United States General Accounting Office

GAO

Report to the Chairman, Subcommittee on VA, HUD, and Independent Agencies, Committee on Appropriations, House of Representatives

July 1998

ENVIRONMENTAL PROTECTION

Funds Obligated for Completed Superfund Projects

GAO/RCED-98-232

GAO

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

Resources, Community, and
Economic Development Division

B-279695

July 21, 1998

The Honorable Jerry Lewis
Chairman, Subcommittee on VA, HUD,
and Independent Agencies
Committee on Appropriations
House of Representatives

Dear Mr. Chairman:

The Environmental Protection Agency (EPA) relies heavily on contracts and assistance agreements to accomplish the work of the Superfund program, which was created to clean up the nation's most hazardous waste sites. Superfund contracts are awarded to private businesses to (1) clean up hazardous waste sites, (2) supervise the cleanups performed by others, and (3) provide technical and scientific support. Assistance agreements are generally used to fund states', nonprofit organizations', and universities' activities that support the Superfund program.

When EPA awards a contract or enters into an assistance agreement, it obligates federal funds to cover the cost of the planned work. As work progresses according to work orders for individual contracts or work plans for assistance agreements, EPA makes payments and liquidates its obligations. In April 1997, we reported that EPA had $249 million in unspent obligated funds available for deobligation on over 6,000 Superfund contract work orders and assistance agreements that were completed prior to calendar year 1997.[1] Our report recommended that the Administrator of EPA develop a strategy for identifying, deobligating, and recovering unspent funds. Unspent Superfund moneys may be deobligated and recovered when all work has been completed or when the time period for completing the work has expired.

This report responds to your request that we (1) determine the progress that EPA has made to recover the unspent funds on the inactive Superfund contracts and assistance agreements that we identified and (2) determine whether any additional funds that expired during 1997 for Superfund contracts and assistance agreements are available for deobligation.

[1]Environmental Protection: Opportunities to Recover Funds Obligated for Completed Superfund Projects (GAO/T-RCED-97-134, Apr. 15, 1997).

Results in Brief

EPA has made a concentrated effort to recover the unspent funds that we identified for work orders and assistance agreements for Superfund contracts that were completed prior to 1997. Of the $249 million that we identified, EPA has recovered $210 million. Of the approximately $39 million remaining, EPA has detailed plans to recover about $26 million during fiscal year 1998. EPA plans to recover the remaining $13 million in fiscal year 1999.

EPA has an additional $125 million available for deobligation from contracts and assistance agreements that expired in 1997. Although EPA has identified and plans to recover $10 million, we identified an additional $115 million, which also expired in 1997, that can be recovered. EPA did not identify the additional $115 million because its analysis, which was based on data for June 1997, covered contracts that expired prior to July 1, 1997. Typically, in the second half of a calendar year, significant amounts become available for deobligation. Of the additional amount available for deobligation and recovery, $109 million derives mainly from contract work orders that expired during the last 6 months of 1997 and over $6 million from assistance agreements.

Background

EPA relies extensively on contractors to carry out the Superfund program. Contracts are generally used to obtain the services of private businesses when EPA manages or oversees the cleanup work. Assistance agreements are generally used to fund states', nonprofit organizations', and universities' activities that support Superfund program activities.[2] From fiscal year 1990 though fiscal 1997, Superfund contracts accounted for $5.4 billion, or 49 percent, of the $11.1 billion that EPA obligated for all contracts awarded during that period. Over the same time period, EPA entered into Superfund assistance agreements valued at about $554 million.

When EPA awards a contract or enters into an assistance agreement, the agency obligates federal funds equal to the estimated cost of the work and issues individual work orders to describe the specific tasks and requirements to be completed. As work progresses, contractors or assistance agreement recipients are provided with funds, thus liquidating obligations. In many instances, the amount of funds obligated exceeds the amount eventually needed to pay the contractors or other entities for the completed tasks and other requirements. In such cases, the unspent funds

[2]Assistance agreements include grants and cooperative agreements. Grants provide organizations with financial assistance to carry out a program without substantial federal involvement. Cooperative agreements provide financial assistance with substantial federal involvement.

may be deobligated and recovered when all the work has been completed or when the period for performing the work has expired. Before recovering unspent funds, EPA reviews the completed contracts or assistance agreements to ensure that all appropriate payments have been made. EPA leaves no more than 10 percent of the total expenditures made under the contracts as a reserve to cover any additional costs, as determined by a final audit. Recovered funds are to be used for other Superfund activities because congressional appropriations for the Superfund program remain available for use until expended.

Until 1997, EPA had experienced continuing problems in recovering unspent funds on inactive work orders and assistance agreements for Superfund contracts. As we reported in 1990, EPA's failure to recover unspent funds increased the government's need to borrow; increased the agency's vulnerability to fraud, waste, and abuse; and resulted in missed opportunities to obtain interest payments that were due to the government from overpayments to contractors.[3] To handle the backlog of unspent funds remaining on inactive contract work orders, EPA established a Superfund Deobligation Task Force in 1994. The task force is composed of about 30 part-time members, representing several headquarters offices and each of EPA's 10 regional offices. Members of the task force review work orders for individual contracts to identify completed projects, determine the amount of unspent funds available for deobligation, and prepare requests to deobligate and recover the unused funds. The task force gives priority to work orders with the largest potential recovery of funds. Although EPA has not established a task force to identify completed projects funded through assistance agreements, it has placed increased emphasis on identifying completed projects, determining the amount of unspent funds available for deobligation, and recovering the unused funds.

In April 1997, we reported that recovering unspent obligated funds continued to be a problem at EPA. While the Superfund Deobligation Task Force had recovered nearly $400 million in unspent funds from fiscal years 1994 through 1996, its activities did not receive high enough priority to obtain the staff resources needed to eliminate EPA's substantial backlog of contract work orders and assistance agreements. The reason for this, according to agency officials, was that the task force relied primarily on the efforts of individual contracting officers and grant specialists in headquarters and the regions to identify and recover Superfund money.

[3]EPA's Contract Management: Audit Backlogs and Audit Follow-Up Problems Undermine EPA's Contract Management (GAO/T-RCED-91-5, Dec. 11, 1990).

EPA's Efforts to Recover Unspent Superfund Moneys

In June 1997, in response to our April 1997 report's recommendations, EPA began a systematic process to identify funds available for deobligation by using automated data files. Using this new process, EPA made a concentrated effort to identify and recover additional funds. Of the $249 million available for recovery that we identified in our 1997 report, EPA has recovered $210 million. Of the approximately $39 million remaining, EPA has detailed plans to recover about $26 million by the end of fiscal year 1998, as shown in table 1. According to EPA officials, the remaining $13 million should be recovered in fiscal year 1999, after all final payments are made to contractors.

Table 1: Balances of Unspent Funds Available for Recovery From Contracts and Assistance Agreements Completed Prior to Calendar Year 1997

Category	Amount available for recovery	Planned recovery in fiscal year 1998
Contracts	$17,068,541	$16,264,299
Assistance agreements	21,833,269	9,301,202
Total	**$38,901,810**	**$25,565,501**

The actions taken by EPA in fiscal year 1997 and planned actions in fiscal 1998 should substantially reduce outstanding recoveries on Superfund contracts and assistance agreements completed prior to 1997.

Additional Funds Available for Deobligation

EPA has additional funds available for deobligation on contracts and assistance agreements that expired in 1997. As shown in table 2, unspent obligated funds total about $125 million that derived from about 3,900 inactive contracts and assistance agreements.

Table 2: Unspent Funds Available for Recovery on Contracts and Assistance Agreements Completed in Calendar Year 1997

Category	Number of orders/assistance agreements to be deobligated	Amount available for recovery
Contracts	3,819	$116,948,267
Assistance agreements	65	7,851,500
Total	**3,884**	**$124,799,767**

In its detailed deobligation plan for fiscal year 1998, EPA identified about $8 million of the $117 million available to be deobligated from contracts. The $109 million that EPA did not identify came mainly from contract work orders that expired during the last 6 months of 1997. EPA did not identify these amounts because its analysis, which was based on data from June 1997, identified contract work orders that expired during the last 6

months of 1996 and the first 6 months of 1997. The contracts that expired during the last 6 months of 1997 will be addressed in EPA's fiscal year 1999 deobligation plan, according to EPA officials. Each October, EPA plans to analyze contract work orders that have expired by June of that year and deobligate the identified funds during that fiscal year.

Our analysis, which included all of 1997, shows a significantly higher potential recovery in the last 6 months of the year. A significant number of work orders expired during the last 6 months of 1997, and our analysis of work orders for 1996 disclosed a similar pattern. According to EPA officials, this pattern is typical for expiring contract work orders. The officials also stated that each year, the amount of funds available for recovery varies with the expiration of contracts for different Superfund activities. Therefore, they could not predict the potential recovery amounts for future years.

In its detailed deobligation plan for fiscal year 1998, EPA identified about $2 million of the $8 million available to be deobligated from assistance agreements. We identified over $6 million more than EPA did for deobligation and recovery. According to EPA officials, the amount that we identified will be included in their fiscal year 1999 deobligation plan. EPA updated the progress that it had made in closing out Superfund assistance agreements on November 1, 1997, and again on May 1, 1998. These progress reports identify the specific assistance agreements that EPA plans to close out during the next 6 months.

Conclusions

EPA has made a concentrated effort to recover unspent obligated funds that we identified on inactive work orders and assistance agreements that were completed for Superfund contracts prior to 1997. EPA's recovery of funds during fiscal year 1997 and the planned recoveries in fiscal 1998 should reduce significantly the amount of recoverable funds on expired contracts and assistance agreements.

However, EPA's planned deobligations of contract work orders in fiscal year 1998 will not include all orders that expired in 1997 because EPA's analysis only included contracts that expired during the first half of 1997. If EPA's analysis included contracts that expired during the last half of the year, the agency would have identified an additional $115 million that could potentially be recovered in fiscal year 1998. Typically, in the second half of a calendar year, significant amounts become available for

deobligation. The deobligation of these moneys would, in turn, make funds available for other Superfund projects earlier.

Recommendation

To expedite the recovery of unspent funds on inactive Superfund contract work orders, we recommend that the Administrator of EPA modify the agency's analysis of completed contracts to include a separate analysis of contracts that have expired at the end of December in addition to June of each calendar year.

Agency Comments

We provided EPA with copies of this report for review and comment. The agency generally agreed that the report provided a good characterization of the agency's Superfund recovery efforts and suggested editorial changes to the report to ensure accurate factual information regarding the agency's process. EPA did not agree with our recommendation that the agency incorporate a second analysis of completed contracts each year. EPA officials stated that very little would be gained with an additional review in December. We found, however, that a significant number of contracts expire during September of each year and that the identification of these contracts in December would allow for recovery before the end of the fiscal year (Sept. 30). For example, had an additional review been made in December 1997, an additional $115 million would have been identified for recovery in fiscal year 1998. As a result, we have retained our recommendation because it would provide for a quicker recovery of funds.

Scope and Methodology

Using EPA's data systems,[4] we identified contract work orders and assistance agreements having unspent obligations for work that had been completed or for which the specified performance period had expired. We also met with officials from EPA to review the progress that the agency made in recovering unspent obligated funds. We performed our work from March through June 1998 in accordance with generally accepted government auditing standards.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 10 days from the date of this letter. At that time, we will send copies to the EPA Administrator and other interested parties. We will also make copies

[4]The EPA data systems that we used include (1) the Contracts Information System, (2) the Financial Information System, (3) the Grants Information System, and (4) the Management and Accounting System. We did not verify the accuracy or reliability of the data systems.

available to others upon request. Major contributors to this report included John Wanska, John Yakaitis, and Everett O. Pace. If you or your staff have any questions, please contact me at (202) 512-4907.

Sincerely yours,

Peter F. Guerrero
Director, Environmental
Protection Issues

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