United States General Accounting Office

GAO

Report to the Chairman, Committee on Transportation and Infrastructure, House of Representatives

March 2004

# GRANTS MANAGEMENT

# EPA Needs to Better Document Its Decisions for Choosing between Grants and Contracts

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Accountability ★ Integrity ★ Reliability

GAO-04-459

March 2004

GRANTS MANAGEMENT

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Highlights

Highlights of GAO-04-459, a report to the Chairman, Committee on Transportation and Infrastructure, House of Representatives

## Why GAO Did This Study

Grants and contracts constitute over two-thirds of the Environmental Protection Agency's (EPA) budget. In fiscal year 2003, EPA awarded $3.6 billion in grants directed by Congress, $656 million in grants awarded at its own discretion, and $934 million in contracts. Under the Federal Grant and Cooperative Agreement Act of 1977, whether EPA should award a grant or a contract depends upon the principal purpose of the award.

In this context, GAO was asked to determine (1) the trends over the last 11 years on EPA's expenditures on discretionary grants and contracts and the types of goods and services obtained by each and (2) the extent to which EPA has and follows procedures for deciding when to use grants or contracts.

## What GAO Recommends

GAO recommends that EPA consider ways to improve compliance with its requirement to properly document in its award decision memorandums the justification for using a grant instead of a contract.

In commenting on a draft of this report, EPA stated that it agreed with and will implement GAO's recommendation.

www.gao.gov/cgi-bin/getrpt?GAO-04-459.

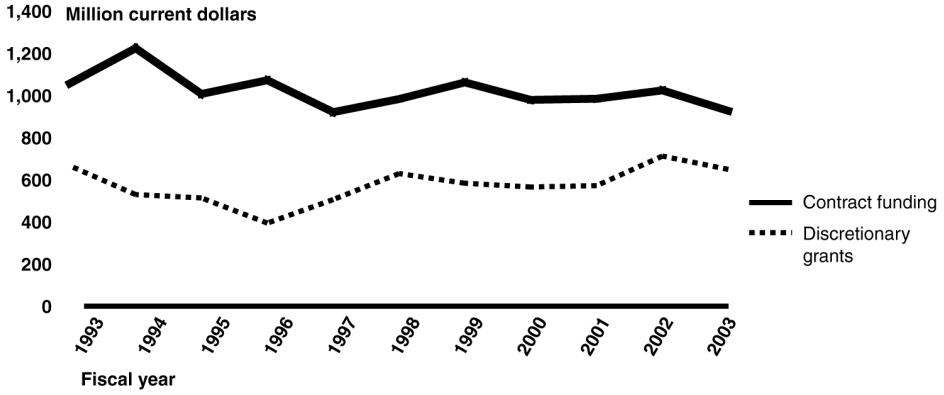
To view the full product, including the scope and methodology, click on the link above. For more information, contact John B. Stephenson at (202) 512-6225 or stephensonj@gao.gov.

## What GAO Found

EPA's funding for discretionary grants and contracts had similar trends from fiscal years 1993 through 2003, suggesting limited migration between these funds in EPA's budget over this period. Although EPA grants data provide little information on goods and services obtained with discretionary grants, GAO estimates, based on its survey of grantees with grants closed in fiscal years 2001 and 2002 and that had project start dates after October 1, 1997, that the majority of goods and services fell into three categories: (1) research and development; (2) training, workshops, and education; and (3) journals, publications, and reports.

EPA has specific procedures to guide decisions on choosing grants or contracts but often has not followed a very important one—documenting in its award decision memorandums the reasons for choosing a grant instead of a contract. EPA procedures define staff roles and responsibilities, provide examples of when to use a grant or a contract, and require documentation in the award decision memorandum to justify the use of a grant or a contract. However, in 64 percent (43 of 67) of the memorandums GAO reviewed, EPA did not fully justify its reasons for choosing a grant instead of a contract. It is unclear whether this shortcoming obscured inappropriate decisions to use grants instead of contracts. On the one hand, GAO's survey results showed that an estimated 8 percent of EPA's discretionary grantees would identify EPA as the primary and direct beneficiary. This estimate could suggest that the principal purpose of the grant award was acquiring property or services for EPA's direct benefit, and that EPA should have awarded some grants as contracts. However, for those grantees who identified EPA as the grant's primary and direct beneficiary, GAO's review of grant files and follow-up interviews indicated that some of these grants benefited both the federal government and the public and therefore could arguably have been awarded as either a grant or a contract.

**Trends in EPA Discretionary Grant and Contract Funding, Fiscal Years 1993 through 2003**




Source: GAO analysis of EPA data.

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### Abbreviations

| | |
|---|---|
| CFDA | Catalog of Federal Domestic Assistance |
| DEQ | Department of Environmental Quality |
| EPA | Environmental Protection Agency |
| GICS | Grants Information and Control System |
| GMO | Grant Management Office |
| IGMS | Integrated Grants Management System |
| NAICS | North American Industrial Classification System |
| OAM | Office of Acquisition Management |
| OIG | Office of Inspector General |
| OMB | Office of Management and Budget |
| SIC | Standard Industrial Classification |

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**United States General Accounting Office**
**Washington, D.C. 20548**

March 31, 2004

The Honorable Don Young
Chairman, Committee on Transportation
and Infrastructure
House of Representatives

Dear Mr. Chairman:

Grants and contracts constitute over two-thirds of the budget of the Environmental Protection Agency (EPA) and are the primary tools through which EPA carries out its mission of protecting the environment and human health.[1] In fiscal year 2003, EPA awarded $3.6 billion in nondiscretionary grants, $656 million in discretionary grants, and $934 million in contracts. For nondiscretionary grants, Congress directs awards to recipients who meet specific eligibility requirements, often on the basis of formulas prescribed by law or regulation. For discretionary grants, EPA has the legislative authority to determine the funding levels and recipients. EPA also awards contracts to acquire property or services. The Federal Grant and Cooperative Agreement Act of 1977, as amended, sets out governmentwide criteria for selecting the most appropriate award instrument—a grant or a contract.[2] The legislative history indicates that Congress passed this act, in part, because the failure to distinguish between grants and contracts had led to both the inappropriate use of grants to avoid the requirements of the procurement system as well as to unnecessary red tape and administrative requirements for grants.[3]

Under the act, an agency must decide whether to use a grant or a contract based on the principal purpose of the award. If an agency is using federal funds to acquire property or services for the direct benefit of the federal government, it must award the funds as a contract.[4] On the other hand, the agency is to award a grant when the principal purpose of the award is to transfer a thing of value, usually funds, to a state or local government or

[1]For the purpose of this report, the term grants includes both grants and cooperative agreements.

[2]Pub. L. No. 95-224, 92 Stat. 3 (1978) now codified, as amended, at 31 U.S.C. §§ 6301-6308.

[3]See S. Rep. 95-449 (1977).

[4]The agency may also award a contract if it determines in a specific instance that the use of a procurement contract is appropriate.

other recipients to "carry out a public purpose of support or stimulation" authorized by law. However, the principal purpose of an award is not always clear because federal agencies, as well as others, may obtain incidental use or benefit from an award. In 1994, 1999, and 2002, EPA Inspector General reports questioned EPA's decision to award a discretionary grant instead of a contract.[5] These reports raised concerns about possible other instances in which EPA may have made improper award decisions and used discretionary grant money for services that should have been procured through contracts.

In this context, you asked us to determine (1) the trends over the last 11 years for EPA's expenditures on discretionary grants and contracts and the types of goods and services obtained by each and (2) the extent to which EPA has and follows procedures for deciding when to use grants or contracts.

To identify the funding trends in discretionary grants and contracts and the types of goods and services obtained by each, we analyzed EPA's data on grants and contracts for fiscal years 1993 through 2003. We interviewed and obtained documents from officials in EPA's Office of Grants and Debarment and its Office of Acquisition Management. We also conducted a Web-based survey of 237 randomly selected discretionary grant recipients whose grants were closed in fiscal years 2001 and 2002 and had project start dates after October 1, 1997. This sample was selected so that we could project the results to all grant recipients in the period we reviewed. We used survey results to identify the types of goods and services obtained by the grants. To determine the extent to which EPA has and follows procedures for deciding when to use either a grant or a contract, we (1) identified and discussed with EPA staff the policies, procedures, and guidelines that they have in place to make discretionary grant awards; (2) reviewed internal EPA management reviews and EPA Inspector General reports to find instances where discretionary grant awards or adherence to correct management procedures were questioned; (3) compared EPA's discretionary grant award policy with those of the nine largest granting agencies and spoke with their Inspectors Generals about award selection issues; (4) asked our survey respondents whether EPA was the direct

[5]EPA Office of Inspector General, *Audit of Cooperative T007356-01 Awarded to the University of Kansas* (Report Number: E1FMF4-19-0618-4100407, June 17, 1994); *Audit Report on the National Association of Minority Contractors* (Report Number: 1999-00213, Aug. 23, 1999); and *America's Clean Water Foundation Grant Allegation* (Memorandum Report No. 101386-2002-M-000005, Feb. 13, 2002).

beneficiary of the grant they received, and conducted telephone interviews with selected respondents to determine if there was evidence that EPA should have awarded a contract instead of a grant; and (5) performed in-depth file reviews of 67 grants, selected on the basis of survey responses, to determine if EPA was following its policies, procedures, and guidelines when choosing between a grant or a contract.

We conducted our review from January 2003 to February 2004 in accordance with generally accepted government auditing standards. Our scope and methodology are presented in appendix I.

## Results in Brief

EPA's funding for discretionary grants and contracts had similar trends from fiscal years 1993 through 2003, but sufficient and comparable data were not available to determine the specific goods and services EPA funded through discretionary grants and those it purchased through contracts. Funding for EPA discretionary grants and contracts decreased by 3 percent and 12 percent, respectively, between these fiscal years. This trend suggests that limited migration occurred between discretionary grant and contract funds in EPA's budget over this 11-year period. Although the trends show limited change, we could not distinguish more specifically between goods and services obtained through grants and contracts because EPA's databases have limited information on these goods and services. The data EPA provided to us had little information on goods and services obtained and cannot be compared with each other to determine whether activities once funded under contracts are now being funded under discretionary grants. Although EPA data provide limited information on goods and services obtained with discretionary grant funds, we estimate, based on our survey of discretionary grants, that the majority of goods and services fell into three categories: (1) research and development; (2) training, workshops, and education; and (3) journals, publications, and reports.

EPA has procedures to guide decisions on choosing a grant or a contract, but the agency often has not followed one of its most important procedures—documenting in its award decision memorandums the reasons for choosing a grant instead of a contract. We found that EPA's procedures are generally more specific than those of other federal agencies that award substantial grant funds. Specifically, EPA's procedures define staff roles and responsibilities, provide examples of when to use a grant or a contract, and require documentation in its award decision memorandum to justify the use of a grant instead of a contract. Although EPA's

procedures are more specific, we found that 64 percent, or 43 of the 67 decision memorandums we reviewed, did not fully justify the reason for choosing a grant instead of a contract. It is unclear whether this documentation shortcoming obscured inappropriate decisions to use grants instead of contracts. On the one hand, our survey results showed that 8 percent of EPA's discretionary grantees would identify EPA as the grant's primary and direct beneficiary. This estimate could suggest that the principal purpose of the award was to acquire property or services for EPA's direct benefit, and that EPA should therefore have awarded some grants as contracts. However, for those grant recipients we surveyed who identified EPA as the grant's primary and direct beneficiary, we could not determine from our file reviews and grantee interviews that the principal purpose of the award was to benefit EPA directly and that a contract should have been used instead. We found cases in which both EPA and the public benefited, and therefore the grant could arguably have been awarded as either a grant or a contract. For instance, we found that both EPA and the public benefited in the case of a grantee who used EPA funds to develop waste management standards that the private sector, state and local governments, and EPA and other federal agencies could use. Because an award may have multiple beneficiaries and the direct beneficiary of an award is not always easily discernible, it is important for EPA to carefully document its reasons for choosing a grant or a contract.

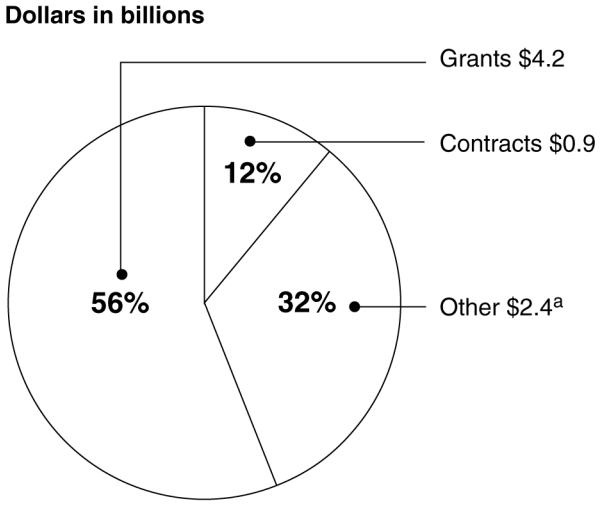
We are recommending that EPA consider ways to improve project officers' compliance with EPA's requirement to properly document in award decision memorandums the reasons for choosing a grant instead of a contract.

We provided a draft of this report to EPA for its review and comment. EPA stated that it agreed with and will implement our recommendation.

## Background

EPA used over two-thirds of its fiscal year 2003 budget on grants and contracts to carry out its environmental programs and obtain services. Out of an $7.6 billion fiscal year 2003 budget, EPA awarded $4.2 billion in grants and $934 million in contracts, as shown in figure 1.

**Figure 1: Grants and Contracts Awarded as a Percentage of EPA's Fiscal Year 2003 Budget**




Source: GAO analysis of EPA data.

[a]Other includes payroll and interagency agreements.

In fiscal year 2002, EPA made over 8,000 grant awards and amendments,[6] covering 72 separate grant programs to 4,100 grant recipients. EPA offers two types of grant programs—nondiscretionary and discretionary:

- For *nondiscretionary grants*, Congress directs awards to prospective recipients who meet specific eligibility criteria, often awarded on the basis of formulas prescribed by law or agency regulation. For example, nondiscretionary grants support water infrastructure projects, such as the drinking water and clean water state revolving fund program, and continuing environmental programs, such as the Clean Air Program for monitoring and enforcing Clean Air Act regulations. In fiscal year 2003, EPA awarded about $3.6 billion in nondiscretionary grants. EPA has awarded these grants primarily to states and other governmental entities.

[6]This information is the most current data available. The grant actions include new awards and increase and decrease amendments. The 8,070 grant actions for fiscal year 2002 involve funding comprised of 4,374 new grants, 2,772 increase amendments, and 924 decrease amendments. In addition, EPA awarded 1,620 no cost extensions, which did not involve funding, in fiscal year 2002.

- For *discretionary grants*, EPA has the legislative authority to independently determine the recipients and funding levels. These grants fund a variety of activities, such as environmental research and training. In fiscal year 2003, EPA awarded $656 million in discretionary grants. EPA awards these grants primarily to state and local government entities, nonprofit organizations, universities, and Native American tribes. In fiscal year 2003, EPA awarded about 40 percent of the discretionary grant dollars through program offices at EPA headquarters, while its 10 regional offices awarded the remaining 60 percent.

Additionally, at its own discretion, EPA took 6,745 total contract actions[7] totaling $934 million in fiscal year 2003. EPA contracting activities range from long-term clean-up and remediation support contracts under the agency's Superfund program, contracts to support research at EPA laboratories, contracts for management consultant services, and contracts for janitorial services and building maintenance.

With discretionary funding, EPA needs to choose the appropriate award instrument—a procurement contract, a grant, or a cooperative agreement. The Federal Grant and Cooperative Agreement Act of 1977 established governmentwide criteria that agencies must use in selecting the most appropriate award instrument. Specifically:

- *Procurement contracts* are to be used when "the principal purpose of the instrument is to acquire (by purchase, lease, or barter) property or services for the direct benefit or use of the United States Government," or when "the agency decides in a specific instance that the use of a procurement contract is appropriate."

- *Grant agreements* are to be used when "the principal purpose of the relationship is to transfer a thing of value to the [grant recipient] to carry out a public purpose of support or stimulation authorized by [federal law]," and when "substantial involvement is not expected between the executive agency and the [grant recipient] when carrying out the activity contemplated in the agreement."

- *Cooperative agreements* are to be used when "the principal purpose of the relationship is to transfer a thing of value to the [grant recipient] to

[7]Actions include new awards and modifications to existing awards.

carry out a public purpose of support or stimulation authorized by [federal law]," and when "substantial involvement is expected between the executive agency and the [grant recipient] when carrying out the activity contemplated in the agreement."

Under the act, grants and cooperative agreements are closely related to one another. The essential distinction between a grant and a cooperative agreement is the degree of federal involvement.

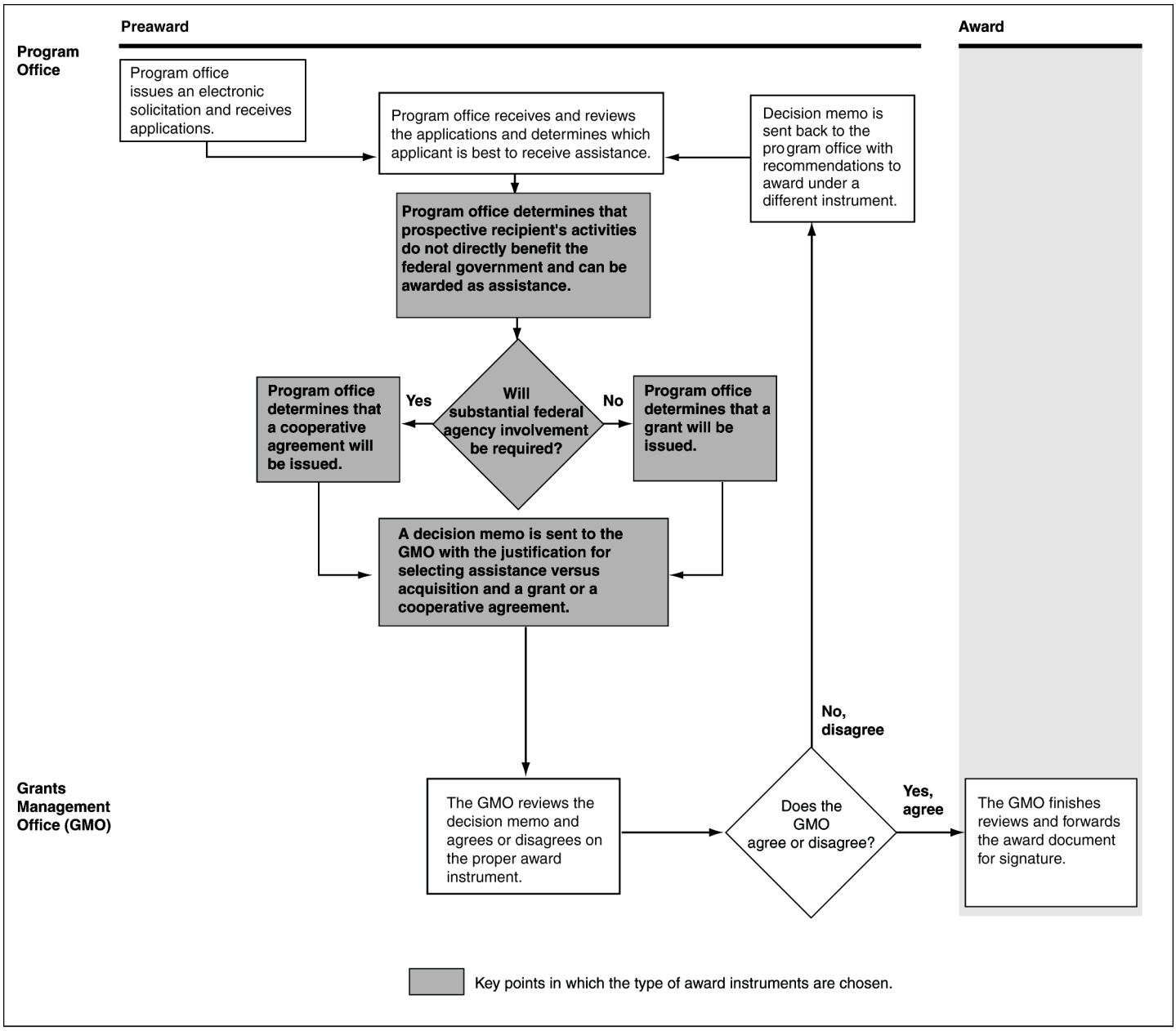
EPA Order 5700.1 is the agency's policy to implement the 1977 Act and guides EPA in its selection of the appropriate award instrument.[8] The order's purpose is "to clarify the criteria for and to achieve consistency in the selection and use of contracts, cooperative agreements and grants by all EPA offices and laboratories." According to the order, the decision to use a contract or an assistance agreement (a grant or a cooperative agreement) must be based solely on the principal purpose of the relationship, and EPA offices and laboratories must determine whether the government is the direct beneficiary or user of the activity. The order identifies activities that must be funded through a contract, such as activities that produce specific information that EPA will directly incorporate into technical, policy, or regulatory decisions, and activities that may be funded through an assistance agreement, such as state and local government cleanup of hazardous waste sites. The order also gives examples to clarify areas of ambiguity, such as which instrument to select to fund a conference when EPA may be attending, and what qualifies as substantial involvement in the selection of a cooperative agreement.

The order also specifies the roles and responsibilities of both EPA program and grants management offices, including the responsibilities of those personnel who handle funding and "technical, legal, and administrative evaluations." Additional project officer training guidance specifies that project officers at EPA headquarters and in regional program offices receive grant proposals resulting from agency advertisements and solicitations, or through a grantee's unsolicited proposal. Project officers are responsible for ensuring that grants meet technical and programmatic requirements. EPA's Office of Grants and Debarment develops agency grant policies and guidance, and, through its grants management offices at headquarters and in regions, is responsible for the administration and

[8]EPA Order 5700.1, *Policy for Distinguishing Between Assistance and Acquisition* (Mar. 22, 1994).

management of individual grants. Grants management offices work with project officers to evaluate whether individual grant proposals should be approved as a grant, a cooperative agreement, or referred to EPA's Office of Acquisition Management, which oversees agency contracting. Figure 2 describes the process that the EPA offices follow in choosing a grant or a contract.

**Figure 2: Roles and Responsibilities of EPA Offices in Selecting the Appropriate Award Instrument**




Source: EPA.

Note: The preaward process described above occurs when EPA competes a grant. However, when unsolicited proposals are received, an electronic solicitation is not issued and a noncompetitive award can be made based on the unique qualifications of the applicant.

To document compliance with the 1977 Act, EPA Order 5700.1 requires that a designated approval official sign a decision memorandum prepared by the responsible project officer verifying the selection of the appropriate award instrument.[9] Additional Office of Grants and Debarment guidance listed in its project officer training manual requires that the decision memorandum must include, among other items, the objectives of the project or program, the total amount of the award, and a brief justification why the award should be awarded as a grant or a cooperative agreement. Internal management reviews conducted by the Office of Grants and Debarment note that the justification should address the criteria identified in the order: principal purpose of the relationship, direct benefit or use, support or stimulation, and legislative authority to enter into a grant relationship.[10] In addition, if the award is to be a cooperative agreement, the memorandum must include a description of the substantial federal involvement. For proposals to fund conferences or Web sites, the Office of Grants and Debarment has developed separate, specific guidance for project officers to use in order to determine whether EPA is the direct beneficiary of the conference or Web-site proposal.

## Discretionary Grant and Contract Funding Have Had Similar Trends, but Existing Data Make It Difficult to Analyze Trends in Goods and Services

EPA's funding for discretionary grants and contracts have had similar trends from fiscal years 1993 through 2003, and this trend suggests there has been limited migration between discretionary grant and contract funds in EPA's budget over this period. However, the data EPA provided to us had little information on goods and services obtained and cannot be compared with each other to determine whether activities once funded under contracts are now being funded under discretionary grants. We estimate, on the basis of our survey responses from recipients of discretionary grants closed in fiscal years 2001 and 2002 and that had project start dates after October 1, 1997, that the majority of discretionary grants' goods and services fell into three categories: research and development; training, workshops, and education; and journals, publications, and reports. A large number of grants were also used to fund conferences and smaller presentations and meetings. Although fewer in number, discretionary

[9]These officials include the approval official who has the responsibility and authority for determining whether to fund or reject an application for technical or programmatic reasons, and the award official who signs the assistance agreement ensuring that all technical, legal, and administrative evaluations have been made and that the proposed agreement is awardable.

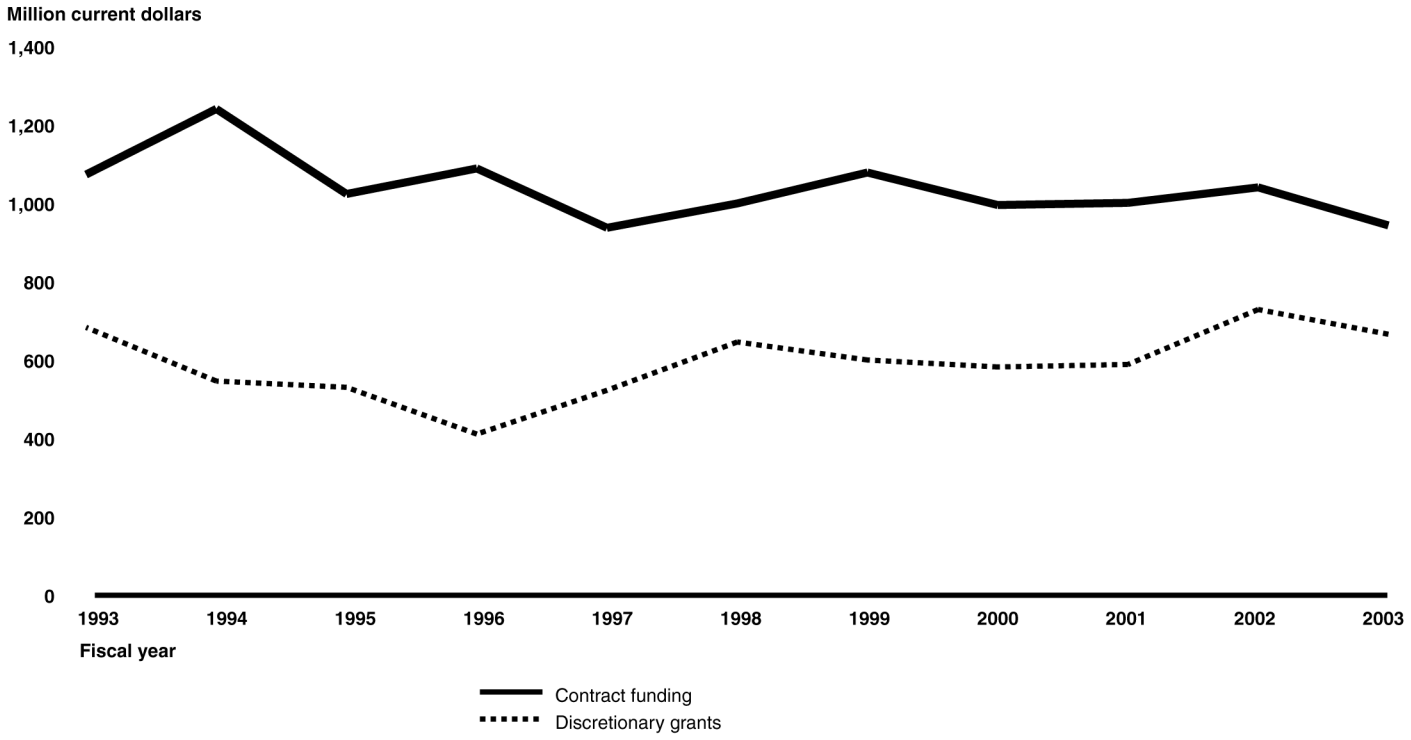
[10]Section 6 of EPA Order 5700.1.

grants used for cleanup and monitoring activities, such as support for state leaking underground storage tank programs, made up one of the largest dollar categories of discretionary grant funding for any spending category we identified.

## EPA Discretionary Grants and Contracts Have Had Similar Trends

For fiscal years 1993 through 2003, both discretionary grant and contract spending show similar trends, as figure 3 shows. Both the overall and annual trends suggest there has been limited migration between discretionary grant and contract funds in EPA's budget over this period.

**Figure 3: Trends in EPA Discretionary Grant and Contract Funding, Fiscal Years 1993 through 2003**




Source: GAO analysis of EPA data.

In total, EPA funded $6.4 billion in discretionary grants and $11.3 billion in contracts over the 11-year period. For discretionary grants, annual funding decreased by $18 million over the period, from $674 million to $656 million; annual funding for contracts decreased by $130 million, from $1.06 billion

to $934 million—decreases of 3 and 12 percent, respectively. See table 7 in appendix II for annual funding levels for EPA discretionary grants and contracts for fiscal years 1993 through 2003. Table 8 in appendix II shows annual funding levels for EPA discretionary grants at EPA headquarters and regional offices for fiscal years 1993 through 2003.

## EPA Databases Make It Difficult to Identify Trends in the Use of Grants and Contracts to Obtain Goods and Services

EPA's databases do not provide sufficient information to identify and track specific goods and services obtained with grants and contracts. EPA currently uses two databases for grant management purposes—the Grants Information and Control System (GICS) and the Integrated Grants Management System (IGMS). Both databases are useful for retrieving information about specific grants, but neither is useful in analyzing the kinds of goods and services funded by discretionary grants. For our grant analysis, EPA was able to query these databases by Catalog of Federal Domestic Assistance (the catalog) program codes.[11] As shown in table 1, the catalog codes provide little information on goods and services obtained through discretionary grants because single codes can encompass broad miscellaneous groupings of goods and services, and several codes have been merged with other codes between fiscal years 1993 and 2003.

[11]The Catalog of Federal Domestic Assistance is a governmentwide compilation of federal programs, projects, services, and activities that provide assistance or benefits to the American public.

**Table 1: EPA Discretionary Grant Funding by Catalog Code, Fiscal Years 1993 and 2003**

Million current dollars

| Catalog code | Description | FY93 amount | FY03 amount |
|---|---|---|---|
| 66.606 | Surveys, Studies, Investigations, and Special Purpose Grants | $135 | $48 |
| 66.500 | Consolidated Research Grants | 40 | 80 |
| 66.802 | Superfund State Site Specific Cooperative Agreements | 182 | 56 |
| 66.508 | Senior Environmental Employment Program | 45 | 54 |
| 66.805 | Leaking Underground Storage Tank Trust Fund Program | 17 | 53 |
| 66.811 | Brownfield Pilots Cooperative Agreements | 0 | -1 |
| 66.607 | Training and Fellowship Grants | 12 | 11 |
| 66.501 | Air Pollution Control Research | 64 | 0 |
| 66.809 | Superfund State Core Program Cooperative Agreements | 14 | 10 |
| 66.471 | State Grants to Reimburse Operators of Small Water Systems for Training and Certification Costs | 0 | 67 |

Source: GAO analysis of EPA data.

In 6 of the 11 fiscal years, EPA program offices awarded the most EPA discretionary grant funds under a miscellaneous catalog code, 66.606, called Surveys, Studies, Investigations, and Special Purpose Grants. This code also received the most funds overall during the 11-year period, or $1.4 billion. Because this code is not program-specific, it provided limited use in drawing conclusions about goods and services obtained under this code. In 2002, the EPA Inspector General found that EPA could have awarded many of its assistance agreements under a program-specific catalog code, rather than the miscellaneous 66.606 code, that would better link activities to measurable assistance agreement outcomes.[12] EPA substantially reduced its use of this code in 2003. In addition, several grant programs were merged under new catalog codes. As shown in table 1, discretionary grant funding under the Consolidated Research Grants program code rose, but this increase occurred because the code subsumed the Air Pollution Control Research and Water Protection Consolidated Research program codes. The Consolidated Research Grants program code is also a generic, miscellaneous catalog code and provides little information on the specific

[12]EPA Office of Inspector General, *Surveys, Studies, Investigations, and Special Purpose Grants* (Report Number: 2002-P-00005, Mar. 21, 2002).

goods and services obtained under it. In fiscal year 2003, EPA awarded $128 million, or 20 percent of its discretionary grant dollars, under these two miscellaneous catalog codes. See table 9 in appendix II for EPA discretionary grant funding by catalog code from fiscal years 1993 through 2003.

Regarding contracts, we could not analyze trends for fiscal years 1993 through 2003 of goods and services EPA obtained through contracts. EPA's contract data come from the Federal Procurement Data System, which changed its industrial coding categories in 1997, and EPA adopted these changes in 2001. The original coding categories came from the Small Business Administration—the Standard Industrial Classification (SIC) codes. The Federal Procurement Data System then switched to the North American Industrial Classification System (NAICS) codes.[13] However, SIC codes categorize goods and services differently than NAICS codes, and therefore we could not compare goods and services purchased for the 11-year period. Moreover, because EPA's database could only provide data for major SIC and NAICS codes, we could not determine, except in a general way, the goods and services EPA obtained through contracts under these codes.[14]

For the SIC codes, we found that four codes comprised 93 percent of all contract spending for the period of fiscal years 1993 through 2000. Table 2 shows selected year data for these codes. As the table shows, Engineering, Accounting, Research, Management, and Related Services was consistently the highest category of contract spending. This category accounted for 58 percent of the total contract spending for the period.

[13]SIC codes were established in the 1930s and categorized businesses by the products or services they made available. The four-digit SIC codes included 1,004 industries and were updated over the years, with the last update occurring in 1987. Beginning in 1997, SIC codes were replaced by NAICS codes. The six-digit NAICS codes include 1,170 industries and classify businesses based on the production or process they use. NAICS codes allow for comparison between the United States, Canada, and Mexico.

[14]The largest SIC code, 87, had 13 subcodes under it, while the largest NAICS code, 541, has 46 subcodes under it.

**Table 2: EPA Contract Funding by SIC Code, Fiscal Years 1993 and 2000**

Million current dollars

| SIC code | Description | FY93 amount | FY00 amount |
|---|---|---|---|
| 87 | Engineering, Accounting, Research, Management, and Related Services | $542 | $593 |
| 73 | Business Services | 107 | 170 |
| 89 | Services, Not Elsewhere Classified[a] | 195 | 115 |
| 49 | Electric Gas and Sanitary Services | 162 | -3 |

Source: GAO analysis of EPA data.

[a]Examples of Services, Not Elsewhere Classified, are services provided by authors, lecturers, radio commentators, songwriters, weather forecasters, writers, and artists working on their own account.

Similarly, our analysis of NAICS codes shows that four codes accounted for 90 percent of the contract spending for fiscal years 2001 and 2003. Table 3 shows the five highest dollar contract spending codes for these fiscal years.

**Table 3: EPA Contract Funding by NAICS Code, Fiscal Years 2001 and 2003**

Million current dollars

| NAICS code | Description | FY01 amount | FY03 amount |
|---|---|---|---|
| 541 | Professional, Scientific, and Technical Services | $454 | $449 |
| 561 | Administrative and Support Services | 333 | 251 |
| 514 | Information Services and Data Processing Services | 87 | 33 |
| 562 | Waste Management and Remediation Services | 16 | 103 |
| 513 | Broadcasting and Telecommunications | 42 | 23 |

Source: GAO analysis of EPA data.

See tables 10 and 11 in appendix II for EPA contract funding by SIC code (fiscal years 1993 through 2000) and NAICS code (fiscal years 2001 through 2003).

## Most Grant Funds Were Used for Education, Research, and Publications

On the basis of our survey responses, we estimate that of all the goods and services indicated by grant recipients, 59 percent were in three categories: (1) research and development; (2) training, workshops, and education; and (3) journals, publications, and reports. These three categories accounted for the majority of grant funds, but we identified a total of eight categories from the survey responses, as shown in table 4. Although these results provide more information than catalog codes on goods and services, they only apply to discretionary grants closed out in fiscal years 2001 and 2002 that had project start dates after October 1, 1997. Discretionary grants used for cleanup and monitoring activities, such as support for state leaking underground storage tank programs, make up one of the largest dollar categories of discretionary grant funding of the spending categories we identified. We estimate that 15 percent of grants fall into this category, accounting for $56 million of the estimated $209 million[15] spent on grants closed in fiscal years 2001 and 2002 that had project start dates after October 1, 1997.

**Table 4: Types of Goods and Services Reported by Surveyed Discretionary Grant Recipients**

| Type of goods or services | Percentage of grants listing this category of deliverable | Estimated dollars for deliverable category (in millions) |
|---|---|---|
| Training, workshops, and education | 34 | $40[b] |
| Research and development | 24 | 67[a] |
| Journals, publications, and reports | 20 | 54[a] |
| Cleanup, monitoring, and site assessment | 15 | 56[a] |
| Meetings, conferences, and presentations | 15 | 27[b] |
| Project support and assistance | 10 | 19[c] |
| Web sites | 7 | 14[c] |
| Other | 8 | 18[b] |

Source: GAO analysis of survey responses.

Note: Percentage totals are greater than 100 and dollar totals are more than the $209 million estimate because many grants provided more than 1 good or service.

[a]Sampling error is between one-fourth and one-third of the value of this estimate.

[b]Sampling error is between one-third and one-half of the value of this estimate.

[c]Sampling error is between 60 and 70 percent of the value of this estimate.

[15]The sampling error associated with the $209 estimate is plus or minus $26 million.

Table 12 in appendix II provides a more detailed description of the goods and services under the categories listed in table 4.

Although we were able to identify and categorize goods and services from survey responses, we could not link these to environmental results. According to EPA's Grants Management Plan, released April 2003, the agency plans to link grant performance to achievements of the agency's five performance goals: clean air, clean and safe water, preserve and restore the land, healthy communities and ecosystems, and compliance and environmental stewardship. To implement this initiative, the agency planned to issue policy guidance to ensure that all grant work plans, decision memorandums, and/or terms of condition include environmental outcomes and how to measure them in 2003. On January 14, 2004, EPA's Office of Grants and Debarment issued an interim policy order requiring program offices to include a discussion of how a proposed project or program supports the goals of EPA's Strategic Plan in funding packages submitted to the grants management offices, on or after February 9, 2004. Office of Grants and Debarment officials told us that they expected the final policy order to be issued in October 2004.

## EPA Generally Has More Specific Procedures Than Other Federal Agencies but Often Does Not Adequately Document Its Reasons for Choosing a Grant or a Contract

EPA has procedures to guide decisions on choosing a grant or a contract, but often has not followed one of its most important procedures—documenting in its award decision memorandums the reasons for choosing a grant instead of a contract. We found that EPA's procedures are generally more specific than those of other federal agencies that award substantial grant funds. Although EPA's procedures are more specific, in our detailed review of 67 EPA grant and cooperative agreement awards, we found that EPA often did not follow its requirements for documenting its decision on why it chose to award a grant instead of a contract. It is unclear whether this documentation shortcoming obscured inappropriate decisions to use grants instead of contracts. On the one hand, on the basis of our survey results, we estimate that 8 percent of EPA's grantees would identify EPA as the grant's primary and direct beneficiary. This estimate could suggest that the principal purpose of the award was to acquire property or services for EPA's direct benefit, and that EPA should therefore have awarded some grants as contracts. However, for those grant recipients we surveyed who identified EPA as the grant's primary and direct beneficiary, we could not determine from our file reviews and grantee interviews that the principal purpose of the award was to benefit EPA directly and that a contract should have been used instead. We found that both EPA and the public benefited, as in the case of a grantee who used EPA funds to develop waste

management standards that the private sector, state and local governments, and EPA and other federal agencies could use. Because the principal purpose of an award is not always clear, it is important for EPA to carefully document its reasons for choosing a grant or a contract.

## EPA's Award Policy and Procedures Are Generally More Specific Than Other Agencies

EPA's policy and procedures to select the appropriate award instrument are generally more specific than those of other federal agencies that award substantial grant funds. See table 14 in appendix IV for more detailed information. As shown in table 5, our analysis of the award policies and guidance of the top 10 federal grant-making agencies[16] shows that EPA's policy on the selection of a funding instrument met all nine of the features we used to compare agencies' policies for determining whether to award a grant, a cooperative agreement, or a contract.

[16]The 10 largest granting agencies in fiscal year 2002 were the Department of Health and Human Services, the Department of Transportation, the Department of Education, the Department of Housing and Urban Development, the Department of Agriculture, the Department of Labor, the Department of Justice, EPA, the National Science Foundation, and the Federal Emergency Management Agency. Table 13 in appendix IV lists the total grant and discretionary grant dollars for these agencies for fiscal year 2002.

**Table 5: Comparison of EPA's Award Instrument Policy and Guidance with Other Top Grant-Making Agencies**

| Policy/Guidance feature | Number of other agencies with the policy/guidance feature | Feature included in EPA's policy/guidance? |
|---|---|---|
| **Guidance to clarify selection of award instrument** | | |
| Includes examples of when to award a grant or a cooperative agreement instead of a contract. | 8 | Yes |
| Includes examples of when to award a grant instead of a cooperative agreement. | 7 | Yes |
| Provides guidance for using intermediaries that will, in turn, use the funding to award subgrants and subcontracts. | 7 | Yes |
| Provides guidance for awards for conferences. | 4 | Yes |
| Provides guidance about funding of evaluations and studies. | 3 | Yes |
| Provides guidance for in-kind, instead of monetary, assistance. | 3 | Yes |
| **Descriptions of roles and responsibilities** | | |
| Outlines roles and responsibilities of grants management and program staff specifically relating to selection of the award instrument. | 4 | Yes |
| **Internal control documentation requirements** | | |
| Requires statement of substantial involvement to justify the use of cooperative agreements. | 3 | Yes |
| Requires documentation to justify the selection of the award instrument. | 2 | Yes |

Source: GAO analysis of top grant-making agencies' policies.

EPA Order 5700.1 includes the following features:

- the use of an internal control mechanism (decision memorandum) to document the appropriate selection of a grant or a contract award instrument;
- the roles and responsibilities of grants management and program personnel in selecting and approving the appropriate award instrument;
- the statement that the type of recipient does not determine the award instrument;

- specific guidance and examples on handling awards for conferences and subgrantees and "in-kind" assistance;
- the use of examples for awarding a grant, a cooperative agreement, or a contract; and
- the use of case-study material to supplement the examples and provide additional guidance.

Although not included in the order, additional EPA Office of Grants and Debarment guidance requires that the decision memorandum must include a description of the substantial involvement when a cooperative agreement is selected. Each of the agencies' policy features is discussed in greater detail in table 14 of appendix IV.

## EPA Does Not Always Fully Document Its Justifications for Decisions to Award Grants or Cooperative Agreements

EPA's award policy requires a decision memorandum to document the selection of an award instrument, but our review of 67 decision memorandums showed that EPA often did not follow the award documentation requirements, as identified in order 5700.1 and the project officer training manual, and further expanded upon in internal management reviews conducted by the Office of Grants and Debarment. Table 6 summarizes the problems we found with EPA award documentation from grant and cooperative agreement awards made at EPA headquarters and six EPA regional offices.

**Table 6: Problems Identified in EPA's Decision Memorandums**

| | Award instrument | | | | | | |
|---|---|---|---|---|---|---|---|
| | Grants (number reviewed) | | | Cooperative agreements (number reviewed) | | | |
| **Problem identified** | **Headquarters (15)** | **Regions (19)** | **Subtotal (34)** | **Headquarters (19)** | **Regions (14)** | **Subtotal (33)** | **Total (67)** |
| Decision memorandum was missing from grant and project officer file | 0 | 1 | **1** | 0 | 0 | **0** | **1** |
| Decision memorandum did not identify statutory authority for grant or cooperative agreement | 0 | 6 | **6** | 1 | 1 | **2** | **8** |
| Inadequate justification for grant versus contract in decision memorandum | 9 | 16 | **25** | 6 | 12 | **18** | **43** |
| Missing description of substantial federal involvement in decision memorandum | [a] | [a] | **[a]** | 13 | 13 | **26** | **26** |
| Missing signature of Award Official on decision memorandum | 1 | 1 | **2** | 0 | 0 | **0** | **2** |

Source: GAO analysis of file review information.

Note: From the responses we received from our survey of EPA grant recipients, we selected 67 grant files to review based on responses to survey questions. We reviewed award decision memorandums at EPA headquarters and six EPA regions—Regions 1, 3, 4, 5, 7, and 10.

[a]A description of substantial federal involvement is not required for grant awards.

Sixty-four percent, or 43 of the 67 decision memorandums reviewed, lacked adequate justification for selecting a grant instead of a contract at EPA headquarters and EPA regional offices. The decision memorandums did not fully address the criteria identified by EPA. These criteria include the principal purpose of the relationship, direct benefit or use, support or stimulation, and the legislative authority to enter into a grant relationship. Frequently, the justification used boilerplate language from EPA's award policy citing that EPA was not the direct beneficiary of the award and that the grant was meant for a public purpose. Additionally, 84 percent, or 26 of the 33 decision memorandums reviewed for cooperative agreements, did not include justification for the award of a cooperative agreement instead of a grant, as required by EPA's guidance, or the justification was not specific. These justifications were usually missing from the decision memorandums completely or simply stated that EPA would be substantially involved in carrying out the award without detailing the type

or degree of involvement.[17] Of the four grants we reviewed from one EPA region, none of the decision memorandums associated with the grant awards identified the statutory authority for making the award. For two awards, the appropriate signature was missing on the decision memorandums.

Internal reviews conducted by the Office of Grants and Debarment's Grants Administration Division identified similar problems with documentation in award decision memorandums. According to a July 2003 internal management review of EPA Region 9, many of the memorandums did not fully explain the link between the statutory authority being selected and the specific grantee activities. Furthermore, almost all of the decision memorandums used a formula statement for the justification, rather than the criteria referenced in section 6 of order 5700.1. The management review stated that the justification should address the criteria referenced in section 6 of the order, which it identified as the principal purpose of the relationship, direct benefit or use, support or stimulation, and the legislative authority to enter into a grant relationship. Internal management reviews of Regions 5 and 4, in July and August 2003, respectively, found similar problems with the regions' award decision memorandums and stated that the decision memorandums should address the criteria referenced in section 6 of the order. The Grants Administration Division recommended that the Assistant Regional Administrator for Management in these regions strengthen the justifications for "contracts versus grants" and "statutory authority" with respect to discretionary grants. Internal review staff in the Office of Grants and Debarment with whom we spoke noted that although their reviews found documentation problems, they found no evidence that any grants should have been awarded as contracts.

Although EPA's Office of Grants and Debarment has raised concerns about the lack of documentation in decision memorandums and made recommendations to strengthen them, officials in the Office of Grants and Debarment told us that the decision memorandum does not always reflect the full level of consideration given to the grant or contract issue because the decision memorandum is written by the project officer prior to the review by the grants management office. For example, after reviewing the

[17]Office of Grants and Debarment officials told us that the programmatic conditions section of the assistance agreement provides documentation that details the level of EPA involvement in the cooperative agreement.

decision memorandum, grants specialists in the Office of Grants and Debarment may request that the project officer provide clarifying information. Office of Grants and Debarment staff told us that evidence of the grant or contract discussions is often found elsewhere in the project file, such as in revisions in the recipient's work plan or in clarifying e-mails sent back-and-forth between the project officer and the grants specialist during the review process. They told us that they consider these clarifying e-mails and other documentation as an addendum to the decision memorandum, and that the decision memorandum is not always rewritten to reflect this process or any additional information that is developed. Finally, according to Office of Grants and Debarment officials, beginning in April 2004, EPA regions will be required to attach or enter documentation electronically justifying their decision to award a grant or a cooperative agreement instead of a contract, and headquarters offices are scheduled to begin this practice by the end of 2006.

## Follow-up Analysis of Survey Results Shows That Both EPA and the Public Benefited from Some Grants

We estimate that 88 percent of EPA's grant recipients would identify the general public or entities other than EPA as the grant's primary beneficiary, and that 8 percent would identify EPA. Specifically, we estimate that grant recipients would identify the primary beneficiary of their grants as the following:

- 33 percent—general public;
- 8 percent—EPA;
- 13 percent—schools and universities;
- 10 percent—other audiences;
- 9 percent—state agencies;
- 7 percent—grant recipient;
- 6 percent—research and academic communities;
- 6 percent—business or private sector;
- 3 percent—Indian tribes;
- 1 percent—nonprofit organizations; or

- 4 percent—don't know, or no response.

To determine whether EPA was the direct and primary beneficiary as the respondents had indicated,[18] we reviewed EPA's grant and project officer files for 20 grants and conducted interviews with those grant recipients. These recipients noted that while EPA benefited from the grant, other entities benefited as well. Our file reviews confirmed this statement. As EPA's policy notes, there may be some cases in which EPA expects to derive some incidental use or benefit from funded activities. Such incidental use or benefit does not preclude a grant award when the principal purpose is public support or stimulation. Although some of these grants could arguably be described as having a principal purpose of acquiring property or services for the direct benefit or use of EPA, in which case a contract would have been the award instrument, we could not make this determination from our review of the files or grant recipient interviews.

For instance, in 1998, EPA awarded a noncompetitive cooperative agreement to an international nonprofit organization that develops voluntary waste management standards that are used worldwide by industry, regulatory bodies, and individuals. According to award documents and the award recipient, the main purpose of the award was to assist EPA in developing waste management standards that could be incorporated into EPA's Resource Conservation and Recovery Act Program,[19] and which could also be used by federal, state, and local regulatory bodies; industry; and individuals.

During EPA's internal review of the justification contained in the decision memorandum for the award, questions arose as to whether funding the proposed project as a cooperative agreement rather than a contract would violate provisions of the 1977 Act. Subsequent review by EPA legal counsel found that since the proposal focused on developing standards that could be used by both the public and private sector, a case could be made that federal use would be incidental to the principal public purpose of support and stimulation, and awarding the project as a cooperative agreement

[18]We did not review grant and project officer files or conduct grant recipient interviews for 3 of the respondents that identified EPA as a grant's primary beneficiary because they identified parties other than EPA as the grant's direct beneficiary.

[19]The Resource Conservation and Recovery Act provides legislative authority for EPA's solid and hazardous waste management programs.

could be justified. However, EPA legal counsel also pointed out that to fund the project as a cooperative agreement, reference to EPA direct use and benefit would have to be removed from the decision memorandum because "Technical materials that EPA uses to set guidelines or to prepare EPA guidance documents or manual must be obtained under a contract. EPA Order 5700.1, p. 10." As such, EPA would have to delete portions of the memorandum that stated "These standards will form a nucleus from which OSWER[20] will develop updated sampling guidance for inclusion in Chapter Nine of 'Test Methods for Evaluating Solid Waste, Physical/Chemical Methods', (SW-846), the RCRA test methods manual." EPA staff modified the decision memorandum accordingly and awarded the project as a cooperative agreement. The EPA project officer acknowledged that EPA could have funded the project as a contract, but the agency instead took the steps necessary to award the project as a cooperative agreement because it was "a faster process."

In another instance, in 1999, EPA awarded a cooperative agreement to a state Department of Environmental Quality (DEQ) to develop a wet-weather monitoring program for a watershed within that state. According to the award recipient, the state and the public benefited from this project, as well as EPA. However, EPA was under court order to develop Total Maximum Daily Loads (water quality indicators) for the watershed involved and instead opted to award a cooperative agreement to the state to perform this work for them. The state DEQ did not actually perform the work involved but subcontracted the project to a state university laboratory. Our review of project files confirmed that EPA was not the only beneficiary of this project, but EPA might otherwise have chosen to contract directly with the university laboratory involved for the performance of this work.

According to officials we interviewed at the Office of Management and Budget (OMB), OMB does not review agencies' policies implementing the 1977 Act. These officials stated that agencies have latitude to interpret the act.

## Conclusions

Although EPA has specific guidance to implement the Federal Grants and Cooperative Agreement Act, our review showed that EPA often did not

[20]This term refers to EPA's Office of Solid Waste and Emergency Response.

follow its own requirements for adequately documenting in its decision memorandums the reasons for choosing a grant or a cooperative agreement instead of a contract. Because an award may have multiple beneficiaries and the direct beneficiary of an award is not always easily discernible, it is important for EPA to fully document in its decision memorandums its reasons for choosing a grant or a contract.

## Recommendation for Executive Action

We recommend that the Administrator of EPA consider ways to improve project officers' compliance with EPA's requirement to properly document in award decision memorandums the justification for using a grant or a cooperative agreement instead of a contract.

## Agency Comments

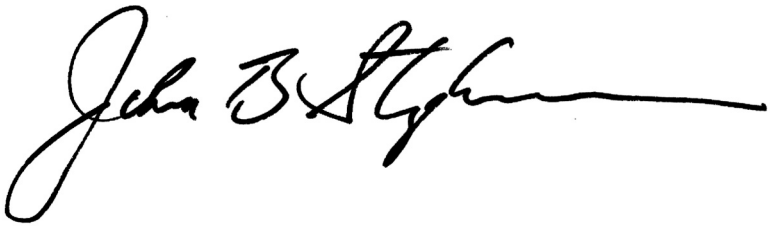
We provided a draft of this report to EPA for comment. In response, we received oral comments from EPA officials, including the Director of the Office of Grants and Debarment. EPA officials agreed with the recommendation in our draft report and stated that they have already begun to take steps to implement it. Furthermore, EPA officials commented that they were pleased that we did not find any instances where a contract should have been awarded instead of a grant. EPA officials also commented that our review of decision memorandum documentation did not reflect the full level of consideration given by EPA when deciding whether to use a grant instead of a contract. While we included language in this report to reflect EPA's comment regarding the full level of consideration given to the decision, both EPA and we have found and agree that the decision memorandum documentation justifying the use of a grant instead of a contract needs strengthening. Finally, EPA provided some clarifying comments that we incorporated into this report, as appropriate.

As agreed with your office, unless you release its contents earlier, we plan no further distribution of this report until 30 days from its issuance date. At that time, we will send copies of this report to the appropriate congressional committees; interested Members of Congress; the Administrator, Environmental Protection Agency; and other interested parties. We will also make copies available to others on request. In

addition, the report will be available at no charge on the GAO Web site at http://www.gao.gov.

Should you or your staff need further information, please call me at (202) 512-3841. Key contributors to this report are listed in appendix V.

Sincerely yours,



John B. Stephenson
Director, Natural Resources and Environment

# Objectives, Scope, and Methodology

Our objectives were to determine (1) the trends over the last 11 years on the Environmental Protection Agency's (EPA) expenditures on grants and contracts and the types of goods and services obtained by each and (2) the extent to which EPA has and follows procedures for deciding when to use grants or contracts.

Initially, we conducted a literature search to identify reports, studies, legislation, and other documents relevant to EPA's grant versus contract management. Our work was closely coordinated with EPA's Office of Inspector General (OIG) to prevent duplication with ongoing OIG efforts. To achieve our first objective, we interviewed and obtained documents from officials in EPA's Office of Grants and Debarment and Office of Acquisition Management (OAM). These offices provided grant and contract award data to us for fiscal years 1993 through 2003. The grant trend data were pulled from EPA's Grants Information Control System (GICS) and their Integrated Grants Management System (IGMS). The contract trend data were pulled from the Federal Procurement Data System. We assessed the reliability of these databases by reviewing existing information and documentation about the data and the systems that produced them, and by interviewing Office of Grants and Debarment and OAM officials who were knowledgeable about the data and the checks and procedures used internally to verify data reliability, particularly with regard to financial information. Based on this information, we determined that these data were sufficiently reliable for the purposes of our report.

EPA's data were used to develop overall financial trends for grant and contract awards for fiscal years 1993 through 2003. Grant financial trends by Catalog of Federal Domestic Assistance (CFDA) codes were also developed for the 11-year period. However, contract financial trends could only be developed for fiscal years 1993 through 2000. For these years, EPA classified contract awards by Standard Industrial Classification (SIC) codes. These four-digit codes included 1,004 industries and classified businesses by the products or services they made available. Beginning in fiscal year 2001, EPA adopted the new North American Industrial Classification System (NAICS) codes. These six-digit codes included 1,170 industries and classified businesses based on the production or processes used. Consequently, contract data for fiscal years 2001 through 2003 were not comparable with previous years. It was also not possible to develop trends regarding the specific goods and services obtained under EPA grants for the 11-year period because EPA's automated databases do not track awards in this manner.

To determine the extent to which EPA has and follows procedures for deciding when to use either a grant or a contract, we reviewed the congressional hearing report covering the introduction and passage of the Federal Grant and Cooperative Agreement Act of 1977, provisions in the act itself, associated EPA implementation guidance such as EPA Order 5700.1, and the EPA Project Officer Training Manual. We also contacted EPA's OIG and obtained and discussed past OIG reports regarding EPA grant versus contract management issues.

To obtain a comparison of EPA's grant versus contract award policies and procedures with those of other federal agencies, we compared the award policies and guidance of the 10 federal agencies across the federal government that obligated the highest dollar value of assistance awards in fiscal year 2002 with requirements spelled out in the 1977 Act. EPA ranked seventh in fiscal year 2002, with $4.2 billion in grant obligations. We then compared provisions of each agency's policies with one another. The results of this comparison are summarized in table 5. We also sent a standard set of questions to grant managers and Inspector Generals at each of these 10 agencies that asked them to identify all implementation issues identified in their agencies' award policies.

To help determine EPA compliance with provisions in the 1977 Act, as well as its own implementation guidance in selecting discretionary grants versus contracts, we drew a stratified random probability sample of 237 discretionary grants from a population of 2,163 discretionary grants for which the grant amount, according to EPA, was a positive dollar amount, and which was thought to represent all discretionary grants that had project start dates after October 1, 1997, and closed in fiscal years 2001 and 2002. Grants were stratified by whether they were issued by EPA headquarters or by an EPA regional office, and then by dollar amount. After the sample was selected, we found that some of the grants in the sample were earmark grants and were out of scope for this study. Also, we were unable to obtain information for a small portion of the remaining discretionary grants. We were ultimately able to analyze data from 174 discretionary grants. With this statistically valid probability sample, each discretionary grant in the study population had a nonzero probability of being included, and that probability could be computed for every grant. Each sampled discretionary grant was subsequently weighted in the analysis to account statistically for all discretionary grants in the study population, including those that were not selected. The study population data were drawn from EPA's IGMS. We assessed the reliability of the IGMS data by (1) reviewing existing information and documentation about these

data and the system that produced them, (2) interviewing EPA officials who were knowledgeable about these data, (3) performing electronic testing of the required elements, and (4) comparing grant recipient responses about the type of grant they received with the information in the database. Based on this information, we determined that these data were sufficiently reliable for the purposes of our report.

Because we followed a probability procedure that was based on random selections, our sample is only one of a large number of samples that we might have drawn. Since each sample could have provided different estimates, we express our confidence in the precision of our particular sample's results as 95 percent confidence intervals (e.g., +/- x percentage points). These are intervals that would contain the actual population value for 95 percent of the samples we could have drawn. As a result, we are 95 percent confident that each of the confidence intervals in this report will contain the true values in the study population. All percentage estimates from the file review have sampling errors (widths of 95 percent confidence intervals) of +/- 10 percentage points, unless otherwise noted.

To obtain grantee information regarding the grant sample selections, we developed a Web-based survey. We met with EPA headquarters officials and spoke with an EPA OIG official in developing the survey and pretested the survey with six grantees. These grantees were judgmentally selected to ensure coverage of large and small awards, headquarters- and field-awarded grants, and type of grant recipient. We asked these recipients to complete the survey over the Internet while we monitored their responses and checked for their understanding of each question. After completion of the pretest, we interviewed the respondents to ensure that (1) the questions were clear and unambiguous, (2) the terms that we used were precise, (3) the survey did not place an undue burden on the recipients completing it, and (4) the survey was independent and unbiased. Technical corrections and adjustments were made to the survey based on the feedback we received. Grantees selected by our random sample were then contacted by telephone and e-mail. Information about accessing the survey was provided in a second e-mail, the survey was activated, and recipients were informed of its availability on July 18, 2003. The survey remained available until December 31, 2003. To ensure security and data integrity, each recipient was provided with a unique user name and password. No one else could access that survey or edit its data. We also provided recipients with a pledge of confidentiality to ensure their candor in completing the survey. Of the 237 grantees surveyed, 213 were eligible sample cases. We used the results of 174, or 82 percent, of those responses

to make population estimates. The results of our survey are summarized in appendix III.

EPA project officer and grant specialist files were obtained and reviewed for 67 cases in which grantee responses indicated the possible existence of a contract versus a grant award relationship. To verify/clarify these responses, follow-up telephone interviews were conducted with 20 respondents who had identified EPA as the primary beneficiary of the award and/or indicated that EPA had directed purchases under the award, directed work outside the scope of the original grant work plan, and/or had passed on more than 75 percent of the awarded funds to subcontractors.

# Information on Funding and Goods and Services Obtained from EPA Discretionary Grants

**Table 7: EPA Grant and Contract Funding, Fiscal Years 1993 through 2003**

Million current dollars

| | FY93 | FY94 | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 | FY01 | FY02 | FY03 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| Nondiscretionary grants | $2,850 | $2,014 | $3,609 | $2,452 | $2,287 | $3,559 | $3,451 | $3,571 | $3,551 | $3,496 | $3,589 | **$34,429** |
| Discretionary grants | 674 | 537 | 521 | 402 | 513 | 637 | 591 | 573 | 579 | 719 | 656 | **6,402** |
| Contract funding | 1,064 | 1,231 | 1,014 | 1,079 | 928 | 990 | 1,069 | 986 | 992 | 1,031 | 934 | **11,318** |
| **Total** | **$4,588** | **$3,782** | **$5,144** | **$3,933** | **$3,728** | **$5,186** | **$5,111** | **$5,130** | **$5,122** | **$5,246** | **$5,179** | **$52,149** |

Source: EPA.

**Table 8: Discretionary Grant Funding by EPA Regions and Headquarters, Fiscal Years 1993 through 2003**

Million current dollars

| Region/HQ | FY93 | FY94 | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 | FY01 | FY02 | FY03 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 1 | $8.6 | $13.8 | $14.5 | $12.2 | $23.6 | $23.0 | $34.2 | $24.2 | $34.6 | $34.5 | $44.6 | **$267.8** |
| 2 | 32.2 | 36.8 | 18.3 | 17.6 | 5.0 | 19.4 | 27.7 | 24.2 | 27.4 | 53.6 | -0.1 | **262.1** |
| 3 | 9.7 | 5.8 | 8.2 | 8.3 | 12.5 | 18.5 | 22.5 | 25.1 | 21.8 | 25.8 | 41.8 | **200.0** |
| 4 | 15.3 | 19.5 | 23.5 | 18.3 | 41.7 | 41.8 | 44.0 | 40.3 | 44.0 | 50.7 | 43.0 | **382.1** |
| 5 | 29.9 | 29.0 | 27.1 | 25.5 | 38.0 | 63.4 | 66.2 | 57.4 | 45.0 | 63.3 | 80.0 | **524.8** |
| 6 | 120.9 | 52.6 | -48.7 | 40.5 | 15.4 | 29.5 | 47.6 | 23.6 | 34.5 | 38.0 | 40.0 | **393.9** |
| 7 | 7.6 | 6.7 | 9.6 | 7.6 | 12.6 | 12.0 | 15.4 | 20.8 | 22.0 | 23.8 | 29.0 | **167.1** |
| 8 | 21.4 | 23.0 | 78.6 | 15.2 | 20.5 | 40.3 | 25.4 | 32.3 | 7.1 | 22.2 | 20.5 | **306.5** |
| 9 | 33.3 | 13.0 | 72.3 | 25.6 | 24.1 | 23.8 | 25.9 | 35.7 | 29.5 | 38.9 | 51.5 | **373.6** |
| 10 | 9.5 | 7.1 | 10.1 | 12.6 | 16.9 | 25.2 | 19.2 | 23.3 | 20.7 | 31.4 | 42.0 | **218.0** |
| HQ | 385.0 | 329.3 | 307.3 | 218.0 | 303.2 | 339.7 | 262.4 | 265.9 | 292.6 | 337.2 | 263.9 | **3,304.5** |
| **Total** | **$673.4** | **$536.6** | **$520.8** | **$401.4** | **$513.5** | **$636.6** | **$590.5** | **$572.8** | **$579.2** | **$719.4** | **$656.2** | **$6,400.4** |

Source: EPA.

**Table 9: EPA Discretionary Grant Funding by CFDA Codes, Fiscal Years 1993 through 2003**

Million current dollars

| Code | FY93 | FY94 | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 | FY01 | FY02 | FY03 | Total |
|---|---|---|---|---|---|---|---|---|---|---|---|---|
| 66.606 | $134.6 | $113.2 | $158.4 | $100.5 | $128.4 | $116.4 | $134.0 | $139.6 | $152.0 | $132.2 | $48.3 | **$1,357.6** |
| 66.500 | 40.3 | 60.5 | 86.9 | 56.8 | 112.1 | 172.1 | 121.4 | 140.7 | 146.4 | 128.7 | 80.1 | **1,146.0** |
| 66.802 | 182.4 | 115.2 | 50.4 | 81.2 | 54.5 | 107.6 | 93.0 | 86.9 | 45.0 | 70.6 | 56.2 | **943.0** |
| 66.508 | 45.4 | 50.0 | 50.2 | 34.6 | 49.5 | 63.1 | 53.5 | 45.1 | 58.1 | 53.3 | 54.2 | **557.0** |
| 66.805 | 16.9 | 18.5 | 29.6 | 31.7 | 42.4 | 50.1 | 57.4 | 51.9 | 56.2 | 57.9 | 53.1 | **465.7** |
| 66.811 | - | 0.2 | 3.0 | 5.2 | 15.7 | 30.8 | 46.4 | 39.6 | 36.2 | 40.1 | -0.9 | **216.3** |
| 66.607 | 11.5 | 15.6 | 13.6 | 13.9 | 23.4 | 33.6 | 23.4 | 19.5 | 25.1 | 22.8 | 11.3 | **213.7** |
| 66.501 | 64.3 | 56.9 | 41.1 | 17.6 | 13.5 | 0.8 | 0.2 | - | - | - | - | **194.4** |
| 66.809 | 14.4 | 13.3 | 13.5 | 10.4 | 19.0 | 22.5 | 21.1 | 16.7 | 19.8 | 17.4 | 10.2 | **178.3** |
| 66.471 | - | - | - | - | - | - | - | - | - | 47.0 | 66.7 | **113.7** |
| Other | 163.9 | 93.4 | 74.2 | 49.6 | 54.8 | 39.5 | 40.1 | 32.8 | 40.4 | 149.4 | 277.1 | **1,015.2** |
| **Total** | **$673.7** | **$536.8** | **$520.9** | **$401.5** | **$513.3** | **$636.5** | **$590.5** | **$572.8** | **$579.2** | **$719.4** | **$656.3** | **$6,400.9** |

Source: EPA.

Note: The 10 CFDA codes identified account for 84 percent of EPA's discretionary grant funding for the period of fiscal years 1993 through 2003. The CFDA codes correspond to the following descriptions:

66.606--Surveys, Studies, Investigations, and Special Purpose Grants

66.500--Consolidated Research Grants

66.802--Superfund State Site Specific Cooperative Agreements

66.508--Senior Environmental Employment Program

66.805--Leaking Underground Storage Tank Trust Fund Program

66.811--Brownfield Pilots Cooperative Agreements

66.607--Training and Fellowship Grants

66.501--Air Pollution Control Research

66.809--Superfund State Core Program Cooperative Agreements

66.471--State Grants to Reimburse Operators of Small Water Systems for Training and Certification Costs

**Table 10: EPA Contract Funding by SIC Codes, Fiscal Years 1993 through 2000**

Million current dollars

| Code | FY93 | FY94 | FY95 | FY96 | FY97 | FY98 | FY99 | FY00 | Total |
|---|---|---|---|---|---|---|---|---|---|
| 87 | $541.9 | $648.5 | $514.1 | $604.5 | $582.3 | $653.2 | $713.7 | $592.7 | **$4,850.9** |
| 73 | 106.8 | 142.7 | 109.8 | 142.5 | 99.3 | 142.2 | 155.5 | 170.0 | **1,068.8** |
| 89 | 195.2 | 148.3 | 126.1 | 102.2 | 78.1 | 88.8 | 108.4 | 115.1 | **962.2** |
| 49 | 161.9 | 196.4 | 181.0 | 129.1 | 121.3 | 49.7 | 19.2 | -2.8 | **855.8** |
| 35 | 19.7 | 42.8 | 17.1 | 9.1 | 3.3 | 2.8 | 1.5 | 0.0 | **96.3** |
| 48 | 7.7 | 11.2 | 14.8 | 8.2 | 2.6 | 15.6 | 15.7 | 11.5 | **87.3** |
| 82 | 3.6 | 5.3 | 11.1 | 19.1 | 9.8 | 6.9 | 11.7 | 12.7 | **80.2** |
| 95 | 1.5 | 2.1 | 0.0 | 0.2 | 0.0 | 0.2 | 15.8 | 56.6 | **76.4** |
| 50 | 8.5 | 13.0 | 16.0 | 7.9 | 15.5 | 3.2 | 2.6 | 0.0 | **66.7** |
| 15 | 0.2 | 0.4 | 0.6 | 38.4 | 1.9 | 3.4 | 5.9 | 4.3 | **55.1** |
| Other | 17.3 | 20.3 | 23.4 | 17.8 | 13.9 | 24.0 | 19.0 | 25.9 | **161.6** |
| **Total** | **$1,064.3** | **$1,231.0** | **$1,014.0** | **$1,079.0** | **$928.0** | **$990.0** | **$1,069.0** | **$986.0** | **$8,361.3** |

Source: EPA.

Note: The 10 SIC codes identified account for 98 percent of EPA's contract funding for the period of fiscal years 1993 through 2000. The SIC codes correspond to the following descriptions:

87--Engineering, Accounting, Research, Management, and Related Services

73--Business Services

89--Services, Not Elsewhere Classified

49--Electric Gas and Sanitary Services

35--Industrial and Commercial Machinery and Computer Equipment

48--Communications

82--Educational Services

95--Administration of Environmental Quality and Housing Program

50--Wholesale Trade-durable Goods

15--Building Construction General Contractors and Operative Builders

**Table 11: EPA Contract Funding by NAICS Codes, Fiscal Years 2001 through 2003**

Million current dollars

| Code | FY01 | FY02 | FY03 | Total |
|---|---|---|---|---|
| 541 | $454.2 | $446.4 | $449.3 | **$1,349.9** |
| 561 | 332.8 | 317.4 | 251.7 | **901.9** |
| 514 | 86.9 | 78.7 | 32.9 | **198.5** |
| 562 | 15.6 | 72.4 | 102.9 | **190.9** |
| 513 | 41.6 | 47.9 | 23.2 | **112.7** |
| 924 | 20.9 | 23.5 | 14.8 | **59.2** |
| 334 | 6.5 | 8.0 | 14.2 | **28.7** |
| 233 | 6.2 | 2.8 | 9.4 | **18.4** |
| 611 | 5.6 | 5.8 | 7.0 | **18.4** |
| 493 | 2.9 | 5.3 | 5.0 | **13.2** |
| Other | 18.3 | 22.9 | 23.6 | **64.8** |
| **Total** | **$991.5** | **$1,031.1** | **$934.0** | **$2,956.6** |

Source: EPA.

Note: The 10 NAICS codes identified account for 98 percent of EPA's contract funding for the period of fiscal years 2001 through 2003. The NAICS codes correspond to the following descriptions:

541--Professional, Scientific, and Technical Services

561--Administrative and Support Services

514--Information Services and Data Processing Services

562--Waste Management and Remediation Services

513--Broadcasting and Telecommunications

924--Administration of Environmental Quality Programs

334--Computer and Electronic Product Manufacturing

233--Building, Developing, and General Contracting

611--Educational Services

493--Warehousing and Storage

**Table 12: Descriptions of the Types of Goods and Services Reported by Surveyed Discretionary Grant Recipients**

| Type of goods or services | Percentage of grants listing this category of deliverable | Estimated dollars for deliverable category (in millions) |
|---|---|---|
| *Training, workshops, and education:* This category includes course development, classroom curriculums, resource guides, training sessions, educational projects and products for students, workshops, educational seminars, educational events, fact sheets, educational videos, nature trails and gardens, educational environmental programs, and on-site training for environmental workers. | 34 | $40[b] |
| *Research and development:* This category includes scientific research, surveys and questionnaires, assimilation of data, data outputs such as CD-ROMS and databases, development of analytical tools/models/software/standards/baseline data, field studies, case studies, environmental indicators research, policy reviews, environmental software reviews, evaluations, identification of environmentally sound procedures and materials, conservation analyses, and inventories. | 24 | 67[a] |
| *Journals, publications, and reports:* This category includes peer-reviewed publications, abstracts and proceedings, articles, research reports, reference manuals, manuscripts, newsletters, book chapters, manuals, legislative reports to states and Congress, booklets, internet publications (other than Web sites), and guidebooks. | 20 | 54[a] |
| *Cleanup, monitoring, and site assessment:* This category includes cleanup and monitoring of the Leaking Underground Storage Tank, Superfund, CERCLA, and Brownsfield sites; other State-run and EPA-coordinated efforts; cleanup and monitoring of landfills and water sources; household radon monitoring; habitat restorations; site assessments; groundwater monitoring; and air pollution prevention. | 15 | 56[a] |
| *Meetings, conferences, and presentations:* This category includes stakeholder meetings, professional conferences, paper presentations, demonstrations, board meetings, symposiums, seminars, special sessions, discussion forums, community meetings, special events, and committee meetings. | 15 | 27[b] |
| *Project support and assistance:* This category includes administrative and program support, equipment purchase, travel assistance, supplies, conference attendance, and technical assistance. | 10 | 19[c] |
| *Web sites:* This category includes Web-site development and maintenance. | 7 | 14[c] |
| Other | 8 | 18[b] |

Source: GAO analysis of survey responses.

Note: Percentage totals are greater than 100 and dollar totals are more than the $209 million estimate because many grants provided more than 1 good or service.

[a]Sampling error is between one-fourth and one-third of the value of this estimate.

[b]Sampling error is between one-third and one-half of the value of this estimate.

[c]Sampling error is between 60 and 70 percent of the value of this estimate.

# Survey Results

To help determine EPA compliance with provisions of the Federal Grant and Cooperative Agreement Act as well as its own implementation guidance in selecting discretionary grants versus contracts, we drew a stratified random probability sample of 237 discretionary grants from a study population of 2,163 discretionary grants that had project start dates after October 1, 1997, and closed in fiscal years 2001 and 2002, and for which the grant amount (according to EPA) was a positive dollar amount. Of the 237 grantees surveyed, 213 were eligible sample cases. We used the results of 174, or 82 percent, of those responses to make population estimates. The population estimates for key questions from our survey are summarized below.

**Q2. Was this financial assistance award made in the form of a grant or a cooperative agreement?**

| Answer | Percent |
|---|---|
| Grant | 73.31 |
| Cooperative Agreement | 23.48 |
| No answer | 0.33 |
| Not checked | 2.88 |
| **Total** | **100.00** |

**Q12. Were the project outputs/deliverables designed to directly benefit EPA?**

| Answer | Percent |
|---|---|
| Yes | 16.58 |
| No | 75.88 |
| Don't know | 6.09 |
| Not checked | 1.44 |
| **Total** | **100.00** |

**Q15. Please indicate the primary beneficiary of the project outputs/deliverables.**

| Answer | Percent |
|---|---|
| EPA | 8.35 |
| Your organization | 7.11 |
| State agencies | 9.28 |
| Nonprofits | 0.58 |
| Business/Private sector | 5.63 |
| Schools/Universities | 13.17 |
| Research/Academic community | 5.73 |
| Indian tribes | 2.61 |
| General public | 33.23 |
| Other audiences | 9.81 |
| Don't know | 3.06 |
| Not checked | 1.44 |
| **Total** | **100.00** |

**Comparison of Q12 and Q15.**

| Q15. Primary beneficiary of the project outputs/deliverables. | Q12. Were the project outputs/deliverables designed to directly benefit EPA? (16.58 percent of respondents) | |
|---|---|---|
| | Percentage marking yes - EPA as direct beneficiary | Percentage marking no - EPA not the direct beneficiary |
| EPA | 7.64 | 0.65 |
| Your organization | 0 | 5.67 |
| State agencies | 2.56 | 5.61 |
| Nonprofits | 0 | 0.58 |
| Business/Private sector | 1.44 | 3.07 |
| Schools/Universities | 0 | 13.17 |
| Research/Academic community | 1.60 | 3.81 |
| Indian tribes | 0 | 2.61 |
| General public | 1.91 | 31.22 |
| Other audiences | 0 | 9.48 |
| Don't know | 1.44 | 0 |
| **Total** | **16.59** | **75.87** |

Note: The remaining 7.54 percent of total were included in the “don’t know” or “not checked” responses for Q15.

**Q17. During the performance period (postaward), did EPA direct you to make specific purchases of goods or services?**

| Answer | Percent |
|---|---|
| Yes | 1.49 |
| No | 94.46 |
| Don't know | 1.49 |
| Not checked | 2.56 |
| **Total** | **100.00** |

**Q18. During the postaward phase, did EPA direct you to conduct activities outside the original scope of work?**

| Answer | Percent |
|---|---|
| Yes | 1.03 |
| No | 95.96 |
| Don't know | 1.12 |
| Not checked | 1.89 |
| **Total** | **100.00** |

**Q21. Did EPA direct that you contract with a specific entity (organization or individual) under this grant/cooperative agreement?**

| Answer | Percent |
|---|---|
| Yes | 1.77 |
| No | 68.60 |
| Don't know | 2.99 |
| Not checked/Skipped | 26.65 |
| **Total** | **100.00** |

**Q22. Did EPA direct that you issue a subgrant to a specific entity under this grant/cooperative agreement?**

| Answer | Percent |
|---|---|
| Yes | 0.33 |
| No | 69.71 |
| Don't know | 2.20 |
| Not checked/Skipped | 27.76 |
| **Total** | **100.00** |

**Q23. Did EPA direct that contracts be awarded by you on a sole-source or noncompetitive basis under this grant/cooperative agreement?**

| Answer | Percent |
|---|---|
| Yes | 2.02 |
| No | 65.79 |
| Don't know | 4.43 |
| Not checked/Skipped | 27.76 |
| **Total** | **100.00** |

**Q25. Survey completion status by grant award dollars.**

| Answer | Percent | Median | Mean | Minimum | Maximum |
|---|---|---|---|---|---|
| Completed | 81.69 | $81,500 | $338,449 | $2,395 | $3,035,000 |
| Not completed | 18.31 | 50,017 | 171,925 | 2,733 | 905,529 |

# Agency Policy Comparison

**Table 13: Top 10 Federal Grant-Awarding Agencies in Fiscal Year 2002**

Dollars in millions

| Agency | Total grant funding | Discretionary grant funding |
|---|---|---|
| Department of Health and Human Services | $225,901 | $36,516 |
| Department of Education | 37,421 | 5,582 |
| Department of Transportation | 34,991 | 679 |
| Department of Housing and Urban Development | 28,459 | 2,780 |
| Department of Agriculture | 20,104 | 2,136 |
| Department of Labor | 9,356 | 7,324 |
| Environmental Protection Agency | 4,215 | 719 |
| National Science Foundation | 4,100 | 4,100 |
| Department of Justice[a] | 3,019 | 2,906 |
| Federal Emergency Management Agency[b] | 2,584 | unavailable |

Legend:

DOED Department of Education

DOJ Department of Justice

DOL Department of Labor

DOT Department of Transportation

EPA Environmental Protection Agency

FEMA Federal Emergency Management Agency

HHS Department of Health and Human Services

HUD Department of Housing and Urban Development

NSF National Science Foundation

USDA Department of Agriculture

Sources: HHS, DOT, DOED, HUD, USDA, DOL, DOJ, EPA, NSF, and FEMA and verified fiscal year 2002 agency data from the *Consolidated Federal Funds Report*.

[a]DOJ totals are from the Office of Justice Programs and the Office of Community Oriented Policing Services, the primary grant-making components of the department.

[b]FEMA is now part of the Department of Homeland Security.

**Table 14: Information on Agency Grant Policies and Guidance**

| | Feature is included in agency policy? | | | | | | | | | |
|---|---|---|---|---|---|---|---|---|---|---|
| **Policy/Guidance feature** | **HHS** | **DOED** | **DOT** | **HUD** | **USDA** | **DOL** | **EPA** | **NSF** | **DOJ[a]** | **FEMA** |
| **Guidance to clarify selection of award instrument** | | | | | | | | | | |
| Examples of when to award assistance (grant and cooperative agreement) versus contract award. | Yes | Yes | Yes | Yes | No | Yes | Yes | Yes | Yes | Yes |
| Examples of when to award a cooperative agreement or examples of substantial federal involvement. | Yes | Yes | No | Yes | No | Yes | Yes | Yes | Yes | Yes |
| Guidance for using intermediaries who will, in turn, use the funding to award subgrants and subcontracts. | Yes | Yes | Yes | Yes | Yes | No | Yes | Yes | Yes | No |
| Guidance for awards for conferences. | Yes | Yes | No | No | No | No | Yes | Yes | No | Yes |
| Guidance about funding of evaluations and studies. | Yes | Yes | No | No | No | No | Yes | No | No | Yes |
| Guidance for in-kind, instead of monetary, assistance. | Yes | Yes | No | No | No | No | Yes | Yes | No | No |
| **Descriptions of roles and responsibilities** | | | | | | | | | | |
| Outlines roles and responsibilities of grants management and program staff specifically relating to selection of the award instrument. | Yes | No | Yes | No | No | No | Yes | Yes | No | Yes |
| **Internal control documentation requirements** | | | | | | | | | | |
| Internal control documentation requires statement of substantial involvement to justify the use of cooperative agreements. | Yes | No | No | Yes | No | Yes | Yes | No | No | No |
| Internal control documentation requires documentation to justify the selection of the award instrument. | Yes | No | No | No | No | Yes | Yes | No | No | No |

Legend:

DOED Department of Education

DOJ Department of Justice

DOL Department of Labor

DOT Department of Transportation

EPA Environmental Protection Agency

(*Legend continued from previous page*)

FEMA Federal Emergency Management Agency

HHS Department of Health and Human Services

HUD Department of Housing and Urban Development

NSF National Science Foundation

USDA Department of Agriculture

Sources: Award instrument selection policies of HHS, HUD, USDA, DOL, DOJ, DOT, DOED, NSF, EPA, and FEMA.

Note: At a minimum, each policy defines assistance (grants and cooperative agreements) versus contract awards in accordance with the Federal Grant and Cooperative Agreement Act of 1977.

[a]DOJ totals are from the Office of Justice Programs and the Office of Community Oriented Policing Services, the primary grant-making components of the department.

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