

Office of Inspector General
Audit Report

SUPERFUND

Region 2's Billing of Superfund Oversight Costs

E1SFF8-02-0007-8100206

August 13, 1998

**Inspector General Division
Conducting the Audit:**

**Eastern Division
Boston, MA**

Region Covered:

Region 2

Program Offices Involved:

**Emergency and Remedial Response Division
Financial Management Branch
Office of Regional Counsel**

MEMORANDUM

SUBJECT: Report of Audit of Region 2's Billing of Superfund Oversight Costs
Audit Report E1SFF8-02-0007-8100206

FROM: Paul D. McKechnie
Divisional Inspector General for Audit
Eastern Division

TO: Jeanne M. Fox
Regional Administrator
Region 2

Attached is our final audit report on EPA Region 2's Billing of Superfund Oversight Costs. The objectives of this audit were to determine whether the Region was (a) timely billing the responsible party for Superfund oversight costs, (b) successfully collecting untimely billed oversight costs, and (c) implementing the Agency's Superfund reforms regarding oversight.

This audit report contains findings that describe problems the Office of Inspector General (OIG) has identified and corrective actions the OIG recommends. This audit report represents the opinion of the OIG. Final determination on matters in the audit report will be made by EPA managers in accordance with established EPA audit resolution procedures. Accordingly, the findings contained 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.

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. Your response should address all recommendations, and include milestones dates for corrective actions planned, but not completed.

We have no objection to the release of this report to the public. Should you have any questions about this report, please contact Herb Maletz, Audit Manager at (212) 637-3058 or Steven J. Weber, Team Leader at (617) 565-3160.

EXECUTIVE SUMMARY

PURPOSE

We performed an audit of Region 2's billing of Superfund oversight costs because of problems noted during our audit of the Agency's Financial Statements. The objectives of this audit were to determine whether the Region was (a) timely billing the responsible party for Superfund oversight costs, and (b) successfully collecting untimely billed oversight costs, and (c) implementing the Agency's Superfund reform regarding oversight.

BACKGROUND

The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) authorizes EPA to recover its costs from responsible parties to help replenish the Superfund Trust Fund. The law, as amended by the Superfund Amendments and Reauthorization Act of 1986, stipulates that EPA may help fund state government efforts to remediate hazardous waste sites. Both EPA and the states are to comply with the cost documentation requirements found in the Code of Federal Regulations to ensure that the maximum amount of cost is recovered.

Oversight costs are incurred by EPA or a state while monitoring cleanup work being performed by responsible parties (RPs) at "Enforcement-lead" Superfund sites. Such costs can include charges for personnel (salary, indirect costs, and travel) as well as charges by contractors. EPA recovers these costs through the use of enforcement documents, i.e., either a Consent Decree (CD) or an Administrative Order on Consent (AOC). An AOC is a legally-binding agreement between EPA and the RPs; a CD is a similar document, except that it is filed in court for a judge's approval.

RESULTS-IN-BRIEF

In many cases Region 2 did not (a) bill, (b) bill timely, (c) issue accurate bills or (d) successfully collect accumulated Superfund oversight costs from RPs. These conditions were generally caused by the Region's inadequate management controls for timely billing of oversight costs. Specific contributing factors were (i) other competing priorities, (ii) inadequate tracking systems, (iii) vague or nonexistent billing requirements in AOCs or CDs, (iv) inadequate coordination between program offices and Office of Regional

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Counsel (ORC), (v) difficulty in segregating oversight from other response costs, and (vi) lack of resources.

Untimely billings and collections resulted in unnecessary delays in replenishing the Superfund Trust Fund and limited EPA's ability to timely clean up other priority sites and further protect human health and the environment. Specifically, oversight costs of more than \$31 million at 89 sites had not been billed as of September 30, 1997. In addition, there were \$4 million in disputed oversight costs. Costs not billed for many years represent unrecorded receivables and affect EPA financial statements causing understated account receivable and revenue account balances. Significant amounts of interest that would have accrued to the Trust Fund were also lost or postponed.

Region 2 also did not fully implement the reduced oversight reform as described in EPA's OSWER Directive No. 9200.4-15. Methods for measuring reduced oversight had not been developed. As a result, Region 2 did not document or report any reductions as required at the six sites it selected. Additionally, the Region did not provide RPs with estimated oversight costs for the next year because it had not developed a process to do so. The Region and Headquarters were working to develop the necessary tools to carry out this reform.

RECOMMENDATIONS

We recommend that the Region 2 Administrator improve the oversight billing management controls by (1) prioritizing oversight billings to assure that all pending bills are issued by the end of FY 98, (2) ensuring that future oversight costs are billed in accordance with enforcement agreements or within 120 days of the anniversary date, (3) modifying existing oversight billing procedures to include time frames for initiating, assembling, reviewing, and issuing oversight bills by participating offices, (4) expediting implementation of the Superfund Oversight Billing Tracking System making it fully functional and accessible to personnel, and (5) initiating and documenting periodic meetings between ERRD, Finance and ORC officials to improve coordination and timeliness.

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REGION 2 RESPONSE and OIG EVALUATION

On June 23, 1998 the Region responded that it agreed it should endeavor to issue oversight bills on a timely, regular basis, and noted recent efforts to improve its record in this regard. The Region plans to clear the backlog of old enforcement oversight billings by the end of FY 98, except where case management strategies would be compromised. The response also provided updated information at some sites and other comments. The Region agreed with three of the five oversight billing recommendations, but had concerns about including timeframes in Regional procedures, and documenting meetings.

We still believe those two recommendations are necessary and request that the Region reconsider them and provide specific corrective actions and milestone dates for implementing all recommendations. The response has been summarized at the end of Chapter 2 and other comments were inserted in the body of the report. See Appendix A for the complete Regional response. An exit conference was held with Region 2 representatives on July 21, 1998.

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CHAPTER 1

INTRODUCTION

PURPOSE

We performed an audit of Region 2's billing of Superfund oversight costs because of problems noted during our audit of the Agency's Financial Statements. The objectives of this audit were to determine whether the Region was (a) timely billing the responsible party for Superfund oversight costs, (b) successfully collecting untimely billed oversight costs, and (c) implementing the Agency's Superfund reforms regarding oversight.

BACKGROUND

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) authorized EPA to recover costs from responsible parties (RPs) to help replenish the Superfund Trust Fund. The law, as amended by the Superfund Amendments and Reauthorization Act of 1986, stipulated that EPA may help fund state government efforts to remediate hazardous waste sites. Both EPA and states must comply with cost documentation requirements found in the Code of Federal Regulations to ensure the maximum amount of cost is recovered.

CERCLA, which created the Superfund program, was designed primarily to clean up abandoned hazardous waste sites. Under the law, a trust fund was established to pay to clean these sites. Additionally, EPA can compel RPs for abandoned or inactive hazardous waste sites to clean them up, or the Agency can conduct the cleanup and demand payment from RPs.

The Superfund Trust Fund is used when the Agency performs such cleanups. The Fund has been authorized at an aggregate of \$15.2 billion and is primarily supported by crude and petroleum oil taxes, the sale or use of certain chemicals, an environmental tax on corporations, amounts recovered from RPs, and interest earned. As of December 1995, the authority to collect taxes expired, and taxes are no longer being collected. At the end of fiscal year (FY) 97, the Trust Fund reflected an unappropriated balance of \$2.6 billion. In FY 97, Congress appropriated \$1.4 billion for the Superfund program to continue. For FY 98, \$2.15 billion was appropriated

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(\$1.9 billion from the Fund and \$250 million from general revenues). However \$650 million of the \$1.9 billion was not made available contingent on Superfund reauthorization enactment. Currently, the Fund receives income primarily from RP recoveries and interest.

EPA incurs oversight costs while monitoring cleanup work performed by RPs at "Enforcement-lead" Superfund sites. Such costs can include EPA personnel charges (salary, indirect costs, and travel), as well as charges by EPA contractors or state employees. Such recoveries are to be accomplished by use of enforcement documents, either a Consent Decree (CD) or an Administrative Order on Consent (AOC). An AOC is a legally-binding agreement between EPA and the RPs; a CD is a similar document, except that it is filed in court for a judge's approval. Although EPA is responsible for pursuing reimbursement, it has only recovered from RPs a fraction of the monies it has spent.

The Chief Financial Officers Act of 1990 requires that an Agency develop and maintain an integrated accounting and financial management system that provides (1) complete, reliable, consistent, and timely information responsive to the financial information needs of Agency management and (2) development and reporting of cost information. OMB Circular A-127 also requires an Agency's financial management system to provide reliable and timely information on amounts owed the government.

EPA Headquarters July 10, 1997, FY 98 Superfund Work Planning memorandum discusses various Superfund activities including a new reporting measure which should capture the status of Regional progress towards sending timely and complete oversight bills. This measure will incorporate the number of sites with up-to-date and complete oversight billings and the number of sites where such billings are not as yet required.

An April 7, 1998 joint Plan for Achieving Timely Oversight Billing Under CERCLA issued by the Comptroller and the Office of Site Remediation Enforcement enlisted Regional support in implementing the Agency's plan to achieve timely Superfund oversight billings. EPA's goal is to become current in oversight billing by September 30, 1998, thereby, preventing a potential FMFIA material weakness and maintaining the fiscal health and

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integrity of the Superfund program. The memorandum states that in order to be current in our oversight billings by September 30, 1998, regions must have billed the parties for all known billable costs on their oversight cases within 120 days of the anniversary date specified in the CD or AOC. Also, following this billing process and establishing an account receivable will ensure timely recovery of oversight costs. Accordingly, each Region was required to submit an action plan by April 30, 1998.

SCOPE AND METHODOLOGY

We performed this audit according to the *Government Auditing Standards* (1994 Revision) issued by the Comptroller General of the United States as they apply to economy and efficiency program audits. Our review included tests of documents and other auditing procedures we considered necessary. No other issues came to our attention which we believe warranted expanding the scope of the audit.

To accomplish our objectives we interviewed Region 2 Emergency and Remedial Response Division (ERRD), Finance and Office of Regional Counsel (ORC) personnel. These individuals included branch chiefs, Finance and Program office cost recovery specialists, remedial project managers, and attorneys. We reviewed individual enforcement documents (AOCs and CDs), Superfund oversight inventory reports, CERCLA enforcement document distribution procedures, Superfund cost recovery procedures, oversight billing reports, billing status reports, Memoranda of Understanding documents, cost summary packages, and individual site files.

To determine reasons why the Region was not billing in a timely manner in accordance with terms and conditions of the consent documents, we reviewed 10 judgmentally selected cases. Five of these cases were selected due to the lack of billing during the life of the consent document. The other five cases were reviewed based upon evidence of limited or sporadic billing patterns.

To determine the accuracy of the issued bills, we also reviewed the management controls regarding the elimination or reduction of oversight costs from bills. In addition, we examined the controls involving how bills were authorized and assembled. We then judgmentally selected three revised bills for additional review. We

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did not review the internal controls associated with the input of information into the Region's Integrated Financial Management System or any other automated recorded system.

To evaluate the extent to which the Region had implemented the Superfund reforms outlined in the Agency's July 31, 1996 OSWER Directive No. 9200.4-15, we interviewed appropriate Regional officials, reviewed and analyzed correspondence submitted to EPA's Headquarters Superfund Office, and interviewed Headquarters Superfund officials.

We also reviewed Region 2's Fiscal Year 1994-1997 Annual Assurance Letters to determine whether the oversight billing area was identified as a potential weakness during their annual Federal Managers' Financial Integrity Act (FMFIA) self-evaluation. The Region did not identify any material weaknesses or vulnerabilities pertaining to Superfund oversight billings or collections.

Our review was conducted from January 7, to March 31, 1998.

PRIOR AUDIT COVERAGE

Previous EPA Office of the Inspector General (OIG) and General Accounting Office (GAO) audit reports have identified concerns with Agency delays in billing and recovering costs from responsible parties. These reports have been included as Exhibit 3.

CHAPTER 2

IMPROVEMENT NEEDED IN TIMELY BILLING AND COLLECTION OF OVERSIGHT COSTS

What Was Found

Region 2 did not timely bill and collect accumulated Superfund oversight costs. Further, the Region did not recover cleanup oversight costs from responsible parties (RPs) for as long as 11 years. Also, when delayed bills for collection (BFC) were sent, RPs disputed the amounts and collections were affected. In addition, at least 17 of the 68 oversight BFCs issued since 1989 (25 percent) contained errors and amounts were reduced by approximately \$5.4 million.

Why It Occurred

These conditions were generally caused by the Region's inadequate management control system for timely billing of oversight costs at remedial and removal sites. Specific contributing factors were (i) other competing priorities, (ii) inadequate tracking systems, (iii) vague or nonexistent billing requirements in AOCs or CDs, (iv) inadequate coordination between program offices and Office of Regional Counsel (ORC), (v) difficulty in segregating oversight from other response costs, and (vi) lack of resources.

What Was the Effect

Untimely oversight billings and collections resulted in unnecessary delays in replenishing the Superfund Trust Fund. It also limited EPA's ability to timely clean up other priority sites and further protecting human health and the environment. More specifically, oversight costs of more than \$31 million at 89 sites had not been billed to RPs as of September 30, 1997. In addition, there were \$4 million in disputed oversight costs. Unbilled oversight costs also affected EPA's financial statements and caused understatements in the account receivable and revenue account balances. Significant amounts of interest that would have accrued to the Trust Fund were also lost or postponed.

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Background

An important Superfund program objective is to recover EPA funds used to clean up a site. This includes costs EPA incurs to oversee clean up activities. Recovery is initiated through negotiation with or legal action against a RP. Judicial and non-judicial actions (orders) establish EPA's legal right to be reimbursed by the RP for oversight costs. Based on these orders, Finance prepared oversight bills and established an accounts receivable.

EPA Headquarter's January 24, 1996 Revisions to Core Financial Management Measures revised the Superfund Cost Recovery oversight billing measure. It required preparation of oversight bills within 120 days of the anniversary date of the CD or AOC, or within the time frame specified in the document, or as directed by the program office. The revision was necessary because many CDs or AOCs were silent on when oversight costs should be billed. Also, several Financial Management Offices expressed concern over the oversight billing measures.

In some cases, the CD or AOC specifically stated that EPA will bill **annually** whereas recent documents mostly use the term "**periodic**" billing. However, we believe and ORC officials agreed that annual billing is the prudent practice to enable entities to undertake a meaningful review of costs incurred.

The Superfund Cost Organization and Recovery Enhancement System (SCORES) is a database management system used to organize and track Superfund costs for a specific site. The SCORES report is combined with the supporting cost and technical documentation to yield a cost recovery package.

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The Region issued enforcement documents with oversight reimbursement provisions to 115 Superfund sites. However, from April 1989 to September 30, 1997, the Region issued BFCs to only 68 sites (60 percent). As of September 30, 1997, Region 2's FY 1997 Unbilled Oversight Closing Balance Calculation listed \$31.5 million pertaining to 89 Superfund sites as unbilled (increase of \$2.1 million since September 30, 1996) as shown below:

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Total Oversight Costs Incurred	\$62.1 million
Total Oversight Costs Billed	<u>30.6 million</u>
Outstanding Unbilled Oversight Costs	<u>\$31.5 million</u>

These 89 sites have not received BFCs for as long as **11 years**. In fact, 56 of these sites (63 percent) have not had bills issued for **more than five years** since the effective date of the document. The original billed amounts were \$36 million, but 17 of the 68 BFCs (25 percent) issued were reduced.

Region 2 FY 98 Initiatives

Prior to FY 98, Region 2 oversight billings were a low priority. However, since the first quarter of 1998 the Region has been trying to focus on the backlog of oversight bills. ERRD officials indicated they were committed to consistently issue **10 to 12 oversight bills per month**. To meet this commitment the Region had been preparing priority lists, and workgroups and periodic meetings have taken place between various offices. There were no schedules for the meetings and minutes were not taken.

To effectively manage and track oversight billings the Region recently developed a Superfund Oversight Billing Tracking System (SOBTS) based on a Region 3 system. This system is currently being used by the ERRD Resource Management/Cost Recovery Section Chief. Although historical oversight billing data has generally been entered into the system, it has not yet been fully functional. Our review of sample reports concluded that once the system becomes fully operational it could be a useful tool in managing oversight billings.

The ERRD Oversight Billing Coordinator stated that the Region plans to issue all pending oversight bills involving old enforcement documents by the end of FY 98. Also, a November 24, 1997 response, pertaining to the FY 97 Financial Statement Audit OIG position paper, stated that ERRD was directed to clear the backlog of overdue oversight bills within FY 98. However, our review of the Region's February 25, 1998 "Oversight Billing Status Report" disclosed that only **five BFCs had been issued in FY 98**.

Oversight Billings Not Issued

The Agency estimated that as of September 30, 1997, it had \$162 million of unbilled oversight costs, making it the third largest

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Superfund asset after Trust Fund Balances at Treasury and Non-Federal Accounts Receivable. We realize that the \$162 million represents costs that should have been billed, as well as those not yet due to be billed. Unbilled Superfund oversight costs have been a continuing problem affecting EPA's financial statements.

The Region had not sought to recover oversight costs from RPs as stipulated in settlement documents. The Region's estimated oversight costs of \$31.5 million represent approximately 20 percent of the Agency total. We reviewed five sites with AOCs issued between October 8, 1987 and June 28, 1993, and unbilled oversight costs of more than \$4.4 million as of September 30, 1997.

<u>Site</u>	<u>Date of AOC</u>	<u>Unbilled Amount</u>
1	5/27/88	\$ 839,891
2	9/27/89	909,332
3	10/8/87	950,170
4	6/7/88	702,422
5	6/28/93	<u>1,043,676</u>
		<u>\$4,445,491</u>

A brief description of the five sites follow (See Exhibit 1 for a summary of details):

Site 1

The May 27, 1988 AOC stated that the RP will reimburse EPA for oversight costs. Also, at the end of each fiscal year, EPA will transmit an accounting of all costs incurred during the previous year. However, as of March 1, 1998 (**almost 10 years**) the Region had not billed any oversight costs. As of September 30, 1997, unbilled costs were \$839,891. During this period various SCORES reports were generated for different amounts, but a BFC was never issued.

The response to the draft report indicated that on April 7, 1998 the RPs were billed \$894,800.87 and made a partial payment of \$776,558.74. The RPs challenged the remaining costs because they were not attributable to EPA's oversight. Region 2 agreed that it erroneously billed certain unrelated costs and revised the original bill to \$776,593.64. The remaining balance was paid on June 10, 1998.

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- Site 2 On September 27, 1989 EPA issued an AOC, followed by a CD which was signed on April 2, 1990. Both the AOC and CD indicate that EPA will “periodically” transmit accounts of the costs incurred by EPA. As of March 1, 1998 (**almost nine years**) the Region had not sent a BFC to the RP. As of September 30, 1997, the Region has estimated unbilled oversight costs of \$909,332.
- Site 3 The October 8, 1987 AOC required EPA to transmit an annual accounting of all costs incurred. As of March 1, 1998 (**10½ years**) the Region had not sent a BFC (unbilled oversight amount as of September 30, 1997 was \$950,170). Various SCORES reports for different amounts were prepared in 1994 but no action was taken.
- EPA is trying to negotiate a total settlement. The July 9, 1997 SCORES showed \$1,244,845 for all costs (October 9, 1987 through April 30, 1997). EPA’s August 8, 1997 settlement offer was to accept \$646,935, **a reduction of over one million dollars**. Response costs were \$1.2 million mentioned above plus \$422,642 interest (total of \$1,667,487). The response to the draft report indicated that a CD settlement was expected to be signed by late June 1998 and the compromised amount was consistent with Agency policy.
- Site 4 The June 7, 1988 AOC stated that, EPA would transmit an annual accounting of all costs incurred during the previous year. On May 7, 1993 another AOC was issued (removal action) and the Respondent agreed to reimburse EPA for response costs (including oversight costs) incurred. There was no billing timeframe information mentioned in this AOC. Various SCORES reports were prepared during 1995 and 1996, but no actions were taken. A BFC had not been issued as of March 1, 1998 for estimated oversight costs of \$702,422 (as of September 30, 1997). Negotiations are ongoing with the RP.
- Site 5 The June 28, 1993 AOC required EPA to “periodically” transmit oversight billings. As of March 1, 1998 (five years) no BFC was issued and the Region estimated \$1,043,676 of unbilled oversight costs. EPA and the RP are currently attempting to negotiate a global settlement of all past response and oversight costs.

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In July 1997, Finance prepared a cost history (\$1,806,966) which included a sub-schedule showing costs of \$468,057. ORC indicated \$1.8 million was past costs, while \$468,000 was primarily oversight. There were other costs of \$100,000 and other adjustments, and estimated the total package to be \$3.1 million (\$1.8 million past costs, \$500,000 oversight and \$770,000 interest). EPA has begun to negotiate the whole universe of costs and is not thinking of separate oversight billings. Although total costs were \$3.1 million, EPA proposed a settlement of \$1.8 million for past response and oversight costs. We were advised that a CD was signed on May 12, 1998, and the basis of compromise was appropriate and documented.

In conclusion, the Region had not sought to recover \$31.5 million oversight costs from RPs as stipulated in settlement documents.

Untimely Issued Billings Affect Collections

Untimely billings had a direct effect on the rate of collection. Because the billing period encompassed as long as seven years, RPs generally delayed payment, challenged the “stale” costs, and requested extensive supporting documentation to support billed amounts. Collections were further delayed while the Region responded to the RP’s claims, participated in conversations to resolve differences, and gathered necessary documentation.

Region 2 issued BFCs many years after the effective date of the document. As of September 30, 1997 there were eight sites with disputed billings totaling approximately \$4 million which will result in reduced or delayed collections. We selected for review five of these sites with documents issued between 1986 and 1990.

Region 2's untimely billings (between 1991 and 1996) for the five sites selected amounted to \$2.2 million. However, as of March 1, 1998 it had only collected \$203,020 (\$145,000 + \$58,020), which was less than 10 percent of the billed amount. While some additional amounts might be collected in the future we believe that a substantial amount will be forgiven or reduced through negotiated settlements (See Exhibit 2 for further details).

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<u>Site</u>	DATE		<u>Amount</u>
	<u>Document</u>	<u>BFC</u>	<u>Billed</u>
A	6/02/89	5/13/96 (1)	\$ 622,370
B	11/28/89	4/04/95 (1)	488,86 9
C	4/30/86	2/05/91 (1)	468,74 3
D	6/30/89	3/13/96	137,572
E	9/28/90	2/26/96 (2)	—
<u>467,481</u>			<u>\$2,185,035</u>

- (1) Revised BFCs were sent from two to four months later.
(2) BFC resent.

Site A

The June 2, 1989 AOC required EPA to provide the RP with a “periodic” accounting of costs. However, it took EPA five years (July 18, 1994) to furnish the RP with an estimate of oversight costs (\$438,992). The actual BFC (\$622,370) was not sent until May 13, 1996 for the period June 3, 1989 to March 7, 1996. Because the bill was addressed to the RP’s attorney, the bill was reissued on July 10, 1996 (**seven years from the AOC date**).

The RP disputed the bill because it took EPA **seven years** to provide an accounting of oversight costs. The RPs attorney’s October 17, 1997 letter stated:

The project was nearing completion, five years into the study, when EPA for the first time revealed that its expenses were approximating the study costs. As you know, the AOC requires that EPA produce a **periodic** accounting of its costs, which my clients understood to mean a **quarterly**

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accounting. Had such an accounting been made by EPA, my clients would have had numerous opportunities to work out with EPA a less costly approach to the project. These opportunities were denied by EPA's failure to meet this AOC obligation.

The RP's attorney used the billing delay and other considerations to reduce the amount. As of January 30, 1998, the Accounts Receivable outstanding balance was \$679,036 (includes interest). However, a draft settlement for \$575,000 has been orally accepted. As a result, EPA has negotiated away \$104,036 (\$679,036 - \$575,000). The RPM also stated that an additional \$120,566 in unbilled administrative costs were negotiated as part of this settlement. In effect, EPA forfeited a total of \$224,602.

Site B

Although the CD pertaining to oversight costs was effective November 28, 1989, it took the Region almost five and a half years to issue the BFC (April 19, 1995) in the amount of \$443,939. It took another year before a revised bill (\$488,869) was issued (July 11, 1996) for oversight costs incurred between November 28, 1989 and March 14, 1996. Also, additional oversight costs of \$42,548 incurred as of September 30, 1997 have not been billed.

On August 21, 1996, the RP invoked dispute resolution procedures since most costs were inconsistent with the CD terms which required annual billings. The RP has alleged that it was also confused by certain past response costs outlined in a 1994 CD. On September 30, 1996, EPA received \$58,020 from a different RP which was applied to this bill. The RP's January 22, 1997 Statement of Position mentioned that the United States should dismiss its claim for oversight costs because it did not provide an annual billing of those costs as required by the 1989 CD.

Site C

The April 30, 1986 AOC mandated annual oversight billings. On February 5, 1991 (almost five years later) a BFC for \$468,743 was issued for the period April 1986 to December 1990. The RP refused to pay because EPA had not billed annually, included five years of costs incurred, and the untimely accounting did not demonstrate that costs were recoverable.

The RP Counsel's March 14, 1991, letter to Region 2 indicated

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particular concern with EPA's untimely accounting (costs incurred over a five to six year period). The Counsel stated:

The Order makes it clear that an accounting must be submitted at the end of each year. One purpose of this annual deadline is to enable the firm to undertake a meaningful review of the costs allegedly incurred. It is very difficult to audit costs that are as stale as those set forth in this accounting. Compounding the problem of stale costs, the accounting does not adequately identify which costs were incurred in which years.

The RP's May 3, 1991 correspondence emphasized EPA's **mandatory duty to serve annual demands for cost reimbursement** and believed they were seriously prejudiced by the delayed billings. On June 3, 1991 EPA issued a revised bill (\$445,806 plus \$11,672 interest) and the RP made a partial payment of \$145,000.

EPA has been trying to negotiate a global settlement and expected these negotiations to be completed by December 31, 1997 (revised to May 7, 1998). As of February 12, 1998 outstanding oversight costs were \$437,209. Also, additional oversight costs of \$297,133 have not been billed as of September 30, 1997. On June 23, 1998 Regional officials stated that remaining oversight payments were resolved in the global settlement and a BFC will be issued for oversight costs that have not been billed.

Site D

The AOC was signed on June 30, 1989 and almost seven years passed before a March 13, 1996 BFC was issued (\$137,572) for oversight costs incurred between July 1, 1989 and January 28, 1993. The BFC included \$15,000 of past response costs. The Region believes, but could not document that one reason for the delayed BFC was an investigation to determine whether another party could be pursued as an RP. The RP refused to pay due to its financial condition and the large amount of oversight compared to other clean-up costs. Two years have passed since the BFC, and ORC could not provide the expected resolution date. Although the corporation was dissolved and the owner relocated to Florida, ORC expects to collect a portion of the billed costs.

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The ORC attorney acknowledged that annual billings would have been a better practice, and the \$15,000 past response costs should have been billed separately in 1989. On June 14, 1996, the RP's attorney stated that he had the authority to pay the \$15,000.

Site E

Although the AOC was entered on September 28, 1990, the Region took more than five years to issue the BFC (February 26, 1996) covering costs of \$467,481 incurred between February 12, 1990 and April 2, 1994. The BFC was resent to the RP on April 22, 1996. The RP refused to pay claiming removal costs were too high, and subsequent settlement discussions were not successful. On June 23, 1998 we were advised that DOJ settled the matter for \$350,000 based primarily on litigation risks. The Region believed only \$45,000 of the original amount pertained to oversight costs. However, review of Finance records and ORC and ERRD correspondence indicated the entire amount represented oversight costs, and were recorded as such in IFMS.

In conclusion, Region 2's untimely oversight billings resulted in collection delays and RP disputes which adversely impacted the timely replenishment of the Superfund Trust Fund and EPA's ability to clean up other priority sites.

Erroneous Billings

Between 1989 and September 30, 1997 Region 2 revised 17 BFCs and a total of \$5.6 million of erroneous costs were eliminated. Our review of three of these revised BFCs disclosed various erroneous costs were included in the original bill. Such costs included previously paid or non-oversight amounts, and amounts without adequate supporting documentation. As a result, the Region had to retract or revise the billings, remove costs inadvertently included, and provide additional documentation to substantiate the validity of other costs. Although the revised amounts were eventually paid, the time needed to correct the original billings caused delayed reimbursement to the Trust Fund.

RPs challenged the credibility of the billing process based on these errors. A Regional attorney assigned to negotiate settlements of these costs advised that in some cases the Region was willing to compromise certain costs because of concerns over the impact that inaccurate billings would have on the creditability of other costs.

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The following summarizes our review of the three sampled sites.

Site S

On July 25, 1996 the Region billed the RP more than \$211,000 which had been previously paid. This was caused by the Region's inadequate review of the content of the bill. As a result, the Region had to retract the original bill, and provide a revised bill eliminating previously paid costs. In addition, the Region also compromised certain costs over concerns that the RP was willing to litigate the validity of the oversight costs.

The original oversight BFC included contractor costs for performing the initial Remedial Investigation and Feasibility Study and oversight of the RP-performed Initial Remedial Measures. These costs had been settled during the negotiation of the May 19, 1993 Consent Decree and payment of \$1.3 million of pre-December 30, 1991 response costs.

The RP's response to the bill stated "EPA's present demand for response costs seems to contain claims for reimbursement of charges that must date back to the mid-1980's. . . Obviously, if EPA's present demand for response costs includes costs previously paid by the Respondents, then the EPA Demand is flawed by material accounting errors." The Region responded that certain charges were erroneous and the revised bill omitted those costs.

Site M

On March 31, 1995 the Region billed more than \$83,000 which had been previously paid, reduced the "annual allocation expense" by \$12,304, and compromised interest charges of over \$47,000. This was caused by the Region's inadequate review of the content of the bill and the failure to provide timely supporting documentation. As a result, the Region retracted the original bill, and provided a revised bill eliminating costs already paid and accumulated interest.

Although the RP requested an accounting of costs, EPA's final submission was not received until almost one year after the initial bill. The revised bill removed prior costs of \$83,000 and reduced the annual allocation by \$12,303. The Region reduced the "annual allocation expense" for a five-year period after the RP disputed the validity of the billed amount, and provided Congressional testimony to support the reduction to 80 percent of the last final rate. The RP also believed that accrued interest was unreasonable and unjust when EPA admittedly did not produce proper documentation and

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made a material error in its original invoice. The Regional attorney responsible for Sites S and M advised that inaccurate billed costs put the whole credibility of the billing

process in question, and delayed responses to requests for documentation resulted in accrued interest that might be compromised.

Site F

The Region revised the original BFC by \$110,757 because it had previously included certain ineligible or previously recovered costs. Specifically, the revised bill eliminated (i) technical assistance grant of \$36,707, (ii) payroll costs of \$11,981, (iii) indirect costs of \$30,368, (iv) additional payroll costs of \$29,760, and (v) a \$1,941 accounting error. These reductions were caused by inadequate accounting of site costs. Therefore, the Region was required to retract the original bill, and provide the RP with a revised bill.

Our review of these revised BFCs disclosed erroneous costs included in the original bill. These costs included previously paid or non-oversight amounts, and amount without adequate supporting documentation. As a result, the Region had to retract or revise the billings, remove costs inadvertently included, and provide additional documentation to substantiate the validity of other costs. The Region needs to improve their review process to ensure that bills sent to RPs are accurate.

**Reasons for
Billing Delays**

Billing delays were generally caused by the Region's inadequate management controls for timely billing of oversight costs at remedial and removal sites. Factors such as other competing priorities, inadequate tracking systems, vague or non-existent billing requirements in AOCs or CDs, inadequate coordination between program offices and ORC, difficulty in segregating oversight from other response costs, and lack of resources contributed to the delay.

General Discussions
with RPM's
and Attorneys

We had various conversations with RPMs and attorneys involved in the 10 sites reviewed. Virtually all interviewed personnel mentioned various Regional billing process weaknesses especially the low priority and lack of urgency to issue annual or periodic BFCs. Most personnel stated that it would have been better to bill

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annually or at least years earlier. Some RPMs believed that Finance personnel should be responsible for preparing billings, and separately code oversight costs in some manner.

Many RPMs mentioned weaknesses in EPA's tracking system for oversight costs. Specifically, RPMs and supervisors were not always aware of specific billing requirements. Some RPMs stated that bills were not issued because supervisors never asked them to do so. Also RPMs having a vital role in determining oversight costs stated that EPA's systems could not always generate specific reports to track or separate unbilled oversight from other costs. Therefore, RPMs had to spend a great amount of time to manually ascertain oversight costs. We understand that since FY 96, the Integrated Financial Management System (IFMS) has the capability to track and report billed oversight costs through activity/action codes. However, tracking systems are of limited benefit if bills are not sent out in a timely manner.

Specific Discussions with Five RPMs

The Site 1 RPM stated that she had been working on other priority sites, and there was no rush to issue annual oversight bills. She had received various SCORES reports and stated that it would have been better if the Region had billed annually if there was available time. She believed that Finance should prepare oversight billings, since RPMs were not familiar with such areas as indirect cost rates. She only confirms appropriate costs, and it would be useful if Finance coded oversight costs separately to make billing easier. In addition, other site work has a priority over oversight billing.

The Site 2 RPM agreed that it made sense to bill oversight costs earlier, but due to the different levels of work at this complex site, the first priority was cleanup activities. He has been overwhelmed with work, has not had time to carefully review the initial SCORES report, and did not know when he could initiate the BFC. He also stated that scientists and engineers are not the best people to be involved in cost recovery activities.

The Site A RPM stated there were no annual billings as resources to prepare billings were labor intensive and other priorities existed. He thought that a cost estimate provided to the RP's attorney in June 1994 was sufficient until an actual May 13, 1996 bill was issued. He agreed that annual billings would have been better.

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The Site B RPM believed that RPMs were engineers and not geared towards accounting and billing functions. On-going clean up, litigation, and community relations were priorities and oversight billings were not. The RPM stated that oversight costs were not significant in 1991 and documentation was not readily available. Also, the Region did not have the capability to generate specific reports to prepare the BFC and segregate oversight costs.

The Site C RPM believed it was common not to provide annual billings even though the Order may have mandated such billings. Also, EPA did not have an adequate tracking system to alert the RPM to initiate a bill. He did not believe EPA should commit an exorbitant amount of resources to annual billings which may result in the recovery of little money, when resources committed every few years would likely result in greater cost recovery.

These discussions clearly show that Region 2 should reevaluate the priority given to oversight billings. We believe that immediate actions must be implemented to remedy this problem.

Inadequate Regional Procedures

The Region's December 1992 Oversight Billing Superfund Cost Recovery procedures require Finance to generate a draft SCORES report for ERRD within five working days. ERRD officials including Remedial Project Managers (RPM) and On-Scene Coordinators (OSC) consult with ORC, identify all charges, and forward "marked up" reports to Finance for review and reconciliation. When ERRD and ORC determine proper charges an account receivable for the billed oversight costs is established.

Although the Procedures outline oversight billing responsibilities, time frames are not specified for many activities. For example, there are no time frames for assembling and analyzing billing data and for issuing an oversight bill. We acknowledge that each site is different and many have complex issues. However, we strongly believe that general time frames with some **flexibility** should be incorporated depending on the different unique areas.

The Procedures discuss the RPMs initiation of the billing process by requesting SCORES reports, but do not address the significant period of time that passes before the process is initiated. We believe the procedures should be modified to include RPM and

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OSC oversight monitoring, reviewing and billing responsibilities upon receipt of the enforcement document. General time frames should be incorporated for managers to measure the effectiveness of its oversight billing program as required by the Government Performance and Results Act (GPRA) of 1993.

Environmental and Financial Effects

There are both environmental and financial effects that result from the conditions we describe. Untimely oversight bills adversely affect the use of the Superfund Trust Fund to effectively cleanup the Region's Superfund sites. This lack of Regional priority to collect expended funds postpones the replenishment of monies drawn from the Fund. As a result, the environmental threat to human health is increased because the Agency's ability to address identified hazardous waste sites is limited.

Effect on EPA's Financial Statements

For Superfund sites involving oversight reimbursement provisions, periodic bills are to be issued to RPs and an accounts receivable recorded in the Agency's financial system. Similarly, collections are to be recorded to increase the corresponding revenue account balance. However, when EPA incurs oversight costs, but does not issue bills, receivables are not recorded and funds are not collected. Thus, unbilled oversight costs cause an understatement in the account receivable and revenue account balances. If costs remain unbilled for years, financial statement balances for corresponding fiscal years continue to be misstated.

Due to the Region's lack of action, oversight bills pertaining to many Superfund sites were not issued for many years. In FY 97 Headquarters required the Regions to accurately estimate their unbilled oversight amount. Region 2 had estimated more than \$31 million unbilled oversight costs, which in essence was its estimated understated accounts receivable amount. Also, since no receivables were recorded, funds remained uncollected for years and revenues were understated. ERRD and ORC officials stated that certain Regional unbilled oversight amounts were not accurate because some estimated amounts included past response costs. This inaccuracy could be significant and could cause significant adjustments in EPA's financial statement balances.

Lost or Postponed

When the oversight bill is sent to an RP who does not make a

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Interest

timely payment, interest will accrue from the payment demand date to the due date. Therefore, delays in issuing BFCs, followed by delayed or non-payment increase the amount of lost interest. Also, if a bill is not sent or untimely sent, EPA will lose a substantial portion of interest because RPs rarely pay upon demand.

In essence, the billing delay provides RPs an interest free loan from the date the annual billing could have been issued. EPA usually waits until most site work is completed before it negotiates with RPs for repayment because it combines these efforts to reduce legal and other enforcement costs. As a result, this practice can postpone interest charges for several years which affects Superfund Trust Fund balances. Also, in many cases, the accumulated interest is either entirely or partially waived to reach a negotiated settlement. Although the Region believes such compromise is in the Agency's best interest, we believe that more timely billings would reduce the waived interest.

Prior OIG Reports Noted Similar Conditions

Our March 29, 1990 audit report, Review of Region 2's Oversight of Superfund Post-Settlement Activities, noted that oversight costs were not billed or collected timely. Specifically, the Region had not billed eight of ten sites for oversight costs incurred prior to FY 87. Two of these sites were reviewed in our current audit and remain **unbilled** even though oversight costs have significantly increased.

The Region responded that EPA oversight cost recovery was a low priority due to resource constraints and high turnover, but would devote additional attention to recovering such costs. Specifically, a cost recovery coordinator was hired to coordinate issuance of demand letters for oversight costs. Also, the Region was completing oversight cost recovery documentation packages so BFCs could be issued for the amounts identified in the report.

The Region's response to the OIG's Follow-up Review of Region 2's Corrective Actions - Oversight of Superfund Post Settlement Activities (November 24, 1992) indicated they were continuing to work to achieve the goal of annual issuance of oversight billings.

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CONCLUSION

GAO and OIG audit reports continuously cited late oversight billings as an issue that must be addressed. Although the Region recently developed initiatives to accelerate the timeliness of its oversight billings, it must fully implement the steps and milestones to achieve its goals. The Region must improve its overall management control and tracking systems, devote the necessary resources, and give a much higher priority to issuing timely and accurate oversight bills in accordance with enforcement agreements. Such actions will increase recovery of additional funds to replenish the Superfund Trust Fund to clean-up other priority sites.

RECOMMENDATIONS

We recommend that the Region 2 Administrator improve the oversight billing management control system by:

- 2-1 Emphasizing oversight billings as a priority activity and ensuring that all pending bills are issued by the end of FY 98. A quarterly reconciliation should be prepared, backlogged BFCs addressed, and necessary actions taken.
- 2-2 Ensuring that future oversight costs are billed in accordance with the enforcement agreements signed by the Region or within 120 days of the anniversary date if the agreement is silent as to billing requirements.
- 2-3 Modifying existing written oversight billing procedures to include time frames for initiating, assembling, reviewing, and issuing oversight bills by the participating offices (ERRD, Finance and ORC).
- 2-4 Expediting implementation of the Superfund Oversight Billing Tracking System (SOBTS) making it fully functional and accessible to RPMs and other personnel involved in the billing process.
- 2-5 Initiating and documenting periodic meetings between ERRD, Finance and ORC officials involved in the oversight process to improve coordination and timeliness between the

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offices.

REGION 2 RESPONSE

On June 23, 1998 Region 2 responded to the May 11, 1998 draft report and agreed that it should endeavor to issue oversight bills on a timely, regular basis. The Region has recently taken significant steps to improve its record in this regard and plans on clearing the backlog of old oversight billings by the conclusion of FY 98, “except where case management enforcement strategies would be compromised.” The Region began its oversight billing initiative on November 1997. As of May 1998, 14 bills had been issued, 14 were subsumed in larger negotiations, three had no further costs to be billed, and eight others will be addressed in FY 99 because of enforcement strategy considerations.

The Region believes RPs have requested extensive documentation “regardless of the length of the billing period” and it is incorrect that documentation requests are a result of long billing periods. Also, it is very common that RPs who are presented with very large cost recovery claims seek EPA discussions and backup documentation. However, the Region agrees its goal should be to make timely cost reimbursement requests, provide accurate cost recovery claims, and timely compile necessary supporting documentation.

The Region disagreed that unbilled oversight amounts used for the financial statement were inaccurate. SCORES reports were provided to ERRD and ORC staff and were reviewed to determine site-by-site unbilled oversight costs. These individuals then certified the annual unbilled oversight costs.

The Region does not believe that untimely billings limited EPA’s ability to timely cleanup priority sites, because “the Trust Fund has had sufficient funds.” Also, there is no evidence that cleanups have been limited as a result of delayed oversight billing.

The Region disagreed with recommendation 2-3 and believed current oversight procedures were effective and did not require timeframes for initiating, assembling, reviewing, and issuing bills. The Region believed tracking of oversight bills should continue to be handled on a site-by-site basis and monitored with the current

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tracking report. At the exit conference, ERRD officials stated that once the backlog is gone, the Region expects to bill on an annual basis. Regarding recommendation 2-5, the response stated that meetings between ERRD, Finance and ORC are held, but minutes are not recorded. However, action or follow-up items are documented and tracked by ERRD.

OIG EVALUATION

We recognize that during FY 98 the Region made oversight billings a higher priority and had made progress in reducing its substantial backlog of unbilled costs. Also, recent improvements to the tracking systems have assisted the Region's efforts. However, further improvements are needed.

The response outlined the Region's billing efforts for FY 98, but only addressed 39 of the approximate 80 backlogged sites (less than 50 percent). The remaining 41 sites will have to be addressed by September 30, 1998. We recognize that other bills are in process, but only **14** have been actually issued. Therefore, we believe the Region will have difficulty in meeting its goal of clearing the backlog of old enforcement oversight billings during FY 98. Also, deferred billings for the 14 sites subsumed in larger negotiations are contingent on reaching a settlement. Some previous settlement negotiations have taken years and have not been resolved.

In many cases, the Region sends out bills without gathering necessary supporting documentation that RPs might request. In fact, the ERRD Director's, May 12, 1998 Oversight Billing Plan submitted to Headquarters states that, "We expect that a number of bills will be challenged by the RPs, or that additional information may be requested" (emphasis added).

For example, the Region sent a March 24, 1998 BFC in the amount of \$985,558 for the period **May 29, 1985 to February 28, 1998 (about 13 years)**. However, the RP's attorney immediately requested cost documentation and an extension for repayment until receipt of such documentation. EPA granted the RP an "indefinite" extension pending the providing of such documentation. ORC informed Finance that interest would be waived until after the "indefinite" deadline. This example shows that the Region has not met its goal of timely reimbursement requests with timely

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submission of supporting documentation. It also show significant amounts of lost interest that would have accrued to the Agency.

Although we agree that certain RPs may request extensive documentation regardless of the length of the billing period, we found it was much more common where billed amounts were larger due to the extended periods. We concur that the Region's goals should include timely and accurate cost reimbursement requests with timely compilation of supporting documentation.

While we agree the Region's methodology for certifying annual unbilled oversight costs should provide accurate amounts, in reality, this was not always the case. As some ERRD and ORC individuals indicated, there were some estimated amounts which included **past costs**. One example is Site 1 where the Region determined the FY 97 year-end unbilled oversight amount to be \$839,891. However, as the Region acknowledged in its response, only \$776,594 of \$894,801 billed in May 1998 was attributable to oversight. Regional staff stated that similar situations existed with other sites.

The OIG, GAO and the EPA Administrator believe untimely billings and delayed collections limited EPA's ability to timely clean up other sites. For example, GAO's February 1997 Superfund Program Management report (GAO/HR 97-14) determined this program to be "high risk" because of waste, fraud, abuse and mismanagement vulnerabilities. The report discussed EPA's limited recovery of cleanup costs from RPs, and the need of available funds to address the magnitude of the nation's hazardous waste problem. Although cleaning up waste sites to protect the environment and the public will cost the Federal government "hundreds of billions of dollars", EPA has only recovered from RPs a fraction of the monies it has spent. Therefore, "it is essential that the government replenish the Trust Fund by increasing to the maximum extent its recovery of costs from the parties responsible for cleaning up these sites." (emphasis added)

Also, the Administrator's September 4, 1997 Statement to the U.S. Senate's Committee on Environment and Public Works discussed health effects associated with Superfund sites (i.e. birth defects, cardiac disorders, changes in pulmonary function, impacts on the immune system, infertility). To protect human health and the environment the Administrator believed that action is needed that

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increases the pace of cleanups and improves program efficiency. The Administration also remains concerned over expiration of authority to replenish the diminishing Superfund Trust Fund. In addition, the Congressional Budget Office projected that the Trust Fund, at the end of the next fiscal year, will have less remaining than needed to keep the program operating and to keep site cleanups underway, in the following fiscal year.

EPA's April 7, 1998 Plan for Achieving Timely Oversight Billing Under CERCLA sent to all regions outlined its goal to be current in oversight billing by September 30, 1998. The Plan stated that all offices should work towards this goal and "maintain the fiscal health and integrity of the Superfund program. Failing to bill on a current basis jeopardizes the potential collection from RPs, thus impairing future appropriations" (emphasis added).

There is always uncertainty about the amount of income that the Trust Fund will earn, particularly from recoveries which flow into the Fund on an uneven basis. The greater the amounts billed and received from RPs, the greater the amounts that would be available to fund the Superfund program for subsequent years. For example, the availability of Fund resources from appropriations beyond FY 99 depends on the amounts made available to EPA for FY 99 and recoveries and interest realized in FYs 98 and 99. The only thing preventing EPA from addressing cleanups was the lack of funds.

Regarding recommendation 2-3, based on the Region's prior inability to issue BFCs timely, we **strongly** believe the institution of certain timeframes is an important management control to assure accountability for timely oversight billing. We also recognize there is a need for some flexibility because site situations vary. Also, such timeframes will provide accountability and feedback on the success of such commitments.

ERRD officials provided the OIG with general timeframes for certain actions. For example, Finance generally took 1 to 2½ weeks to get the first SCORES report. Finance later generated a second SCORES report. Both reports are reviewed by the RPM. Although the time to review the SCORES varied based on the RPM's familiarity with the site, the average time was 2 weeks. However, it could take more than a month for a very complex site. We believe these timeframes could be incorporated in the

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procedures and used as a basis to measure performance.

Two recent OIG audits of Regions 3 and 5 billings of oversight costs (See Exhibit 3) recommended and the Regions concurred with the need for **specific** timeframes for preparing, forwarding and reviewing annual oversight bills to ORC, the program office and RPs for payment. The Region 5 Administrator stated that **specific** timeframes for preparing and reviewing oversight billings will be included in a Superfund Cost Recovery Memorandum of Understanding. Also, the Superfund Cost Recovery Taskforce workgroup will “add new timeframes to effect more timely billings.” Additionally, **specific** timeframes “will enhance our ability to timely execute the complex billing process and meet the performance guidelines.”

The Region 3 Administrator’s response concurred with the OIG recommendation. He stated procedures had been prepared to bill future oversight costs, specifying **specific timeframes** for Finance, the Superfund program office and ORC to initiate, assemble, and issue an oversight bill. Also, a joint memorandum from the three Regional offices outlined the procedures to document the oversight billing process and specified how long it should take all three offices to perform all tasks to issue an oversight bill. The memorandum also stated that the three office’s personnel meet regularly to discuss the status of all sites and costs to be billed.

Regarding recommendation 2-5, we also believe that periodic meetings between the three offices should be held and items discussed, conclusions or decisions made, and follow-up action fully **documented**.

Finance officials indicated that informal oversight billings meetings were held with ERRD (about five times per year). However, there was no set schedule, **minutes were not taken**, and actions were based on **verbal** agreements. Conducting regular meetings between ERRD, Finance and ORC could be an effective management tool to assure a coordinated, informed effort. Minutes

should be taken to provide evidence of the topics discussed, problems noted, actions in process, additional actions needed and timeframes, person responsible for actions and necessary follow up. Copies of the minutes

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should be distributed to all participants.

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CHAPTER 3

OTHER MATTERS

Initiative to Reduce Oversight Activities

On October 2, 1995, the Administrator announced several new Superfund reforms including an initiative to encourage and reward cooperative parties by reducing EPA oversight activities. In a July 31, 1996 memorandum (OSWER Directive No. 9200.4-15), EPA Headquarters provided examples of oversight monitoring activities that should be considered for reduction depending upon site circumstances. These examples included items such as reducing the number of field visits to observe routine activities or taking fewer split samples at the site. The memorandum also:

- Referred to a list of 100 sites with cooperative and capable parties, where the Regions had already reduced or had plans to reduce oversight.
- Explained EPA's overall goal for a nationwide 25% reduction in oversight costs over the next year at these 100 sites.
- Stipulated that the Regions should immediately evaluate all sites to identify where oversight could be reduced without reducing protection.
- Detailed that RPs receive a summary of oversight reductions with their annual bill. Regions also should report estimates of how much oversight has been reduced at sites (i.e. number of sites, activities reduced, and **estimates of costs saved**).
- Required that RPs receive an estimate of oversight costs for the next year, at the time of annual billing.

The memorandum also stated that reductions in oversight activities should be implemented as soon as possible. Also, for FY 96, the site manager for each identified site under this reform should report oversight activities that have been eliminated or reduced.

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Region 2 Activities

Region 2 previously identified six candidates for reduction of oversight monitoring and informed the RPs of this action. Also, four additional candidates were identified in FY 98. However, Regional officials could not provide evidence that any specific cost reduction amounts had occurred at these sites. While other Regions have already reduced oversight activities in compliance with the Directive, Region 2 has not reported required oversight reductions (estimates of costs saved). Additionally, Region 2 needs to improve its process to ensure that all RPs are provided with an estimate of oversight costs for the next year.

The impact of reduced oversight administration reform is difficult to assess for several reasons including lack of accurate information regarding specific site reductions. Also, there is no defined level of the amount of oversight EPA is to perform, which makes it difficult to identify what qualifies as a reduction in oversight. In addition, it is often difficult to quantify the value of oversight activities EPA does not perform. During FY 98, the Region and Headquarters are working to develop methods for measuring specific oversight reductions for different sites.

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REGION 2 SUPERFUND OVERSIGHT BILLINGS

Exhibit 1

SAMPLED SITES - NO BILLINGS

<u>Site Name</u>	<u>Document Billing Terms</u>	<u>Effective Date</u>	<u>Amount Billed</u>	<u>Bill Date</u>	<u>Period Covered</u>	<u>Payment Amt. & Date</u>	<u>Unbilled Amount 9/30/97</u>
1.	AOC, (A)	05/27/88	NA	NA	NA	NA	\$839,891
2.	AOC, (P)	09/27/89	NA	NA	NA	NA	\$909,332
	CD, (P)	07/23/90	NA	NA	NA	NA	
3.	AOC, (A)	10/08/87	NA	NA	NA	NA	\$950,170
4.	AOC, (A)	06/07/88	NA	NA	NA	NA	\$702,422
	AOC, (S)	05/07/93	NA	NA	NA	NA	
5.	AOC, (P)	06/28/93	NA	NA	NA	NA	<u>\$1,043,676</u>
	A= Annual						<u>\$4,445,491</u>
	P= Periodic						
	S= Silent						

Superfund Oversight Billings

REGION 2 SUPERFUND OVERSIGHT BILLINGS SAMPLED SITES - PARTIAL BILLINGS

Exhibit 2

<u>Site Name</u>	<u>Document Billing Terms</u>	<u>Effective Date</u>	<u>Amount Billed</u>	<u>Bill Date</u>	<u>Period Covered</u>	<u>Payment Amt. & Date</u>	<u>Unbilled Amount 9/30/97</u>
A.	AOC, (P)	06/02/89	\$622,370	05/13/96 (R) 07/10/96	1989 to 1996		N/A
B.	CD, (A)	11/28/89	\$443,939 (R) \$488,869	04/04/95 (R) 07/11/96	1989 to 1996	\$58,020 09/30/96	\$42,548
C.	AOC, (A)	04/30/86	\$468,743 (R) \$445,806	02/5/91	1986 to 1990	\$145,000 06/28/91	\$297,133
D.	AOC, (S)	06/30/89	\$137,572	03/13/96	1989 to 1993		N/A
E.	AOC, (S)	09/28/90	\$467,481 (R) \$437,481	02/26/96 (R) 04/22/96	1990 to 1994		N/A
						<u>\$203,020</u>	<u>\$339,681</u>
A= Annual							
P= Periodic		R= Revised/ Resent					
S= Silent							

Previous OIG and GAO Audit Reports

- OIG Audit Report E5FFL7-03-0008-7100292, Region 3's Billing of Superfund Oversight Costs, (September 22, 1997) found that Region 3 took, in some cases, years to bill RPs for oversight costs.
- OIG Audit Report E1AMF6-05-0079-7100139, Region 5's Billing and Collection of Account Receivables, (March 27, 1997) discussed billing and collecting of oversight costs problems in Region 5.
- OIG Audit Report E1SFB5-11-0008-6400016, Major Delays in Superfund Cleanups Increased Costs and Potential Health Risks, (November 29, 1995) discussed: (a) a Region 8 site where the RP used a three-year delay in billing to negotiate a reduction in the bill; and (b) a Region 3 site where there was a two-year billing delay.
- OIG Special Review E1SJG2-02-5000-3400005, Follow-up Review of Region 2's Corrective Actions Regarding Oversight of Superfund Post Settlement Activities, (November 24, 1992) noted continuing weaknesses in billing and collecting oversight costs.
- OIG Audit Report E1SJC9-02-0055-0100230, Review of Region 2's Oversight of Superfund Post-Settlement Activities, (March 29, 1990) noted oversight costs that were not billed and collected in a timely manner.
- GAO Audit Report, System Enhancements Could Improve the Efficiency of Cost Recovery (GAO/AIMD-95-177, August 1995) outlined concerns over EPA's poor recovery rate due to poor information systems.
- OIG Audit Report E1AML7-20-7008-8100058, EPA's Fiscal 1996 and 1997 Financial Statements, (March 2, 1998) indicated that the Agency's accounting for unbilled Superfund oversight costs needed improvement. Until billings are prepared, reimbursable costs incurred since the last billing were not recorded as assets in accounting records. Also, certain Regional estimates of unbilled costs were unreliable. EPA's Acting Chief Financial Officer agreed that the timeliness of the Agency oversight billing as well as the methodology for estimating oversight amounts needed improvement.

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