



U.S. ENVIRONMENTAL PROTECTION AGENCY  
OFFICE OF INSPECTOR GENERAL

*Catalyst for Improving the Environment*

# Annual Superfund Report to Congress for Fiscal Year 2008



# OIG Scorecard Summary of Superfund Results by OIG Goal – Fiscal Year 2008

Office of Inspector General (OIG) Goal: Contribute to human health and environmental quality through improved business practices, accountability, and integrity of program operations. Below are Superfund results of OIG work in terms of outputs, actions by EPA, and impacts.

*Dollars in Millions*

## Audits, Program Evaluations, and Special Reviews

9	Policy, Practice, Process Actions, or Changes Made
3	Critical Public or Congressional Concerns Addressed
17	Certifications/Validations/Verifications
27	Recommendations for Management Improvement
11	Recommendations for Environmental Improvement
3	Management Recommendations Sustained
4	Referrals for Agency Action
3	Environmental Recommendations/Actions Sustained
1	Environmental Risk Identified
8	Recommendations Reported as Implemented Previously Identified Unimplemented by Follow-up*
14	Unimplemented Recommendations Identified
\$0.3	Questioned Costs
\$60.5	Cost Efficiencies
\$3.0	Total Questioned Cost Sustained
\$7.7	Total Cost Efficiencies Sustained

## Investigative Operations

\$0.8	Fines, Settlements, Restitutions
7	Indictments/Informations
2	Convictions
2	Sentencings
0	Civil Settlements
3	Administrative Actions

\* Reported by Agency as implemented of those reported by OIG in Report No. 08-P-0123 as unimplemented.

Sources: Performance Measurement and Results System, Inspector General Enterprise Management System, Inspector General Operations and Reporting System, and other OIG reports

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Office of Inspector General and its activities, visit our Website at:

<http://www.epa.gov/oig>

**Cover photos:** *From top:* The northern former disposal area in Zone 1 for the Stringfellow Superfund site near Glen Avon, California (EPA photo); the contaminated soil mound with a high density polyethylene cap at the Escambia Treating Company Superfund site in Pensacola, Florida (EPA OIG photo); and the South Parcel of the Stauffer Chemical Company Superfund site in Tarpon Springs, Florida (EPA OIG photo).



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## **Foreword**

As the amount of funds available for Superfund work continues to diminish, it becomes increasingly imperative for the U.S. Environmental Protection Agency (EPA) to spend its Superfund dollars as prudently as possible to achieve maximum benefits from dollars available. This report covers the Fiscal Year 2008 Superfund activity of the EPA Office of Inspector General. The Superfund Amendments and Reauthorization Act of 1986 requires the Office of Inspector General to annually audit the Superfund program and report the results to Congress.

Although EPA regions have recovered 56 percent of the total Superfund costs from sites reviewed during an evaluation, they could recover more. EPA had not collected as much as \$129 million (44 percent), and determined it will not attempt to recover between \$30 million and \$90 million of that amount. This indicates a potentially significant breakdown in controls over Superfund cost recovery.

By Fiscal Year 2010, we found that EPA Region 9 could reclassify or transfer to the Superfund Trust Fund up to \$47.8 million in special account funds for the Stringfellow Superfund site in California. EPA agreed to reclassify \$20 million of that and will, at least temporarily, keep the remaining \$27.8 million as a buffer for unknowns. Further, Region 8 can reclassify or transfer to the Superfund Trust Fund nearly \$8 million from the special accounts for the Portland Cement site in Utah. In another review, we found \$1.8 million in interagency agreement costs that EPA could redistribute, as well as \$2.8 million in cooperative agreement costs. An audit of one of EPA's Superfund Technical Assistance and Response Team contractors noted the billing of \$440,000 in ineligible labor and subcontract costs. Freeing up the funds noted above would enable EPA to use those funds for other, pressing Superfund needs.

Neither EPA nor New Jersey took actions needed to ensure progress at seven New Jersey-led Superfund site clean-ups listed on the National Priorities List for over 20 years. Another review noted that EPA lacks the internal controls necessary to monitor compliance with Superfund enforcement instruments nationally; these instruments include authorities to compel clean-ups, such as settlement agreements.

We are pleased to note that our follow-up reviews at two sites in Florida – the Escambia Treating Company site in Pensacola and the Stauffer Chemical Company site in Tarpon Springs – indicated that EPA Region 4 generally took the corrective actions recommended in our 2004 reports.

As a result of an investigation, a New Jersey company and various officials pled guilty in a bid rigging scheme in connection with subcontracts for wastewater treatment supplies and services at two New Jersey Superfund sites. Invoices were inflated to cover almost \$1.3 million in kickbacks to employees of a prime contractor in exchange for steering subcontracts to a firm.

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Addressing Superfund funding and program management remains an important issue, and we will continue to assist Congress and EPA in their efforts to protect against potential adverse health and environmental impacts resulting from Superfund sites.



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Bill A. Roderick  
Deputy Inspector General

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## Hazardous Substance Superfund Trust Fund

The Government Management and Reform Act requires federal agencies to prepare annual audited financial statements. The Act was passed to help improve agencies' financial management practices, systems, and controls so that timely, reliable information is available to manage federal programs.

One of the major entities included in the U.S. Environmental Protection Agency's (EPA's) financial statements is the Hazardous Substance Superfund Trust Fund. Our audit of EPA financial statements also meets our Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) requirement to annually audit the Superfund Trust Fund. EPA presented the financial statements for Fiscal Year 2008 in a consolidated format and did not include a separate presentation on the Superfund Trust Fund.

The summary below of our Fiscal Year 2008 financial statement audit highlights areas that pertain to the Hazardous Substance Superfund Trust Fund. After the details on the financial statement audit are summaries on several other reviews we conducted that note ways EPA can improve its management of Superfund resources.

### EPA Earns Unqualified Opinion on Financial Statements

We rendered an unqualified, or clean, opinion on EPA's Consolidated Financial Statements for Fiscal Years 2008 and 2007. That means we found the statements to be fairly presented and free of material misstatement. However, in evaluating internal controls we noted eight significant deficiencies. Significant deficiencies are deficiencies in internal controls that adversely affect the entity's ability to report financial data reliably in accordance with generally accepted accounting principles such that there is more than a remote likelihood that a misstatement of the entity's financial statements will not be prevented or detected. The eight significant deficiencies noted are as follows:

- EPA needs to reconcile Superfund State Contract funds and credits in the general ledger to subsidiary accounts.
- Improvement is needed in monitoring Superfund Special Account balances.
- EPA's oversight of payroll reconciliation needs improvement.
- Accrual was not properly calculated for federal unbilled receivables.
- EPA's review of unliquidated obligations for interagency agreements and Headquarters-funded grants was incomplete.
- The Integrated Financial Management System Vendor Table was susceptible to unauthorized changes and changes were not adequately documented.
- The lack of a system implementation process contributed to financial applications not complying with requirements.
- EPA did not properly account for capitalized software and related accumulated depreciation.

In addition, regarding compliance with laws and regulations, as of September 30, 2008, EPA reported \$192 million in unreconciled differences with 46 trading partners for intragovernmental transactions.

The Agency generally agreed with the internal control and noncompliance issues raised and has begun taking corrective actions.

We issued our report (09-1-0026) on November 14, 2008.

### **EPA Can Recover More Superfund Money**

EPA regions have recovered \$165 million of \$294 million (56 percent) of the total Superfund costs from sites we reviewed, and can recover more.

Potentially responsible parties at these sites have generally paid what they have been billed. EPA has not collected as much as \$129 million (44 percent), and has determined that it will not attempt to recover between \$30 million and \$90 million of this amount. This indicates a potentially significant breakdown in controls over Superfund cost recovery.

Regions generally use similar billing processes to recover their Superfund costs from private parties, but we found some exceptions. For example, we found that two EPA regions discovered they should have billed two sites about \$1.8 million, but did not. These costs are now being billed. One EPA region did not include about \$8 million in a negotiated settlement for a site because the costs were incorrectly assigned to another site.

We recommended that EPA (1) enhance cost recovery guidance for all the regions, (2) implement mechanisms to determine how efficiently it is recovering site costs, and (3) implement performance measures to track how efficiently it is recovering these costs. EPA concurred with all recommendations.

We issued our report (08-P-0116) on March 26, 2008.

### **EPA Can Reclassify or Transfer Up to \$47.8 Million from Stringfellow Site**

By Fiscal Year 2010, EPA Region 9 could reclassify, or transfer to the Hazardous Substance Superfund Trust Fund, up to \$47.8 million in special account funds for the Stringfellow Superfund site, located near Glen Avon, California. This would potentially allow \$47.8 million to be available for better use in Region 9's Superfund program or elsewhere in the Nation.

EPA retains funds received in settlements in site-specific accounts, called "special accounts." The OIG has been evaluating EPA's use of special accounts that had high available balances or were at least 10 years old. The special accounts for the Stringfellow Superfund site had a high available balance of \$117.8 million.

We recommended that the Region 9 Administrator reclassify or transfer to the Superfund Trust Fund, as appropriate, \$47.8 million of the Stringfellow special accounts. In response to our draft report, EPA agreed to reclassify \$20 million by the end of Fiscal Year 2008. The Agency stated that the remaining amount (up to \$27.8 million) was a "buffer for unknowns," some amount of which will be needed for oversight costs, and indicated that it could potentially reclassify or transfer this remaining amount to the Superfund Trust Fund (plus any earned interest) by the end of Fiscal Year 2011.

The \$70 million remaining in the accounts (out of \$117.8 million) are to cover potential EPA clean-up costs if the responsible party (the State of California) is unable to pay. In a future report, the OIG plans to address EPA's management of funds held back for these purposes.

We issued our report (08-P-0196) on July 9, 2008. Region 9 completed reclassifying \$20 million in July 2008.

### **EPA Can Better Use Nearly \$8 Million from Utah Site's Superfund Special Accounts**

Region 8 can reclassify, or transfer to the Superfund Trust Fund, nearly \$8 million from the special accounts for the Portland Cement site in Salt Lake City, Utah.

Construction was complete at the site in September 2006. The Region had said there would be minimal but undetermined future costs for site maintenance, to be paid from an \$8.5 million balance. However, the Region did not timely review, reclassify, or transfer any of these funds because the Region considered doing so a low priority.

After receiving our draft "Early Warning" report in February 2008, Region 8 reclassified approximately \$3 million from the Portland Cement special accounts. The Region said these funds will be used for clean-up needs at the Libby Superfund site in Montana and Superfund records center site-specific work. The Region documented its plans to reclassify some portion of the remaining special account balance (about \$5 million) after it determines the amount of funds it will reimburse the State of Utah. Had Region 8 more timely reclassified these special account funds, cleanup needs at other sites that receive Trust Fund appropriations may have been met sooner. After the Region reclassifies the special account funds reviewed, more funds will be available to support other Superfund priorities.

We also found that Region 8 can reclassify, or transfer to the Trust Fund, approximately \$16,000 from special accounts for four other sites.

EPA agreed with our recommendations to reclassify or transfer the \$8 million from the Portland Cement special accounts and the approximately \$16,000 from special accounts for four other sites.

We issued our report (08-P-0102) on March 17, 2008. Region 8 completed reclassifying an additional approximately \$4.1 million in July 2008.

### **Corrective Actions Not Complete for Undistributed Superfund Site Costs**

EPA initiated some corrective actions in response to our prior report on undistributed Superfund site costs, but did not complete them. Also, EPA did not maintain accurate information in the Management Audit Tracking System.

Our July 2006 report noted that EPA did not timely redistribute Superfund payments from a general site identifier to specific sites. When Superfund costs are not redistributed appropriately from a general site identifier to a specific site identifier, these costs may not

be considered in settlement negotiations and oversight billings, and thus may not be recovered from responsible parties for other uses.

Management control weaknesses contributed to a breakdown in the audit follow-up process. EPA did not document formal work assignments for audit follow-up and maintain accountability. EPA did not consistently monitor audit follow-up activities, communicate follow-up status among program offices and obtain follow-up agreements, and document work completion. Because EPA did not complete the corrective actions, its financial management and environmental protection efforts could be impacted.

We recommended that EPA make formal work assignments, document the assignments, hold assignees accountable, and monitor audit follow-up activity. Also, EPA should redistribute \$1.8 million in additional interagency agreement costs recorded after May 12, 2006, and redistribute \$2.8 million of cooperative agreement costs to the correct general and site-specific identifiers. EPA agreed with all our recommendations.

We issued our report (08-P-0236) on August 25, 2008.

### **Contract Cost Verification Review Notes \$440,000 in Ineligible Costs**

Based on Agency concerns related to questionable labor staffing and charging practices of one of its Superfund Technical Assistance and Response Team contractors, we conducted a labor and subcontract cost verification review. We found that:

- The contractor improperly billed for labor costs of employees who did not meet the minimum contract requirements for education and training.
- No subcontractor met the minimum contract requirements for education and training.
- The contractor billed for employees who were not approved at the time the labor costs were incurred.
- The contractor improperly billed for employees who did not complete required Basic Incident Command System Level 200 training.

Our review covered 1 year of the 5-year contract, and found that the Agency was billed \$440,000 in ineligible labor and subcontract costs. EPA's final resolution sustained \$130,964 of the costs questioned.

## Assistance Agreements

About half of EPA's Fiscal Year 2008 budget was awarded to organizations outside the Agency through assistance agreements, including a significant amount of funds related to Superfund sites. CERCLA requires audits "of a sample of agreements with States." During 2008, we did a follow-up review on the status of funds obligated for Superfund cooperative agreements for the States of New York and New Jersey. Details follow.

### EPA Deobligates Nearly \$7.3 Million Cited in Prior Audit Report

EPA Region 2 has deobligated nearly \$7.3 million from Superfund cooperative agreements for four of the six sites in New York and New Jersey that we had cited in a prior report as needing deobligation.

Our October 2006 review identified \$9.6 million under six agreements with New York and New Jersey that could be deobligated. During this review, we found that EPA Region 2 deobligated nearly \$7.3 million. For one site (Ellis Property), the amount deobligated exceeded what was previously identified because EPA found additional funds that were no longer needed. For three agreements, as the remaining obligated funds are expected to be used for ongoing work, we are not requesting that EPA take additional corrective actions at this time. Details on amounts deobligated follow.

#### Status of Obligations

Site Name	State	Amount in Prior OIG Report	Amount Deobligated
Imperial Oil	New Jersey	\$5,000,000	\$5,000,000
Ellis Property	New Jersey	500,000	543,500
Burnt Fly Bog	New Jersey	1,000,000	0
Combe Fill South	New Jersey	2,000,000	1,336,578
Syncon Resins	New Jersey	600,000	0
New York Multi-Site	New York	486,744	384,892
<b>Total</b>		<b>\$9,586,744</b>	<b>\$7,264,970</b>

Sources: OIG Report No. 2007-2-00003, the Financial Data Warehouse, and information provided by Region 2 Grants and Contracts Management Branch staff and project officers.

We did not make any recommendations in this follow-up report because EPA was taking appropriate actions.

We issued our follow-up report (08-2-0099) on March 4, 2008.

## Remedial Action Decision Making

We performed in-depth reviews of the reliability of site-specific analytical data for sound site remediation decisions. Also, we worked closely with the Agency to characterize Superfund sites. Through these and other actions, we are working to ensure that EPA decisions on site remediation are based on data of known quality. During 2008, we found ways in which EPA could improve remedial action decision making.

### Improved Controls Needed to Reduce Superfund Backlogs

Neither EPA nor the New Jersey Department of Environmental Protection took actions needed to ensure progress at seven New Jersey-led Superfund site clean-ups listed on the National Priorities List for over 20 years.

The Office of Management and Budget requested us to evaluate EPA's management of the backlog of Superfund sites. We focused on New Jersey because it had 38 of the 144 non-federal sites on the National Priorities List as of February 2007 that were over 20 years old but had still not reached construction completion. That was 26 percent of the sites, more than any other State.

Delays at the New Jersey sites occurred primarily because EPA Region 2 and New Jersey did not use available authorities to prevent delays and implement internal controls. Region 2 and New Jersey did not implement agreements on clean-up milestones, Agency responsibilities, and enforcement actions. Continued clean-up delays will result in increased costs, prevent appropriate land reuse and redevelopment, and perpetuate concern about the risks associated with living near these sites.

For the seven sites reviewed, various interim clean-up actions had been taken to address the impact of site contaminants on human health. However, the site progress profiles on EPA's public Website did not include these interim actions as part of the status of clean-up progress. As a result, progress being made on sites may not be readily communicated to the public.

We recommended that EPA Region 2 coordinate with New Jersey Department of Environmental Protection officials the cleaning up of specified sites more than 20 years old. Region 2 should assume lead status from New Jersey for those sites where both agencies agree it would be beneficial. We also recommended that EPA improve Internet site profiles as needed. EPA agreed with all of our recommendations.

We issued our report (08-P-0169) on June 2, 2008.

#### Seven New Jersey National Priorities List Sites Reviewed Over 20 Year Old

- Brick Township Landfill, Brick Township, Ocean County
- Evor Phillips Leasing Company, Old Bridge Township, Middlesex County
- Hercules, Inc., Gibbstown, Gloucester County
- American Cyanamid, Bridgewater Township, Somerset County
- Jones Industrial Services Landfill, Inc., South Brunswick, Middlesex County
- Universal Oil Products, East Rutherford, Bergen County
- Ventron/Velsicol, Wood Ridge Borough, Bergen County

Source: EPA OIG analysis

## EPA Needs to Track Compliance with Superfund Clean-up Requirements

EPA lacks the internal controls necessary to monitor compliance with Superfund enforcement instruments nationally.

As of September 30, 2007, Superfund had almost 3,400 active enforcement instruments to ensure clean-ups at National Priorities List sites. The instruments establish requirements for responsible parties to conduct and pay for Superfund clean-ups; they include settlement agreements and unilateral administrative orders.

EPA does not nationally compile or track data on substantial noncompliance based on the enforcement instruments. In 2000, EPA acknowledged it needed to improve its enforcement data and wrote a report on the subject, but has yet to implement its own recommendation for regions to improve data. As a result, the Agency lacks the internal controls necessary to monitor compliance with Superfund instruments nationally.

We recommended that EPA track and monitor substantial noncompliance by using and modifying, as appropriate, the existing Superfund information system. We also recommended that EPA establish enforceable response actions to address contamination from the Muskego Landfill Site, in Waukesha County, Wisconsin. EPA agreed with our recommendations and proposed responsive actions.

We issued our report (08-P-0141) on April 28, 2008.

## Superfund Site Deletions Should Undergo Quality Assurance Review

As of September 2007, EPA had deleted 322 sites from the Superfund National Priorities List. However, of the eight sites we reviewed, EPA's documentation for deleting three of those sites was not consistent with Agency guidance.

Generally, EPA may delete a site from the National Priorities List either when all appropriate responses under the Comprehensive Environmental Response, Compensation, and Liability Act have been implemented or a response under the Act is not appropriate.

In addition to documentation on the Agency's decision to delete three sites not being consistent with EPA guidance, two of these sites also were not supported by data and analysis. Therefore, EPA did not ensure clean-up activities and goals were complete and remedies were fully protecting human health and the environment before deleting those two sites.

### EPA's Deletion Process

- Complete final close-out report for site
- Prepare draft notice of intent to delete
- Obtain State concurrence for deletion
- Compile the deletion docket
- Publish notice of intent to delete and provide 30-day public comment period
- Prepare and place final responsiveness summary in deletion docket and public repositories
- Publish notice of deletion

Source: Office of Solid Waste and Emergency Response Directive 9320.2-09A-P, January 2000, *Close Out Procedures for National Priority Sites*

EPA has conducted limited national oversight of deletion decisions made by EPA's regional offices. Not all regions submitted required information, so when decisions were made, EPA did not verify that sites met criteria.

We recommended that EPA implement a national quality assurance process that ensures deletion decisions meet criteria and are supported. EPA agreed with our recommendations.

We issued our report (08-P-0235) on August 20, 2008.

### **Follow-up at Escambia Site Found Most Recommendations Implemented**

EPA Region 4 implemented all but one of our prior report recommendations at the Escambia Treating Company Superfund site in Pensacola, Florida.

Our September 2004 report noted various areas needing improvement at the Escambia site, an abandoned wood preserving facility where various health risks were identified and from which about 358 households were permanently relocated. We had made several recommendations in that prior report.

In our follow-up review, we found that EPA and the U.S. Army Corps of Engineers monitored the housing inspection process, updated the Community Involvement Plan, conducted public availability sessions with the public, and provided the administrative record compact discs (CDs) to the site repository. Overall, residents, local governments, and businesses indicated Region 4 openly communicated and provided timely information regarding the site.

Although Region 4 indicated it had provided electronic files containing the site administrative record to Citizens Against Toxic Exposure (CATE), an environmental group, CATE's current president told us during the follow-up review that the organization did not receive any CDs from the Region. The Region was unable to locate any evidence (e.g., a copy of a transmittal letter) that it had submitted the CDs to CATE. We recommended that EPA Region 4 provide copies of the updated administrative record CDs to CATE; the Region concurred and indicated it provided the CDs on May 8, 2008.

We issued our report (08-P-0200) on July 14, 2008.

### **Corrective Actions Generally Implemented at Stauffer Site**

EPA Region 4 generally made corrective actions in response to a 2004 EPA OIG report on the Stauffer Chemical Company Superfund Site, Tarpon Springs, Florida.

The plant was used from 1947 to 1981 to process phosphorous. EPA approved leaving the contaminants at the site after consolidating and solidifying them and installing a cap. In June 2004, the OIG identified actions needed to allay public concerns about clean-up actions proposed for the site.

Under a consent decree, Stauffer is preparing a design for EPA-approved clean-up actions. In December 2007, the design was 30 percent complete. Region 4 had revised the

community involvement plan for the site to include some community activity during the design phase, and these activities were being performed. Also, Region 4 is examining whether karst (limestone formation) was present at the clean-up site and could affect the site.

We did not make any recommendations for further corrective actions.

We issued our report (08-P-0264) on September 16, 2008.

## Response Claim

CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986, authorizes EPA to pay any claim for response costs as a result of carrying out the National Contingency Plan. Potentially Responsible Parties, who often make these claims, are required to enter into a Preauthorized Decision Document with EPA to cover work for which some costs will be reimbursed. The document specifies the work to be performed, the portion of the cost EPA will reimburse, and the procedures through which the Potentially Responsible Parties can make claims for reimbursement. While we do not audit response claims, we review claims by following the instructions in EPA's claims guidance for the claims adjuster. During 2008, we completed one such review, as discussed below.

### Review of Old Southington Superfund Site Claim

We reviewed the fourth mixed funding claim submitted by United Technologies Corporation and the Town of Southington, on behalf of the settling defendants for the Old Southington Superfund Site in Connecticut. The Preauthorized Decision Document authorizes the claimant to submit claims for an amount which was the lesser of \$8,800,165 or 63.09 percent of eligible, reasonable, and necessary costs incurred for design of the remedial action pursuant to the Record of Decision and Consent Decree. We recommended that EPA accept the claim as perfected, and accept for reimbursement \$1,165,701, which represents the total amount remaining for reimbursement.

We issued our report (08-4-0270) on September 18, 2008.

## Performance Review

In addition to the reviews required by CERCLA and the Superfund Amendments and Reauthorization Act, we conduct other reviews related to Superfund issues. Following is a summary of one completed during Fiscal Year 2008.

### **EPA's National Emergency Response Planning Needs Improvement**

EPA's Emergency Response Business Plan for responding to national-level incidents needs improvement.

EPA developed the plan in 2006 as the framework for responding to national-level incidents while maintaining an effective day-to-day Superfund emergency response and removal program. The plan involves EPA's resource needs to respond to three different national emergency scenarios, involving various combinations of radiological, biological, and chemical attacks. EPA has faced unprecedented challenges in responding to incidents of national significance, including the World Trade Center and Pentagon terrorist attacks and Hurricanes Katrina and Rita. These events have placed new requirements on EPA's Superfund emergency response and removal programs. New response plans had to be developed to address new requirements and ensure that Superfund responders are adequately prepared.

EPA's plan did not disclose the basis for EPA's resource estimates. EPA management stated they did not consider State and local resources in their resource estimates because they believed they would be working with the affected State and local governments in a unified command structure.

The plan does not satisfy EPA's need for a framework to respond to incidents of national significance. Assumptions are undocumented, resource requirements unsupported, and internal and external coordination of response planning minimal. The plan may focus EPA's preparation on the wrong resource allocations, leaving the Agency unprepared. EPA intends to address some of these issues as the plan is revised; the plan is evolving as EPA continues to make progress and improvements.

We recommended that EPA revise the plan to incorporate methodology and assumptions used, the rationale for selecting incidents of national significance, lessons learned from past incidents, logistics of resource deployment, and risk communications. EPA concurred with our recommendations.

We issued our report (08-P-0055) on January 9, 2008.

## Investigative Activity

The OIG Office of Investigations continued to focus its investigative resources on allegations of fraud, waste, and abuse in high risk and high dollar areas, including in the Superfund program. During Fiscal Year 2008, our Superfund investigative efforts resulted in:

- \$775,825 in monetary fines and restitution
- 7 indictments/informations
- 2 convictions
- 2 sentencing
- 0 civil settlements
- 3 administrative actions

Following are two instances of Superfund investigative activity with results in Fiscal Year 2008.

### Pleas Entered in Bid Rigging Case

On July 23, 2008, in the U.S. District Court for the District of New Jersey, JMJ Environmental, Inc., of Laurel Springs, New Jersey, as well as its owner and a former employee of a prime contractor, were charged and pled guilty in a bid-rigging scheme in connection with subcontracts for wastewater treatment supplies and services at two Superfund sites in New Jersey. On July 31, 2008, Bennett Environmental, Inc. (BEI), a Canadian company, was also charged and pled guilty for its role in the scheme. Sentences are pending.

JMJ and John Drimak, Jr., the firm's owner, pled guilty to rigging bids at the Federal Creosote Superfund site in Manville, New Jersey, from approximately October 2002 to February 2006. Drimak also pled guilty to one count of conspiracy to defraud EPA at the Federal Creosote site and to defraud Tierra Solutions, Inc., at the Diamond Alkali Superfund site in Newark, New Jersey. As part of the conspiracy, Drimak participated in a false invoicing and kickback scheme from January 2002 until April 2007. He also pled guilty to filing false income tax returns for 2002 through 2005.

Norman Stoerr, a former employee of a prime contractor, pled guilty to rigging bids at the Federal Creosote site from approximately October 2002 to October 2003. In addition, Stoerr pled guilty to one count of conspiracy to defraud EPA at the Federal Creosote site and to defraud Tierra Solutions at the Diamond Alkali Superfund site by participating in a false invoicing and kickback scheme from the fall 2000 until spring 2004. Stoerr also pled guilty to one count of aiding Drimak in filing a false income tax return.

Drimak, Stoerr, and other co-conspirators thwarted the competitive bidding process and defrauded EPA. Drimak provided more than \$26,000 in kickbacks to Stoerr and more than \$385,000 to Stoerr's former supervisor in exchange for their assistance in allocating certain subcontracts to JMJ. The kickbacks were in the form of checks, cash, cruises, home renovations, boat trailers, and airline tickets. In addition, Stoerr and a former supervisor inflated invoices and accepted kickbacks from three other subcontractors at the Superfund sites.

BEI pled guilty to conspiracy to defraud EPA at the Federal Creosote site by inflating the prices it charged to a prime contractor and paying kickbacks to employees of that

contractor from approximately May 2002 until spring 2004. BEI was given confidential bid information that it used to inflate invoices to cover almost \$1.3 million in kickbacks to employees of the prime contractor in exchange for their assistance in steering subcontracts to BEI. The kickbacks were in the form of money wire transfers, cruises for senior officials, various entertainment tickets, and home entertainment electronics. As part of the fraudulent scheme, BEI and its co-conspirators also included amounts they kept for themselves in the inflated invoices.

*This case is being conducted with the Internal Revenue Service Criminal Investigation Division.*

### **Printing Company Sentenced for Making False Statements**

On October 25, 2007, Ramallo Brothers Printing, Inc. (Ramallo Brothers), of San Juan, Puerto Rico, was convicted of making false statements to EPA and the Puerto Rico Environmental Quality Board (EQB). The company was sentenced to 4 years of probation, a \$750,000 fine, and an \$800 special assessment. Subsequently, on February 27, 2008, Angel Ramallo-Diaz, former president and chief executive officer of the firm, was convicted of negligent discharge of a pollutant into waters of the United States and sentenced to 3 years of probation, a \$25,000 fine, and a \$25 special assessment. These judicial proceedings occurred in the U.S. District Court for the District of Puerto Rico.

Ramallo Brothers created a variety of wastes and byproducts from its printing business, including ink, which were placed in drums and transported to “La Finca” (“The Farm”) on a regular basis. In September 2000, EPA requested information from Ramallo Brothers pursuant to Section 104(e) of the Comprehensive Environmental Response, Compensation, and Liability Act (Superfund). This information pertained to the hazardous substances and industrial wastes that were used, stored, generated, disposed of, or otherwise handled by them at the La Finca location. In June 2001, Ramallo Brothers responded by telling EPA the company had not disposed of any industrial waste at La Finca even though they knew that they had placed, stored, handled, and disposed of industrial waste at the site.

In addition, in February 2005, EQB requested information and documents from Ramallo Brothers concerning the disposal of industrial liquid waste. In response to that request, Ramallo Brothers submitted fraudulent “dump tickets” or manifests reflecting the disposal of the liquid industrial waste at the Puerto Nuevo wastewater treatment plant, even though this plant was closed and not accepting industrial wastewater.

Angel Ramallo-Diaz was also the vice president of Caribbean Forms Manufacturing, Inc. (CFM). The CFM facility used a variety of inks and generated ink and other liquid wastewater. The facility included an outside wastewater storage tank that held the ink and other industrial wastewater. During an inspection at the facility in February 2004, EQB discovered a rupture in a pipe leading to the outside storage tank. The rupture allowed blue ink and other wastewater to leak onto the ground and saturate the area behind the facility. EQB determined that the discharge of ink and wastewater from the pipe reached the Loiza River via a creek that was located behind the manufacturing facility. Neither Ramallo nor CFM had a permit to discharge into the creek or the Loiza River. Ramallo failed to contain the release, thereby allowing the waste to enter into the ground water and the Loiza River.

*This investigation was conducted with the EPA Criminal Investigation Division.*

## OIG Financial Statements

### Analysis of OIG's Fiscal Year 2008 Superfund Use and Carryover Balance

Superfund Budget Object Class	FY 2007 Carryover Avail in 08	FY 2007 Carryover Used in 08	FY 2007 Lapsed Funds	FY 2008 Approp	FY 2008 Used in 08	FY 2008 Carryover	Total Cost of FY 08 Operations
PC&B	\$757,106	\$749,742	\$7,314	\$8,469,060	\$7,827,983	\$641,077	\$8,577,775
Travel	57,294	55,084	2,210	572,000	249,836	322,164	304,920
Site Travel	0	0	0	0	0	0	0
Expenses	234,796	232,523	2,273	249,940	230,186	19,754	462,709
Contracts	164,673	159,568	5,105	1,538,900	1,486,284	52,616	1,645,852
WCF	0	0	0	655,000	655,000	0	655,000
Grants	<u>23,514</u>	<u>23,514</u>	<u>0</u>	<u>1,079</u>	<u>810</u>	<u>269</u>	<u>24,324</u>
<b>Total SF</b>	<b>\$1,237,383</b>	<b>\$1,220,481</b>	<b>\$16,902</b>	<b>\$11,485,979</b>	<b>\$10,450,099</b>	<b>\$1,035,880</b>	<b>\$11,670,580</b>

Source: EPA Integrated Financial Management System

#### FY 2008 OIG Superfund FTE Usage

FY 2008 Available	72.0 (66 on board 09/30/08)
FY 2008 FTEs Used	62.7
% of FTEs Used	87.1%

FTE Full-Time Equivalent  
 FY Fiscal Year  
 PC&B Personnel Compensation and Benefits  
 SF Superfund  
 WCF Working Capital Fund

## Listing of Fiscal Year 2008 Superfund Reports

<u>Report No.</u>	<u>Description</u>	<u>Date</u>
08-2-0001	CDM Federal Programs Corp - FY 2004 RAC 68-W5-0022	02-OCT-07
08-2-0002	CDM Federal Programs Corp - FY 2004 RAC 68-W9-8210	04-OCT-07
08-2-0003	Weston Solutions, Inc. - FY 2004 RAC - 68-W7-0026	05-OCT-07
08-2-0004	CH2MHill, Inc. - FY 2003 RAC - 68-W6-0025	11-OCT-07
08-2-0007	Black & Veatch Spec Proj Corp - FY2001 RAC 68-W5-0004	06-NOV-07
08-2-0008	Tetra Tech EC, Inc. - FY 2005 RAC 68-W9-8214	06-DEC-07
08-P-0055	Emergency Response Business Plan	09-JAN-08
08-2-0058	CDM Federal Programs Corp - FY 2005 RAC - 68-W9-8210	15-JAN-08
08-2-0072	CDM Federal Programs Corp - FY 2005 RAC - 68-W5-0022	30-JAN-08
08-2-0085	Black & Veatch - FY 2002 RAC Spec Projects 68-W5-0004	20-FEB-08
08-1-0096	Roy F. Weston - FY 1999 Incurred Cost	28-FEB-08
08-2-0097	Black & Veatch Special Proj Corp - FY 2002 RAC 68-W9-9043	28-FEB-08
08-2-0099	New York/New Jersey Cooperative Agreements Follow-up	04-MAR-08
08-P-0102	Utilization of Superfund Special Accounts	17-MAR-08
08-P-0116	Superfund Expenditures at National Priorities List Sites	30-MAR-08
08-1-0130	Morrison Knudsen Corporation - FY 1999 Incurred Cost	15-APR-08
08-P-0141	EPA Needs to Track Compliance with Superfund Clean-up Requirements	28-APR-08
08-P-0169	Management of the National Priorities List	02-JUN-08
08-2-0192	URS Corporation - FY2001 RAC Close-out 68-W-98-228	01-JUL-08
08-P-0196	Making Better Use of Stringfellow Superfund Special Accounts	09-JUL-08
08-P-0200	Follow-up at Escambia Treating Company Site, Pensacola, FL	14-JUL-08
08-2-0209	URS Corporation - FY 2002 RAC Annual Close-out 68-W-98-228	24-JUL-08
08-P-0235	EPA Decisions to Delete Superfund Sites Should Undergo QA Review	20-AUG-08
08-P-0236	Follow-up on Undistributed Site Costs	25-AUG-08
08-2-0246	Tetra Tech EM, Inc. - FY 2004 RAC 68-W6-0037	04-SEP-08
08-P-0264	Follow-up at Stauffer Chemical Company Site, Tarpon Springs, FL	16-SEP-08
08-P-0265	Unliquidated Obligations in Brownfields Pilot Grants	16-SEP-08
08-4-0270	Old Southington Superfund Site (United Technologies)-Mixed Funding	18-SEP-08
09-1-0026 *	EPA's Fiscal 2008 and 2007 Consolidated Financial Statements	14-NOV-08

\* Report issued in Fiscal Year 2009

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