



Office of Inspector General
Report of Audit

LEAKING UNDERGROUND STORAGE TANK PROGRAM

**IDAHO DEPARTMENT OF HEALTH AND WELFARE
DIVISION OF ENVIRONMENTAL QUALITY**

Audit Report: E3NLB3-10-0151-4100563

September 28, 1994

**INSPECTOR GENERAL DIVISION
CONDUCTING THE AUDIT:**

**WESTERN AUDIT DIVISION
SEATTLE BRANCH OFFICE**

REGION COVERED:

REGION 10

PROGRAM OFFICE INVOLVED:

WATER DIVISION



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF THE INSPECTOR GENERAL FOR AUDITS
WESTERN DIVISION
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September 28, 1994

MEMORANDUM

SUBJECT: Report on Leaking Underground Storage Tank Program,
Idaho Department of Health and Welfare, Division of
Environmental Quality
Audit Report No. E3NLB3-10-0151-4100563

FROM: Truman R. Beeler *Truman R. Beeler*
Divisional Inspector General for Audit
Western Division

TO: Chuck Clarke
Regional Administrator
EPA, Region 10

Attached are seven copies of the subject audit report. The overall objectives of our audit were to determine whether:

- . Costs claimed under cooperative agreement no. L000536-01 were allowable, allocable, and reasonable; and
- . Idaho was in compliance with the requirements of cooperative agreement no. L000716-01.

The report contains important findings and recommendations regarding the subject area.

Since the report and recommendations are directed to your office, we have not distributed copies of the report to the Administrator of the Idaho Division of Environmental Quality or other State officials responsible for administration of the LUST program in Idaho. However, we have provided sufficient copies to your office for such a distribution, if you wish to do so.

Action Required

In accordance with EPA Order 2750, you, as the action official are required to provide this office a written response to the audit report within 90 days of the final audit report date. For corrective actions planned, but not completed by your response date, reference to specific milestone date will assist this office in deciding whether to close this 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 the Inspector General has identified and corrective actions the OIG recommends. This audit report represents the opinion of the 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 have any questions about this report, please contact me or Charles Reisig of our Seattle Office at (206) 553-4032.

Attachments

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EXECUTIVE SUMMARY

PURPOSE

The Office of Inspector General, Western Audit Division, has completed an audit of EPA's Leaking Underground Storage Tank (LUST) Cooperative Agreements with the State of Idaho. The purpose of the review was to determine whether the State of Idaho had adequate accountability over the LUST Trust Funds and was in compliance with the requirements of the cooperative agreements. Our specific objectives were to determine whether:

- Costs claimed were allowable, allocable, and reasonable under the LUST cooperative agreements;
- The state was in compliance with cooperative agreement requirements;
- The state's site cleanup priorities were appropriate; and
- The state's data input into the Strategic Targeted Activities for Results System (STARS) was accurate.

BACKGROUND

In 1984 and 1986 Congress passed Underground Storage Tank (UST) legislation which is under Subtitle I of the Resource Conservation and Recovery Act (RCRA). The Superfund Amendments and Reauthorization Act of 1986 (SARA), which amended RCRA, established the LUST Trust Fund to finance the cleanup of petroleum releases from USTs.

Subtitle II of RCRA authorizes EPA to provide LUST Trust Funds to states for the cleanup of LUSTs through cooperative agreements. LUST cooperative agreements are agreements between EPA and states that provide the basis which EPA oversees and manages the use of LUST Trust Funds. The agreements identify the amount of funds that have been allocated to each state and establish LUST Program performance requirements. The states may use the Trust Fund to pay for costs of site corrective actions, enforcement actions undertaken to get owners and operators (responsible parties) to take corrective actions, cost recovery of Trust Fund expenditures, and reasonable and necessary administrative expenses directly related to these activities.

The audit evaluated the two most recently completed LUST

cooperative agreements between EPA and the State of Idaho. We conducted a financial and compliance audit of LUST Cooperative Agreement No. L000536-01. This agreement was selected because it was the most current agreement where the state had submitted a final financial status report (FSR). We conducted a performance audit of LUST Cooperative Agreement No. L000716-01 because the agreement was the most recently completed agreement, and as a result, represented the state's most current activities.

EPA Region 10 awarded LUST Cooperative Agreement No. L000536-01 to the Idaho Department of Health and Welfare (IDHW) on April 12, 1991. The purpose of the agreement was to fund Idaho's LUST Program for the period April 12, 1991 to December 31, 1992. The agreement established a total project cost of \$1,095,739 with EPA funding 90 percent.

EPA Region 10 awarded LUST Cooperative Agreement No. L000716-01 to IDHW on July 28, 1992. The agreement's purpose was to provide funding for Idaho's LUST Program for the period July 28, 1992 to December 31, 1993. The total project cost of the agreement was \$1,185,101. EPA provided funding for 90 percent.

Idaho's LUST Program is administered by the Idaho Department of Health and Welfare, Division of Environmental Quality, Remediation Bureau. IDHW operates five regional offices that cover different geographical areas of the state. These regional offices are allocated LUST Trust Funds and assist the Remediation Bureau with administration of the program. As of the end of fiscal 1993, IDHW reported that out of 689 LUST sites within the state, cleanups had been initiated on 614 sites and 350 had been completed.

PRINCIPAL FINDINGS

We conducted a financial and compliance audit of EPA's LUST cooperative agreement with the State of Idaho covering the period April 12, 1991 through December 31, 1992. We also conducted a performance audit of the state's LUST cooperative agreement with EPA covering the period July 28, 1992 through December 31, 1993. Overall, we found that IDHW had made progress in the remediation of many LUST sites. However, we found that IDHW needed to improve its documentation of costs claimed and make improvements in other areas of its LUST Program. The audit results for these areas are summarized in the following paragraphs.

Financial

Unsupported Costs

The State of Idaho claimed costs totaling \$927,787 under LUST Cooperative Agreement No. L000536-01 covering the period from April 12, 1991 through December 31, 1992. We were unable to express an opinion on the allowability of the costs claimed because IDHW's accounting procedures were not sufficient to determine whether LUST Trust Funds had been used in accordance with applicable Federal statutes. As a result, we concluded that \$711,906 of the \$927,787 total costs claimed under the cooperative agreement were unsupported.

Internal Controls Weaknesses and Non-Compliance With Federal Regulations

We found weaknesses in the State of Idaho's system of internal controls for LUST Trust Fund expenditures claimed under LUST Cooperative Agreement No. L000536-01. Furthermore, we found that the state did not comply with contract administration requirements specified by 40 Code of Federal Regulations (CFR), Part 31.

A sample of 25 payroll transactions showed that 17 were either based on budget allocations rather than actual hours worked on the LUST Program or the distributions were different than the time recorded on the employees' timesheets. A sample of 50 non-personnel expenditures showed: (i) 26 of the expenditures were not supported by documentation that the costs were allocable to the LUST Program and (ii) several instances where IDHW did not require contractors to comply with specific terms of the contracts. As a result, a significant portion of the costs claimed are questioned as unsupported.

These conditions occurred because IDHW did not have procedures to ensure that payroll costs were distributed according to actual time worked, documentation for non-personnel costs to support the allocability of direct charges to the LUST Program, and contractors are required to adhere to terms of contracts.

Performance

The cooperative agreements with IDHW included requirements for the state to maintain a LUST site cleanup priority list, pursue cost recovery of LUST Trust Fund expenditures from responsible parties, and to submit quarterly STARS reports. We found that the state had performed these activities. However, we concluded that IDHW needed to place more emphasis on the remediation of higher priority sites, improve procedures for cost recovery, and

improve the accuracy of STARS reporting.

Greater Emphasis Is Needed For Higher Priority LUST Sites

Although IDHW had made substantial progress in addressing the remediation of LUST sites, sufficient attention had not been given to some LUST sites that posed the greatest threat to human health and the environment. A judgement sample of 23 sites designated either as high priority or as contaminating groundwater disclosed that oversight of responsible party remediation for 9 of the sites needed improvement, management reports identifying remediation status of the sites were not accurate, and cleanup priority rankings had not been assigned to all sites. In our opinion, these conditions occurred because IDHW had not placed adequate emphasis on ensuring that LUST sites posing the most significant threat to human health and the environment were remediated as soon as possible.

Cost Recovery Procedures Need Improvement

IDHW's procedures used for the recovery of LUST Trust Fund expenditures need improvement. During the period fiscal 1993 through the first quarter fiscal 1994, cost recovery settlements involving four LUST sites were completed. Although IDHW had incurred Trust Fund expenditures totaling \$198,000 for the sites, only \$189,000 was identified for cost recovery purposes. IDHW did not document why it accepted reduced cost recovery settlements totaling \$144,000. Also, IDHW did not attempt to charge interest on LUST Trust Fund recovery amounts and did not adequately administer a contract which was funded with LUST Trust Funds.

These conditions occurred because Remediation Bureau personnel: (i) did not accurately identify all LUST Trust Fund expenditures; (ii) did not follow EPA documentation requirements; (iii) were of the opinion that interest assessments would adversely affect the cost recovery process and corrective actions; and (iv) made contract revisions without the use of a written contract amendment. As a result, IDHW might not have maximized its cost recoveries from responsible parties.

Quarterly STARS Reports Were Inaccurate

Quarterly STARS reports submitted to EPA Region 10 did not accurately report LUST Program activity during fiscal 1993. The number of confirmed releases were understated by 23 (16 percent), cleanups initiated were overstated by 20 (18 percent), and cleanups completed were understated by 42 (57 percent). In addition, the quarterly reports included LUST Program activity that had occurred prior to the reporting periods. The

inaccuracies occurred because not all performance data had been correctly compiled by the computer system used to maintain LUST site information, information in the quarterly reports was not reconciled to the supporting records, and some regions reported LUST site activity late. The erroneous reporting resulted in EPA managers receiving inaccurate performance information on the IDHW's LUST Program during fiscal 1993.

RECOMMENDATIONS

Our detailed recommendations follow the findings discussed in Chapters 2 through 6. In summary, we recommend that the Regional Administrator require IDHW to:

- Either provide support for costs claimed under cooperative agreement no. L000536-01 and make a financial adjustment for costs not supported, or obtain a waiver for deviation from Federal requirements for such supporting documentation.
- Charge costs to cooperative agreements based on actual costs and establish procedures which ensure that claimed expenditures are allowable and allocable.
- Ensure that LUST site oversight activities are based on assigned priorities and that priorities are assigned to all sites.
- Ensure that Consent Agreements or Schedules and Criteria are established for significantly contaminated LUST sites as required by Idaho's Water Quality Standards and Wastewater Treatment Requirements.
- Ensure that each cost recovery claim include all Trust Fund expenditures associated with the LUST site and that cost recovery settlements are documented.
- Implement procedures which ensure that LUST site activity information maintained in the LUST site data base is reconciled to source documents at least quarterly.

IDHW COMMENTS

We provided IDHW with a copy of our draft report on July 29, 1994 and we received a revised response dated September, 22, 1994. An exit conference was held with IDHW on September 8, 1994.

IDHW did not agree with the costs questioned as unsupported and our conclusions on internal controls. IDHW disagreed because it believed that its accounting procedures for both personnel and non-personnel costs were in compliance with Federal requirements.

IDHW also disagreed with our conclusion that more emphasis should be placed on higher priority LUST sites. IDHW disputed our conclusion mainly because it believed that: (i) prioritizing LUST sites with responsible parties was not a Federal requirement, and (ii) its priority system was a numerical guide, not a work allocation system.

IDHW agreed with our conclusions and recommendations pertaining to its cost recovery and STARS reporting procedures.

A summary of IDHW's comments follow the recommendations in Chapters 2 through 6. Appendix I contains IDHW's detailed comments.

OIG EVALUATION

Our position regarding costs questioned remains unchanged. IDHW's expenditure documentation was insufficient to support that personnel and non-personnel costs were actually incurred for the LUST Program. We believe that the evidence obtained during the audit supports our conclusions on the costs questioned as unsupported.

We believe IDHW could enhance the effectiveness of its LUST Program by placing more emphasis on the oversight of the remediation of higher priority sites. IDHW had a policy of prioritizing LUST sites based on risk to human health and the environment, but we found that IDHW had not pursued sufficient remediation actions for some high priority sites.

Additional OIG comments relating to IDHW's response are included in Chapters 2 through 6.

CHAPTER 1

INTRODUCTION

PURPOSE

The Office of Inspector General, Western Audit Division, has completed an audit of EPA's Leaking Underground Storage Tank (LUST) Cooperative Agreements with the State of Idaho's Department of Health and Welfare (IDHW). The purpose of the review was to determine whether the IDHW had adequate accountability over the LUST Trust Funds and was in compliance with the requirements of the cooperative agreements. Our specific objectives were to determine whether:

- Costs claimed were allowable, allocable, and reasonable under the LUST cooperative agreements;
- The state was in compliance with cooperative agreement requirements;
- The state's site cleanup priorities were appropriate; and
- The state's data input into the Strategic Targeted Activities for Results System (STARS) was accurate.

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The audit evaluated the two most recently completed LUST cooperative agreements between EPA and the State of Idaho. We conducted a financial and compliance audit of LUST Cooperative Agreement No. L000536-01. This agreement was selected because it was the most current agreement where the state had submitted a final financial status report (FSR). We conducted a performance audit of LUST Cooperative Agreement No. L000716-01 because the agreement was the most recently completed agreement, and as a result, represented the state's most current activities.

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Idaho's LUST Program is administered by the Idaho Department of Health and Welfare, Division of Environmental Quality, Remediation Bureau. IDHW operates five regional offices that cover different geographical areas of the state. These regional offices are allocated LUST Trust Funds and assist the Remediation Bureau with administration of the program.

SCOPE AND METHODOLOGY

Financial

We conducted a financial and compliance audit of the LUST Cooperative Agreement No. L000536-01. We conducted the field work from January through May 1994 at the offices of IDHW located in Boise and Twin Falls, Idaho.

We conducted the audit in accordance with the Government Auditing Standards for financial related audits issued by the Comptroller General of the United States. Accordingly, the examination included such tests of the accounting records and other auditing procedures as we considered necessary in the circumstances.

Independent auditors were in the process of conducting the Single Audit of IDHW for fiscals 1991, 1992 and 1993 during the time of our audit. At the time of our audit, the auditors had completed field work and were in the process of issuing a draft report. We reviewed their working papers on internal controls and Federal

compliance. We relied on the auditor's conclusion that IDHW's accounting system taken as a whole was adequate with respect to the processing of transactions.

As part of our review, we obtained an understanding of IDHW's internal control structure used in administering Federal financial assistance programs and assessed the control risk in order to plan our review and to determine the nature, timing, and extent of our testing. The intent of this assessment was to evaluate the existing internal controls to determine whether they were adequate to prevent or minimize the risk of errors occurring and not being detected by management in a timely manner.

To determine the reasonableness, allowability, and allocability of the costs claimed under the cooperative agreement, we judgmentally selected transactions for testing; for personnel transactions we selected 25 and for non-personnel transactions we selected 50. We reviewed the source documentation for all sampled transactions and for some transactions, we interviewed program personnel.

The results of our financial and compliance review of the cooperative agreement are presented in Chapters 2 and 3 of this report.

Performance

We conducted a performance audit of selected elements of LUST Cooperative Agreement No. L000716-01. We performed this audit according to Government Auditing Standards for performance audits issued by the Comptroller General. Our field work was conducted from January through May 1994 at IDHW's offices located in Boise and Coeur d'Alene, Idaho. The scope of our work was limited to activities under the LUST cooperative agreement and covered management procedures in effect through May 1994.

We reviewed records maintained by IDHW's Remediation Bureau and two of the state's five regional offices. The scope of our review generally covered reports and records prepared from October 1, 1992 through September 30, 1993. The records reviewed included: (i) LUST Cooperative Agreement No. L000716-01, (ii) LUST Program quarterly STARS reports, (iii) LUST site status reports, (iv) LUST site files, and (v) LUST Trust Fund cost recovery records.

The site files that we reviewed were judgmentally selected. We selected sites which IDHW had reported as higher priority sites and sites which were reported to be contaminated groundwater sites.

The results of our performance review of this cooperative agreement are presented in Chapters 4 through 6 of this report.

PRIOR AUDIT COVERAGE

A prior audit of IDHW's Cooperative Agreements for the Superfund Program was conducted by Conrad & Associates CPA's and results were included in Office of Inspector General Report No. P5BGL1-10-0046-2100612. The report identified five internal control and compliance issues that needed corrective action. The issues concerned: (i) inequitable allocation of employee paid absences; (ii) insufficient justifications for awarding contracts; (iii) deficient procurement procedures relating to cost and price analysis; (iv) deficient letter-of-credit procedures; and (v) deficient property management procedures.

During our audit, we performed follow up work and determined that corrective action had been implemented for the five issues.

CHAPTER 2

RESULTS OF FINANCIAL AUDIT

AUDITOR'S OPINION

We were unable to opine on the allowability of the costs claimed under Cooperative Agreement No. L000536-01 because the IDHW accounting procedures were not sufficient to determine that funds had been used in accordance with applicable Federal statutes. The results of our testing on the allowability of the costs claimed are summarized in the following schedule and footnotes.

LUST COOPERATIVE AGREEMENT No. L000536-01

Schedule of Costs Claimed, Questioned, and Unsupported

<u>Cost Category</u>	<u>Costs Claimed (Note 1)</u>	<u>Costs Questioned (Note 2)</u> <u>Ineligible</u>	<u>Unsupported</u>	<u>Notes</u>
Personnel	\$513,259	\$ -0-	\$513,259	3
Travel	20,315	-0-	20,315	4
Capital Outlay	17,252	-0-	17,252	4
Contractual	215,881	-0-	-0-	
Other Operating	33,270	-0-	33,270	4
Indirect	<u>127,810</u>	<u>-0-</u>	<u>127,810</u>	5
TOTAL	<u>\$927,787</u>	<u>\$ -0-</u>	<u>\$711,906</u>	
EPA Share	<u>\$835,008</u>	<u>\$ -0-</u>	<u>\$711,906</u>	

Footnotes to the schedule

Note 1. Costs claimed were determined from the FSRs submitted by IDHW for the period April 12, 1991 to December 31, 1992. The state's 10 percent match was applied to the Contractual Cost Category.

- Note 2. Costs questioned by the Office of Inspector General are questioned because they are:
- a. Ineligible. Incurred and claimed contrary to a provision of law, regulation, cooperative agreement, or other document governing the expenditure of funds.
 - b. Unsupported. Not supported by adequate documentation and/or have not been approved by responsible program officials:
- Note 3. Total claimed personnel costs are shown as unsupported because IDHW charged a significant amount of personnel costs (direct time and paid absences) to the LUST Program based on budget allocations and not actual time worked. (See Chapter 3 for details of finding.)
- Note 4. IDHW charged a significant amount of non-personnel costs for travel, capital outlay, and other operating expenditures without documenting the allocability to the LUST Program. (See Chapter 3 for details of finding.)
- Note 5. Indirect costs are shown as unsupported because while IDHW used an acceptable indirect cost rate, the rate was applied to personnel costs which we are questioning.

RECOMMENDATION

We recommend that the Regional Administrator require IDHW to provide support for costs claimed or recover the Federal share of the cooperative agreement funds questioned. In the event IDHW is unable to provide adequate support for all costs claimed, IDHW may want to seek a deviation from the Federal requirements for such supporting documentation (40 CFR, Part 31.22(b)).

IDHW COMMENTS AND OIG EVALUATION

IDHW Comments

IDHW disputed our conclusions regarding its accounting procedures and their sufficiency to identify and support specific direct costs charged to the LUST Program. IDHW believes its procedures, as detailed in its response, do provide compliance with 40 CFR, Part 31.20. Specifically, its position is that multiple levels of review are adequate to support the costs claimed. Therefore,

it believes all non-personnel costs claimed are supported and should be allowed.

IDHW also provided comments on three examples that are discussed in Chapter 3 under the heading Not Related to LUST Program.

Training costs of \$258.89 where the supporting documentation indicated direct benefit to other than LUST Programs, should be allowable because the individual receiving the training is responsible for auditing both Superfund and LUST documentation.

Air fare costs of \$289.00 where the purpose of travel was not documented and the employee charged time during the period of travel to another program (UST) should be allowed because States are often forced to fund travel costs to these activities through variable means. Travel could easily be funded out of either program. The UST Program had available personnel dollars and the LUST Program had operating dollars, therefore, participation costs were allocated in this manner and should be allowed.

A set of law codes where 20 percent of the costs (\$10.47) were charged to the LUST Program is maintained in the Attorney General's office, is available for UST/LUST Program staff utilization, and is available by check-out to any IDHW employee.

OIG Evaluation

The OIG position remains unchanged. While we believe IDHW's accounting system has the capability to provide adequate support for costs claimed, we found that transaction documentation was insufficient to support that the costs were actually incurred for the LUST Program. As described in Chapter 3, the supporting documentation (invoices and travel vouchers) did not identify the costs specifically with the LUST Program, as required by OMB Circular A-87.

IDHW's response does not describe how allocability of costs to the LUST Program will be established in the transaction documentation. IDHW's response describes a process for the review, approval, and payment for non-personnel transactions. This process appears adequate to ensure that goods and services were received by IDHW and that payment should be made. However, the response does not adequately describe how the costs are identified with and charged to a particular cost objective. A particular concern is that IDHW's response states that a clerical staff person is the one who determines necessary accounting

information which is done after all of the management and supervisory approvals have been obtained.

As we describe in Chapter 3, the documentation for claimed training costs of \$258.89 stated that the purpose of the training was for programs other than the LUST Program. Therefore, based upon that documentation, the costs should not have been charged to the LUST Program. If the training is of benefit to more than one cost objective as stated in IDHW's response, then the cost should have been recorded as an indirect cost in accordance with the provisions of OMB Circular A-87.

With reference to air fare costs of \$289.00, OMB Circular A-87 defines direct costs as those that can be identified specifically with a particular cost objective. Where no travel purpose is documented and the employee charged time to another Federal program, the travel costs should not have been charged to the LUST Program. Additionally, IDHW's arguments for charging costs to the program - because funds were available - conflicts with OMB Circular A-87, Attachment A, paragraph C,2,b which states that any cost allocable to a particular grant or cost objective may not be shifted to other Federal grant programs to overcome fund deficiencies.

The description in IDHW's response for the purchase of a set of law codes meets the definition of an indirect cost. OMB Circular A-87 defines indirect costs as those (a) incurred for a common or joint purpose benefiting more than one cost objective, and (b) not readily assignable to the cost objectives specifically benefitted. By stating that these codes are maintained by the Attorney General's office for all IDHW employees identifies this is an indirect cost and not for the direct benefit of the LUST Program.

We believe that IDHW's arguments relating to the three items above provide additional support that those costs should not have been charged as direct costs to the LUST Program and that they correctly should be reclassified in our report from the category of costs questioned - unsupported to costs questioned - ineligible. We have not reclassified them in our final report because of the relatively small amounts involved.

CHAPTER 3

REPORT ON INTERNAL CONTROLS AND COMPLIANCE

INTERNAL CONTROLS

The management of the IDHW is responsible for establishing and maintaining an internal control structure used in administering Federal financial assistance programs. In fulfilling this responsibility, estimates and judgments by management are required to assess the expected benefits and related costs of the control procedures. The objectives of an internal control structure are to provide management with reasonable, but not absolute assurance that the expenditures claimed under Federal financial assistance programs are in accordance with Federal cost principles.

We noted matters involving the internal control structure and its operation that we consider to be a reportable condition. Reportable conditions involve matters coming to our attention relating to significant deficiencies in the design or operation of the internal control structure that, in our judgement, could adversely affect the entity's ability to record, process, summarize, and report financial data consistent with the assertions of management in the program statements.

IDHW Personnel Costs Were Not Sufficiently Supported

We cannot opine on claimed personnel costs because the accounting practices of charging direct time and paid absences were not based upon actual costs to the LUST Program. Therefore, claimed costs for personnel expenditures under Cooperative Agreement No. L000536-01 are questioned as unsupported in the amount of \$513,259.

Most of the employees in our payroll sample were in split-funded positions, i.e., pay and benefits were funded from two or more budgetary allocations. IDHW policy required each employee to complete a timesheet to record actual time worked to the appropriate program. We found that some IDHW employees distributed direct time and paid absences based on budget allocations. In addition we found that some employees' timesheets did not support the payroll distributions.

IDHW is responsible to account and report charges to the LUST Program in accordance with laws and regulations. IDHW's failure to ensure that personnel costs were charged based on actual

effort to the LUST Program and were adequately supported resulted in questioned costs and jeopardizes future funding.

Direct Time

IDHW often charged payroll costs based on budget allocations rather than actual time worked on the LUST Program and did not ensure that timesheets supported payroll distributions. We judgmentally selected a random sample of 25 payroll transactions out of 802 to test IDHW's procedures for charging personnel costs to the LUST Program. We reviewed daily timesheets and payroll distributions to determine if payroll costs were reasonable, allowable, and allocable.

For the 25 payroll transactions that we reviewed, we found that: (i) payroll distributions for 8 transactions were supported by timesheets; (ii) 4 transactions related to the same employee whose payroll distributions were supported by timesheets, but appeared to be prepared based upon budget, not actual time worked (i.e. because the same hours were distributed to the same programs every day over a 6-month period that we reviewed); (iii) payroll distributions for 8 transactions were different from the time recorded on the employees' timesheets; and (iv) payroll distributions for 5 transactions could not be reconciled to timesheets because the calculations and methodology for distribution of paid absences was not documented in the payroll records and IDHW staff could not explain how the distributions were made. Additional comments relating to the transactions described in (iii) and (iv) above are discussed below.

Payroll Distributions Not Supported. Daily timesheets did not support the payroll cost distribution for eight of the sample transactions:

- For two different pay periods for one employee, no hours were recorded to the LUST Program on the daily timesheet but 5.6 hours were distributed to the program for each pay period.
- For three different pay periods for another employee, varying hours were recorded to the LUST Program on the daily timesheet but time was distributed in the same percentage to two different programs.
- The daily timesheet showed the time was for a generic activity called "clerical" for two transactions where payroll costs were charged to three programs.

- No direct time was recorded to LUST on the daily timesheet for one transaction but 6 hours were distributed to the program.

Payroll Distribution Could Not be Reconciled to Timesheets. For five transactions sampled, payroll distributions could not be reconciled to the employees' timesheets because the payroll records did not show how paid absences were allocated. For example, a timesheet indicated 3 direct hours to the LUST Program, however, 8 hours were distributed to LUST. This employee had recorded 40 hours of annual leave on the daily timesheet, but the payroll records did not document whether the additional 5 hours was a share of the annual leave, and, if so, the calculations and methodology for the 5 hours charged to the LUST Program.

40 CFR, Part 31.22(b), cites the criteria for determining allowable cost under the LUST cooperative agreement. This regulation provides that OMB Circular A-87 is applicable. OMB Circular A-87, Attachment B, states that the cost of compensation is allowable only to the extent that payrolls are supported by time and attendance records for individuals. Salaries and wages of employees chargeable to more than one grant program or other cost objective will be supported by appropriate time distribution records. The method used should produce an equitable distribution of time and effort.

During the audit, we asked several staff members from three of IDHW's regional offices to explain inconsistencies in recording daily timesheets and the basis for distribution of time among different programs. They all indicated that they distributed their time on the basis of budget allocations. Some IDHW staff stated their timesheets reflect how their position was budgeted and not necessarily on activities where time was spent. They felt it was proper to charge by budget allocations because they believed it closely reflects the actual activity. Additionally, IDHW officials stated that they believed it was proper for employees who are split-funded between the UST/LUST Programs to charge their time to either program because the two programs are similar.

Paid Absences

IDHW was charging paid absences of employees to the LUST Program based on budget allocations rather than pursuant to an equitable approved leave plan. For the 12 employees in our payroll sample who had charged paid absences to more than one program, we reviewed daily timesheets and time distributions to determine if IDHW allocated leave according its policy.

IDHW's "Charging of Paid Absences" policy states that the employee is to distribute the costs of leave on the same ratio as the work performed in the biweekly pay period or in certain cases, charge the leave on the basis of work performed over the last month, whichever is reasonable.

For 10 of the 12 employees reviewed, we found that paid absences were distributed based on budget allocations. As discussed earlier under the Direct Time Section of this Chapter, IDHW staff felt that it was proper to charge by budget because they believed that it closely reflects actual activity.

OMB Circular A-87, Attachment B, Section B-13 states that, "employee benefits in the form of regular compensation paid to employees during periods of authorized absences from the job, such as for annual leave, sick leave, court leave, military leave, and the like, if they are (1) provided pursuant to an approved leave system; and (2) the cost thereof is equitably allocated to all related activities, including grant programs" are allowable to the extent that total compensation for employees is reasonable.

Non-Personnel Expenditures Were Unsupported

We cannot opine on claimed non-personnel costs because the accounting procedures were not adequate to establish that the funds were used in support of the LUST Program. Therefore, claimed costs under Cooperative Agreement No. L000536-01 for travel, capital outlay, and other operating expenditures are questioned as unsupported in the amounts of \$20,315, \$17,252, and \$33,270, respectively.

IDHW is responsible to account and report charges to the LUST Program in accordance with laws and regulations. IDHW's failure to adequately document the allocability of charges to the LUST Program resulted in questioned costs and jeopardizes future funding.

IDHW's accounting documentation does not adequately support allocability of non-personnel expenditures, excluding contract costs, to the LUST Program. We judgmentally selected a random sample of 50 non-personnel transactions out of 365 to test IDHW's procedures for charging expenditures to the LUST cooperative agreement. We reviewed expense vouchers and supporting documentation to determine if the costs claimed were reasonable, allowable, and allocable.

During our testing, we determined that 26 out of 50 transactions did not adequately support the allocability of expenditures to the LUST Program. We found that 3 of the transactions were not

related to the LUST Program and 23 other transactions were supported by documents that did not provide sufficient evidence that the expenditures were related to the program. These deficiencies are discussed below.

Not Related to LUST Program

Three transactions were charged to the LUST Program; however, supporting documents indicated the expenditures were not related to the program:

- Training costs of \$258.89 were claimed. The supporting documentation described the training purpose "to gain knowledge and increase skills/abilities to audit Superfund and Wastewater Facilities Construction Projects."
- Airfare costs of \$289.00 were claimed. The purpose of the travel was not documented. However, the employee's timesheet showed that while in travel status, the employee's time was charged to the Underground Storage Tank program.
- A set of law codes was purchased by the Attorney General's Office. The costs were charged to four different funding sources, including 20 percent (\$10.47) to LUST. This purchase should have been recorded as an indirect cost because it does not meet the criterion as a direct cost specifically identifiable with a particular cost objective.

Inconclusive Evidence

Twenty-three transactions were charged to the LUST Program; however we found inconclusive evidence that the expenditures were related to the program:

- The documentation for 20 transactions amounting to \$1,058.13 (film processing, water samples, employment services, computer table, slide holders, training, Lotus 1-2-3, etc.) included no reference to the LUST Program.
- Three travel related transactions amounting to \$159.75 either did not include the purpose for the travel or the purpose was too general to determine if the charge was specifically for the LUST Program.

OMB Circular A-87, Attachment A, Section E defines allowable direct costs as those that can be identified specifically with a

particular cost objective and not be allocable to any other federally financed program. 40 CFR, Part 31.20 requires fiscal control and accounting procedures of the state to permit the tracing of funds to a level of expenditures adequate to establish that such funds have not been used in violation of the restrictions and prohibitions of applicable statutes.

During the audit, we asked IDHW officials to explain causes for the problems we found with some of the sample transactions. The IDHW officials stated that the costs were incurred for the LUST Program and that they believed that their accounting documentation and procedures were in compliance with OMB Circular A-87.

COMPLIANCE

The management of IDHW is responsible for its compliance with laws and regulations applicable to the LUST cooperative agreements. In addition to the audit of accounting transactions, during our audit, we also selected and tested transactions to determine IDHW's compliance with certain other provisions of laws, regulations, and special conditions to the LUST cooperative agreement, noncompliance with which could have a material effect on the costs claimed.

Material instances of noncompliance are failures to follow requirements, or violations of prohibitions, contained in laws, regulations and cooperative agreement special conditions, that cause us to conclude that the aggregation of misstatement resulting from those failures or violations could be material to the costs claimed. The results of our tests disclosed the following material instances of noncompliance.

IDHW's Procurement Process Needs Improvement

During our review, we noted the following contracting practices that need improvement to preclude prohibited practices and excessive costs. For 13 of the sampled non-personnel transactions that were contract billings, we reviewed contract procedures and documents to ensure IDHW compliance with laws and regulations.

For all 13 transactions, we found that the contract charges were adequately supported and allocable to the LUST Program. However, we identified several instances where IDHW did not require contractors to comply with the specific terms of the contract and paid costs accordingly. We found that:

- A contractor performed work on a task order that was issued 3 months after the base contract expired.
- Two contractors performed work and billed IDHW for cost overruns and IDHW issued amendments retroactively to cover the costs.
- IDHW awarded Cost Plus Fixed Fee contracts. However, in practice IDHW paid profit based on percentage of cost for some task orders.

40 CFR, Part 31.36 requires IDHW to maintain a contract administration system which ensures that contractors perform in accordance with the terms, conditions, and specifications of their contracts.

An IDHW official said that the project officers out in the field focus on getting work completed by the contractor and give oral agreements to continue and then complete the paper work later.

IDHW has recently made several improvements in its contracting practices. One major change was to shift the contracting responsibilities from the Department's Central Office to the Division's Support Services. This change allows for better communications between the contract specialist and the project officers because the contract function is now located in the same building. Also, Support Services has been in the process of implementing new contracting procedures and have already made improvements in the areas of cost and price analysis on amendments and the selection process when awarding contracts.

We did not question any contract costs because work was performed and charges were adequately supported. In the instances of profit paid on a percentage of cost, we did not question any costs because the amount was immaterial.

RECOMMENDATIONS

We recommend that the Regional Administrator require IDHW to:

1. Charge costs to LUST cooperative agreements based on actual time worked.
2. Implement its "Charging of Paid Absences" policy.
3. Establish procedures to ensure documentation adequately supports the allocability of expenditures to the LUST Program.

4. Provide satisfactory evidence that recommendation numbers 1 through 3 above have been implemented prior to making additional LUST cooperative agreement awards.
5. Continue to improve its contract procedures to ensure that contractors perform within the terms, conditions and specifications of the contracts.

IDHW COMMENTS AND OIG EVALUATION

IDHW Comments

IDHW disputes that personnel costs charged to the LUST Program were not based upon actual costs. IDHW believes that individuals manage their time to fit the budget allocation, are recording actual hours, and these actual hours also accurately reflect their budget allocations. This is substantiated by each employee signing a biweekly declaration that certifies the hours reported were necessary in the public service, are correct and were actually rendered. The response stated that there appears to be confusion among staff as to the proper methods of transferring the monthly timesheet to the bi-weekly record and IDHW is evaluating several modifications to further enhance employee time records.

IDHW believes that all personnel costs, as well as associated indirect costs should be allowed.

OIG Evaluation

Our position is unchanged. IDHW's statement that individuals were recording actual hours and these actual hours also accurately reflect their budget allocations is not supported by the evidence obtained during our audit. Our review of documentation and discussions with employees as described in this chapter give evidence that some employees were charging based on budget and not actual hours. For example, in eight cases timesheets did not support the distribution to the LUST Program. The employees distributed 80 hours (whether leave, holiday, direct time or indirect time) by the budget percentages of funding without consideration for the actual time worked on the program.

CHAPTER 4

GREATER EMPHASIS IS NEEDED FOR HIGHER PRIORITY LUST SITES

Although IDHW had made substantial progress in addressing the remediation of LUST sites, sufficient attention had not been given to some LUST sites that posed the greatest threat to human health and the environment. A judgement sample of 23 sites designated either as high priority or as contaminating groundwater disclosed that oversight of responsible party remediation for 9 of the sites needed improvement, management reports identifying remediation status of the sites were not accurate, and cleanup priority rankings had not been assigned to all sites. In our opinion, these conditions occurred because IDHW had not placed adequate emphasis on ensuring that LUST sites posing the most significant threat to human health and the environment were remediated as soon as possible.

BACKGROUND

Subtitle I of the Resource Conservation and Recovery Act (RCRA) established the LUST Trust Fund to assure rapid and effective responses to releases from leaking underground storage tanks. Rapid corrective actions minimize corrective action costs, injury to persons, and damage to property.

IDHW's site cleanup priority policy required all LUST sites to be assigned a priority based on risk to human health and the environment. IDHW's Remediation Bureau maintained a LUST site status report which identified the cleanup priority for each of the state's LUST sites. Those sites that posed the most significant threat to human health and the environment were required to be assigned the highest priority. The state's priority system assigned priority rankings from one to ten. Priority seven through ten sites were defined as high priority sites, with priority ten sites considered extreme emergency sites. The policy required contaminated groundwater sites to be assigned priority rankings of at least a four.

Idaho Department of Health and Welfare Rules and Regulations, Title 1, Chapter 2, Water Quality Standards and Wastewater Treatment Requirements, requires IDHW to send Consent Agreements to responsible parties for LUST sites that pose a significant threat to human health and the environment. The Consent Agreement establishes a schedule for the responsible party's submission of a site investigation and corrective action plan to the Department. In addition, the agreement establishes a compliance schedule for implementing, monitoring, evaluating, and

reporting site corrective actions. Therefore, the Consent Agreement establishes a formal agreement where the responsible party agrees to remediate the LUST site.

The Water Quality Standards and Wastewater Treatment Requirements also specify that responsible parties shall be given 30 days from receipt of the Consent Agreement to reach an agreement with IDHW regarding the terms of the Consent Agreement. If agreement is not reached within the 30 days, the Department is required to establish a Schedule and Criteria which directs responsible parties to comply with the regulations' remediation requirements. IDHW may assess civil penalties not to exceed \$10,000 per violation or \$1,000 per day for a continuing violation, whichever is greater, for failure to comply with the Schedule and Criteria. IDHW's authority to establish the Schedule and Criteria was established through an amendment to the Water Quality Standards and Wastewater Treatment Requirements, which became effective during December 1992.

The use of Consent Agreements or Schedules and Criteria are established through IDHW's Remediation Bureau. Consent Agreements are initiated by requests from the state's regions to the Remediation Bureau. Preparation of a Consent Agreement requires negotiations with the responsible party in order to establish agreement of remediation requirements and completion schedules. These negotiations involve both Remediation Bureau and responsible regional personnel. Once the agreement is reached on remediation requirements and compliance schedules, the Remediation Bureau prepares the Consent Agreement. If the responsible party is unwilling to enter into a Consent Agreement, the Remediation Bureau prepares a Schedule and Criteria directing remediation of the site.

OVERSIGHT NEEDED IMPROVEMENT

We found that IDHW had made substantial progress in the remediation of LUST sites. As of the end of fiscal 1993, IDHW reported that cleanups had been initiated on a total of 614 of 689 LUST sites within the state. In addition, IDHW reported that 350 of the initiated cleanups had been completed as of the end of the fiscal.

However, IDHW's oversight of corrective actions for sites having significant contamination needed improvement. We selected a judgement sample of 23 sites that had been designated either as having high cleanup priorities or as having contaminated groundwater. We selected our sample from sites located in two of the state's five regions. These sites were located in the South Western Idaho Region (SWIR) and the Northern Idaho Region (NIR),

these were the regions with the largest number of identified LUST sites. Our review of site files and interviews of responsible IDHW personnel disclosed that oversight of responsible party remediation efforts for 9 of the 23 sites was either not performed or needed improvement during fiscal 1993.

South Western Idaho Region

Oversight of responsible party remediation efforts had not been conducted on some significantly contaminated LUST sites. As a result, there was no assurance that LUST cooperative agreement funds were effectively directed towards the most significantly contaminated sites.

The SWIR had a total of 292 reported LUST sites as of the end of fiscal 1993. We took a judgement sample of 15 sites which had been identified by IDHW as having significant petroleum contamination. The sample consisted of 11 sites with priority rankings of at least seven (High), 1 site with a priority ranking of one (Lowest) with reported contaminated groundwater, and 3 sites assigned no priority ranking with reported contaminated groundwater. We included in our sample some sites with reported groundwater contamination and that had low or no priorities assigned. These sites appeared to represent an inconsistency with IDHW's priority policy which provides that contaminated groundwater sites should be assigned priorities of at least a four (Moderate-Low).

The SWIR provided adequate oversight of responsible party remediation efforts for 8 of the 15 sites during fiscal 1993. However, we found that 2 of the 15 sites were not confirmed LUST sites (See the MANAGEMENT REPORTS WERE INACCURATE Section of this Chapter). We also found that the region provided no oversight of responsible party remediation efforts for 5 of the 15 sites. Although significant contamination had been verified or was suspected at the five sites, neither the Consent Agreement or Schedule and Criteria was used to pursue remediation.

- Steve's Auto Repair Site. No priority ranking had been assigned to the site. File documentation disclosed that SWIR personnel became aware of the LUST site during October 1991. Significant petroleum contamination of the soil and groundwater had been identified at the site. A laboratory report showed that the contaminate benzene was identified at a concentration of 23,000 parts per billion. IDHW's cleanup standards require remediation action when benzene levels exceed 5 parts per billion. As of the end of fiscal 1993, the responsible party had not initiated remediation action at the site and SWIR

personnel had not conducted any followup, to include establishment of a Consent Agreement or Schedule and Criteria.

- R&N Stinker Station Site. No priority ranking had been assigned to the site. SWIR personnel were informed of the LUST site during January 1992, and they last followed up on the site during January 1993. No Consent Agreement or Schedule and Criteria had been established for the site's remediation. The site file indicated petroleum contaminated groundwater was suspected at the site. However, the extent of contamination had not been determined and the responsible party had not initiated any remediation action as of the end of fiscal 1993.
- Pre-Coat Industries Site. A cleanup priority ranking of seven (High) had been assigned to the site. SWIR personnel became aware of the LUST site during March 1992. File documents showed that petroleum contamination of the groundwater and soil exceeded acceptable cleanup levels. Although significant contamination had been identified at the site, SWIR personnel had not taken any followup action, to include establishment of a Consent Agreement or Schedule and Criteria, during fiscal 1993.
- Tates Rents Site. A cleanup priority of seven (High) had been assigned to the site. SWIR personnel became aware of the LUST site during February 1992. File documents showed that petroleum contamination of the soil and groundwater exceeded acceptable cleanup standards. File documents also indicated that the responsible party had initiated remediation actions at the site during March 1992. However, we found that no followup action was conducted by SWIR personnel, to include establishment of a Consent Agreement or Schedule and Criteria, during fiscal 1993.
- Washington County Site. A cleanup priority of eight (Very High) had been assigned to the site. SWIR personnel became aware of the LUST site during December 1989 and petroleum contamination of the soil and groundwater had been identified. On June 10, 1991 the SWIR received correspondence from the responsible party stating that it considered the site to be remediated and planned no further cleanup activities. The responsible party stated that site monitoring would continue. There was no evidence that SWIR had concurred with the responsible party's remediation

claim or had followed up on the status of the site during fiscal 1993. Furthermore, neither a Consent Agreement nor a Schedule and Criteria had been established to ensure adequate remediation of the site.

Our review showed that SWIR had not pursued and monitored the remediation of five sites where significant petroleum contamination to the groundwater had been verified or was suspected. SWIR personnel indicated that oversight of LUST sites had been conducted based on first hand knowledge of the sites rather than priority rankings. They said that the assignment of cleanup priorities had been looked upon as an administrative requirement rather than a management tool. As a result, assigned priorities were not used to determine the region's oversight activities and other sites were given more attention by SWIR personnel.

To ensure that LUST sites posing the most significant threat to human health and the environment receive appropriate attention, IDHW needs to ensure that oversight activities are based on assigned cleanup priorities. Oversight activities should include the establishment of the Consent Agreement or Schedule and Criteria in order to ensure timely remediation of priority LUST sites.

Northern Idaho Region

We also found that oversight of some significantly contaminated sites within the NIR needed improvement.

The NIR had a total of 128 reported LUST sites as of the end of fiscal 1993. We took a judgement sample of eight sites which had been identified as having significant petroleum contamination. The sample consisted of sites with priority rankings of at least a seven (High).

The NIR was adequately monitoring and following up on remediation of four of the eight high priority sites. However, at the other four high priority sites, we found that either a Consent Agreement or a Schedule and Criteria was not used or used timely to effectively pursue remediation during fiscal 1993.

- Pioneer Square Site. The site was identified as a LUST site during July 1992 and was assigned a priority ranking of eight (Very High). Significant petroleum contamination of the soil and groundwater had been identified at the site. We found that NIR personnel had made attempts to get the responsible party to initiate the remediation process but were unable to get the responsible party to complete a site contamination

assessment as of the end of fiscal 1993. Although the NIR was unable to make significant progress toward site remediation for about a year, neither a Consent Agreement or Schedule and Criteria was used to pursue remediation of the site as of the end of fiscal 1993.

- Muzzy Oil Site. A LUST was identified at the site during July 1992 and was assigned a priority ranking of seven (High). Significant petroleum contamination had been identified at the site. We found that attempts had been made to get the responsible party to initiate the remediation process; however, IDHW was unable to get the responsible party to complete a site assessment or enter into a Consent Agreement as of the end of fiscal 1993. We found that a Schedule and Criteria was eventually established during October 1993. If IDHW's Schedule and Criteria policy outlined in the Water Quality Standards and Wastewater Treatment Requirements had been followed, the Schedule and Criteria should have been issued at least 6 months earlier which could have lead to earlier site remediation.
- Robert Hays Site. The site was identified as a LUST site during July 1990 and was assigned a priority ranking of seven (High). Significant soil contamination had been found at the site and it was believed that the groundwater may have been contaminated. NIR personnel instructed the responsible party to determine the extent of groundwater contamination on September 11, 1990 but they did not follow up on the responsible party's remediation actions until January 1993. We found that the responsible party had not complied with the region's remediation request as of the end of fiscal 1993. Although significant contamination existed at the site, neither a Consent Agreement or Schedule and Criteria was used to pursue remediation of the site as of the end of fiscal 1993.
- Rocky Point Marina Site. The site was identified as a LUST site during August 1990 and was assigned a priority ranking of ten (Extreme Emergency). Significant petroleum contamination of the soil and groundwater had been identified at the site which was a marina located about 100 feet from a lake. The responsible party for the site was the Idaho Division of Public Works, a state agency.

We found that the responsible state agency had initially excavated 325 cubic yards of contaminated soil at the site during 1990 but additional excavation of approximately 2,000 cubic yards of contaminated soil was required at the site. It took the NIR about 3 years, until November 1993, to get the responsible state agency to formally agree to pursue remediation of the site. This agreement was achieved through the establishment of a Schedule and Criteria during November 1993. As a result of the Schedule and Criteria, the responsible state agency initiated remediation action during December 1993.

Responsible NIR and Remediation Bureau personnel indicated that more emphasis had not been placed on these sites during fiscal 1993 because: (i) the NIR had a large workload and other high priority sites were given more attention; (ii) the threat to human health and the environment for the Rocky Point Marina site was reduced during 1990 when initial remediation activities were conducted, and as a result, the cleanup priority should have been changed to a seven; (iii) there was a backlog of requests for Consent Agreements which affected the timeliness of the process; (iv) the authority for establishment of the Schedule and Criteria did not become effective until December 1992, and it took IDHW several months to develop and implement the Schedule and Criteria Program; and (v) negotiations with the responsible parties were necessary in order to establish realistic remediation schedules which affected the timeliness of the Schedule and Criteria process.

In our opinion, more emphasis should have been placed on the establishment of Consent Agreements and Schedules and Criteria for the four sites. All four sites were assigned priorities of at least a seven (High), which indicated that they posed a significant threat to human health and the environment. Priority use of LUST Trust funds should be used to ensure that the most threatening sites to human health and the environment are remediated. Therefore, oversight activities should include the establishment of the Consent Agreement or Schedule and Criteria in order to ensure timely remediation of priority LUST sites. Furthermore, the Schedule and Criteria should be initiated 30 days after the responsible party has been offered an opportunity to enter into a Consent Agreement as specified by Idaho's Water Quality Standards and Wastewater Treatment Requirements.

MANAGEMENT REPORTS WERE INACCURATE

We evaluated the accuracy of IDHW's LUST site status reports by comparing information in the fourth quarter fiscal 1993 report

with LUST site files. The comparison identified that the LUST site status report for fourth quarter fiscal 1993 was not accurate. As a result, IDHW was unable to effectively monitor LUST site remediation progress.

IDHW's Remediation Bureau maintains a LUST site data base using EPA's Underground Storage Tanks Data Base Management System (UST-DMS). LUST site status reports are generated by the UST-DMS at least quarterly. These reports identify the cleanup priority assigned to each identified LUST site and each site's remediation status. The reports assist IDHW LUST Program personnel with monitoring program progress. The report covering fourth quarter fiscal 1993 showed the remediation status of 675 LUST sites.

Our review of the site status report covering the fourth quarter fiscal 1993 and site files for 23 judgmentally sampled sites disclosed that the status report included incorrect information on 14 (61 percent) of the sites. Specifically we found that the report included: (i) two sites that were not confirmed LUST sites; (ii) seven sites with incorrect confirmed release dates; (iii) two sites with incorrect cleanup initiated dates; and (iv) three sites with incorrect confirmed release and cleanup initiated dates.

Either the confirmed release dates, cleanup initiated dates or both identified in the report for the 12 LUST sites were significantly in error. For example:

- The file for one site contained no evidence that a cleanup had been initiated; however, the status report showed that a cleanup had been initiated on March 1, 1992.
- The file for another site disclosed that the LUST was identified during December 1989; however, the status report showed a confirmed release date of June 30, 1992.

The reporting inaccuracies occurred because IDHW's Remediation Bureau did not periodically reconcile the information in UST-DMS with source documents. Instead, the Remediation Bureau relied on IDHW regional personnel to review UST-DMS output reports to identify information errors and report needed corrections. The need for reconciliations is discussed in more detail in Chapter 6, QUARTERLY STARS REPORTS WERE INACCURATE, of this report.

Without accurate information on site remediation activities, IDHW can not effectively monitor program progress. Therefore, IDHW needs to ensure that site activity information maintained in the

UST-DMS is reconciled to source documents as recommended in Chapter 6 of this report.

NOT ALL SITES WERE PRIORITIZED

IDHW had not assigned cleanup priority rankings to all LUST sites where petroleum contamination of the groundwater had been identified or was suspected. As a result, there was no assurance that IDHW took timely action to remediate all sites posing the greatest threat to human health and the environment.

Idaho obtains the majority of its drinking water from groundwater. IDHW's LUST site cleanup priority policy requires sites with contaminated groundwater to be assigned a priority ranking of at least a four (Moderate-Low). LUST sites with contaminated groundwater which is a source of drinking water for more than 100 people, is to be assigned a cleanup priority ranking of ten (Extreme Emergency).

IDHW's LUST site status reports covering the fourth quarter fiscal 1993 listed 24 sites that were reported as having petroleum contaminated groundwater but which were not assigned a cleanup priority. We found that 20 of these sites were located within the South Western Idaho Region. As discussed earlier, the SWIR had not followed up on two sites, which had not been assigned a cleanup priority, but where contaminated groundwater had been identified or was suspected. SWIR staff said that a priority had not been assigned to some contaminated groundwater sites because of an oversight error.

To ensure timely remediation of sites posing the most significant threat to human health and the environment, all LUST sites should be assigned an appropriate cleanup priority.

RECOMMENDATIONS

We recommend that the Regional Administrator require IDHW to:

1. Ensure that LUST site oversight activities are based on assigned cleanup priorities.
2. Ensure that Consent Agreements or Schedules and Criteria are established for significantly contaminated LUST sites as required by Idaho's Water Quality Standards and Wastewater Treatment Requirements. Also, ensure that Schedules and Criteria are established timely when responsible parties fail to enter into

Consent Agreements within 30 days of receipt of the agreements.

3. Correct the inaccuracies in the UST-DMS by conducting a one-time 100 percent reconciliation of the UST-DMS with site records.
4. Ensure all LUST sites are assigned a cleanup priority consistent with IDHW's priority policy.

IDHW COMMENTS AND OIG EVALUATION

IDHW Comments

IDHW disagreed with our conclusions, but generally concurred with the recommendations because they provide an enhancement to its current program. In its response IDHW stated that: (i) priority system requirements do not apply to oversight of responsible party lead corrective action sites; (ii) its priority ranking system is a general guide to assess the potential of a site to threaten or contaminate the environment, a useful tool in determining relative potential to affect human health and the environment, and is a numerical guide, not a work allocation system; (iii) a remediation team approach is used to determine staff work allocations; and (iv) three of the four NIR sites cited by the draft audit report as examples have been remediated since the auditor's visit.

OIG Evaluation

We agree with IDHW that its priority ranking system is a useful tool in determining relative potential to affect human health and the environment. During the audit IDHW staff said that the priority ranking system is used for all sites and we noted that IDHW had used this system to focus resources on several sites which posed the greatest threat to human health and the environment. Our recommendations are intended to help IDHW use its priority ranking system even more effectively.

The memorandum cited by IDHW as a basis for not applying priority system requirements to oversight activities also states that:

... even in streamlined programs, all sites cannot and should not receive the same degree of oversight. States will likely need to focus their limited technical resources on more complex or hazardous sites. Therefore, **we encourage the use of risk based priority systems** (emphasis added) as a way to determine the appropriate degree of oversight that should be given to specific sites.

IDHW's policy entitled "Cleanup Prioritization System for Petroleum Underground Storage Tank Releases" states that this system will ensure that high priority is given to (1) releases which pose the greatest threat to human health and the environment, and (2) sites where the State cannot identify a solvent owner or operator of the tank who will undertake action properly. It also states that every effort has been made to focus IDHW's cleanup priorities on releases posing the greatest threat to human health and the environment. The policy also appears to be flexible enough to be adapted to different site conditions and it allows priorities to be changed when conditions change or where more information becomes available.

We are pleased that three of the four NIR sites cited in the draft report have been remediated since our visit. We believe that high priority sites, particularly those ranging from 10 (Extreme Emergency) to 7 (High), should receive priority remediation actions. Where circumstances preclude expedited cleanup, the files should describe what actions, including enforcement, are being taken to expedite cleanup under those circumstances.

CHAPTER 5

COST RECOVERY PROCEDURES NEED IMPROVEMENT

IDHW's procedures used for the recovery of LUST Trust Fund expenditures need improvement. During the period fiscal 1993 through the first quarter fiscal 1994, cost recovery settlements involving four LUST sites were completed. Although IDHW had incurred Trust Fund expenditures totaling \$198,000 for the sites, only \$189,000 was identified for cost recovery purposes. IDHW did not document why it accepted reduced cost recovery settlements totaling \$144,000. Also, IDHW did not attempt to charge interest on LUST Trust Fund recovery amounts and did not adequately administer a contract which was funded with LUST Trust Fund monies.

These conditions occurred because Remediation Bureau personnel: (i) did not accurately identify all LUST Trust Fund expenditures; (ii) did not follow EPA documentation requirements; (iii) were of the opinion that interest assessments would adversely affect the cost recovery process and corrective actions; and (iv) made contract revisions without the use of a written contract amendment. As a result, it does not appear that IDHW had maximized its cost recoveries from responsible parties.

BACKGROUND

Subsection 9003(h)(6), Subtitle I of RCRA requires states to recover Trust Fund expenditures for corrective action and enforcement with respect to releases of petroleum when liable owners or operators (responsible parties) have been identified. States may forgo full cost recovery in instances where the responsible party has maintained financial responsibility coverage which complies with Federal Financial Responsibility Regulations and the coverage is not adequate to pay the costs of a response without significantly impairing the ability of the owner or operator to continue in business. In these instances, cost recovery may be limited to the required financial responsibility coverage.

Office of Solid Waste and Emergency Response (OSWER) Directive 9610.10 outlines EPA's LUST Trust Fund cost recovery policy. The policy requires each state to make reasonable efforts to contact owners and operators who are liable for LUST sites, notify them of their liability for enforcement and corrective action costs, and demand payment. In addition, states are required to assess and encouraged to pursue interest charges on Trust Fund expenditures.

OSWER Directive 9610.10 also specifies that "in those rare instances where equitable factors support compromise or termination of the Trust Fund claim, states should ensure that the bases for any compromise or termination are adequately supported in the records of the state and reflect the efficient use of Trust Fund resources." The policy allows states to reach compromised settlements when it is more cost effective to negotiate a settlement over pursuing litigation.

IDHW's Remediation Bureau is responsible for recovering LUST Trust Fund expenditures from responsible parties. During the period covering fiscal 1993 through first quarter fiscal 1994, the Remediation Bureau completed cost recovery settlements on four LUST sites totaling \$143,600.

ALL FUND COSTS WERE NOT IDENTIFIED FOR RECOVERY

IDHW's Remediation Bureau did not identify all costs for cost recovery purposes. Site specific accounting and cost recovery records for the four sites showed that the Remediation Bureau did not identify all LUST Trust Fund expenditures for use in recovering costs from responsible parties. Our review disclosed that costs had been understated for all four sites. The following table illustrates the differences between costs identified by the Remediation Bureau and the actual costs per IDHW's accounting system:

<u>Site</u>	<u>Site Costs (thousands)</u>		<u>Difference</u>
	<u>Identified By IDHW For Recoveries</u>	<u>Recorded In IDHW's Accounting System</u>	
A	\$33.8	\$35.0	\$1.2
B	30.0	35.5	5.5
C	39.1	40.9	1.8
D	<u>86.5</u>	<u>87.0</u>	<u>0.5</u>
	<u>\$189.4</u>	<u>\$198.4</u>	<u>\$9.0</u>

Remediation Bureau personnel indicated that the major cause of the discrepancies was that, in the past, cost recovery emphasis had been on recovering contracting costs rather than all costs incurred for specific LUST sites. IDHW staff said the Remediation Bureau had to conduct a labor intensive review of the accounting records in order to identify all Trust Fund expenditures incurred at a LUST site. We were told that cost recovery focused on contracting costs because the costs made up the highest percentage of costs incurred at the LUST sites and the costs were easily identifiable. We found that site specific

expenditure information had been readily available from the IDHW's accounting system.

Without accurate identification of all costs incurred for LUST sites, the state can not request full reimbursement from responsible parties. During the audit, responsible Remediation Bureau personnel indicated that future cost recovery claims would be based on all LUST Trust Fund expenditures incurred at specific LUST sites.

DOCUMENTATION OF COST RECOVERY SETTLEMENTS WAS INADEQUATE

The Remediation Bureau did not adequately document why less than full cost recovery settlement amounts were accepted. Site files and accounting records contained information that the Remediation Bureau did not recover all identified costs on the four LUST sites. The following table shows the total Trust Fund expenditures identified for cost recovery and settlement amounts for the four sites:

<u>Site</u>	<u>Site Costs (thousands)</u>		<u>Not Recovered</u>	
	<u>Identified</u>	<u>Recovered</u>	<u>Amount</u>	<u>Percent</u>
A	\$33.8	\$21.8	\$12.0	36
B	30.0	15.0	15.0	50
C	39.1	21.1	18.0	46
D	<u>86.5</u>	<u>85.7</u>	<u>.8</u>	<u>1</u>
	<u>\$189.4</u>	<u>\$143.6</u>	<u>\$45.8</u>	<u>24</u>

IDHW had an excellent recovery rate of 99 percent for site D. However, the cost recovery settlements averaged only 56 percent of the costs identified by the Remediation Bureau for sites A, B, and C. The recovery percentages do not include additional costs which were not identified and recovered as discussed in the previous section. For example, site B, for which only 50 percent of identified costs were recovered, had an additional \$5,500 of costs which were not identified and recovered.

The Remediation Bureau's rationale for accepting the partial recoveries for the three sites was not documented as required by OSWER policy. Remediation Bureau personnel said that the documentation explaining the basis for partial recovery settlements was not prepared and maintained because some of the settlement information was privileged under the "attorney-client relationship." In our opinion, the basis for cost recovery settlements can be documented without compromising privileged information. Because the required documentation was not prepared

and maintained, it was not possible to determine whether IDHW effectively used Trust Fund resources.

INTEREST ASSESSMENTS WERE NOT MADE

The Remediation Bureau had not assessed interest on any cost recovery settlements made during fiscal 1993 and the first quarter fiscal 1994. Consistent with OSWER policy, the Remediation Bureau's LUST Trust Fund cost recovery policy allowed for the assessment of interest on Trust Fund expenditures. Remediation Bureau personnel said that interest had not been assessed on LUST Trust Fund expenditures because they thought that the assessments might adversely affect the cost recovery process and the IDHW's ability to obtain responsible party agreements to assume necessary site corrective actions.

In our opinion, interest assessments can provide the state with more leverage during cost recovery because the longer a responsible party waits to settle the claim, the higher the interest cost. In addition, the assessment of interest is required by OSWER policy and provides an opportunity for additional resources to support the state's LUST Program.

WEAK PROCEDURES AFFECT COST RECOVERY

Because of some weaknesses in IDHW's contract administration and cost recovery procedures, an attorney for Fearless Farris Service Stations, Inc. (Fearless Farris), owner and operator of the Fruitland Stinker Station, was able to negotiate a significantly reduced settlement for his client. IDHW's Remediation Bureau initially sent a cost recovery notice to Fearless Farris for an amount of \$24,659. A final consent agreement was made for \$12,660, or about 51 percent of the original claim.

The initial claim of \$24,659 included contract costs of \$24,100. IDHW issued a task order to one of its contractors to conduct Phase I studies of hydrocarbon contaminated ground water. Based upon a comparison of estimated to actual task order costs, reviews of IDHW's file documents, discussions with IDHW's staff, and comments in letters from Fearless Farris' attorney, the scope of work of this task order had been changed orally by IDHW, but had not been formally incorporated into the task order. While the estimated total costs and actual costs were the same, there were significant differences in the categories of costs which indicate that work was done differently than originally estimated.

Fearless Farris' attorney used the scope of work changes to justify a counter-proposal to repay only \$8,760 in his reply to

the cost recovery notice. In a letter to IDHW he stated that it was: (i) apparent that the \$24,100 spent for this investigation was not only excessive but also unnecessary; (ii) obvious that the contractor contracted for much more work than was actually accomplished; (iii) apparent no adjustment was made to the contract despite the fact that less than half of the work described in the budget estimate was performed; and (iv) not for his client to lay blame for this outrageous expenditure.

In response to Fearless Farris' counter-proposal, IDHW reduced its claim by \$8,094 to \$16,565. An IDHW internal memorandum stated that there was some basis to significantly reduce the amount required in the cost recovery, but the basis was very different than that presented by Fearless Farris. The memorandum identified reductions for labor costs in excess of the estimate (\$4,931), professional land surveyor costs not included in the estimate (\$2,604), and state personnel costs (\$559). The memorandum further stated that there was no way to further justify a reduction in the cost recovery amount.

Fearless Farris' attorney responded by stating that his client continued to believe that the proposed sum of \$16,565 was excessive and as a counter-offer was willing to "split the difference" from its last offer of \$8,760 which would mean a payment of approximately \$12,660. A consent agreement was signed by both parties which stipulated that Fearless Farris would pay IDHW an amount of \$12,660.

The history of this claim indicates that IDHW's negotiating position was weakened because it apparently could not demonstrate that all the contract costs were allocable to the Stinker site and that the costs were reasonable. The files also do not contain justification for the further reduction of \$3,905 to reach the settlement amount of \$12,660.

RECOMMENDATIONS

We recommend that the Regional Administrator require the IDHW to:

1. Ensure that cost recovery claims include all costs associated with the LUST sites.
2. Document the basis for settlement amounts and the justification for any settlements significantly less than full cost recovery.
3. Assess and attempt to recover interest charges on LUST Trust Fund cost recovery amounts.

4. Ensure that all contract modifications are done through the use of written amendments.

IDHW COMMENTS AND OIG EVALUATION

IDHW Comments

IDHW concurred with our conclusions and recommendations. In its response IDHW stated that it already has prepared a draft cost recovery policy to ensure the recommendations are implemented.

OIG Evaluation

We are pleased that corrective actions based upon our recommendations have already begun.

CHAPTER 6

QUARTERLY STARS REPORTS WERE INACCURATE

Quarterly STARS reports submitted to EPA Region 10 did not accurately report LUST Program activity during fiscal 1993. The number of confirmed releases were understated by 16 percent, cleanups initiated were overstated by 18 percent, and cleanups completed were understated by 57 percent. In addition, the quarterly reports included LUST Program activity that had occurred prior to the reporting periods. The inaccuracies occurred because not all performance data had been correctly compiled by the computer system used to maintain LUST site information, information in the quarterly reports was not reconciled to the supporting records, and some regions reported LUST site activity late. The erroneous reporting resulted in EPA managers receiving inaccurate performance information on the IDHW's LUST Program during fiscal 1993.

BACKGROUND

OSWER Directive 9650.10 requires states with LUST cooperative agreements to submit quarterly progress reports (STARS reports) disclosing data on LUST Program activities. The reports are used by EPA Region 10 and EPA Headquarters to monitor program progress. In addition, EPA Headquarters uses the information to make nationwide funding decisions and to report program progress to Congress.

The LUST cooperative agreement with the State of Idaho required the IDHW to submit quarterly STARS reports to EPA Region 10. IDHW was required to include the following performance data in its reports: (i) number of reported confirmed releases, (ii) number of emergency responses taken, (iii) number of LUST cleanups initiated, (iv) number of cleanups under control, (v) number of cleanups completed, and (vi) number of sites with enforcement actions.

During fiscal 1993, IDHW used EPA's UST-DMS to maintain the LUST site data base. The system was maintained by IDHW's Remediation Bureau. Information in the UST-DMS was input from source documents submitted by the IDHW's five regions. The UST-DMS has a STARS reporting feature that can be used to compile LUST Program activity data maintained in the database. During fiscal 1993, the Remediation Bureau used the reporting feature to compile performance measure data. The system generated statistics were reported in IDHW's quarterly STARS reports.

INFORMATION NEEDS TO BE PROPERLY RECONCILED AND COMPILED

We found that IDHW's fiscal 1993 quarterly STARS reports were inaccurate. We evaluated the accuracy of confirmed releases, cleanups initiated, and cleanups completed that the state reported for fiscal 1993. The quarterly reports showed that a total of 121 confirmed releases had been identified, 134 cleanups had been initiated, and 32 cleanups had been completed. Source documents used for UST-DMS input for fiscal 1993 showed that confirmed releases had been understated by 23 (16 percent), cleanups initiated had been overstated by 20 (18 percent), and cleanups completed had been understated by 42 (57 percent).

Remediation Bureau personnel stated that the inaccurate reporting occurred because the UST-DMS had not counted performance data input into the system with dates that were outside the quarter. This reporting problem was identified and corrected by Remediation Bureau personnel during the first quarter fiscal 1994, just prior to our site audit work. The counting deficiency was corrected through the use of a series of system commands to obtain cumulative totals of LUST Program activity data and the discontinuance of the STARS reporting feature.

Although the Remediation Bureau had corrected the counting problem, we found that adequate controls had not been established to ensure that performance data maintained and compiled by the UST-DMS and subsequently reported in the quarterly STARS reports was accurate. The information input into the database and reported in the quarterly reports was not reconciled to the source documents. Instead, the Remediation Bureau relied on IDHW regional personnel to review UST-DMS output reports to identify information errors and report any needed corrections. However, the regional reviews did not assure accurate reporting because they were conducted after the quarterly STARS reports were submitted to EPA and were conducted by personnel not responsible for maintaining the LUST site database.

In order to ensure that the program activity information maintained in the database is correct, the Remediation Bureau needs to reconcile the source documents with the UST-DMS prior to submission of the quarterly STARS reports to EPA. It is essential that the reconciliations be conducted by Remediation Bureau personnel since they maintain the UST-DMS and prepare the quarterly reports. If reconciliations had been conducted during fiscal 1993, inaccurate LUST performance statistics would not have been reported to EPA. As discussed in Chapter 4, MANAGEMENT REPORTS WERE INACCURATE Section, of this report, we also found inaccuracies in UST-DMS output reports.

INFORMATION WAS UNTIMELY

The quarterly STARS reports included LUST Program performance data that occurred prior to the reporting periods. Supporting documentation for the reports showed that some of the IDHW's regions were not reporting LUST site information on a timely basis. For example, 28 out of 29 confirmed releases reported by the Northern Idaho Regional Office during the first quarter fiscal 1993 occurred prior to the beginning of the quarter. The dates of these 28 confirmed releases ranged from October 8, 1989 to September 17, 1992.

Also, LUST performance information was not reported timely to EPA managers. Supporting documentation for the quarterly STARS reports showed that the Remediation Bureau had not emphasized to the regions the need for timely reporting of LUST Program activity information. As a result, LUST Program performance data in the quarterly STARS reports for fiscal 1993 did not reflect actual performance for the reporting period. To provide EPA managers with reliable information, the Remediation Bureau needs to ensure that the regions report LUST Program activity information timely and for the correct reporting period.

RECOMMENDATIONS

We recommend that the Regional Administrator require IDHW to:

1. Implement procedures which ensure that LUST site activity information maintained in the UST-DMS is reconciled to source documents at least quarterly.
2. Ensure that IDHW's regions report LUST site activity information to the Remediation Bureau on a timely basis and that the information is reported timely to EPA.

IDHW COMMENTS AND OIG EVALUATION

IDHW Comments

IDHW concurred with our conclusions and recommendations. In its response, IDHW stated that it was evaluating the incorporation of existing IDHW data entry and data quality analysis/quality control policies and procedures into the LUST site data base program. Incorporation of data entry protocols will assure data is accurate, timely, and reconciled to source documentation.

OIG Evaluation

We are pleased that IDHW is initiating corrective action to ensure the accuracy of its reports.



IDAHO DEPARTMENT
OF HEALTH AND WELFARE

DIVISION OF
ENVIRONMENTAL QUALITY

1410 North Hilton, Statehouse Mail, Boise, ID 83720-9000, (208) 334-0502

Cecil D. Andrus, Governor

September 22, 1994

Mr. Charles H. Reisig
Branch Manager
US E.P.A. - Office of the Inspector General for Audits
Western Division
1111 3rd Avenue, Suite 1460
Seattle, WA 98101

Dear Mr. Reisig:

This letter is in response to the draft audit report on EPA's Leaking Underground Storage Tank (LUST) Cooperative Agreements with the State of Idaho, Department of Health and Welfare (IDHW), Division of Environmental Quality (DEQ), the September 8, 1994 audit exit conference, and telephone discussions between Andrew Pentony of DEQ and Mike Owen of your staff.

Based on the above referenced telephone discussions, the OIG concluded the following two specific clarifications would be made to the draft audit report:

- **PRIOR AUDIT COVERAGE (pg. 4):** Comments concerning the five internal control and compliance issues addressed in the Bunker Hill Superfund site Cooperative Agreement audit will be documented as resolved.
- **CHAPTER 3, COMPLIANCE, Cost Transfers Between Budget Categories not Approved (pgs. 13-14):** All comments concerning non-approval of cumulative transfers without prior EPA approval will be removed from the draft report.

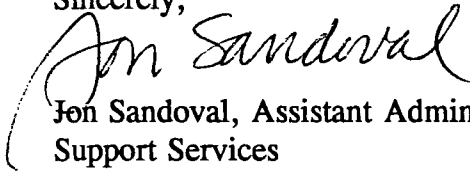
Based on staff negotiations and the above referenced clarifications, IDHW-DEQ has prepared a revised response (attached) to the draft audit report for your review and consideration.

In addition, IDHW-DEQ maintains that significant benefits were derived from the work performed under these cooperative agreements. As such, IDHW-DEQ requests that further negotiations concerning this review focus on work accomplished, benefits derived, and areas where enhancements can be established and utilized in the future.

Mr. Charles H. Reisig
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If you have any questions/comments or require additional information, please contact Andrew Pentony at (208) 334-0502.

Sincerely,

A handwritten signature in black ink that reads "Jon Sandoval". The signature is written in a cursive, flowing style. The first name "Jon" is written with a large, looped "J" and a small "n". The last name "Sandoval" is written with a large "S" and a long, sweeping "v" that extends to the right.

Jon Sandoval, Assistant Administrator
Support Services

Attachments

cc: Bettina Stokes, EPA
Lance Nielsen, DEQ
Richard Humiston, DMS

**REVISED RESPONSE TO DRAFT AUDIT REPORT
NO. E3NLB3-10-0151
September 22, 1994**

CHAPTER 1. Introduction

Comment 1.

This section provided an overview of the Purpose, Background, Scope and Methodology, and a discussion of Prior Audit Coverage.

Response 1.

IDHW-DEQ has no comments concerning this section except those statements which directly relate to the following Chapters.

CHAPTER 2. Results of Financial Audit

Comment 2.

Auditors Opinion: "We were unable to opine on the allowability of the costs claimed under Cooperative Agreement No. L000536-01 because the IDHW accounting procedures were not sufficient to determine that funds had not been used in violation of the restrictions of the applicable Federal statutes. The results of our testing on the allowability of the costs claimed are summarized in the following schedule and footnotes.

Recommendation: "We recommend that the Regional Administrator require IDHW to provide support for costs claimed or recover the Federal share of the cooperative agreement funds questioned. In the event IDHW is unable to provide adequate support for all costs claimed, IDHW may want to seek a deviation from the federal requirements for such supporting documentation (40 CFR, Part 31.22(b)).

Response 2.

IDHW-DEQ disputes the conclusions referenced in Comment 2 regarding IDHW's accounting procedures and their sufficiency to reasonably control the allowability of specific direct costs. Specifically, IDHW accounting procedures include the following steps:

- 1) A thorough review by the receiving individual ensuring proper shipment/receipt of the invoice materials. After a thorough review of the material stated on the invoice, the receiving individual signs the invoice, concurring with the

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deliverables documented on the invoice. Additionally, if the material invoiced is a capital outlay or attractive item as identified by IDHW policy, an inventory number is assigned and the material is entered into IDHW's and DEQ's inventory data bases.

- 2) The Project Officer or staff member responsible for the transaction reviews the associated invoice and if he/she is in-concurrence, initials (approves) the invoice. If the project officer disputes the charges reflected in the invoice, the invoice is returned to the IDHW-DEQ accounting staff who negotiate/dispute the invoice.
- 3) The Program Manager/Supervisor (who provides direct supervision to the staff member referenced in (2) above), reviews the transaction and discusses any inconsistencies with the staff member. Upon concurrence with the staff members recommendation for payment, the Program Manager/Supervisor approves the transaction by initialling the invoice.
- 4) The Program Bureau Chief (who provides direct supervision to the staff referenced in (2) and (3) above), reviews the transaction and discusses any inconsistencies with the affected staff. Upon review and concurrence with the reasonableness and allowability of the costs associated with the invoice, the Bureau Chief also approves the invoice.
- 5) The Division Assistant Administrator (who provides direct supervision to the staff referenced in (2), (3), and (4) above), reviews the transaction and discusses any inconsistencies. After completing a thorough review of the invoice, the Assistant Administrator, upon concurrence, also initials the invoice.
- 6) Based upon determinations made by the individuals referenced in (2) through (5) above, either the staff member, Supervisor/Manager, and/or Bureau Chief provide the invoice to their respective clerical staff person. The clerical staff completes an Expenditure Voucher form, which is a typed document clearly defining necessary accounting documentation. The clerical staff person routes the Expenditure Voucher to the IDHW-DEQ accounting staff for further internal audit and document preparation.
- 7) The complete invoice package is reviewed by accounting staff for necessary approvals, as indicated above, as well as for proper identification of program codes, and allowability based on IDHW policy.

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- 8) The documentation is then further reviewed by the Accounting Supervisor; to assess the allowability, proper distribution of costs, and reasonableness of charges claimed in the invoice.
- 9) Upon completion of the actions listed in (1) through (8) above, the invoices are batched and transmitted to the Assistant Administrator for Support Services for additional review. Upon review of all relevant documentation and concurrence with the materials contained in the invoice package the Assistant Administrator recommends payment of the invoice to the Division Administrator.
- 10) The Division Administrator completes a review of the information listed above, and upon concurrence, authorizes the payment of the invoice.

The following procedures are implemented after payment has been made to the vendor to ensure the proper allocability of both state and federal funds:

- a) Project Manager/Supervisor's, Bureau Chief's, and Assistant Administrator's are provided with monthly reports which detail, by funding source/grant, each of the obligations paid during the last month. If either of the management officials identifies incorrect charges, they are to immediately report their observations to the Accounting Supervisor for correction.
- b) Program Manager/Supervisor's, Bureau Chief's, and Assistant Administrator's participate in quarterly budget reviews. During the course of these multi-day evaluations managers again review the transactions, as listed in (a) above.

As such, the procedures listed in (1) through (10) and (a) and (b) were consistently utilized on the transactions in question. To retroactively research and further document the costs associated with the (26) questioned invoices, would not be cost effective (as it would cost more to research and re-prepare the documents then the cost of the items in question). However, if EPA deems the additional documentation necessary and required, IDHW-DEQ may further review this matter. Specifically, capital outlay items purchased and questioned in this review could be demonstrated to be in possession of LUST staff and utilized as part of their daily work activity. Also, in response to the (3) specific examples provided in your report IDHW-DEQ provides the following:

- "Training costs of \$258.89 were claimed. The supporting documentation described the training purpose "to gain knowledge and increase skills/abilities to audit Superfund and Wastewater Facilities Construction Projects."

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As previously indicated to Audit personnel, the individual who attended this training is responsible for auditing both Superfund and LUST documentation. The name of the course reflects the description provided above, however, the information obtained from the course was equally applicable to the duties of a LUST and Superfund auditor. As such, rather than sending the auditor to additional training which referenced LUST in the title but covered the same information, IDHW-DEQ split the costs between the two benefiting programs.

- "Airfare costs of \$289.00 were claimed. The purpose of the travel was not documented. However, the employee's time sheet showed that while in travel status, the employee's time was charged to the Underground Storage Tank program."

Without completely researching through past documentation, conversations with staff conducting activities during this period indicated that when State attendance is required/expected at meetings/conferences, states are often forced to fund travel costs to these activities through variable means. In practice these meetings/discussions surround both LUST and UST issues, and could easily be funded out of either program. In this case, staff re-call the UST program had available personnel dollars (not operating) and the LUST program had available operating dollars (not personnel), therefore participation costs were allocated in this manner. As such, costs allowable were in excess of actual charges to this cooperative agreement, however, this appeared to be reasonable.

- "A set of law codes was purchased by the Attorney General's Office. The costs were charged to four different funding sources, including 20 percent (\$10.47) to LUST. This purchase should have been recorded as an indirect cost because it does not meet the criterion as a direct cost specifically identifiable with a particular cost objective."

The documents in question were purchased by the Attorney General's Office, however, these documents are maintained by clerical staff in the AG's office and are available for UST/LUST program staff utilization, i.e., the AG's office (within the DEQ building) is the central location for DEQ's legal reference materials, they were not purchased exclusively for the use of the AG's. In an attempt to maximize available resources IDHW-DEQ has attempted to limit the number of CFR documents. The purpose of limiting CFR documents was based on cost and the on-going nature of regulatory change. Therefore, IDHW-DEQ's AG's office maintains current editions of each CFR, and the documents are available by check-out to any IDHW-DEQ employee.

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In addition, the procedures listed above have undergone audit review by both state and federal officials. Specifically, Idaho State government statute requires a comprehensive Legislative Audit to review IDHW-DEQ procedures every two (2) years. Also, these same procedures were evaluated by EPA-OIG Superfund auditor's in the recently completed Bunker Hill Cooperative Agreement audit. IDHW-DEQ is surprised by this finding, as it is the first documented incident of standard accounting procedures ever raised as an issue in a draft report.

Based upon the above information, IDHW-DEQ concludes the accounting procedures utilized are reasonable, and provide compliance with 40 CFR, Part 31.20. Therefore, all non-personnel costs claimed should be supported and allowed.

CHAPTER 3. Report on Internal Controls and Compliance

Comment 3.

Internal Controls: IDHW was charging Personnel Costs Based on Budget Allocations. "We cannot opine on claimed personnel costs because the accounting practices of charging direct time and paid absences were not based upon actual costs to the LUST program. Therefore, claimed costs for personnel expenditures under Cooperative Agreement No. L000536-01 are questioned as unsupported in the amount of \$513,259.

Recommendations: "We recommend that the Regional Administrator require IDHW to:

1. Charge costs to LUST cooperative agreements based on actual time worked.
2. Implement its "Charging of Paid Absences" policy.
3. Establish procedures to ensure documentation adequately supports the allocability of expenditures to the LUST Program.
4. Provide satisfactory evidence that recommendation numbers 1 through 3 above have been implemented prior to making additional LUST cooperative agreement awards.
5. Continue to improve its contract procedures to ensure that contractors perform within the terms, conditions and specifications of the contracts.
6. Obtain prior approval for direct cost transfers that exceed 10 percent of the approved budget.

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Response 3.

IDHW disputes the audit reports claim that personnel costs are unsupported because the costs to the LUST program were not based upon actual costs.

Upon further review of the questioned personnel costs, it appears all IDHW-DEQ staff are working within budgeted amounts. However, there appears to be several methods for maintaining their compliance with budget allocations. Some staff manage their tasks/activities on a daily basis to fit the budget allocation, while others utilize a weekly, bi-weekly, monthly, or quarterly date. Individuals that manage their tasks in a daily, weekly, bi-weekly or even monthly manner provide the appearance they are not recording actual hours. However, IDHW-DEQ believes, upon review of the monthly timesheets, individuals are recording actual hours, and these actual hours also accurately reflect their budget allocations. This is substantiated by each employee signing (bi-weekly) a declaration which states: "I certify that the hours reported on this time sheet were necessary in the public service, are correct and were actually rendered."

In addition, there appears to be confusion among IDHW-DEQ staff as to the proper methods of transferring the monthly timesheet records to the bi-weekly record. To alleviate this problem, IDHW-DEQ is evaluating several potential modifications to further enhance employee time records. The potential modifications include:

- Providing additional time sheet recording training to staff.
- Amending the monthly timesheet to cover a bi-weekly period, so as to directly correspond with the current bi-weekly timesheets.
- Require staff to utilize the current PCA codes which are identified on the bi-weekly timesheet as identifiers of allocated time.
- Remove the administration and clerical categories and require staff to code time directly to the PCA code for which they are working.
- Include PCA delineations under each of the leave categories.
- Providing periodic evaluations of timesheet performance, ensuring compliance with IDHW-DEQ policy.

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By enhancing the current timesheet system and providing additional training, IDHW-DEQ intends to further clarify the records of actual costs allocated to each program.

Additionally, IDHW-DEQ concurs with the draft audit report finding that recent improvements have been made to contracting procedures and that central contracting functions have been shifted to IDHW-DEQ.

Based on the above referenced information, IDHW-DEQ substantiates its position that all personnel costs, as well as associated indirect costs should be allowed.

CHAPTER 4. Greater Emphasis is Needed for Higher Priority LUST Sites

Comment 4.

The IDHW did not give sufficient attention to some LUST sites that posed the greatest threat to human health and the environment. A judgement sample of 23 sites designated either as high priority or as contaminating groundwater disclosed that oversight of responsible party remediation for 9 of the sites needed improvement, management reports identifying remediation status of the sites were not accurate, and cleanup priority rankings had not been assigned to all sites. In our opinion, these conditions occurred because IDHW had not placed adequate emphasis on ensuring that LUST sites posing the most significant threat to human health and the environment were remediated as soon as possible.

Recommendations: "We recommend that the Regional Administrator require IDHW to:

1. Ensure LUST site oversight activities are based on assigned cleanup priorities.
2. Ensure that Consent Agreements or Schedules and Criteria are established for significantly contaminated LUST sites as required by Idaho's Water Quality Standards and Wastewater Treatment Requirements. Also, ensure that Schedules and Criteria are established timely when responsible parties fail to enter into Consent Agreements within 30 days of receipt of the agreements.
3. Correct the inaccuracies in the UST-DMS by conducting a one-time 100 percent reconciliation of the UST-DMS with site records.
4. Ensure all LUST sites are assigned a cleanup priority consistent with IDHW's priority policy.

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Response 4.

IDHW-DEQ disputes the audit reports claim that IDHW-DEQ "did not give sufficient attention to some LUST sites that posed the greatest threat to human health and the environment." Upon further review by IDHW-DEQ staff, the following points are presented to support IDHW-DEQ's position:

1. By Memorandum, dated March 11, 1993 (attached), David W. Ziegele, Director of the Office of Underground Storage Tanks, provides clarification on the applicability of RCRA Subtitle I requirements to priorities for funding of corrective action oversight activities. Mr. Ziegele states: "Contrary to the position taken by the OIG in the California audit report, LUST Trust Fund monies used for oversight of RP-lead corrective action are not subject to the priority system requirements of Subtitle I nor to the corresponding section of OSWER Directive 9650.10..." As such, IDHW-DEQ contends the findings found in Comment 4 do not apply.
2. To demonstrate the applicability of the points raised in Mr. Ziegele's memorandum, IDHW-DEQ evaluated the findings relative to the observations of the IDHW-DEQ, North Idaho Regional Office (NIRO). The following clarifications are made:
 - a) IDHW-DEQ reviewed specific information surrounding the four sites listed and has determined none of the owners questioned by the audit report were considered recalcitrant. Each of the sites has a progression of site work commensurate with the potential of the site to affect human health or the environment.
 - b) The site ranking, developed and used by IDHW-DEQ, is a general guide to assess the potential of a site to threaten or contaminate the environment. Each site has a unique set of geologic, hydrogeologic and anthropogenic circumstances that determine how limited staff time should be applied to the site. IDHW-DEQ utilizes a remediation team approach to evaluate the potential and actual environmental threats posed by a site to determine staff work allocations. Sites with significant actual or potential threats are held in compliance with Water Quality Standards and Wastewater Treatment Requirements. The priority ranking system is a numerical guide, not a work allocation system as identified in the audit report.

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- c) Three of the four sites cited by the draft audit report as examples have been remediated since the auditors visit. The site assessment is complete on the fourth site and a consent agreement has been developed with the responsible party. Voluntary compliance with the petroleum sections of the Water Quality Standards and Wastewater Treatment Standards has historically been very high throughout Idaho. In IDHW-DEQ's experience, voluntary compliance is far superior to forced compliance to achieve expedited remediation goals.
- d) The following are detailed responses to each of the four sites listed in the draft audit report for NIRO:

PIONEER SQUARE SITE. The audit report suggests a schedule and criteria should have been used at an earlier stage on this site. The site owners have not been recalcitrant. This site is an example of a very complex site where multiple sources are in the area, cross gradient and up gradient of the site. The site and other close sources required evaluation prior to assessment of responsibility for contamination found in the area. Voluntary compliance site assessments were relied upon to help sort out these sources. In addition, the ground water contamination on this site was in a slow moving ground water area with no identified users (City of Sandpoint). Although DEQ can enforce regulations on known responsible parties, where responsibility is unknown IDHW-DEQ must use caution and often rely on voluntary investigations.

Currently, Pioneer Square and the neighboring bulk facility have completed site assessments. There appears to be contamination on both sites. The Pioneer Square PRP has negotiated a consent agreement with IDHW-DEQ and a corrective action plan will be submitted for this site in accordance with the established schedule.

MUZZY OIL SITE. This site was discovered prior to the availability of the schedule and criteria in December 1992. Voluntary compliance was progressive throughout the project. The owner/operator was not recalcitrant and requested extensions to regulation deadlines. The site never posed an off-site ground water threat because of unique geologic characteristics not accounted for in the IDHW-DEQ prioritization scoring. The site was successfully remediated in June 1994 voluntarily by the owner/operator.

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ROBERT HAYS SITE. This site was also discovered prior to the availability of the schedule and criteria in December 1992. In addition, there were no UST/LUST staff in the NIRO region at the time of this site discovery in 1990. No ground water contamination was ever documented at the site. Moderate levels of soil contamination remained after removal of a 550 gallon gasoline tank, where soil could not be removed from under a building.

The audit report suggests no follow-up was conducted on the site from notification in September 1990 until January 1993. The fact there was no documentation in the file does not mean follow up was not done. At this particular point in time (i.e., at the start of the LUST program in NIRO), returned certified mail was not put into the file, the returns were discarded. This oversight was corrected but, not before the two returned letters during this period were discarded. The fact there was no documented ground water contamination, and no schedule and criteria was available during this period, did not allow further action on this site. The site has been closed after a voluntary compliance site investigation had shown no contamination of the ground water.

ROCKY POINT MARINA SITE. This site was initiated in 1990, again, before the availability of the schedule and criteria and the inception of the NIRO LUST program. Negotiation of the consent agreement between IDHW-DEQ and the Idaho Division of Public works was time consuming. Initial source removal of leaking tanks and contaminated soil had mitigated most of the continuing threat to ground water at the site. No ground water use was threatened. The site was remediated in December 1993 under a schedule and criteria.

- e) The prioritization of sites by IDHW-DEQ is guided by the scoring sheet filled out on each site. The priority value from the scoring presents the potential for a site to affect public health and the environment. Site specific geologic, hydrogeologic, and anthropogenic conditions give each site a unique potential to contaminate. As such, IDHW-DEQ uses a team approach to determine staff priority in working on sites. The priority ranking is not a work allocation system, but a useful tool in determining relative potential to affect human health and the environment.

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- f) Time delays in the negotiation of consent agreements and scheduling of site work are virtually unavoidable. A vast array of technical, legal, and financial issues accompany each site. IDHW-DEQ's experience indicates forced compliance does not speed resolution of any issues in many cases. True recalcitrant owners/operators are held strictly to regulation time tables. Regulation of LUST sites by IDHW-DEQ is consistent and very effective in achieving remediation.

To demonstrate IDHW-DEQ's commitment to enhancing the LUST program, evaluation of the current prioritization system has begun to ensure the system utilized accurately reflects the scientific conditions of the respective site. However, IDHW-DEQ still concludes the prioritization system is just one tool in determining relative priorities. Other components that apply include, but are not limited to:

- aggressiveness/eagerness of the RP to pursue the required work.
- seasonal timing of work to be performed.
- available funding by RP's (this is an extremely important issue in Idaho, as the state does not possess a state sponsored cleanup law/fund).

While IDHW-DEQ maintains the position that this section does not apply to the audit in question, IDHW-DEQ does concur with the recommendations made in this section for providing enhancement to the current program with the following exceptions:

- 1) IDHW-DEQ is not required to maintain a site prioritization system, as documented above, and
- 2) the system utilized by IDHW-DEQ is utilized as a management tool to assist DEQ program managers in assigning relative priority, not absolute priority.

As documented above, IDHW-DEQ concludes the findings referenced in Comment 4 do not apply. However, appropriate justification has been presented to demonstrate IDHW-DEQ's commitment to providing an effective and efficient approach to LUST site management.

CHAPTER 5. Cost Recovery Procedures Need Improvement

Comment 5.

"IDHW's procedures used for the recovery of LUST Trust Fund expenditures need improvement. During the period fiscal 1993 through the first quarter fiscal 1994, cost recovery settlements involving four LUST sites were completed. Our review of the cost recovery actions at all four sites disclosed that the recoveries did not cover all of the Trust Fund expenditures related to the site. Also, the cost recoveries were not adequately documented. In addition, IDHW did not attempt to charge interest on LUST Trust Fund recovery amounts and did not adequately administer a contract which was funded with LUST Trust Fund monies.

These conditions occurred because Remediation Bureau personnel: (i) did not accurately identify all LUST Trust Fund expenditures; (ii) did not follow EPA documentation requirements; (iii) were of the opinion that interest assessments would adversely affect the cost recovery process and corrective actions; and (iv) made contract revisions without the use of a written contract amendment. As a result, it does not appear that IDHW had maximized its cost recoveries from responsible parties.

Recommendations: "We recommend that the Regional Administrator require IDHW to:

1. Ensure that cost recovery claims include all costs associated with the LUST sites.
2. Document the basis for settlement amounts and the justification for any settlements significantly less than full cost recovery.
3. Assess and attempt to recover interest charges on LUST Trust Fund cost recovery amounts.
4. Ensure that all contract modifications are done through the use of written amendments.

Response 5.

IDHW-DEQ concurs with the audit report findings, and already has prepared a draft cost recovery policy to ensure the recommendations stated above are implemented.

CHAPTER 6. Quarterly Stars Reports Were Inaccurate

Comment 6.

Quarterly STARS reports submitted to EPA Region 10 did not accurately report LUST Program activity during fiscal 1993. The number of confirmed releases were understated by 16 percent, cleanups initiated were overstated by 18 percent, and cleanups completed were understated by 57 percent. In addition, the quarterly reports included LUST Program activity that had occurred prior to the reporting periods. The inaccuracies occurred because not all performance data had been correctly compiled by the computer system used to maintain LUST site information, information in the quarterly reports was not reconciled to the supporting records, and some regions reported LUST site activity late. The erroneous reporting resulted in EPA managers receiving inaccurate performance information on the IDHW's LUST Program during fiscal 1993.

Recommendation: "We recommend that the Regional Administrator require IDHW to:

1. Implement procedures which ensure that LUST site activity information maintained in the UST-DMS is reconciled to source documents at least quarterly.
2. Ensure that IDHW's regions report LUST site activity information to the Remediation Bureau on a timely basis and that the information is reported timely to EPA.

Response 6.

IDHW concurs with the audit reports statements indicating IDHW-DEQ Remediation Bureau staff should be required to reconcile source documents with information maintained in the UST-DMS.

As previously indicated to OIG staff, IDHW-DEQ is currently evaluating protocols for the entry of LUST site data and associated QA/QC to ensure the accurate and timely incorporation of site data. As such, IDHW-DEQ is evaluating the incorporation of existing IDHW-DEQ data entry and data QA/QC policies and procedures into the LUST site data base program. Incorporation of the data entry protocols will assure data entered are accurate and reconciled to source documentation.

APPENDIX II

ABBREVIATIONS

CFR	Code of Federal Regulations
EPA	Environmental Protection Agency
FSR	Financial Status Report
IDHW	Idaho Department of Health and Welfare
LUST	Leaking Underground Storage Tank
NIR	Northern Idaho Region
OIG	Office of Inspector General
OMB	Office of Management and Budget
OSWER	Office of Solid Waste and Emergency Response
RCRA	Resource Conservation and Recovery Act
SARA	Superfund Amendments and Reauthorization Act
STARS	Strategic Targeted Activities for Results System
SWIR	South Western Idaho Region
UST	Underground Storage Tank
UST-DMS	Underground Storage Tank - Data Base Management System

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