations are followed.

The cover memo reflects your belief that the deficiencies cited in the draft report related to acquisition planning represent a significant weakness in Agency contract management. We strongly disagree with the contention that any of the deficiencies noted in the report represent reportable material weaknesses for the Agency, especially since only five of approximately 650 active contracts were reviewed. We anticipate



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that you will reach this same conclusion after you review our response and the response from the Office of Solid Waste and Emergency Response (forwarded under separate cover).

To simplify our response, the findings and recommendations are discussed by subject in the order of appearance in the report. We have only addressed the findings applicable to the Office of Administration and Resources Management (OARM). We hope that you will conclude that the report can be closed with no further action required.

Should you or your staff have any questions or need additional information regarding this response, please contact Betty L. Bailey, Director, Office of Acquisition Management, on 202/260-5020.

Attachment

**OARM RESPONSE TO THE OIG'S  
FINDINGS AND RECOMMENDATIONS**

**BACKGROUND**

By way of clarification, it is important to note that the ESAT contracts (both the current two existing contracts as well as the on-going new acquisitions) include other tasks in addition to analytical services. The ESAT contracts also provide quality assurance support and data validation activities to the Agency. In addition, the ESAT contracts are utilized more for the analysis of high visibility or difficult/unusual samples (Special Analytical Services) than for routine sample analysis. This has always been the case and is not true only for the new ESAT acquisition as the Office of Inspector General (OIG) contends in the Background statement of its report.

**ACQUISITION HISTORY AND MARKET RESEARCH SHOULD BE USED TO PLAN  
ANALYTICAL SUPPORT SERVICES ACQUISITION**

**FINDINGS**

The draft report states that the "Office of Emergency and Remedial Response (OERR) and the Office of Acquisition Management (OAM) have not adequately planned either the ESAT replacement contracts or the overall analytical support services contracting strategy." It further cites the FAR requirements (subparts 7.102, 7.103, and 7.104) regarding acquisition planning, and states that OAM and OERR did not prepare a written acquisition plan. The report states that OAM and OERR had not "determined the performance and delivery requirements for the replacement contract, nor analyzed and documented technical, business, and management issues that might affect the acquisition."

**RESPONSE**

We believe that the overall analytical support services contracting strategy has been extensively planned by OERR with input from the ten EPA Regions and OAM. Since it is our understanding that the OSWER response will address the overall contracting strategy in detail, we will not address it any further here.

While acquisition planning for the upcoming ESAT reprocurement could have been better documented, we are concerned that the OIG audit team did not request, review or consider, evidence of the extensive planning that has taken place for this

major acquisition effort. We believe EPA fully complied with FAR 7.104(a), which recommends that an agency begin acquisition planning as soon as the need is identified.

The Regional Environmental Services Assistance Team was formed in August 1993 to plan the follow-on ESAT awards to the current contracts which expire September 30, 1995. The workgroup considered the exact issues which the draft report contends were not analyzed, including developing various pieces of the acquisition package which would set forth the performance and delivery requirements.

One of the workgroup's primary goals was to define the Government's requirements without restricting competition while addressing issues of potential vulnerability. Subgroups worked on the statement of work (SOW) and labor classifications, the advisory and assistance services memorandum and the technical evaluation criteria, issues dealing with conflicts of interest, and reporting requirements. Participants included regional project officers; personnel in the Analytical Operations Branch and the Hazardous Site Evaluation Division; contracting officers from headquarters, the regions and the Contracts Management Division, Research Triangle Park (CMD-RTP); and long term contracting strategy regional liaisons.

Likewise, we believe EPA fully complied with FAR 7.102 regarding market surveys and enhancing competition. This is typically accomplished by EPA (and other agencies) in accordance with FAR 5.101. A synopsis is published in the Commerce Business Daily (CBD) prior to the release of a Request for Proposal in order to ascertain interest among potential offerors and to notify them of an upcoming solicitation. In addition, when deemed appropriate, EPA searches the market via "Sources Sought" announcements in the CBD. This market-search mechanism identifies potential sources to determine if an acquisition or any portion thereof should be set-aside only for small business participation.

In November 1994, the Small Business Administration Procurement Center representative recommended that EPA consider the Region 4 portion of the acquisition for award to a small business firm. A sources sought synopsis was published in the CBD on December 19, 1994, which requested interested small businesses to submit a statement of their capabilities to perform the effort. As a result of that synopsis and a review of the capability statements received, the Region 4 requirement is set-aside for small businesses.

The CBD announcement for the entire ESAT requirement was published on February 3, 1995. It should be noted that FAR 5.203(a) requires that such announcements be published at least

15 days prior to solicitation release. In this case, the February CBD notice preceded the solicitation release by almost 90 days. We believe that as a result of these CBD announcements and our efforts to break-up the requirement, we received over 240 requests for the solicitation.

As noted by the OIG, the EPA Contracts Management Manual requires the preparation and approval of an individual acquisition plan for all Superfund acquisitions in excess of \$25,000,000. It is EPA's normal practice to prepare the individual acquisition plan after receipt of a complete procurement request (PR) package. Regardless of the amount of advance planning that goes into an acquisition, it is almost impossible to complete the formal, written acquisition plan until the complete package has been approved by the program office and sent to OAM. This is due to the fact that the acquisition plan must include budget and funding information, the finalized SOW, finalized technical evaluation criteria, etc.

The FAR recognizes this situation at subpart 7.105, which states that, "(t)he specific content of plans will vary, depending on the nature, circumstances, and stage of the acquisition." Hence, the individual, written acquisition plan that is reviewed, approved, and placed in the contract file is simply a documentation of all the advance planning that has been done, as well as the strategy that will be followed until award. In this case, the final PR package was delivered to CMD-RTP in November 1994 and the acquisition plan was approved by the Chief of the Contracting Office on April 6, 1995.

All actions taken by the Agency related to the creation of an individual acquisition plan as well as the requirement to conduct market research were in full compliance with the FAR, the Environmental Protection Agency Acquisition Regulations, and all currently existing EPA policy and guidance.

#### FAR LINKS IDENTIFYING NEEDS TO IDENTIFYING PRODUCT SOURCES

#### **FINDINGS**

The draft report states that OERR expected the 1995 ESAT replacement contracts to contain broad, umbrella statements of work and that OAM expected to write a level of effort contract because definitive analytical service requirements were not developed. The report also states that umbrella contracts can lead to personal service relationships, and, although not directly stated, the report implies that neither an umbrella contract nor a level of effort contract is appropriate for this acquisition.

The report further notes that the FAR "requires an agency to describe the products to be used in the acquisition and whenever practicable to state requirements in terms of functions to be performed or performance required." The report also cites FAR 11.003 which states that "the acquisition of commercial products begins with a description of the Government's needs stated in functional terms in sufficient detail so that market research and analysis can be used to help determine commercial sources." Again, there is the implication that had we complied with these regulations, the resultant solicitation would have been structured differently.

There is also mention of the fact that the FAR advises that contracting officers should avoid protracted use of cost-reimbursement contracts. Although never directly stated, it appears that the OIG's contention is that the new ESAT contracts should be fixed price rather than cost reimbursement type.

#### RESPONSE

We cannot comment on whether OERR "expected" a broad, umbrella SOW. Regardless, the use of "umbrella" contracts are not prohibited by the FAR. In addition, the SOW for the ESAT contracts has been reviewed and modified to eliminate many of the perceived contracting vulnerabilities associated with such contracts.

The current ESAT solicitation meets the requirement at FAR 10.002 to state requirements in terms of functions to be performed or performance required. The ESAT SOW is comprised of narrowly focused, analytical-based tasks that complement each other. Each task was scrutinized carefully and thoroughly to ensure that it was well defined and that vulnerabilities such as personal services and inherently Governmental functions were eliminated or reduced as much as possible. Due to the uncertainties inherent in the regions' requirements and the need to provide flexibility in these contracts, performance cannot be further defined.

Moreover, we believe the OIG's reference to FAR subpart 11.003 regarding commercial products to be in error. FAR 11.001 defines a commercial product as:

"A product, such as an item, material, component, subsystem, or system, sold or traded to the general public in the course of normal business operations at prices based on established catalog or market prices."

We do not believe this section of the FAR applies to the ESAT acquisition since the purpose of the ESAT contract is to

provide technical support services rather than items, materials, components, etc., which are sold or traded to the general public in the course of normal business operations.

The OIG suggests that the new ESAT contracts should be fixed price rather than cost type, but fails to support this contention in any way. FAR 16.301-2 states that cost-reimbursement contracts are suitable for use when uncertainties involved in contract performance do not permit costs to be estimated with sufficient accuracy to use any type of fixed-price contract. There are many variables in the ESAT SOW that cannot be predicted with any degree of confidence. For example, the ESAT contractor may be required to develop/adapt methods for special analyses. There is no way to predict what a particular region's needs may be in this area. We are also unable to anticipate where the ESAT contractor may be needed to perform on-site field analysis, or the nature or type of support needed.

If we force this type of acquisition into a fixed priced arrangement, offerors will have to build in allowances for excessive cost risk, making prices unreasonable. We believe that the only reasonable choice for this acquisition is a cost type contract, and the contract file is so documented.

It should be noted that in separate contracts for routine analytical services where we have very well-defined, standardized requirements, we have created firm, fixed price, indefinite delivery/indefinite quantity contracts. However, the nature of ESAT work is such that it cannot be standardized.

#### FAR LINKS FULL AND OPEN COMPETITION WITH MARKET SURVEYS

#### **FINDINGS**

The draft report notes a number of actions which OAM stated it would undertake in its January 1994 Competition Report in order to enhance competition. The draft report concludes that OAM did not meet its commitments since it "did not perform any market research to support the new ESAT acquisition." In addition, the report contends that recommendations from the DAS Future Directions workgroup have not been implemented by OAM.

#### **RESPONSE**

The OIG's assertion that OAM has not met its commitments as noted in the January 1994 Competition Report to plan the acquisition in order to increase competition is without merit.

In accordance with the recommendations of the report, several steps were taken to ensure that competition is enhanced to the greatest extent possible.

As noted above, the Agency began planning this acquisition early in the acquisition cycle, and satisfied the FAR requirement for market surveys to promote and provide for full and open competition. As a result of the synopsis published for this acquisition, OAM received and filled over 240 requests for the solicitation. The acquisition was broken into two zone (Eastern and Western) and two region-specific pilots for Regions 4 and 7. The Region 4 requirement is 100% set-aside for small business firms.

To eliminate any incumbent bias, the SOW and technical evaluation criteria have been reviewed to ensure that they are non-restrictive. Corporate experience represents only 10% of the total evaluation criteria and is not required to be EPA-specific. Two pre-proposal conferences are being conducted to answer questions from potential offerors. One was held in Athens, GA, for the Region 4 award and the other will be held in Research Triangle Park, NC, for the other three awards.

The OIG also contends that the DAS Future Directions workgroup recommendation that any effort to improve the delivery of analytical services should include the "flexibility" to take advantage of improvements in methods, instruments and data handling systems as they occur, has not been implemented. The recommendation was applied in the case of ESAT by virtue of the fact that the SOW is not so-rigid that these improvements cannot be implemented during contract performance. The very fact that we are utilizing a cost reimbursement, level of effort contract rather than a fixed price, indefinite quantity contract allows the program this necessary flexibility.

#### COST COMPARISONS IDENTIFY ECONOMICAL SOURCES

##### **FINDINGS**

The draft report states that when commercial sources are available, the Government should perform a cost comparison between contracting out and performing the work in-house to determine who should do the work. The report notes that the 1991 ESAT acquisition plan stated that because the Government did not possess the capability to do all the work, requirements for cost comparisons did not apply. The OIG contends that OAM personnel made similar statements concerning the ESAT replacement contracts.



Additionally, the report states that the Agency should justify any decisions, such as providing space and equipment, which impact the contract cost.

#### **RESPONSE**

It appears that the 1991 ESAT acquisition plan and the statements of OAM employees regarding the inapplicability of cost comparisons were in error. In accordance with OMB Circular No. A-76, existing contracts should be continued if the cost is reasonable and performance is satisfactory. The circular provides that if contract costs obtained through competitive solicitation are reasonable, the another contract should be awarded. If the costs obtained are not reasonable, then a determination should be made to see if in-house performance by Government employees would be feasible. If in-house performance is feasible, then the requirement should be scheduled for a cost comparison review.

It appears that the OIG has inappropriately mixed issues regarding OMB Circular A-76 cost comparisons with the cost benefit decisions to provide government property under the contract. We disagree with the OIG draft report's findings that there is no justification for the decision to provide space and equipment for its onsite contractor. The justification is provided in the contract files in accordance with FAR requirements.

#### **RECOMMENDATIONS**

That the Assistant Administrators for Administration and Resources Management and for Solid Waste and Emergency Response:

1. Work together to develop an analytical support services acquisition strategy. The strategy can be divided into a short-term plan to serve expiring ESAT contracts needs and a long-term plan to serve EPA's overall analytical support service needs. The first step should be to gather product needs information from all program offices to develop the long term acquisition plan.

OARM feels that an analytical support services strategy in accordance with the FAR already exists. In the future, OAM will coordinate more closely with OERR and the regions in an attempt to develop individual acquisition plans earlier in the process whenever possible. The formation of the individual plans will be triggered by annual acquisition plans submitted by the program offices in accordance with Chapter 1 of the EPA Contracts Management Manual.

Each Region has already performed a needs analysis which fed into the procurement request for the current ESAT solicitation. This information was used to prepare the individual acquisition plan for the new ESAT contracts which was approved April 6, 1995.

**2. Plan to meet the minimum analytical service support needs for the replacement ESAT contracts.**

-- Analyze the work being done by the ESAT contractor to identify non-analytical work; work that can be done by other contractors; work that should be done in-house; and work that must be done by the ESAT contractor and estimate work on a sample basis, not work years;

-- determine whether the work must be done at an Agency facility; and

-- justify the contract method and type.

As discussed above, the ESAT SOW is narrowly focused and contains analytical-based tasks that complement each other. At this time, it is not considered to be in the Government's best interest to break out any of the tasks for separate procurements or to bring any of the work in-house.

Due to the uncertainty of the types of analysis and related support that may be required under this effort, it is not reasonable to estimate the work on a per sample basis. The types of sample analysis are generally not routine and may involve any number of standard and non-standard methods to be performed.

The determination has already been made that Task 1 must be done at an Agency facility. This determination is in response to a FMFIA finding and recommendation. It has also already been determined that a cost reimbursement, level of effort, work assignment contract is the most appropriate type for this acquisition, and the appropriate written determinations have been prepared, signed, and placed in the contract file. No further justification or action is needed or warranted.

**3. Plan future analytical services acquisitions to address the technical, business, management, and other significant considerations required by the FAR.**

-- Clearly define analytical services type, quality, quantity, and delivery requirements and develop a system for Regions to track costs to obtain these services;

-- conduct market surveys to determine the best method to

package requirements for contracting;

-- identify the services that should be performed in-house and exclude them from cost comparisons;

-- compare the costs of services that can be contracted out and identify the most economical alternatives; and \_\_\_\_

-- document significant decisions such as market survey results; product descriptions; in-house performance versus contractor performance, including contractor use of Government-furnished property and equipment.

As in the past, OAM will assist its customers in their continuous efforts to more clearly define their analytical service requirements. OAM will also continue to conduct market surveys to promote and provide for full and open competition. The documentation for this will be included in contract files and detailed in individual acquisition plans as required by the FAR. OMB circular A-76 procedures will be followed as appropriate. Contractor use of Government-furnished property and equipment will be justified in accordance with the FAR.

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

APPENDIX II  
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JUN 5 1995

OFFICE OF  
SOLID WASTE AND EMERGENCY  
RESPONSE

MEMORANDUM

**SUBJECT:** Response to the Office of Inspector General Draft  
Report on Survey of Acquisition of Analytical Support  
Report No. E1SKF4-07-0053-XXXX

**FROM:** Timothy Fields, Jr. *Timothy Fields, Jr.*  
Deputy Assistant Administrator

**TO:** Elissa R. Karpf  
Deputy Assistant Inspector General  
for Acquisition and Assistance Audits

The purpose of this memorandum is to transmit the Office of Solid Waste and Emergency Response (OSWER) comments on the Office of Inspector General (OIG) Draft Report on Survey of Acquisition of Analytical Support, Report No. E1SKF4-07-0053-XXXX. We reviewed the OIG draft report to insure that it is factual and is presented in a fair and equitable manner.

General Comments on Draft Report

In general, we disagree with the findings and recommendations that are cited in the OIG draft report. The report does not present any in-depth analysis or statistics to support its conclusions. It does not reflect the manner in which analytical services acquisitions are planned and carried out, and does not adequately acknowledge the comprehensive strategy that has been developed and which is being implemented in delivering analytical services to EPA for the Superfund program.

The EPA Superfund analytical services support strategy is well defined, coordinated, and serves the program in a cost-effective manner, while providing flexibility where needed. Superfund's analytical support strategy uses the most diverse types of contracts of any program in EPA. Costs, quantities, specifications, products, packaging, and delivery time frames are known by Headquarters for the Headquarters Contract Lab Program Routine Analytical Services (CLP RAS) contracts, and this information is used in fixed price CLP RAS contracts. Such information, if applicable, is also maintained by the Regions for their Environmental Services Assistance Team (ESAT) contracts and

Delivery of Analytical Services (DAS) program. According to the General Accounting Office (GAO), the CLP RAS program pays the lowest sample prices in the commercial marketplace and among other governmental agencies which perform the same work.

Each major acquisition is carefully planned to determine the most appropriate contracting mechanism, while taking into consideration important programmatic issues, such as analytical flexibility and available Federal personnel resources. A procedure exists for converting higher cost, repetitive Special Analytical Services (SAS) analyses into lower cost, low risk CLP RAS analyses, and this strategy is being used as a model by other governmental agencies. Improved methods, instruments, and data handling systems are incorporated into the national CLP RAS contracts, as well as in Regional DAS programs. The ESAT contracts, which are part of the overall analytical services strategy, have been developed to eliminate or minimize potential contracting vulnerabilities, and provide EPA with a cost-effective approach for maximizing the use of the Regional laboratories, fully utilizing state-of-the-art Regional equipment, providing needed flexibility in sample analyses, providing the ability to use improved methods, instruments, and data handling systems, and minimizing the risks to data integrity.

We are concerned that the OIG review team does not clearly understand the Superfund analytical services program, including the associated complexities. The analytical services program has undergone extensive acquisition planning, taking into account virtually all the issues that the OIG draft report identifies, including acquisition history, determination of performance and delivery requirements, and cost comparisons, as well as technical, business, and management issues.

Because virtually all the concerns which are cited in the OIG draft report are already adequately addressed by the Office of Emergency and Remedial Response (OERR), and we have not been able to identify any issues of concern at the national level, we request that the OIG discontinue its review of acquisition of analytical support at the national level.

#### General Comments on Auditors Approach

We would also like to point out several issues regarding the OIG draft report and audit approach that raise serious concerns for us. First, in the entrance conference, the OIG did not indicate that acquisition planning was the focus of the review, but rather analytical costs. Had the OIG indicated that it was interested in acquisition planning, we would have explained the analytical services program, its history, and programmatic issues. Had the OIG also indicated that it was focusing on items such as sources, quantities, specifications, packaging, data

handling, and delivery time frames, we would have provided the OIG with that information as well.

In fact, we first learned that the OIG review team had changed the direction and scope of its review at the debriefing meeting, after the OIG review team's field work had been completed. In the attached document, we have provided section-by-section factual information on the topics discussed in the OIG draft report. We request that the OIG review this information, and reflect these facts in the appropriate sections of the OIG report. We are willing to provide additional assistance to the OIG staff to clarify any issues or provide further information to ensure the final report, when published, accurately states the facts.

Second, many of the issues that are raised in the OIG draft report are not national issues. The division of responsibility between Headquarters and the Regions, which is an integral part of the DAS strategy, has been explained previously to the OIG review team. Third, Region VII stated that the OIG failed to take its comments into consideration before issuing the OIG draft report. Fourth, in some cases, the OIG has not considered legitimate issues that caused the analytical services program to be developed in a particular manner. We are also concerned that the OIG did not provide supporting statistics or an in-depth analysis to support its findings that EPA may be paying more for analytical services than necessary, other than providing theoretical arguments, drawing unsubstantiated conclusions, and quoting from the Federal Acquisition Regulations (FAR).

The OIG draft report further concerns us because the review should have been confined to Region VII, as the OIG review team indicated, and not escalated to the national level. Both Region VII and Headquarters were never initially questioned on acquisition planning during the review period. It was our understanding that the focus of the audit was on analytical costs. All of the information that the OIG says is lacking is maintained in Headquarters for the Headquarters contracts, but the OIG review team never asked us for it. This same information for Regional contracts is only maintained at the Regional level.

#### Specific Comments on Findings and Recommendations

Our responses to the specific findings and recommendations contained in the OIG draft report are presented below.

#### OIG Finding 1:

Acquisition history and market research should be used to plan analytical support services acquisition.

OSWER Response:

OSWER has always built on the past acquisition history to plan new analytical services acquisitions. For both CLP RAS and ESAT contracts, the contracts are continuously evaluated with Regional input, and improvements are made to the contracts. For CLP RAS contracts, analytical methods and new equipment are evaluated for technical merit, and where appropriate, are incorporated into the contracts. For the ESAT contracts, the SOW has been evaluated several times and improvements have been continuously made to eliminate potential contracting vulnerabilities. The fixed price mechanism for CLP RAS contracts and the cost-reimbursable mechanism for the ESAT contracts have been determined to be the best vehicles for these contracts. The CLP RAS contracts are low cost, low risk contracts, while the ESAT contracts provide essential flexibility for providing non-routine analyses. EPA Regions also use acquisition histories to plan their analytical support service acquisition strategies. This information on Regional analytical acquisitions is only maintained at the Regional level.

OIG Recommendation from Finding 1:

OARM and OSWER should work together to develop an analytical support services acquisition strategy. The strategy can be divided into a short-term plan to serve expiring ESAT contracts needs and a long-term plan to serve EPA's overall analytical support service needs. The first step should be to gather product needs information from all program offices to develop the long-term acquisition plan.

OSWER Response to Recommendation from Finding 1:

Superfund's analytical services strategy is not ESAT-specific since EPA laboratory personnel and various other contract vehicles in addition to ESAT are also involved. The OERR short-term analytical acquisition strategy is based on the Office of Acquisition Management (OAM)-mandated annual acquisition plan. The long-term acquisition plan is based on the DAS strategy.

The short-term needs of the ESAT replacement contracts will be met by the base period of each of the contracts. Any changes in the configuration of the contractor teams, including size and composition, will be justified by the Regions. These team configuration changes will then be incorporated into the option years of the contracts.

In the future, we will coordinate more closely with OAM on the development of the annual acquisition plan, so that these acquisitions will be started earlier. OERR is actively implementing the DAS strategy by decentralizing the national SAS



program, working with the Regions to identify the most promising contractual vehicles, and providing an analytical budget to each Region to encourage only analyses of samples that are needed. The long-term acquisition plan may not have been conveyed through OERR's annual acquisition plan. We will also convey this information to the Regions so that they may incorporate the results of implementing the DAS strategy into their annual acquisition plans.

OIG Finding 2:

FAR links identifying needs to identifying product sources.

OSWER Response:

OSWER has always made an effort to determine the analytical needs of the Regions before working with OAM in determining the most appropriate type of analytical services contract. The CLP RAS program uses fixed price contracts, the largest number of such preferred contracts in a single program in the Agency, that minimize costs and risks to the government. The CLP RAS fixed price contracts are based on specifications, products, services, estimated quantities, contract history, packaging sample work, and delivery time frames. Because the ESAT analytical services task is used mainly for non-routine analyses, the ESAT contracts are also based on the Regions' needs for flexibility in providing those types of analytical services, for quality assurance and integrity of data, and for maximizing the use of the Regional laboratories. The above specifications are provided in individual work assignments.

The DAS effort amassed an enormous amount of information on the current state, customer needs, future directions, resources, vulnerabilities, and efficiencies, and this effort identified the Superfund analytical needs for the long term. Superfund's long term needs for analytical services were addressed by the future directions workgroup, which projected future Superfund activities, estimated future directions in the marketplace, and considered the impact of policy and legislative activities on future analytical services.

The ESAT analytical services task works best on-site to maximize the use of the Regional laboratories, to save unnecessary equipment costs which would be required for having the work performed off-site, to continue the appropriate management that is provided by the Region, and decrease the likelihood of laboratory fraud. It also provides EPA with instantaneous access to the raw data so that the contractor cannot falsify analytical data, helps to maintain the quality and integrity of analytical data, allows EPA to make course corrections during an analytical project, and generally minimizes risks to the government for obtaining unusable data. If we did

not use our own facilities, our costs and risks would necessarily increase.

RECAP is a pilot contract that is being evaluated for its ability to provide Regional control for analytical services at comparable or lower costs than the traditional program. While Region VII favors it, the contract nevertheless has many disadvantages. As a result of the OSWER decision to decentralize the national SAS program, several Regions are learning from the RECAP experience to develop improved Regional contracts.

OIG Recommendation from Finding 2:

Plan to meet minimum analytical service support needs for the replacement ESAT contracts.

- Analyze the work being done by the ESAT contractor to identify non-analytical work; work that can be done by other contractors; work that should be done in-house; and work that must be done by the ESAT contractor and estimate work on a sample basis, not workyears;
- Determine whether the work must be done at an Agency facility; and
- Justify the contract method and type.

OSWER Response to Recommendations from Finding 2:

Each Region has a decision tree that outlines the order in which sample analyses work is distributed. Distribution of sample analyses is a Regional responsibility. Generally, the Regions provide work to their in-house employees first, then non-routine analyses to ESAT, routine analyses to the CLP, and non-routine sample overflow from ESAT is accommodated by the Regional DAS program. The specifics of information on sample distribution is maintained in the Region. In fact, Region VII provided the OIG review team with its Standard Operating Procedures for selecting its sources of analytical services. ESAT capacity in the analytical services task is maintained by providing services to other EPA programs through buy-ins, and by the ability to shift technical personnel to related technical tasks.

The CLP RAS analytical service comprises fixed-price contracts in which work is estimated on a sample basis. Estimating work on a sample basis for ESAT or other contract vehicles that provide non-routine analysis is not a realistic option, since there is a very large number of variations that can exist for a particular type of analysis. Basing non-routine work on a sample basis would severely restrict EPA's ability to provide timely analyses for situations that do not perfectly fit the corresponding SOW. These situations cannot be predicted in

advance, and numbers of non-routine SAS samples are often not known until work begins on a site. In some cases, in which Headquarters attempted to convert repetitive SAS analyses to well-defined RAS analyses, the Regional demand for the RAS service did not materialize, and the RAS service had to be discontinued. This situation occurred for several analytical services. It may, however, be possible for a Region to provide a Region-specific, multi-site analytical service for a particular type of analysis, in which quantities, specifications, products, packaging, demand for the service, and delivery time frames are more defined. This information is only maintained in the Region.

Regarding justifying the contract method and type, we will analyze the tasks under ESAT to determine the most appropriate contract method and type for the next procurement cycle. We will also convey this information to the Regions, which are responsible for justifying the contract method and type for the analytical services contracts under their DAS programs.

**OIG Finding 4:**

Cost comparisons identify economical sources.

**OSWER Response:**

The CLP RAS analytical service is the most cost-effective analytical service among several government agencies that perform similar analyses. It provides the least expensive price with the least risk to the government. GAO is recommending that other governmental agencies adopt the same approach.

When the SAS program was centralized in Headquarters, several detailed compilations of SAS utilization were provided to the Regions between 1993 and 1994, including information on costs, quantities, analytical procedures, and delivery time frames. This information on the Regional DAS programs is maintained within the Region. Although this information is known for past SAS events, requirements continually change as site conditions change and new projects are initiated.

While analytical costs are important, such costs may not be the controlling factor for choosing one analytical source over another. The controlling factor is the need to obtain data of known and documented quality so that the responsible parties can continue to provide most of the costs for cleanup of hazardous waste sites. Non-routine SAS analyses often depend on demand, delivery time frames, Region-specific needs, the availability of qualified laboratories, the need for appropriate management, laboratory performance, sample matrix, flexibility, and availability of an acceptable analytical method.

OIG Recommendation from Finding 4:

Plan future analytical services acquisitions to address the technical, business, management, and other significant considerations required by the FAR.

- Clearly define analytical services type, quality, quantity, and delivery requirements and develop a system for Regions to track costs to obtain these services;
- Conduct market surveys to determine the best method to package requirements for contracting;
- Identify the services that should be performed in-house and exclude them from cost comparisons;
- Compare the cost of services that can be contracted out and identify the most economical alternatives; and
- Document significant decisions such as market survey results; product descriptions; in-house performance versus contractor performance, including contractor use of Government-furnished property and equipment.

OSWER Response to Recommendations from Finding 4:

The CLP RAS contract, which is procured and managed by Headquarters, is a several-hundred page document that contains information on quantities, specifications, products, packaging, and delivery time frames. This information is comprehensively documented.

As stated above, each Region is responsible for making sample distribution decisions and has a decision tree that outlines the order in which sample analyses work is distributed. The specifics of this information are only maintained in the Region.

Establishment of Regional analytical budgets has increased Regional awareness of analytical costs, and the Regions are becoming more cost conscious when determining the number of samples and analyses to be collected. As a result, we are seeing more use of ESAT for non-routine analyses and some shifting of demand to the lower cost, low risk CLP RAS service. As part of our effort to continue to improve our analytical services program, we will issue guidance to the Regions, when appropriate, requesting them to track analytical costs when obtaining analytical services.

The fact that analytical costs are not necessarily the controlling factor for choosing one analytical source over

another must also be taken into account. The reasons for this fact is described above and in Attachment I.

As stated above, the ESAT analytical support task is best performed on-site in order to conserve costs, to maximize the use of Regional laboratory facilities and equipment, and to minimize the risk to the government for obtaining unusable data. During the next ESAT procurement cycle, we will continue to document our key decisions.

We appreciate the opportunity of being able to provide comments on the draft OIG report on the Survey of Acquisition of Analytical Support. We hope that you will take our comments and additional information into consideration as this review nears completion. If you have any questions about our response or wish to arrange a meeting, please have your staff contact Larry Reed, Director, Hazardous Site Evaluation Division, at (703) 603-8850, or Hans Crump, Chief, Analytical Operations Branch, at (703) 603-8821.

Attachments

cc: Tim Fields  
Johnsie Webster  
Becky Brooks  
Sharon Hallinan  
Hans Crump  
Howard Fribush

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Attachment I

Superfund Analytical Services Program

This discussion describes the overall analytical services support strategy for the Superfund program. A knowledge of this strategy is essential for understanding the development and flow of information that is used to support and continually improve the Superfund analytical services program.

The Superfund analytical services program is comprised of two major components, routine analytical services (RAS) and specialized analytical services (SAS). These two components are accommodated by a variety of analytical service mechanisms, including the Regional laboratory, the Contract Laboratory Program (CLP), the Environmental Services Assistance Team (ESAT) contracts, and various types of Regional contracts. The Regional laboratory, which is staffed by EPA chemists, typically retains the right of first refusal in accepting samples for analysis. When the Regional laboratory, which serves a multitude of EPA statutory programs in addition to Superfund, has reached capacity, the sample overflow is accommodated among the various other analytical support services which are mentioned above.

The CLP is a nationally managed program which accepts samples for routine analyses. The CLP provides these routine analyses for a high volume of organic and inorganic samples for which the analyses are standardized. The CLP RAS program uses fixed price contracts, the largest number of such preferred contracts in a single program in the Agency, that minimize costs and risks to the government. A recent review of analytical costs by the General Accounting Office (GAO) has shown that EPA's CLP RAS costs are as much as 220 percent lower than the costs paid by other governmental agencies for similar analyses.

Unlike RAS, which are routine, standardized analyses, SAS analyses are non-routine, highly specialized and depend on site-specific conditions. As such, SAS analyses may require uncommon analytical procedures, low detection limits, analyses for individual contaminants, considerations of unusual matrices, and specialized quality control requirements. It is important to note that SAS requirements often change as a sampling project proceeds, since newly collected information during the project may require a change in the analytical approach. Therefore, SAS analyses are best administered and managed by the Regions, which are most familiar with site-specific circumstances, such as choice of analytical method, the complexities of mixed waste sites, and Regional enforcement policies that may require one approach over another. In fact, there are many differences among Regions in their non-routine SAS analytical needs. For example, one Region may be mainly concerned with low concentration volatiles analysis in water matrices, another Region may be

mainly concerned with low detection limits for all analyses, and another Region may be mainly concerned with difficult sample matrices. Due to the non-routine nature of SAS analyses, management and procurement of such analyses were reassigned to the Regions by an OSWER Decision Memorandum which is dated January 27, 1993.

The ESAT contracts are cost-reimbursable contracts whose primary purpose is to provide the Regions with a cost-effective mechanism to maximize the use of the Regional laboratories. The ESAT contracts provide chemists to provide analytical support to the Regional laboratory, since the Regions have insufficient chemists to fully staff their own laboratories. As such, the work assigned to the on-site ESAT chemists are under Regional control, and the Region can provide appropriate management of the sample analyses. The overflow of samples from EPA chemists is typically assigned to ESAT chemists for non-routine SAS analyses, or to the CLP for RAS analyses. In terms of the number of parameters which are analyzed, the CLP RAS program typically analyzes about ten times the number of parameters in a CLP RAS sample than is typically analyzed in a non-routine SAS sample. While each type of sample may be labeled as RAS or SAS, the two types of samples are vastly different in terms of number of parameters analyzed, matrices, analysis requirements, analytical procedures used, and other factors.

In addition to ESAT and CLP RAS, the overflow of SAS samples from the Regional laboratory is directed to the various mechanisms of analytical services that may be maintained in a particular Region. These sources were established as a result of the DAS strategy, which culminated in a shift of the ratio of Headquarters-managed services to Regionally-managed services from 50:50 to 25:75. The Regional DAS program includes subcontracting using field contracts (e.g., Alternative Remedial Contracts, Technical Assistance Team contracts), small purchase orders, blanket purchase agreements, and interagency agreements. Some Regions are developing their own Regional analytical support contracts. This strategy provides the Regions with more control and flexibility to acquire non-routine SAS analyses, which are site-specific and which the Regions are in the best position to administer and manage.

Once a non-routine SAS analysis achieves a sufficient demand by a majority of the Regions, Headquarters will convert the SAS analysis into a fixed price CLP RAS service, provided the service can be standardized. Headquarters is currently in the process of converting two SAS analyses into RAS services. These SAS analyses include Low Concentration Organics and Water Quality Parameters. Specific criteria for converting SAS analyses into RAS services have been established by the CLP.



It is important to note that the Region VII analytical support contract, Regional Environmental Collection and Analysis Program (RECAP), is a pilot contract that was initiated by the Region with Headquarters support. One purpose of the RECAP contract is to determine if an alternate mechanism for providing Regional control over its analytical services also provides a Region with greater flexibility in acquiring RAS and SAS services at comparable or lower costs than the traditional program.

We would also like to emphasize that, while analytical costs are important, the choice of analytical services is not necessarily cost-driven. An emergency response, for example, may require the Agency to expend greater financial resources to acquire the analyses in a manner that is more timely than the conventional sources. Regional enforcement policy may dictate that EPA use the same procedure as the Potentially Responsible Party for comparison purposes, even though a different analytical procedure is better or more cost-effective. These factors were explained to the OIG review team during the entrance conference; unfortunately, the OIG draft report does not take into consideration these programmatic issues. Beginning in FY 95, however, we instituted a change in the analytical services program that is resulting in a greater Regional awareness of analytical costs. This change is discussed below.

#### Acquisition History

We disagree with the OIG finding that the ESAT replacement contracts and the overall analytical support services have not been adequately planned. Extensive planning was conducted beginning about two years before the expiration of the current ESAT contracts, but we were not asked about it by the OIG review team. We also disagree with the statement that EPA's planning effort was primarily focused on decentralization. To improve understanding for the purpose of acquisition plans, however, we will cross-reference our planning documents to indicate the various steps we have taken to implement our analytical services strategy.

We do know that the demand for samples analyses far exceeds our in-house capacity. Consequently, the majority of sample analyses work needs to be performed via a variety of appropriate contract mechanisms. The Regional laboratories would be overwhelmed by the volume of sample analyses that need to be performed for the Superfund program. Furthermore, non-routine SAS analyses comprise procedures that are not well defined, since they are site- and project-specific as stated previously in our response. Contracts such as ESAT or RECAP cannot be defined in terms of quantities, specifications, products, packaging, and delivery time frames except on a project-by-project basis. This is why the RECAP contract is a delivery order contract, and every project must be negotiated with the laboratory before analysis

can begin, or why the delivery requirements for the ESAT replacement contracts are defined in work assignments. Where SAS analyses are similar to CLP RAS analyses, the various well-defined CLP RAS Statements of Work (SOWs) are used as the basis for the ESAT analysis. However, many non-routine SAS procedures do not have highly definitive SOWs in comparison to RAS analyses.

As stated previously in our response, while analytical costs are important, they may not be the controlling factor for choosing one analytical source over another. Non-routine SAS analyses often depend on capacity (demand for the service), delivery time frames, Region-specific needs, the availability of qualified laboratories, the need for appropriate management, laboratory performance, sample matrix, flexibility, and availability of an acceptable analytical method. Therefore, the SAS program needs to have the flexibility to provide technical direction to the contractor to change the approach during an analytical project if the analytical method is not amenable to the sample matrix.

A recent change in the analytical services program has resulted in a greater Regional awareness of analytical costs. In the 1991 Agency Review of the Contract Laboratory Program (the CLP FMFIA review), the Agency Task Force found that because CLP analytical services were paid from a Headquarters account, the CLP was viewed as a free good, and little incentive existed for the Regions to carefully control the number of samples and the number of analyses completed per sample. As a result, the Task Force recommended that OSWER consider the use of a Regional analytical budget to act as an incentive to collect only needed data. In FY 94, Regional analytical budgets were established and were fully implemented in FY 95. Regional analytical budgets comprise costs associated with CLP RAS, ESAT, and the Regional DAS program. Expenditures are provided to the Regions on a monthly basis so that the Regions can track their analytical costs. As a result, we are seeing more use of ESAT services for non-routine analyses, and some shifting of demand to the lower cost, low risk CLP RAS service.

Projecting non-routine SAS analyses on a sample basis is not a realistic option, since a large number of variations can exist for a particular type of analysis. If the ESAT contracts were based on the sample instead of workyears, EPA would be incapable of providing timely analyses for situations that do not perfectly fit the corresponding SOW. These situations cannot be predicted in advance, and numbers of non-routine SAS samples are often not known until work begins on a site. In some cases, in which Headquarters attempted to convert repetitive SAS analyses to well-defined RAS analyses, the Regional demand for the RAS service did not materialize, and the RAS service had to be discontinued or cancelled. This situation occurred for ambient air analyses, high concentration organics and inorganics, TCLP

organics and inorganics, and quick turnaround organics. It may, however, be possible for a Region to provide a Region-specific multi-site analytical service for a particular type of analysis, in which quantities, specifications, products, packaging, demand for the service, and delivery time frames are more defined. Such specific information is only maintained at the Regional level.

Contrary to what was stated in the OIG draft report, the planning for ESAT did not rely on justifications which were appropriate when EPA was a new agency. EPA was a new agency in 1970, Superfund started in 1981, and the first ESAT contracts were awarded in 1987. The original ESAT contracts were carefully planned and configured to complement the unique Regional analytical service needs in the most cost-effective manner. Consequently, the ESAT contracts are still relatively new contracts, and any standardization of approach on the ESAT contracts is only beginning to be realized. Extensive planning was undertaken for the ESAT replacement contracts, which included formation of a national workgroup of Regional and Headquarters Project Officers, the Contracting Officer, and Long-Term Contracting Strategy representatives. The planning also involved refining the ESAT SOW to minimize and eliminate, where possible, potential contracting vulnerabilities that were identified during the administration of the previous ESAT contracts. This effort included narrowing the scope of the ESAT SOW, excluding certain activities that may be construed as personal services or inherently governmental, and moving certain functions off-site. It is important to note that the ESAT replacement contracts are, in effect, Regional contracts; each Region has tailored its ESAT to perform those tasks of the ESAT SOW that it desires. For example, one Region activates the quality assurance task, but not the analytical services task. Another Region uses ESAT primarily for methods refinement. Some Regions use ESAT primarily to provide on-site analyses. Our EPA Regions depend on the ESAT contracts as the primary contract mechanism for providing or assisting in non-routine SAS analyses.

Regarding acquisition planning for other analytical service sources, we continually evaluate the CLP RAS contracts to determine if other contracting or packaging mechanisms are more appropriate than the current system. This is a constant, iterative process. Recently, for example, we undertook a comprehensive study to determine if contracting mechanisms, other than fixed price contracts, would provide the Regions with increased flexibility in the CLP RAS program. We are also evaluating the feasibility of combining similar CLP RAS services in the same Invitation for Bid. In addition, we perform technical evaluations of laboratory results on quality control and quality assurance samples in an effort to improve our analytical procedures so that they are more amenable to varying sample matrices.

We disagree with the OIG draft report that states that OERR relied primarily on decentralization as its method of acquisition planning. Decentralization of SAS was undertaken to meet the goals of the DAS strategy by shifting more of the responsibility for analytical services from Headquarters to the Regions, since the Regions are more familiar with the specific requirements of non-routine analyses. Decentralization of ESAT would encourage greater Regional responsibility for their on-site contractor teams, which is more difficult to provide at the national level. Decentralization is not a goal in itself. Instead, it provides more flexibility to the Regions, gives more Regional control and responsibility over programs that are Regionally driven, reduces organizational layers, minimizes contracting vulnerabilities, and encourages better management.

#### Identification of Needs and Product Sources

In 1993, the International Association of Environmental Testing Laboratories (IAETL) issued a comprehensive market survey which is publicly available. The DAS Task Force and CLP have saved considerable money and time by using it in planning and in designing its delivery of analytical services strategy. The IAETL report describes in detail the projected analytical service needs of EPA, other Federal agencies, and the private sector. It also describes and identifies the current and projected community of environmental testing laboratories which are and will be available to meet future analytical service demand. Business decisions regarding the CLP are made using the best information available and are based on a variety of sources, such as the IAETL report.

We disagree with the OIG draft report that the ESAT contracts are broad, umbrella contracts. The ESAT contracts are focused contracts that contain tasks that complement each other. The ESAT contracts are used mainly to make full use of the Regional laboratories, to conduct on-site measurements (field analyses), and to perform quality assurance reviews of CLP RAS and other analytical data. Furthermore, some Regions use the ESAT contract to refine analytical methods to make them more amenable to various matrices. The analytical services and quality assurance tasks are interrelated; technical personnel can be shifted between tasks to keep the contract fully utilized at all times. In addition, the Regions use the ESAT contracts to support other EPA programs, such as Toxic Substances, Solid Waste, Water, and Air. These "buy-ins" also help to keep the ESAT fully utilized. In the absence of national contracts for SAS and quality assurance data review, these related tasks were combined into the same SOW to both conserve scarce Federal personnel resources and to fill an essential need at the Regional level.

We have also recognized the potential for the ESAT contracts to expose the Agency to a risk of providing personal services and performing inherently governmental functions. To address these concerns, ESAT employees are segregated from EPA employees, and ESAT employees wear identification badges so that they may not be mistaken for EPA employees. In addition, the Contracting Officer undertook a major on-site review of the Regional ESATs in 1992-1993, and the ESAT SOW has been revised several times to eliminate contracting vulnerabilities. Furthermore, costs are decreasing as we have provided the ESAT contractor with automated tools. One Region has estimated, for example, that utilizing the EPA-developed Computer-Aided Data Review and Evaluation (CADRE) program is saving the Agency about 50 percent of the ESAT level of effort hours as compared to a full manual quality assurance review.

We also disagree that the DAS Task Force did an inadequate job of identifying analytical needs. The DAS Task Force amassed an enormous amount of information over a two-year period through workgroup meetings, steering committee meetings, Regional visits, interviews, surveys, and conference calls. This effort collected information on the current state, customer needs, future directions, resources, vulnerabilities, and efficiencies. Superfund's long-term needs for analytical services were addressed by the future directions workgroup, which projected future Superfund activities, estimated future directions in the marketplace, and considered the impact of policy and legislative activities on future analytical services. The final product of the DAS Task Force was a framework for the delivery of Superfund analytical services for the next decade.

The DAS workgroup on customer needs stated that the current system provides a more reasonable pricing of analytical services, that customers preferred less paperwork, that the future analytical delivery system should be designed with more flexibility, and that customers believed that the EPA Regional laboratories deliver reliable analytical services.

This last finding is especially important because elimination of ESAT analytical services from the EPA Regional laboratory would have several adverse consequences. First, the Regional laboratories would be underutilized, which is not cost-effective. Second, the government would be responsible for costs associated with additional laboratory facilities and equipment, even though the equipment, including state-of-the-art EPA equipment, is already maintained in the Regional laboratories. This may lead to situations in which EPA-owned equipment would not be fully utilized. Third, there would be a decrease in the amount of management of CLP and non-CLP labor that is provided by the Region which, in turn, may increase the risk of laboratory fraud. We would like to stress that laboratory fraud was the most significant concern that was raised in the CLP FMFIA review.

Fourth, performance of the ESAT analytical services task on-site, provides EPA with instantaneous access to the raw data, and makes falsification of data more difficult. Because the Superfund program is an enforcement-based program, and due to Superfund's actual experience with laboratory fraud cases, it is imperative that the quality and integrity of analytical data not be compromised. Fifth, having the ESAT analytical services task on-site allows EPA to make course corrections during an analytical project, for example, for unforeseen sample matrix problems. Moving the ESAT analytical services task off-site would, therefore, increase the costs to the government and would provide an increased risk to the government for obtaining unusable data. So far, we have had no evidence of falsification of laboratory data which were produced by the ESAT contractors.

The DAS Task Force gathered all the information on analytical services support that existed, and utilized the best information that the Agency had at that time. It should be noted that GAO is recommending that other agencies emulate the CLP RAS program of centralizing routine analyses, since it provides high quality data at low costs and with the least risk to the government.

The OIG draft report states that OERR can benefit from Region VII's experience with its RECAP contract. As stated previously, the RECAP contract is still a pilot project to determine if an alternative delivery of analytical services mechanism can be utilized in an efficient and cost-effective manner. Contrary to the OIG's apparent favorable endorsement of this contract, Headquarters and interested Regions have reservations about expanding the use of this contract type. While the RECAP approach has advantages, especially in providing Regional control over its analytical services, its disadvantages include a commitment of large Federal personnel resources and a high overhead on negotiating every delivery order. As a result, most Regions are reluctant to initiate this type of contract. Region VII estimated that managing the RECAP contract required 2.7 FTE for writing the requirements, reviewing the contractor work plans, negotiating the delivery orders, managing each delivery order, and closing out each delivery order. Region VII also disagreed with the options that were cited in the draft OIG review for specifying work under the RECAP contract, since the cited options would not accomplish the major programmatic objectives of achieving the data quality objectives of the projects, facilitating cost recovery information, organizing scheduling and close-out of tasks, and managing the Region's analytical funding. More specific information on the RECAP contract is maintained in Region VII.

### Market Surveys

In addition to the FAR requirement to conduct market surveys, this section of the OIG draft report raised several related issues. We disagree with the OIG draft report that states that OERR did not implement the DAS recommendation, presumably in the ESAT contracts, to improve flexibility in choosing improved methods, instruments, and data handling systems. While the DAS Task Force did not specifically recommend that these items be incorporated into the ESAT contracts, the cost-reimbursable mechanism of the ESAT contracts allow for the flexibility cited. In fact, some Regions are currently evaluating new technologies through the ESAT contracts, including the use of immunoassay test kits to perform site characterizations and the use of portable gas chromatography/mass spectrometry. Second, the ORD Environmental Monitoring Systems Laboratory in Las Vegas assists the Superfund program in developing methods and evaluating new technologies. As these new methods and technologies become standardized, they are incorporated into the CLP RAS contracts. Third, extensive data handling systems exist in the CLP RAS program. CLP RAS data are evaluated for contract compliance using the Contract Compliance Screening program, CLP RAS data are stored in a database, and the Regions have been provided with the CADRE program to perform quality assurance reviews of CLP RAS data. The CADRE program also offers the Regions an ability to perform quality assurance reviews of electronic data which are collected under their DAS programs. Fourth, we have undertaken a major review to streamline the data handling process by shifting computer programs from the EPA mainframe to PC-based systems. Finally, the Regional DAS program provides the Regions with the flexibility to choose new or improved methods, instruments, and data handling systems. More specific information on Regional DAS programs is only maintained at the Regional level.

### Cost Comparisons

We disagree with the OIG draft report that states that OERR has not performed any cost comparisons between the various delivery of analytical services mechanisms. The CLP RAS analytical service is the most cost-effective analytical service among several governmental agencies that perform similar analyses. It provides the least expensive price with the least risk to the government. GAO is recommending that other governmental agencies adopt the same approach. We know the price of a CLP RAS analyses on a per sample basis, as well as the quantities, specifications, products, packaging, and delivery time frames, but the OIG review team never asked us for this information. As previously stated, the CLP RAS contract is a several-hundred page document that contains all the above product specifications.

The OIG draft report states that costs and other factors for analytical service sources are not known. Several detailed compilations of SAS utilization were provided to the Regions between 1993 and 1994. These compilations include costs, quantities, analytical procedures, and delivery time frames. We have attached examples of these documents. Specific information for the Regional DAS programs is only maintained at the Regional level. Although these factors are known for past SAS events, requirements continually change as site conditions change and new projects are initiated.

We disagree with the OIG draft report regarding the extent of justifications required for determining the source of analytical services. We do know that the demand for sample analyses far exceeds our in-house capacity. Consequently, the majority of sample analyses needs to be procured via outside sources. We have no other option. Unless there is a Congressional mandate to convert contractor laboratory services personnel to civil servants in order to perform in-house laboratory analyses, we will have to continue to contract for these analyses. The Superfund program's DAS strategy uses the most diverse types of contracts of any program in EPA, and it provides the flexibility that the Regions need for obtaining special analytical services at reasonable costs. It should be noted, however, that the recent contractor conversion initiative in the Agency is intended for the conversion of those ESAT FTE which are associated with potential contracting vulnerabilities to Federal FTE. However, none of the ESAT conversion FTE involve laboratory functions, since these functions are not considered to contain inherently governmental functions. Region VII has stated that cost considerations are factored into its decision tree for selecting its sources of analytical services, and the Region provided the OIG review team with its Standard Operating Procedures. More specific information on the Regional process for selecting sources of analytical services is only maintained at the Regional level.

We also disagree with the OIG draft report's assertion that there is no justification for the government to continue to provide space and equipment for ESAT. As we have stated before, the equipment that ESAT uses in the Regional laboratory is not government furnished. It is government-owned equipment, and the Regions typically schedule it in specific shifts so that both EPA and ESAT chemists can use it at separate times to perform specialized analyses. Also, the Regional laboratories have state-of-the-art analytical equipment, which is used by Superfund and all other statutory programs for which EPA is responsible. EPA Regional laboratories fulfill a key role in delivering analytical services to all EPA programs, maintaining the ability to be smart purchasers of analytical services, providing an in-house capability for performing enforcement-sensitive work, maintaining in-house experience for providing Regional quality



assurance oversight, and addressing occasional conflict of interest situations that may arise. The necessity of the Regional laboratories to support EPA program offices in regulatory development and enforcement was also documented in a comprehensive August 10, 1994, report entitled "EPA Laboratory Study."

Furthermore, in the CLP FMFIA review, it was recommended that EPA consider the usefulness of Government-Owned Contractor-Operated (GOCO) facilities to provide analytical services. The CLP FMFIA review specifically linked GOCOs with the proposed decentralization of the ESAT contracts. The DAS Task Force developed a number of options for analytical services, including the use of GOCOs. They are generally recognized as effective and cost-effective contract vehicles for procuring services by governmental agencies. The DAS Task Force found, however, that high start-up costs and long implementation time frame for GOCOs would be unsuitable for delivering analytical services for the Superfund program. While the ESAT contracts are not true GOCOs, the contractor does use government space and equipment, and this approach provides a cost-effective means for performing sample analyses under EPA oversight while greatly minimizing the potential for fraud. Justification for utilizing EPA space and equipment by the ESAT contractor is provided in the DAS, CLP FMFIA and EPA Laboratory Study reports.

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ABBREVIATIONS

CLP	Contract Laboratory Program
CMD	Contracts Management Division
DAS	Delivery of Analytical Services
EPA	Environmental Protection Agency
ESAT	Environmental Services Assistance Team
FAR	Federal Acquisition Regulation
LTCS	Long-Term Contracting Strategy
NAPA	National Academy of Public Administration
OAM	Office of Acquisition Management
OARM	Office of Administration and Resources Management
OERR	Office of Emergency and Remedial Response
OIG	Office of Inspector General
OSWER	Office of Solid Waste and Emergency Response
RECAP	Regional Environmental Collection and Analysis Program
RESAT	Regional Environmental Services Assistance Team

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