



OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

EPA-350-R-06-002

August 2006

Annual Superfund Report to Congress for Fiscal Year 2005



OIG Scorecard Summary of Superfund Results by OIG Goal - Fiscal Year 2005

OIG GOAL 1

Contributing to Improved Human Health and Environmental Quality

(Below are Superfund Results of OIG Work in Terms of Outputs, Actions by EPA, and Impacts)

- 1 Example of Environmental Improvement
- 2 Examples of Environmental Policy, Regulation, Practice, Process Actions, or Changes Made
- 1 Environmental Risk Reduced
- 9 Best Environmental Practices Implemented
- 10 Critical Public or Congressional Environmental Concerns Addressed
- 1 Environmental Best Practice Identified
- 3 Environmental Recommendations
- 3 Environmental Risks Identified

OIG GOAL 2

Improving EPA's Management, Accountability, and Program Operations

(Below are Superfund Results of OIG Work in Terms of Outputs, Actions by EPA, and Impacts)

- 16 Certifications/Validations/Verifications/Allegations Disproved
 - 5 Examples of Management Policy, Practice, Process Actions, or Changes
 - 11 Best Management Practices Implemented
 - 17 Criminal, Civil, and Administrative Actions
 - 2 Critical Public or Congressional Management Concerns Addressed
 - 33 Recommendations for Management Improvements/Additional Review
 - 1 Best Management Practice Identified
 - 3 Actions to Resolve or Reduce Management FMFIA Risks/Challenges
-
- \$20,782,695 Total Questioned Costs (\$2,963,677 Federal Share)
 - \$ 2,012,515 Cost Efficiencies (all Federal)
 - \$ 6,500,000 Fines, Settlements, and Restitutions

**To find out more about the U.S. Environmental Protection Agency's
Office of Inspector General, visit our Website at:**

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

Cover Photos: Photographs of (from top to bottom) a soil treatment facility at Picillo Superfund Site in Coventry, Rhode Island (EPA photo); the Hercules 009 Landfill near Brunswick, Georgia (Hercules Incorporated photo); and a Superfund removal site in Soldotna, Alaska (EPA photo).



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Foreword

This report covers Fiscal Year 2005 Superfund-related activity of the U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG). The Superfund Amendments and Reauthorization Act of 1986 requires the OIG to annually audit the Superfund program and report the results to Congress.

In April 2004, we submitted to EPA the management challenge “Superfund Evaluation and Policy Identification,” to help focus the Agency on addressing Hazardous Substance Superfund Trust Fund shortfalls and decreasing general appropriations. During Fiscal Year 2005, EPA made progress. In particular, it conducted an internal review that made recommendations to improve the Superfund program, and developed the *120-Day Study Action Plan* to outline how EPA will carry out the recommendations.

In our audit of the Agency’s consolidated financial statements, which include the Superfund Trust Fund, we noted that errors led to overstating State Superfund Contract unearned revenue by \$31 million and unbilled oversight costs by \$14 million. Although regions were required to certify that they reviewed their accrual calculations, certification did not prevent or discover the errors. As a result, EPA could not ensure the accuracy of the unearned revenue and the unbilled oversight accounts.

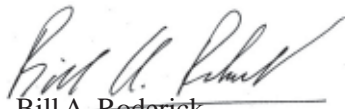
More than half of EPA’s Fiscal Year 2005 budget was awarded to organizations outside the Agency through assistance agreements, including a significant amount related to Superfund sites. We found that California’s procurement process for assistance agreements needed improvement, and that Alaska inappropriately used “match” funds for a project. Further, Oregon claimed over \$2 million in erroneous and unallowable costs related to the McCormick and Baxter Superfund site in Portland.

We found that the testing method EPA uses to monitor the presence of toxaphene in groundwater at the Hercules 009 Landfill, a former Superfund site near Brunswick, Georgia, is inadequate. We determined that the method only tests for the chemical that has not degraded, even though toxaphene degrades over time and the breakdown products can pose a human health risk. EPA agreed to test not only for toxaphene but also for its breakdown products.

In addition to helping EPA better manage hazardous waste sites, we compiled a list of relevant promising practices that the Department of the Interior could use to better identify and inventory its own hazardous waste sites. The Department of the Interior manages one-fifth of the land mass in the United States, and the Department has been criticized for weaknesses related to environmental liability controls. We worked with the Interior Department’s Inspector General in a joint effort to

identify potential areas for improvement. While the Department of the Interior does not seek to create its own Superfund program, similarities exist between EPA's processes and those used by the Interior Department to identify, assess, and prioritize hazardous sites on its land.

Addressing Superfund shortfalls is a critical issue; we will continue to assist Congress and EPA in their efforts to protect against potential adverse health and environmental impacts resulting from Superfund sites. Early identification, communication, and evaluation of issues needed to reform the Superfund program can better prepare the Agency to address challenges.



Bill A. Roderick
Acting 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 requirement for audited financial statements was enacted to help bring about improvement in agencies' financial management practices, systems, and controls so that timely, reliable information is available for managing Federal programs.

One of the major entities covered by these financial statements is the Hazardous Substance Superfund Trust Fund. The requirement for the U.S. Environmental Protection Agency (EPA) Office of Inspector General (OIG) to audit EPA financial statements also meets our Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) audit requirement to annually audit the Superfund Trust Fund. EPA presented the financial statements for Fiscal Year 2005 in a consolidated format, which was a change from prior years' presentations in which the Superfund Trust Fund was presented separately.

The following summary of our Fiscal Year 2005 financial statement audit relates to all findings resulting from our audit of EPA's financial statements, including those of the Hazardous Substance Superfund Trust Fund.

EPA Earns Unqualified Opinion on Financial Statements

EPA earned an unqualified opinion on its Fiscal Year 2005 financial statements. However, in evaluating EPA's internal controls, we noted nine reportable conditions. Our unqualified, or clean, opinion means that we found EPA's statements to be fairly presented and free of material misstatements. The reportable conditions noted do not represent weaknesses that would cause a material misstatement of financial statement amounts; rather, they represent significant deficiencies in the design or operation of internal controls.

One of the nine reportable conditions specifically involved a Superfund issue. We found errors on the third quarter State Superfund Contract calculations spreadsheet and/or the Superfund unbilled oversight spreadsheet in 9 of 10 regions. These errors led to overstating State Superfund Contract unearned revenue by \$31 million and unbilled oversight costs by \$14 million. Although the Office of the Chief Financial Officer required the regions to certify that they reviewed their accrual calculations, certification did not prevent or discover the errors. As a result, EPA could not ensure the accuracy of the unearned revenue and the unbilled oversight accounts.

The eight other reportable conditions are:

- EPA inappropriately made approximately \$74,000 in payments to separated (transferred, retired, or resigned) employees under the new PeoplePlus payroll system.
- Employees received salary payments in excess of the biweekly maximum limitations.
- Certain regional offices did not properly adjust accounts receivable and allowance for doubtful accounts after transferring those accounts to the finance center.
- Although EPA has made advances in performing quality assurance reviews, the reviews were still limited in scope and not adequately documented.
- EPA overstated the year-end distribution of amounts recorded in a budget clearing account.
- EPA made \$89 million in adjustments to entries in the Integrated Financial Management System without proper and adequate documentation.
- EPA did not correct, in a timely manner, PeoplePlus data that the Integrated Financial Management System rejected during the transfer process.

- Contingency plans for several Office of the Chief Financial Officer applications at the Research Triangle Park campus in North Carolina did not fully comply with guidelines.

We also found that EPA did not fully comply with accounting standards requiring it to provide full costs per output to management in a timely fashion, and continued to experience difficulties in reconciling intragovernmental transactions due to some Federal entities not providing needed information. However, these instances of noncompliance did not result in material misstatements to the audited financial statements.

The Agency agreed with the issues raised and stated it has begun to evaluate the best methods to address each issue.

We issued our report (2006-1-00015) on November 14, 2005.

Brownfields Administrative Resources Can Be Better Managed

EPA's ability to effectively manage Brownfields administrative resources is challenged by policy and organizational impediments.

Congress has authorized up to \$250 million a year through 2006 for the Brownfields program, which is designed to foster expanding, redeveloping, or reusing properties that may be complicated by the

presence of hazardous wastes or other contaminants. We conducted this review in response to a congressional request to evaluate Brownfields administrative and program costs.

The authority for managing Brownfields resources is dispersed across numerous headquarters and regional offices. As a result, EPA offices responsible for expending Brownfields resources are not aligned in their efforts to define and track program costs, and EPA offices cannot account for or efficiently utilize staff resources. Also, EPA expends significant financial and personnel resources on Brownfields outreach at conferences and meetings without evaluating or prioritizing these efforts.

We recommended that EPA offices align themselves more closely to better manage Brownfield resources, define and better track Brownfields administrative and programmatic payroll costs, provide sufficient documentation to account for all administrative resources, and revise the regional staffing model to support current workload. Further, the Agency should determine how many Brownfields staff members should become project officers, hold the EPA-sponsored Brownfields conference every other year rather than annually, and develop a process to prioritize attendance at other conferences and meetings.

We issued our report (2005-P-00017) on June 7, 2005.

Assistance Agreements

About half of EPA's Fiscal Year 2005 budget was awarded to organizations outside the Agency through assistance agreements, including a significant amount of funds related to Superfund sites. Therefore, the efficient management of assistance agreements is essential for EPA to ensure it efficiently manages Superfund efforts.

CERCLA requires audits "of a sample of agreements with States," and we perform financial and compliance audits of assistance agreements with States and political subdivisions. During 2005, the OIG issued five reports on specific assistance agreements related to Superfund, including three reports on agreements awarded to States. Details on each follow.

California Department of Toxic Substances Control Needs to Improve Procurement Process

Our review of reported outlays under a grant with the California Department of Toxic Substances Control found that the State fairly presented outlays, with the exception of contract outlays.

EPA awarded a total of \$1.3 million to the State under cooperative agreement V99925204 for Superfund site assessments and Brownfields activities for the period July 2002 to June 2004. The State performed the activities in the agreement's work plan and complied with deliverable requirements. However, the State's procurement process needs improvement to ensure that contracts were negotiated and administered in accordance with Federal regulations. The State did not perform cost or price analysis, negotiate profit as a separate line item, ensure that contractors monitored subcontractors, or include all the required clauses in contracts.

We recommended that EPA disallow contract outlays of \$215,946, but the Agency disagreed with that recommendation. The Agency agreed with other recommendations for EPA to revoke the

State's procurement self-certification until adequate policies and procedures are in place, review and approve State solicitations and contracts under EPA cooperative agreements, and determine the adequacy of State actions to update policies and procedures.

We issued our report (2005-4-00099) on September 8, 2005.

Alaska Inappropriately Applied Match Costs to an EPA Grant

Alaska's proposed use of past expenditures on a separate project as "matching" funds for a grant involving cleanup at the River Terrace Recreational Vehicle Park (RTRVP), Soldotna, Alaska, is unallowable.

A complainant expressed concerns regarding the use of Federal grant money by the State of Alaska for a cleanup effort at RTRVP. Concerns involved the validity of Alaska's matching funds, as well as whether Alaska appropriately selected contractors, made appropriate charges for legal costs, and could extend the grant expiration date. The \$3 million EPA grant involved cleaning up contamination at a former dry cleaning facility now serving as a fish processing facility.

We concluded that the costs proposed by Alaska for a nearby Alaska Department of Transportation project should not have been considered matching funds for the RTRVP grant. Alaska had spent the money on a different project not actually at the RTRVP site. EPA Region 10 had returned the match submission to Alaska due to a technical issue, and Alaska has not resubmitted the request.

We found that Alaska followed acceptable contracting practices that sufficiently allowed for competition. The legal costs incurred by Alaska were allowable because they were incidental to administering the grant. Alaska can extend the grant funding beyond the expiration

date of June 30, 2006, because the grant is not required to be considered expired until the funds are expended.

EPA Region 10 concurred with our findings, but did not agree with our recommendation that EPA disallow Alaska's match. EPA Region 10 felt the recommendation focused on a future grant award rather than the grant amount already awarded, but we maintain our position.

We issued our report (2005-P-00029) on September 28, 2005.

Oregon Outlays of \$2 Million for Superfund Site Agreement Questioned

We questioned over \$2 million of erroneous and unallowable expenses that the Oregon Department of Environmental Quality claimed under an EPA cooperative agreement.

EPA awarded \$25.9 million to Oregon in cooperative agreement V99060103 for remedial design, remedial action, and long-term response actions at the McCormick and Baxter Superfund site in Portland, Oregon. Significant concentrations of wood-treating chemicals have been found in soil and groundwater at the site of the former wood-treating facility, and in river sediments adjacent to the site.

We questioned \$1,523,481 claimed for future expenses because they represent the unexpended value of contracts entered into by Oregon, not actual expenses. Oregon incorrectly included these future costs in the Financial Status Reports although the State was not paid for these future costs.

We also questioned \$532,821 in contract costs because Oregon did not comply with certain Federal procurement requirements, as well as \$12,922 in labor and indirect outlays because of deficiencies in allocating leave and compensatory time.

We recommended that EPA disallow the questioned costs, invalidate the State's self-

certification of its procurement systems, and require Oregon to make various other improvements.

We issued our report (2005-4-00129) on September 29, 2005.

EPA Adequately Competed Brownfields Grants

EPA's competition process for awarding Brownfields grants complied with the requirements of the Small Business Liability Relief and Brownfields Revitalization Act of 2002. However, EPA did not comply with Agency policy for performing cost reviews.

EPA was required to award grants to eligible organizations that have the highest rankings under the 10 criteria established in the Act, and EPA used these criteria to the extent they were applicable. EPA cost reviews, however, did not comply with Agency policy. EPA only had cost review documentation for 4 of 24 grants we evaluated. In some cases, project officers said the reviews were performed but not documented. For the reviews not performed, the project officers thought someone else was responsible for performing them. As a result, EPA risked the possibility of reimbursing recipients for costs that were unreasonable or unallowable. The agency agreed with our recommendation to remind project officers to document cost reviews.

We issued our report (2005-P-00009) on March 7, 2005.

OIG Provides Congressionally Requested Data on Grants

The House Committee on Transportation and Infrastructure provided us a sample of 15 grants EPA had awarded to nonprofit organizations, and asked us to report on the purpose, justification, and progress for each grant. Several of the grants involved hazardous and solid waste issues. Our report provides factual information on the grants and has no audit findings or recommendations.

EPA Office of Inspector General Annual Superfund Report to Congress for Fiscal Year 2005

EPA awarded a 5-year, \$5.3 million grant to the Association of State and Territorial Solid Waste Management Officials. The grant's purpose is to promote exchanging information between State and EPA hazardous and solid waste officials so they can jointly resolve implementation and other emerging issues. EPA did not compete this award, and justified awarding it non-competitively because the Association already represented the interests of co-regulators. The Association, headquartered in Washington, DC, has received EPA grants since the early 1980s. EPA currently provides 85 percent of the Association's funding.

EPA competed and awarded a \$150,000 grant to the Milwaukee Community Service Corps to educate and train at-risk young adults in the Milwaukee, Wisconsin, area to work in Brownfields remediation. This ongoing project, which runs until September 30, 2006, has been funded through previous EPA grants. EPA funded the grant under the statutory authority of CERCLA, which allows for funding nonprofit organizations to provide Brownfields remediation training.

We issued our report (2005-S-00007) on September 7, 2005.

Remedial Action Decision Making

We performed in-depth reviews of the reliability of site-specific analytical data for sound site remediation decisions. Also, we have worked closely with the Agency to characterize Superfund sites. Through these and other actions, we are working to ensure that Agency decisions on site remediation are based on data of known quality.

EPA has made some progress on the management challenge we identified in 2004 on Superfund evaluation and policy identification. We found that the testing method EPA uses to monitor the presence of toxaphene in groundwater at a Superfund site is inadequate. We also looked into several other issues involving remedial action decision making. Details follow.

Management Challenge Stresses Superfund Issues

One of the management challenges that we initially identified for 2004 is “Superfund Evaluation and Policy Identification.” EPA faces significant challenges in meeting current and future Superfund needs, and must achieve a strong working relationship with States and tribes to achieve its environmental goals.

We identified the following specific areas of concern:

- The lack of Trust Fund appropriations and decreasing general appropriations.
- The inability to fund all sites that require funding.
- The need to determine potential future financial and environmental liability from sites not yet formally entered into the Superfund program.
- Lack of viable, or fully cooperative, responsible parties; inadequate financial assurance for site cleanup; and the inability to consistently rely on other programs to support Superfund needs.

- Use of credible measures of the ecological benefits that result from Superfund cleanups.

We submitted this management challenge to the Administrator in April 2004; during Fiscal Year 2005, EPA made progress regarding our concerns. In particular, EPA noted that it:

- Published *Superfund: Building on the Past, Looking to the Future*, an internal review that contains recommendations to improve the Superfund program.
- Developed a *120-Day Study Action Plan* that outlines how EPA will carry out recommendations.
- Completed the *Superfund Tribal Strategy* and implementation plan to better enable it to make improvements on tribal lands.

Hercules 009 Landfill Superfund Site Needs Appropriate Testing and Timely Reporting

The testing method that EPA uses to monitor the presence of toxaphene in groundwater at the Hercules 009 Landfill site near Brunswick, Georgia, is inadequate.

A community organization brought several concerns to the attention of the Ombudsman about the Hercules 009 site. Between 1975 and 1980, Hercules Incorporated operated the Hercules 009 Landfill to dispose of waste material from producing toxaphene, an agricultural pesticide. The site became part of EPA's Superfund program in 1984; EPA completed cleanup of the site in 1999, but some contaminants remained. As a result, EPA needs to review the landfill every 5 years; EPA's current report is over 1 year late.

We determined that the method EPA uses to monitor for toxaphene only tests for the chemical

that has not degraded. Toxaphene degrades over time, changing into other products (breakdown products). Because these breakdown products may pose a risk to human health, EPA should monitor for toxaphene using a method that also tests for the breakdown products.

We recommended that EPA Region 4 use an analytical method that monitors both toxaphene and its breakdown products in the groundwater at the Hercules 009 Landfill, take appropriate action if it finds breakdown products, and issue the report on the 5-year review. The Agency generally agreed with our recommendations.

We issued our report (2005-P-00022) on September 26, 2005.

Atlanta Zoning Change Is Appropriate

We found no evidence that a zoning condition change for an Atlanta, Georgia, Brownfields project would have a negative effect on the ability of the State to attain the ambient air quality standards of its State Implementation Plan. We performed this review in response to a hotline complaint.

The Atlantic Steel project is a Brownfields redevelopment effort designated as a transportation control measure in Georgia's State Implementation Plan. A complainant alleged that Atlanta changed provisions of a zoning condition to limit cut-through traffic without submitting a State Implementation Plan revision to EPA for approval. We found that the revised zoning condition replaces vague language with specific prescribed actions and timetables; the changes do not result in the State Implementation Plan being "substantially inadequate" to attain standards. We did determine that more public meetings could have been held, and EPA agreed to hold more.

We issued our report (2005-S-00005) on February 16, 2005.

Additional Actions Reviewed

We reviewed several complaints regarding hazardous waste sites that did not result in formal OIG reports, although in one case EPA did agree to take additional action.

One complaint alleged numerous issues with removing contaminated soil and future development at the Libby Asbestos National Priorities List site in Libby, Montana, that could release asbestos fibers from asbestos-contaminated vermiculite. We found that EPA Region 8 cleanup actions during the early stages of emergency removal action were not entirely adequate or cost effective. However, we found that as time progressed Region 8's removal actions improved greatly. We agreed with the complainant that excavation for real estate development in Libby has the potential to release asbestos into the air, posing a risk to residents. We conveyed the results to the Region 8 Regional Administrator and recommended that the Record of Decision require contractors and tradesmen to report to EPA any vermiculite they find.

Based on a congressional request, we examined an allegation that EPA lessened the radiation standards proposed for the repository of nuclear waste at Yucca Mountain, Nevada. According to the allegation, the standards were lowered as a result of a meeting between the Nuclear Regulatory Commission, Department of Energy, and EPA. We found that EPA had not weakened the final standards.

We also examined a complaint regarding the inadequacy of monetary settlements between the State of California and the estate of the owner of the Casmalia Landfill Site in Santa Barbara. Our review of financial documents determined that the amount of the settlement was appropriate, based on liability issues and the estate's financial assets.

Response Claims

CERCLA, as amended by the Superfund Amendments and Reauthorization Act of 1986, authorizes EPA to pay any claim for response costs by “any other person” 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 Preauthorized Decision Document specifies the work to be performed, the portion of the cost that EPA will reimburse, and the procedures through which the Potentially Responsible Parties can make claims for reimbursement.

We do not audit response claims, but instead review claims by following the instructions in the Agency’s claims guidance for the claims adjuster. During 2005, we performed several such reviews, as discussed below.

Reviews of Elizabethtown Landfill Superfund Site Claims

We reviewed the first claim submitted by Waste Management Disposal Services of Pennsylvania, Incorporated, for the CERCLA response action at the Elizabethtown Landfill Superfund Site, in West Donegal Township, Pennsylvania. The Preauthorized Decision Document authorizes the claimant to submit claims against the Superfund Trust for an amount not to exceed \$1,125,000 or 25 percent of eligible, reasonable, and necessary costs incurred for designing the remedial action pursuant to the Record of Decision and Consent Decree. The claimant submitted documentation detailing incurred costs of \$1,509,592 and requesting reimbursement of \$377,398. The costs were incurred between July 1999 and June 2003. Due to a math error and voluntary deletions, the claim was reduced to \$1,436,367, and the reimbursement to \$353,492.

We issued our report (2005-4-00009) on November 16, 2004.

We also reviewed the second claim submitted by Waste Management Disposal Services for the CERCLA response action at the Elizabethtown site. The Preauthorized Decision Document had the same limitations as the first claim submitted. The claimant submitted documentation detailing incurred costs of \$1,904,567 and requesting reimbursement of \$476,142. The costs were incurred between July 1999 and June 2003. Due to a math error and voluntary deletions, the claim was reduced to \$1,791,654, and the reimbursement to \$447,913.

We issued our report (2005-4-00071) on June 7, 2005.

Review of Hunterstown Road Superfund Site Claim

We reviewed the third claim submitted by Viacom, Incorporated, for the CERCLA response action at the Hunterstown Road Superfund Site in Adams County, Pennsylvania. The Preauthorized Decision Document authorizes the Potentially Responsible Parties to submit claims against the Superfund Trust for an amount not to exceed \$2,670,320 or 39 percent of eligible, reasonable, and necessary costs incurred for the waste removal action. The claimant submitted documentation detailing incurred costs of \$2,269,182, and requested reimbursement of \$884,981. These costs were incurred between May 1999 and September 2004. Due to timing issues and math errors, the reimbursement was reduced to \$872,562.

We issued our report (2005-4-00059) on April 22, 2005.

Review of Old Southington Landfill Superfund Site Claim

We reviewed the third claim submitted by United Technologies and the Town of Southington, Connecticut, for the CERCLA response action at the Old Southington Landfill Superfund Site. The Preauthorized Decision Document authorizes the

Potentially Responsible Parties to submit claims against the Superfund Trust for an amount not to exceed the lesser of \$8,800,165 or 63.09 percent of eligible, reasonable, and necessary costs incurred for the waste removal action. The claimants submitted documentation detailing costs incurred of \$1,790,792 between May 2001 and February 2004. During our review, nothing came to our attention that caused us to believe the claimed costs were ineligible, unreasonable, or unnecessary.

We issued our report (2005-4-00006) on October 28, 2004.

Review of Picillo Superfund Site Claim

We reviewed the second claim submitted by the five Potentially Responsible Parties for the CERCLA response action at the Picillo Pig Farm Superfund Site in Coventry, Rhode Island. The Preauthorized Decision Document authorizes the Potentially Responsible Parties to submit claims against the Superfund Trust for an amount not to exceed the lesser of \$1,400,000 or 40 percent of eligible, reasonable, and necessary costs incurred for the waste removal action. The Claim Administrator submitted documentation detailing incurred costs from November 2002 through December 2003 of \$116,516, and requested reimbursement of \$46,606. During our review,

nothing came to our attention that caused us to believe that the claimed costs were ineligible, unreasonable, or unnecessary.

We issued our report (2005-4-00058) on April 21, 2005.

Review of Batavia Landfill Superfund Site Claim

We reviewed the first claim submitted by the Potentially Responsible Parties for the CERCLA response action at the Batavia Landfill Superfund Site in Batavia, New York. The Preauthorized Decision Document authorizes the Potentially Responsible Parties to submit claims against the Superfund Trust for an amount not to exceed \$645,930 or 7.26 percent of eligible, reasonable, and necessary costs incurred for the waste removal action. The Claim Administrator submitted documentation detailing incurred costs from June 2001 through December 2003 of \$8,897,113, and requested reimbursement of \$645,930. During our review, nothing came to our attention that caused us to believe that the claimed costs were ineligible, unreasonable, or unnecessary.

We issued our report (2005-4-00092) on August 22, 2005.

Performance Reviews

In addition to the reviews required by CERCLA and the Superfund Amendments and Reauthorization Act, we conduct other reviews that address or are related to Superfund issues. Following are summaries on several completed during Fiscal Year 2005.

EPA OIG Helps the Department of the Interior Better Identify and Prioritize Hazardous Sites

To help the Department of the Interior better identify and inventory hazardous waste sites, we compiled a list of relevant promising practices that the Department of the Interior could use to improve its processes.

As one way of accomplishing its objectives, EPA coordinates with other Federal land managers, such as the Department of the Interior. The Department of the Interior manages one-fifth of the land mass in the United States, and its stewardship responsibilities include inventorying and assessing sites on its land that pose threats to human populations, wildlife, and sensitive environments.

The Department of the Interior has been criticized in recent audits for weaknesses related to environmental liability controls. Since EPA has over 20 years experience in identifying and inventorying hazardous waste sites, we worked with the Department of the Interior's Inspector General in a joint effort to identify potential areas for improvement. While the Department of the Interior does not seek to create its own Superfund program, similarities exist between EPA's processes and the processes the Department of the Interior should use to identify, assess, and prioritize hazardous sites on its land.

We found the following potential areas for improvement:

- ***To improve site discovery***, the Department of the Interior could work better with States to

obtain new site information, develop better screening procedures, and consult EPA guidance on assessments.

- ***To better assess and prioritize sites***, the Department of the Interior could develop necessary automated tools, a prioritization method that ranks health risks, and a tracking mechanism for sites not initially requiring cleanup action to become aware of any changing conditions.
- ***To better estimate costs***, the Department of the Interior could create a Web-based "cost estimating toolbox" as a one-stop resource to document cost assumptions, and should frequently reevaluate and adjust cost estimates throughout cleanups.

We issued our report (2005-P-00020) on August 22, 2005.

EPA Can Improve Response Action Contracts

EPA can improve the structure of Response Action Contracts to better protect the Government's interests when it contracts for Superfund cleanups. Response Action Contracts are Cost Plus Award Fee Level of Effort contracts used to obtain professional Architect-Engineer, technical, and management services supporting EPA's Superfund cleanup responsibilities. EPA's current Response Action Contracts assign to EPA a disproportionate share of the risk of cost overruns; expose EPA to the risk of loss of funds through litigation; limit competition; and forego potential cost savings associated with other approaches to contracting, such as Performance-Based Service Acquisition.

EPA regions do not consistently document the rationale used to decide whether to contract directly or obtain services through an interagency agreement with the U.S. Army Corps of Engineers. The Agency does not have a process

to measure and disseminate information on the U.S. Army Corps of Engineers' past performance in support of EPA.

Evaluations of contractor performance were not documented timely and consistently, which could prevent EPA and other Federal agencies from considering contractors' past performance. Further, information needed to evaluate results and make decisions was not always readily available in the national automated database, resulting in underutilization of the system despite EPA spending about \$1.5 million a year on it.

We recommended that EPA develop and implement a plan to increase the use of different contract types, require better documentation on all source selection decisions, develop a method for holding contracting officers accountable for conducting past performance evaluation timely and accurately, and conduct a cost-benefit analysis to determine whether the Remedial Action Contract Management Information System should be retained. EPA generally agreed with our recommendations.

We issued our report (2005-P-00001) on December 6, 2004.

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 EPA programs and administrative areas, including the Superfund program. High priority was also given to environmental programs and employees when the action under investigation had the potential to seriously undermine the integrity of the Agency and/or the public trust in the Agency's ability to carry out its mission to protect public health and safeguard the environment.

Proactive and reactive investigative efforts by the Office of Investigations covered all stages of the Superfund program:

- The Laboratory Fraud Directorate continued its efforts to detect and investigate laboratory fraud, focusing on erroneous environmental testing data and results that could undermine the bases for EPA decision making, regulatory compliance, and enforcement actions. Many of these laboratories conduct analyses and produce data that are used to make decisions concerning Superfund sites.
- The Financial Fraud Directorate continued major efforts in uncovering fraudulent activities in the award, performance, and payment of funds under contracts, grants, and other assistance agreements. EPA programs, including Superfund, are dependent on contractors and assistance agreement recipients to perform a significant portion of the work related to EPA's mission.
- The Computer Crimes Directorate continued to monitor previously identified computer security weaknesses, identify new and emerging vulnerabilities, and advise the Agency on any additional computer security enhancements that are needed. We continued to perform criminal investigations of intrusive activities affecting EPA systems and data.

During Fiscal Year 2005, our Superfund investigative efforts resulted in:

- One Civil Settlement
- One Sentencing
- Fifteen Administrative Actions

Monetary fines and restitution totaled more than \$6.5 million. During the past 3 fiscal years, cumulative monetary fines, restitution, and recoveries resulting from Superfund investigations totaled more than \$18.7 million. We expect to see a continued increase in significant actions as OIG's investigative emphasis on major Agency contracting and laboratory fraud continues.

Following are two instances of Superfund investigative activities with results in Fiscal Year 2005.

Laboratory President Sentenced to Prison Term

On March 15, 2005, Edward V. Kellogg, President, owner, and Quality Control Officer of Johnson Laboratories, Inc., New Cumberland, Pennsylvania, was sentenced in U.S. District Court, Eastern District of Pennsylvania, to 16 months in prison, followed by 36 months of probation, and ordered to perform 80 hours of community service. Kellogg was also ordered to pay restitution of \$7,181 and a \$3,400 special assessment. In addition, Kellogg has been debarred for 3 years.

On August 17, 2004, following a jury trial, Kellogg was found guilty of 34 counts of mail fraud. A May 2003 indictment charged that from May 1998 through July 2000, Kellogg engaged in a scheme to defraud customers of Johnson Laboratories by creating and billing customers for false and fraudulent environmental test reports.

Johnson Laboratories provided analytical testing of environmental samples, including water and

wastewater, to EPA at the Bruin Lagoon Superfund Site in Bruin, Pennsylvania, as well as to municipalities and commercial clients required to comply with environmental laws and regulations administered by EPA. Among the tests prepared by Johnson Laboratories were tests for volatile organic compounds (VOCs), a contaminant whose presence in water is regulated by EPA. VOCs can contaminate drinking water, and VOCs in wastewater may be discharged into rivers and streams, potentially affecting fish, wildlife, and drinking water sources.

As the head of the business, Kellogg allowed environmental test results to be fraudulently prepared and billed to customers. These test reports purported to contain the results of VOC testing performed in accordance with EPA method 601/602, when in fact Kellogg knew this testing method had not been used. Instead, VOC testing had been performed under the lesser inclusive EPA method 624. Johnson Laboratories did not have the necessary laboratory instruments in operating condition to perform the tests in accordance with EPA method 601/602 as reported to customers.

This investigation was conducted jointly with the EPA Criminal Investigation Division, the Pennsylvania Attorney General's Office, and the Pennsylvania Department of Environmental Protection.

Contractor Enters into \$6.5 Million Settlement

On March 15, 2005, Dehon, Inc., formerly known as Arthur D. Little, Inc. (ADL), Cambridge, Massachusetts, entered into a \$6.5 million settlement agreement with the U.S. Attorney's Office for the District of Massachusetts, Civil Division, to settle claims that ADL overbilled the Federal Government on its contracts.

From 1990 to 2000, ADL inflated costs it charged to Federal Government contracts by improperly shifting costs uniquely associated with its commercial contracts to Federal contracts. The Defense Contract Audit Agency analyzed the costs charged to Federal contracts and estimated \$13.9 million was overbilled to numerous Government agencies, including EPA, the Department of Defense, and the Department of Energy. The EPA work involved Superfund and engineering activities.

In February 2002, ADL filed for relief under Chapter 11 of the U.S. Bankruptcy Code. Payment of this settlement agreement will be in accordance with the terms and conditions of the bankruptcy filing.

This investigation was conducted jointly with the Defense Criminal Investigative Service.

Listing of Fiscal Year 2005 Superfund Reports

Report No.	Description	Date
2005-1-00010	CDM Federal Programs Corporation - FY 1999 Incurred Cost	15-OCT-04
2005-2-00002	Shaw E & I (Formerly IT Group) DACA45-98-D-0003 D.O. 56	18-OCT-04
2005-4-00003	CDM Federal Programs Corporation - FY 1999 Incurred Cost	19-OCT-04
2005-4-00002	E&E Billing System Review - Region 9	19-OCT-04
2005-4-00006	Old Southington Landfill CERCLA Claim No. 3	28-OCT-04
2005-M-00001	Ohio Underground Storage Tank Review	01-NOV-04
2005-1-00018	Alpha-Gamma Technologies, Inc. - Preaward PR-HQ-04-11304	03-NOV-04
2005-1-00019	Weston Solutions, Inc. - FY 1997 ARCS Closeout 68-W9-0057	04-NOV-04
2005-4-00009	Waste Management - Elizabethtown Response Claim #1	16-NOV-04
2005-1-00027	E2, Inc. - Preaward PR-HQ-04-112304	30-NOV-04
2005-4-00013	Alpha-Gamma Technologies Inc. - Accounting System Review	03-DEC-04
2005-P-00001	Response Action Contracts	06-DEC-04
2005-1-00033	URS Corporation - FY1999 Supplemental RAC 68-W9-8228	10-DEC-04
2005-1-00034	Black & Veatch Special Projects Corp. - FY 1999 ARCS 68-W9-0055	13-DEC-04
2005-2-00012	Weston Solutions, Inc. - FY 2000 RAC 68-W7-0026	15-DEC-04
2005-1-00037	Black & Veatch Special Projects Corp. - FY 2000 RAC 68-W5-0004	17-DEC-04
2005-S-00004	Ecology & Environment Revised Disclosure Statement Review	17-DEC-04
2005-1-00047	CDM Federal Programs Corporation - FY 2001 RAC 68-W5-0022	06-JAN-05
2005-1-00056	Alpha-Gamma Technologies Inc. - Financial Capability Review	12-JAN-05
2005-2-00017	Weston Solutions, Inc. - FY 2001 RAC Closeout 68-W7-0026	12-JAN-05
2005-S-00005	Review of Changes to the Atlantic Steel Transportation Control Measure	16-FEB-05
2005-2-00024	Shaw Environmental & Infrastructure, Inc. - Delivery Order #40	25-FEB-05
2005-4-00043	E&E's ESD Disclosure Statement Is Inadequate	28-FEB-05
2005-4-00044	Ecology & Environment Revised Disclosure Statement Review	28-FEB-05
2005-P-00009	Brownfields Competition Process	07-MAR-05
2005-2-00026	Weston Solutions, Inc. - FY 1999 ARCS 68-W9-0057	28-MAR-05
2005-1-00093	Washington Group Int'l - FY 2003 RAC	04-APR-05
2005-1-00097	CDM Federal Programs Corporation - FY 2002 Annual RAC Closeout 68-W5-0022	13-APR-05
2005-1-00098	CDM Federal Programs Corporation - FY 1999 ARCS 68-W9-0024	15-APR-05
2005-4-00058	Picillo Farm CERCLA Claim #2	21-APR-05
2005-4-00059	Hunterstown Road PRP Group CERCLA Claim #3	22-APR-05
2005-4-00063	E&E FY 2001 Incurred Cost Adequacy Review	18-MAY-05
2005-4-00071	Response Action Claim No. 2, Elizabethtown Landfill Superfund Site	07-JUN-05
2005-P-00017	Brownfields Request: Resource Needs	07-JUN-05
2005-1-00114	Tetra Tech Inc./B&V SPC Joint Venture - FY 2000 RAC 68-S7-3002	14-JUN-05
2005-M-00009	Indirect Rate Negotiation Support	16-JUN-05
2005-1-00116	Tetra Tech Inc./B&V SPC Joint Venture - FY 1999 RAC 68-S7-3002	27-JUN-05
2005-4-00079	E2, Inc. - Accounting System Review PR-HQ-04-11304	28-JUN-05
2005-S-00006	McGladrey & Pullen LLP Single Audit of Geothermal	28-JUN-05
2005-1-00122	CDM Federal Programs Corporation - FY 1999 ARCS 68-W9-0056	05-JUL-05
2005-1-00129	Bechtel Group, Inc. - FY 1999 Incurred Cost	08-JUL-05
2005-1-00131	CDM Federal Programs Corporation - FY 2001 RAC Closeout 68-W9-8210	15-JUL-05
2005-1-00132	CDM Federal Programs Corporation - FY 2002 RAC Closeout 68-S7-3003	15-JUL-05
2005-1-00133	CDM Federal Programs Corporation - FY 2001 RAC 68-S7-3003	15-JUL-05
2005-1-00136	CDM Federal Programs Corporation - FY 1997 & 1998 RAC 68-S7-3003	19-JUL-05
2005-4-00084	E2 Consulting Engineers, Inc. - FY 2005 Financial Capability	26-JUL-05
2005-4-00083	Pacific Western Technologies, Ltd. - FY 2005 Financial Capability	26-JUL-05
2005-4-00085	Pacific Western Technologies, Ltd. - FY 2005 Preaward Accounting System	26-JUL-05
2005-1-00142	Tetra Tech EM Inc. - FY 2000 RAC Closeout 68-W6-0037	28-JUL-05
2005-4-00088	E2 Consulting Engineers, Inc. - FY 2005 Preaward Accounting System	01-AUG-05
2005-1-00147	E2 Consulting Engineers, Inc. - Preaward PR-HQ-04-11611	05-AUG-05
2005-1-00150	Tetra Tech NUS, Inc. - FY 2000 RAC - 68-W6-0045	11-AUG-05
2005-4-00092	Mixed Funding Claim, Batavia Landfill Superfund Site	22-AUG-05
2005-P-00020	DOI - IG Hazardous Waste Joint Effort	22-AUG-05
2005-S-00007	Congressionally Requested Review of Selected Grants	07-SEP-05
2005-4-00099	California Dept. of Toxic Substances Control Reported Outlays	08-SEP-05
2005-1-00155	Pacific Western Technologies, Ltd. - Preaward PR-HQ-04-11611	08-SEP-05
2005-1-00158	Black & Veatch - 68-W8-0091 RAC	09-SEP-05
2005-1-00167	Metcalf & Eddy Inc. - RAC FY 2003 Annual Close-Out 68-W6-0042	22-SEP-05
2005-M-00011	Indirect Rate Negotiation Support	23-SEP-05
2005-P-00022	Ombudsman Review of the Hercules 009 Landfill Superfund Site	26-SEP-05
2005-P-00029	Alaska's Actions for the River Terrace Recreational Vehicle Park, Soldotna, Alaska	28-SEP-05
2005-4-00129	Oregon Superfund Cooperative Agreement Audit	29-SEP-05