



September 2015

U.S. COAST GUARD NATIONAL POLLUTION FUNDS CENTER

Improved Controls Needed for Oil Removal Disbursements and Action Needed for Sustainable Funding

GAO Highlights

Highlights of [GAO-15-682](#), a report to congressional committees

Why GAO Did This Study

The Coast Guard Authorization Act of 2010 included a provision for GAO to examine NPFC. This report addresses the extent to which (1) NPFC has designed and implemented internal controls over damage claim and oil removal disbursements to reasonably assure that amounts are appropriately disbursed from the Fund; (2) NPFC has designed and implemented internal controls to reasonably assure that responsible parties are designated and billed, as appropriate, for disbursements from the Fund that are over \$500,000; and (3) the Fund was reimbursed for damage claim and oil removal costs in fiscal years 2011 through 2013. GAO also reviewed the Fund's primary source of revenues.

GAO obtained and analyzed data on damage claim and oil removal disbursements from fiscal years 2011 through 2013. GAO also obtained and analyzed data on billings and collections for fiscal years 2011 through August 2014 in order to determine which disbursements had been billed and paid. GAO reviewed relevant policies and procedures and interviewed officials and staff at the Coast Guard and EPA.

What GAO Recommends

Congress should consider options for sustaining the Fund, as well as the optimal level of funding, to address uncertainty regarding future funding. In addition, GAO is making several recommendations to improve the U.S. Coast Guard's internal controls for oil removal disbursements from the Fund. The Department of Homeland Security concurred with the recommendations and described actions taken or planned for each recommendation.

View [GAO-15-682](#). For more information, contact Beryl H. Davis at (202) 512-2623 or davisbh@gao.gov.

September 2015

U.S. COAST GUARD NATIONAL POLLUTION FUNDS CENTER

Improved Controls Needed for Oil Removal Disbursements and Action Needed for Sustainable Funding

What GAO Found

The U.S. Coast Guard's National Pollution Funds Center (NPFC) has responsibility for disbursements from the Oil Spill Liability Trust Fund (Fund). The Fund enables the Coast Guard and the Environmental Protection Agency (EPA) to respond to oil spills. The Oil Pollution Act of 1990 (OPA) authorizes the Fund to pay for certain damage claims and oil removal costs. The federal government may subsequently seek reimbursement of these costs from responsible parties.

- **Damage claims.** GAO found that for fiscal years 2011 through 2013, internal controls were designed and implemented to reasonably assure that damage claim expenses were appropriately disbursed from the Fund.
- **Oil removal.** GAO identified several internal control deficiencies, which demonstrated that NPFC was unable to reasonably assure that oil removal disbursements were appropriately disbursed from the Fund. GAO's statistical tests of oil removal disbursements less than or equal to \$500,000 identified design and implementation control deficiencies involving invoices that lacked required certifications, high visibility spills that were not identified, and missing supporting documentation for some costs. Also, GAO identified other issues, including that NPFC lacked policies and procedures for tracking and reconciling cash advances to EPA.

NPFC has established a system of internal controls for the designation and billing, as appropriate, of responsible parties. For fiscal years 2011 through 2013, GAO determined for the amounts over \$500,000 that NPFC designed and implemented internal controls to provide reasonable assurance that responsible parties were designated and billed, as appropriate, for damage claim and oil removal disbursements.

For fiscal years 2011 through 2013, the Fund disbursed over \$360 million, not including disbursements related to the *Deepwater Horizon* oil spill. During the period, not including the *Deepwater Horizon* oil spill, NPFC billed \$272 million to responsible parties and collected \$39 million. GAO found that NPFC was unable to bill for a large percentage of the damage claim and oil removal disbursements over \$500,000 because the responsible party had reached its limit of liability, not all elements of liability were established, or the source of the spill could not be identified.

OPA authorizes using the Fund for immediate response costs and when responsible parties cannot be identified or pay. GAO analyzed the Fund's sources of income and found the 8-cent per-barrel tax on petroleum products is relied on as the primary, consistent source of funding because the Fund has disbursed more funding than it has been able to recover. This is because the Fund is not reimbursed for certain damage claim and oil removal costs, as noted above. The average amount of the Fund's revenue from the per-barrel tax was 60 percent of the total revenue for fiscal years 2011 through 2013. The per-barrel tax is set to expire at the end of 2017, creating uncertainty with regard to future revenue sources for the Fund. As of September 30, 2014, the Fund's balance was about \$4.6 billion, which reflects approximately \$1.3 billion in fines from the *Deepwater Horizon* oil spill. However, these fines are not a consistent funding source.

Contents

Letter		1
	Background	5
	Controls Provided Reasonable Assurance That Damage Claim Disbursements Were Appropriately Disbursed, but Deficiencies in Design and Implementation of Controls for Oil Removal Disbursements Were Identified	15
	NPFC Controls Provide Reasonable Assurance That Responsible Parties Were Designated and Billed for Damage Claim and Oil Removal Disbursements over \$500,000	23
	The Fund Has Received Limited Reimbursement for Damage Claim and Oil Removal Disbursements, and Certain Revenue Sources for the Fund Are Set to Expire	24
	Conclusions	32
	Matter for Congressional Consideration	32
	Recommendations for Executive Action	32
	Agency Comments	33
Appendix I	Objectives, Scope, and Methodology	35
Appendix II	Damage Claim Disbursements	41
Appendix III	Oil Removal Disbursements	43
Appendix IV	Comments from the Department of Homeland Security	46
Appendix V	GAO Contact and Staff Acknowledgments	49
Tables		
	Table 1: Oil Pollution Act-Compensable Damage Claim Types, Descriptions, and Eligibility	6
	Table 2: Damage Claim and Oil Removal Disbursements from the Oil Spill Liability Trust Fund, Fiscal Years 2011-2013	25

Table 3: Amounts Billed to and Collected from Responsible Parties, Fiscal Years 2011-2013	26
Table 4: Identification of Damage Claim Disbursed over \$500,000 That Were Not Fully Reimbursed	37
Table 5: Identification of Oil Removal Costs Disbursed over \$500,000 That Were Not Fully Reimbursed	37
Table 6: Stratified Random Sample Sizes Based on Universe of Oil Removal Costs Disbursed Equal to or under \$500,000	38
Table 7: Fiscal Year 2011 Damage Claim Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015	41
Table 8: Fiscal Year 2012 Damage Claim Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015	41
Table 9: Fiscal Year 2013 Damage Claim Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015	42
Table 10: Fiscal Year 2011 Oil Removal Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015	43
Table 11: Fiscal Year 2012 Oil Removal Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015	44
Table 12: Fiscal Year 2013 Oil Removal Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015	45

Figures

Figure 1: National Pollution Funds Center Damage Claim Process	8
Figure 2: Oil Removal Costs Payment Process	9
Figure 3: Oil Spill Liability Trust Fund Sources of Funding and Expenditures	13
Figure 4: Oil Spill Liability Trust Fund Revenue, Fiscal Years 2011-2013	30
Figure 5: Oil Spill Liability Trust Fund Year-end Balances, Fiscal Years 2011-2014	31

Abbreviations

CIMS	Case Information Management System
EPA	Environmental Protection Agency
FAR	Federal Acquisition Regulation
FINCEN	U.S. Coast Guard's Finance Center
FOSC	Federal On-Scene Coordinator
Fund	Oil Spill Liability Trust Fund
NPFC	National Pollution Funds Center
OMB	Office of Management and Budget
OPA	Oil Pollution Act of 1990
SILC	Shore Infrastructure Logistics Center
SOSC	State On-Scene Coordinator

This is a work of the U.S. government and is not subject to copyright protection in the United States. The published product may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



September 15, 2015

Congressional Committees

Annually, hundreds of oil spills occur on land and in coastal waters for which a coordinated response involving private parties and all levels of government takes place. The Oil Pollution Act of 1990 (OPA), which Congress enacted after the *Exxon Valdez* spill in 1989, authorized use of the Oil Spill Liability Trust Fund (Fund) to pay for certain oil spill cleanup costs and damages¹ for immediate response costs and when the responsible parties cannot be identified or do not pay.² OPA also provided that the federal government may subsequently seek reimbursement for these costs from responsible parties. The Fund is administered by the U.S. Coast Guard's National Pollution Funds Center (NPFC).

The federal government's potential fiscal exposure increases as responsible parties' capacity to cover their exposures is reduced, whether as a result of extensive oil spill liabilities, poor financial condition of responsible parties, or other factors. OPA and other federal laws set out the federal process for oil spill response management, the liability of different parties in the event of an oil spill incident, and federal funding to cover certain oil spill costs not covered by private parties.³

¹Damage claims are compensation requests from any person or government for removal costs or damages resulting from an oil pollution incident covered by OPA. Oil spill cleanup costs include payments to cleanup contractors, overtime for government personnel, equipment used in removal operations, testing to identify the type and source of oil, disposal of recovered oil and oily debris, and preparation of associated cost documentation.

²Pub. L. No. 101-380, 104 Stat. 484 (1990).

³Federal laws and regulations also provide for advance oil spill prevention and response planning. This is generally reflected in the *National Oil and Hazardous Substances Pollution Contingency Plan* (known as the *National Contingency Plan*), 40 C.F.R. pt. 300, the *National Response Framework*, available at <http://www.fema.gov/media-library/assets/documents/32230?id=7371> emergency/nrf, and the *Integrated Contingency Plan Guidance*, 61 Fed. Reg. 28,642 (June 5, 1996).

The Coast Guard Authorization Act of 2010 included a provision for GAO to conduct an audit of Fund disbursements.⁴ This report examines the extent to which (1) NPFC has designed and implemented internal controls over damage claim and oil removal disbursements to reasonably assure that amounts are appropriately disbursed from the Fund; (2) NPFC has designed and implemented internal controls to reasonably assure that responsible parties are designated and billed, as appropriate, for disbursements from the Fund that are over \$500,000; and (3) the Fund was reimbursed for damage claim and oil removal costs in fiscal years 2011 through 2013. We also report on the Fund's reliance on the per-barrel oil tax, which is its primary source of revenue. We excluded information about the *Deepwater Horizon* oil spill, as we had previously conducted work on that specific spill; it is the only spill of national significance to occur since OPA passed in 1990, and its size and cost would have skewed our analysis.⁵

We obtained NPFC's damage claim and oil removal disbursement data for fiscal years 2011 through 2013 and performed procedures to determine whether the data were sufficiently reliable for the purposes of this engagement. Specifically, we interviewed knowledgeable agency officials about the quality control procedures the agency had in place when collecting and creating the data and electronically tested the data for unusual items. Based on the results of these procedures, we determined that the data were sufficiently reliable for our purposes. We used these data to identify 27 damage claim disbursements and 95 oil removal disbursements for fiscal years 2011 through 2013 that exceeded \$500,000. Of these 122 disbursements, we selected all disbursements that were not fully reimbursed, resulting in a total of 27 damage claim

⁴Pub. L. No. 111-281, § 708(b), 124 Stat. 2905, 2985 (2010).

⁵We reported separately on the *Deepwater Horizon* oil spill in three GAO products: GAO, *Deepwater Horizon Oil Spill: Actions Needed to Reduce Evolving but Uncertain Federal Financial Risks*, [GAO-12-86](#) (Washington, D.C.: Oct. 24, 2011); *Deepwater Horizon Oil Spill: Update on Federal Financial Risks and Claims Processing*, [GAO-11-397R](#) (Washington, D.C.: Apr. 18, 2011); and *Deepwater Horizon Oil Spill: Preliminary Assessment of Federal Financial Risks and Cost Reimbursement and Notification Policies and Procedures*, [GAO-11-90R](#) (Washington, D.C.: Nov. 12, 2010).

disbursements and 61 oil removal disbursements.⁶ To test oil removal disbursements, a stratified random sample of 200 disbursements⁷ each valued less than or equal to \$500,000 was selected from the population of 11,093 disbursements covering fiscal years 2011 through 2013.⁸

To assess the design of existing internal controls over the damage claim and oil removal processes for reasonably assuring amounts are appropriately disbursed from the Fund, we (1) reviewed OPA and other federal laws and regulations to obtain an understanding of allowed costs, (2) reviewed *Standards for Internal Control in the Federal Government*⁹ and evaluated the policies and procedures NPFC has in place for damage claim and oil removal disbursements, (3) evaluated potential risks and the effectiveness of NPFC's controls to mitigate those risks, (4) interviewed NPFC officials and staff, and (5) performed walk-throughs of the damage claim and oil removal processes. Based on our review of potential risks and NPFC's documented controls, we identified key controls for the damage claim and oil removal disbursement processes and tested the implementation of those controls for the selected 27 damage claim disbursements and 61 oil removal disbursements valued over \$500,000, and for the 200 statistically selected oil removal disbursements each valued at less than or equal to \$500,000. The 27 damage claim disbursements accounted for 93 percent of the total amount of damage claim disbursements and the 61 oil removal disbursements accounted for 30 percent of the total amount of oil removal disbursements for fiscal years 2011 through 2013.

⁶The Coast Guard Authorization Act of 2010 requires that this audit include a detailed accounting of each disbursement from the Fund in excess of \$500,000 that is (1) disbursed by NPFC and not reimbursed by the responsible party and (2) administered and managed by the receiving federal agencies, including final payments made to agencies and contractors and, to the extent possible, subcontractors. We met this requirement by including in our analysis all disbursements over \$500,000 that were not fully reimbursed.

⁷These selected disbursements were not limited to unreimbursed amounts.

⁸The 11,093 disbursements are oil removal disbursements less than or equal to \$500,000. There were 95 oil removal disbursements over \$500,000, for a total of 11,188 oil removal disbursements.

⁹GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999). GAO recently revised and reissued *Standards for Internal Control in the Federal Government*, with the new revision effective beginning with fiscal year 2016. See [GAO-14-704G](#) (Washington, D.C.: September 2014).

To assess the design of internal controls for reasonably assuring that responsible parties were designated and billed, as appropriate, for disbursements from the Fund that are over \$500,000,¹⁰ we (1) reviewed NPFC's policies and procedures for designating and billing the responsible parties, (2) evaluated potential risks and the effectiveness of NPFC's controls to mitigate those risks, (3) interviewed NPFC officials and staff, and (4) obtained billings and receipt data for fiscal years 2011 through 2014. Based on our review of potential risks and NPFC's controls, we identified key controls for the designation and billing processes and tested the implementation of these controls for the selected 27 damage claim disbursements and 61 oil removal disbursements valued over \$500,000.

To determine the extent to which the Fund is reimbursed for damage claim and oil removal costs, we interviewed NPFC officials about the billing and reimbursement processes and analyzed disbursement, billing, and collection data obtained from NPFC. To identify disbursements over \$500,000 that were not fully reimbursed, as noted above, we obtained NPFC's damage claim and oil removal disbursement data for fiscal years 2011 through 2013 and the billings and receipt data for fiscal years 2011 through 2014. Appendix I describes our objectives, scope, and methodology in greater detail.

We conducted this performance audit from February 2014 to September 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹⁰Our review of the billing process was limited to tracing the amount of a disbursement to the amount billed to the responsible party and verifying that the responsible party's identifying information was input into the Case Information Management System, when applicable.

Background

Legal Framework Establishing Responsibilities to Pay Damage Claim and Oil Removal Costs

The legal framework for addressing and paying for maritime oil spills is established by OPA, which places the primary burden of liability and the costs of oil spills on the owner and operator of the vessel or onshore facility and the lessee or permittee of the area in which an offshore facility is located.¹¹ This “polluter pays” framework requires that the responsible party or parties assume the burden of spill response, natural resource restoration, and compensation to those damaged by the spill, up to a specified limit of liability.

In general, the level of potential exposure under OPA depends on the kind of vessel or facility from which a spill originates and is limited in amount unless, among other reasons, the oil discharge is the result of gross negligence or willful misconduct or a violation of federal operation, safety, and construction regulations, in which case liability under OPA is unlimited. Subject to certain exceptions, such as removal cost claims by states, all nonfederal claims for OPA-compensable removal or damages must be submitted first to the responsible party or the responsible party’s guarantor. If the responsible party denies a claim or does not settle it within 90 days, a claimant may present the claim to the federal government to be considered for payment.

OPA authorizes use of the Fund, subject to limitations on the amount and types of costs, to pay specified damage claims above a responsible party’s liability limit, to pay damage claims or removal costs when a responsible party does not pay or cannot be identified, and to pursue reimbursement from the responsible party for oil removal and damage claims paid by the Fund. Under OPA, the amount that may be paid from the Fund for one incident is limited to \$1 billion. Further, within the \$1 billion cap, the costs for conducting a natural resource damage assessment and damages paid in connection with any single incident cannot exceed \$500 million.

OPA defines the costs for which responsible parties are liable and for which the Fund is made available for compensation in the event that the

¹¹If the source of the spill is unknown, the spill is classified as a mystery spill.

responsible party does not pay, cannot pay, or is not identified.¹² “OPA-compensable” costs include two main types: damage claims and oil removal.

Damage Claim Costs

OPA-compensable damages cover a wide range of both actual and potential adverse impacts from an oil spill. For example, damages from an oil spill include the loss of profits to the owner of a commercial charter boat if the boat was trapped in port because the Coast Guard closed the waterway in order to remove the oil, or personal property damage to the owner of a recreational boat or waterfront property that was damaged by oil from the spill, for which a claim may be made first to any of the responsible parties, then to the Fund. (See table 1.)

Table 1: Oil Pollution Act-Compensable Damage Claim Types, Descriptions, and Eligibility

Damage claim type	Description	Eligible claimant(s)
Natural resource damages	Damages for injury to, destruction of, or loss of natural resources, including the reasonable costs of assessing the damage.	Federal, state, foreign, and Indian tribal trustees.
Property damages	Damages or economic loss related to the destruction or harm of real or personal property presented by a claimant either owning or leasing the property. Does not include personal injury.	Person or entity that owns or leases property.
Loss of subsistence use of natural resources	Damages resulting from the injury, destruction, or loss of natural resources used by the claimant to obtain food, shelter, clothing, medicine, or other minimum necessities of life. ^a	Claimant who actually uses, for subsistence, the natural resources that have been injured, destroyed, or lost, without regard to the ownership or management of the resources.
Loss of government revenues	Net loss of taxes, royalties, rents, fees, or net profit shares because of the injury, destruction, or loss of real property, personal property, or natural resources.	Federal government, state, or a political subdivision of a state.
Loss of profits and earning capacity	Damages equal to the loss of profits or impairment of earning capacity because of the injury, destruction, or loss of property or natural resources.	Claimant sustaining the loss or impairment.
Cost of increased public services	Net costs of providing increased or additional public services during or after removal activities, including protection from fire, safety, or health hazards caused by a discharge of oil.	State or political subdivision of a state.

¹²If a responsible party receives a bill from the Coast Guard and does not pay, depending on the amount, the Coast Guard will refer the outstanding bill to either the Department of the Treasury or the Department of Justice to pursue collection.

Damage claim type	Description	Eligible claimant(s)
Claims by a responsible party for damages sustained by the responsible party	Claims submitted by a responsible party are not processed like other Oil Pollution Act (OPA) claims. A responsible party may present a complete defense or limitation of liability claim to the National Pollution Funds Center for removal costs and damages paid by the responsible party under OPA provisions. Claims that meet the initial review and preliminary screening must first be evaluated to determine “entitlement” to a complete defense or limit of liability. Once entitlement has been granted, the underlying cost portion of the claim may be measured and adjudicated. A responsible party is not reimbursed for losses it sustains; it can be reimbursed for OPA-compensable damages and costs it has reimbursed or paid.	Responsible party that paid removal costs or OPA-compensable damage claim costs and establishes entitlement to a defense to liability or limitation of liability.

Source: GAO analysis of National Pollution Funds Center Information. | GAO-15-682

^aCompensation allowable is based on the reasonable replacement cost of the natural resource needed during the loss period for subsistence, less all compensation made available for subsistence loss, all income received by using the time otherwise for subsistence, and all overhead or other normal expenses for subsistence use that were avoided because of the incident.

Oil Removal Costs

Oil removal costs are incurred by the federal government or any other entity when responding to, containing, and cleaning up a spill. For example, removal costs include cleaning up adjoining shoreline affected by the oil spill and the equipment used in the response—skimmers to pull oil from the water, booms to contain the oil, planes for aerial observation—as well as salaries, travel, and lodging costs for responders.

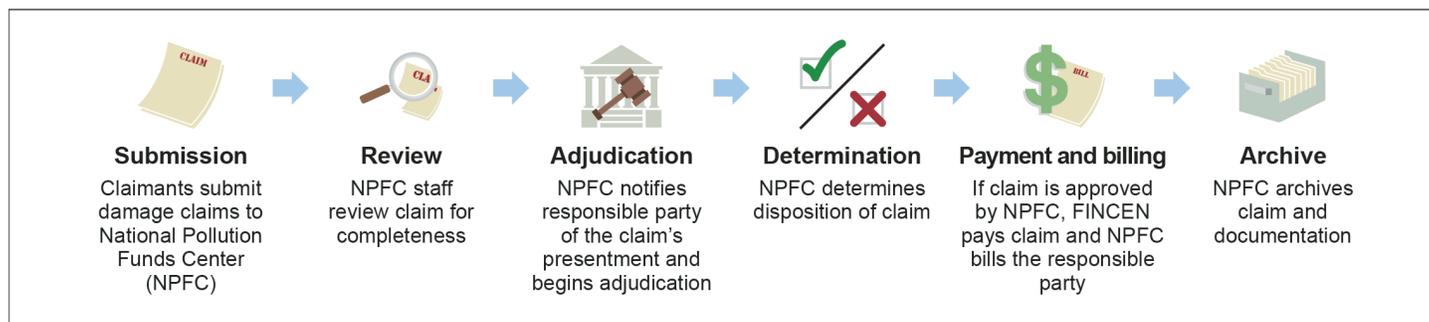
The NPFC Damage Claim Process

Individual and business claimants may seek reimbursement from the Fund for damages caused by an oil spill by submitting a claim to NPFC. In general, if a responsible party is identified, the claimant must first submit the claim to the responsible party. If the responsible party is unable or unwilling to pay the claim within 90 days of submission, the claimant may then elect to submit the claim to NPFC for adjudication or pursue a lawsuit against the responsible party.

Certain circumstances exist where a claimant may submit a claim to NPFC without first submitting it to the responsible party. These include instances where (1) NPFC advertises that claimants may submit claims directly to the Fund, (2) NPFC notifies claimants in writing that they may submit claims directly to the Fund, (3) a responsible party submits a claim for costs incurred beyond its liability, (4) the governor of a state submits a claim for removal costs incurred by the state, and (5) a U.S. claimant submits a claim to the Fund when a foreign offshore unit has discharged oil causing damage for which the Fund is available.

Once NPFC receives a claim, NPFC staff conduct an initial review to reasonably assure basic regulatory compliance.¹³ The claim is assigned to a claims manager who reviews the claim to reasonably assure it is payable under OPA, has not been paid by the responsible party, and is under the \$1 billion per-incident cap. As a part of the adjudication process, any claim payment over \$100,000 is sent to the Coast Guard Judge Advocate General’s Office of Claims and Litigation for review. If NPFC agrees to pay the claim, the claimant is notified and has 60 days to accept the offer. After acceptance of the offer, NPFC forwards payment information to the Coast Guard’s Finance Center to be processed. If the claim is denied, NPFC sends the claimant the reason for denial and advises that within 60 days, the claimant can resubmit the claim for reconsideration. (See fig. 1 for an illustration of the claim process.)

Figure 1: National Pollution Funds Center Damage Claim Process



Source: GAO analysis of NPFC policies and procedures. | GAO-15-682

The NFPC Oil Removal Costs Process

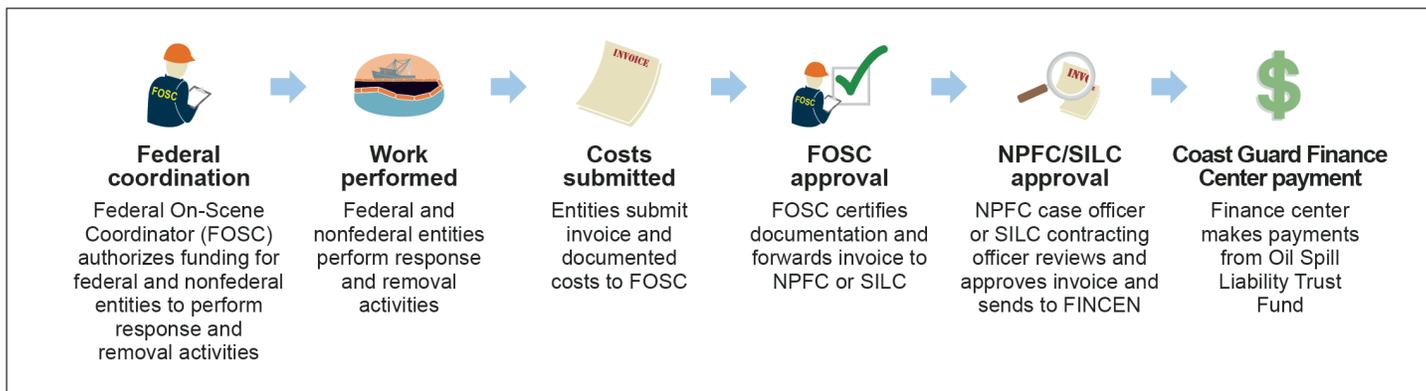
Responding to oil spills involves a coordinated effort by various parties, including (1) the Coast Guard or the Environmental Protection Agency (EPA) as Federal On-Scene Coordinator (FOSC);¹⁴ (2) federal, state, local, and Indian tribal government agencies; (3) private companies that specialize in oil spill cleanup; and (4) the responsible parties, their guarantors, and qualified individuals designated by responsible parties to

¹³33 C.F.R. § 136.105(b).

¹⁴The FOSC may (1) remove or arrange for removal of a discharge and mitigate or prevent a substantial threat of a discharge; (2) direct or monitor all federal, state, and private actions to remove a discharge; (3) remove and, if necessary, destroy a vessel discharging or threatening to discharge; or (4) take a combination of these actions.

respond to oil spills. To fund government agencies' oil spill removal costs, the FOSC issues authorizations to quickly obtain services and assistance from government agencies and private companies, verifies that the services or goods were received and are consistent with the *National Oil and Hazardous Substances Pollution Contingency Plan*,¹⁵ commonly called the *National Contingency Plan*, and certifies the supporting documentation. The FOSC then forwards the contractor invoice or Military Interdepartmental Purchase Request documentation to the contracting officer at the Shore Infrastructure Logistics Center (SILC) and the Pollution Removal Funding Authorization documentation to the case officer at NPFC for review and authorization to pay.¹⁶ Once payment is authorized, the Coast Guard's Finance Center pays the government agencies and private companies.¹⁷ (See fig. 2 for an illustration of the payment process related to oil spill removal costs.)

Figure 2: Oil Removal Costs Payment Process



Source: GAO analysis of NPFC policies and procedures. | GAO-15-682

¹⁵40 C.F.R. pt. 300.

¹⁶SILC is a division of the Coast Guard that is responsible for field execution of the Coast Guard's Civil Engineering Program, including planning, design, construction, contracting, environmental, real property, and base facility management and operations.

¹⁷The Coast Guard's Finance Center, also known as FINCEN, is located in Chesapeake, Virginia, and serves as the data center for finance, central bill paying, and financial accounting for the Coast Guard.

In conducting a coastal oil spill response, the lead federal authority, or FOSC, is usually the nearest Coast Guard Sector and is headed by the Coast Guard captain of the port.¹⁸ When notice of an oil spill is received by the Coast Guard, and as soon as the source is identified, NPFC must notify the responsible party or parties of NPFC's designation.¹⁹ According to NPFC guidance, "the [responsible party] has primary responsibility for response to a spill incident, including setting up the [Incident Command System] and joining with the FOSC and state on-scene coordinator (SOSC) in the [unified command]."²⁰ However, as reflected in the National Contingency Plan, NPFC guidance explains that "even when the responsible party leads a reasonable response effort, the FOSC is always in ultimate command and may decide to direct specific action or, for whatever reason it is deemed necessary, actually take the lead role in the response."²¹ If there is a potential for claims activity, the NPFC will issue a Notice of Designation to the responsible party requiring advertisement to potential injured parties to advise them of their rights to file claims. If the responsible party is unknown or fails to take action, NPFC will advertise and accept claims for adjudication.

The Fund's Financial Obligations and Resources

The Fund is divided into two major components: the Emergency Fund and the Principal Fund. The Emergency Fund constitutes \$50 million the President may make available each year to cover immediate expenses associated with mitigating the threat of an oil spill, costs of oil spill containment, countermeasures, and cleanup and disposal activities, as well as to pay for other costs to initiate natural resource damage

¹⁸For inland oil spills, EPA generally serves as the FOSC.

¹⁹33 U.S.C. § 2714(a); 33 C.F.R. § 136.305(a). A written notice of designation confirms any designation.

²⁰National Pollution Funds Center, "FOSC Funding Information for Oil Spills and Hazardous Materials Releases," app. B of *NPFC User Reference Guide (eURG)* (Arlington, VA: March 2003), accessed May 19, 2015, <http://uscg.mil/npfc/URG/default.asp>.

²¹The National Contingency Plan establishes the top priority of an oil response as saving human life and the next priority as stabilizing the situation to preclude it from worsening, including the prevention of further spilling that would require additional removal actions, and to minimize adverse impact to the environment. 40 C.F.R. § 300.317.

assessments.²² The \$50 million is transferred annually from the Principal Fund to the Emergency Fund.²³ Amounts made available remain available until expended. The Principal Fund is used to provide funds for claims, such as natural resource damage claims, loss of profits and earning capacity claims, and loss of government revenues. Congress has appropriated money from the Principal Fund to certain agencies, such as the Coast Guard, EPA, and the Department of the Interior—each of which has received an annual appropriation from the Fund to cover administrative, operational, personnel, and enforcement costs. Congress appropriated the following from the Fund for fiscal year 2014:

- Department of Transportation, Pipeline and Hazardous Materials Safety Administration: \$18.573 million²⁴
- Coast Guard: \$45.0 million²⁵
- Department of the Interior, Bureau of Safety and Environmental Enforcement: \$14.899 million²⁶
- EPA's Inland Oil Spills Programs: \$18.209 million²⁷
- Department of the Treasury, Bureau of the Fiscal Service: \$165,000²⁸

²²33 U.S.C. § 2752(b). Natural resource damage assessment is the process of collecting and analyzing information to evaluate the nature and extent of injuries resulting from an incident and determine the restoration actions needed to bring injured natural resources and services back to baseline and make the environment and public whole for interim losses. Natural resource trustees may submit a natural resource damage claim for any or all portions of the assessment and implementation of the resulting restoration plan.

²³To the extent that available amounts are inadequate for an emergency (as was the case in the *Deepwater Horizon* oil spill), the Coast Guard may advance up to \$100 million to pay for oil spill removal activities from the Principal Fund to the Emergency Fund. In the case of *Deepwater Horizon* oil spill, Congress authorized additional advances in increments up to \$100 million but limited the total amount of all advances to the \$1 billion per-incident cap. 33 U.S.C. § 2752(b).

²⁴Pub. L. No. 113-76, 128 Stat. 5, 599 (2014).

²⁵Pub. L. No. 113-76, 128 Stat. 5, 255, 257 (2014).

²⁶Pub. L. No. 113-76, 128 Stat. 5, 298 (2014).

²⁷Pub. L. No. 113-76, 128 Stat. 5, 317 (2014).

²⁸Pub. L. No. 113-76, 128 Stat. 5, 187 (2014).

The Fund is required annually to provide funds to the Denali Commission and the Prince William Sound Oil Spill Recovery Institute.²⁹ Specifically, section 8102 of OPA provided for the eventual transfer of the remainder of the balance in the Trans-Alaska Pipeline Liability Fund to the Fund. The Omnibus Consolidated and Emergency Supplemental Appropriations Act, 1999 provided that the interest produced from the investment of the Trans-Alaska Pipeline Liability Fund shall be transferred annually to the Denali Commission for a program to repair or replace bulk fuel storage tanks in Alaska.³⁰ In fiscal year 2014, the Fund transferred \$6.5 million to the Denali Commission. Similarly, OPA established the Prince William Sound Oil Spill Recovery Institute, in part, to identify and develop the best available techniques, equipment, and materials for dealing with oil spills in the Arctic and sub-Arctic marine environments.³¹ The institute's annual funding is paid by the Fund based on interest earned on a \$35.3 million trust, which is held by the Department of the Treasury. In fiscal year 2014, the institute received \$854,833.

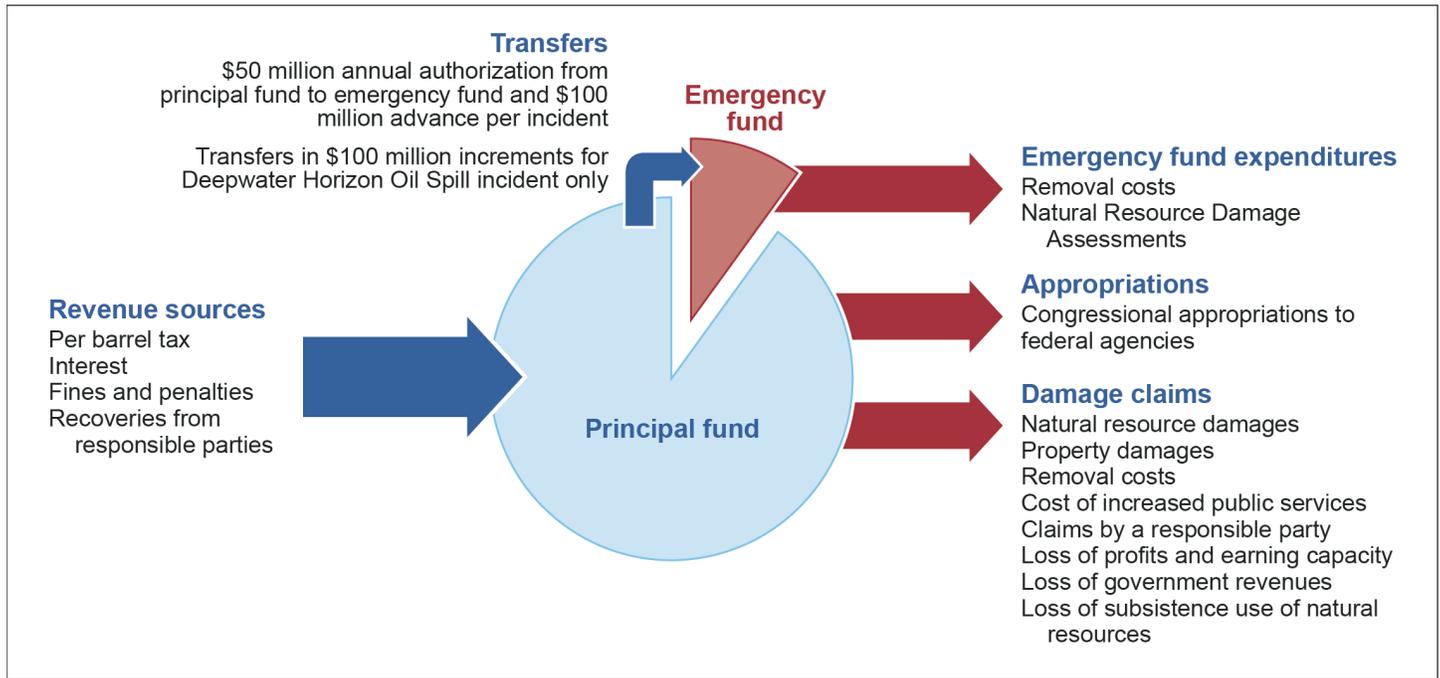
The Fund's primary revenue source is an 8-cent per-barrel tax on both domestically produced and imported petroleum products. Another significant source of revenue has been transfers from other existing pollution funds. OPA consolidated into the Fund the liability and compensation requirements of certain prior federal oil pollution laws and their supporting funds, including the Federal Water Pollution Control Act, Deepwater Port Act, Trans-Alaska Pipeline System Authorization Act, and Outer Continental Shelf Lands Act. Total transfers into the Fund since 1990 have exceeded \$550 million. However, no additional funds from these sources remain. Other revenue sources include recoveries from responsible parties for costs of removal and damages, fines and penalties paid pursuant to various statutes, and interest earned on the Fund's U.S. Treasury investments. (See fig. 3.)

²⁹33 U.S.C. § 2736.

³⁰Pub. L. 105-277, § 329, 112 Stat. 2681, 2681-470 to 2681-471 (1999).

³¹33 U.S.C. § 2731.

Figure 3: Oil Spill Liability Trust Fund Sources of Funding and Expenditures



Sources: GAO analysis of DHS reports and NPFC data. | GAO-15-682

NPFC's Internal Control Policies and Procedures

NPFC utilizes three different policy and procedural guides as part of its internal control framework over the damage claim and oil removal process. The policy and procedural guides include (1) the 2011 *Standard Operating Procedures of the Claims Adjudication Division*, which contains the policies and procedures related to the damage claim process;³² (2) the 2007 *Case Management Division Standard Operating Procedures*, which contains policies and procedures related to the oil removal process, and to a lesser extent, the damage claim process;³³ and (3) the *NPFC*

³²Department of Homeland Security, U.S. Coast Guard, National Pollution Funds Center, *Standard Operating Procedures of the Claims Adjudication Division*, NPFCINST M16451.21A (Arlington, VA: October 2011).

³³U.S. Coast Guard, National Pollution Funds Center, *Case Management Division Standard Operating Procedures*, NPFCINST M16451.23 (February 2007).

User Reference Guide, which is a reference tool for Coast Guard and EPA FOSCs.³⁴

Standards for Internal Control in the Federal Government

Standards for Internal Control in the Federal Government provides the overall framework for establishing and maintaining internal control across the federal government and for identifying and addressing major performance and management challenges and areas at greatest risk of fraud, waste, abuse, and mismanagement.³⁵ *Standards for Internal Control in the Federal Government* states that internal controls comprise the plans, methods, and procedures used to meet missions, goals, and objectives. To achieve this, management is responsible for developing the detailed policies, procedures, and practices to fit the agency's operations and to reasonably assure that they are built into and are integral to operations.

³⁴National Pollution Funds Center, "FOSC Funding Information for Oil Spills and Hazardous Materials Releases," app. B of *NPFC User Reference Guide (eURG)*.

³⁵[GAO/AIMD-00-21.3.1](#).

Controls Provided Reasonable Assurance That Damage Claim Disbursements Were Appropriately Disbursed, but Deficiencies in Design and Implementation of Controls for Oil Removal Disbursements Were Identified

NPFC has implemented a system of internal controls over damage claim and oil removal disbursements. For damage claim disbursements, we did not identify any deficiencies in the design and implementation of the controls we tested. However, our review of a statistical sample of oil removal disbursements identified internal control deficiencies that were caused by design deficiencies or by staff not adhering to certain key controls as designed. These included missing invoice certifications, missing supporting cost documentation, and high visibility spills not identified. Our review also identified other deficiencies in the design of controls related to oil removal disbursements. These include the lack of policies and procedures for taking advantage of vendor discounts, for ensuring that document retention policies are consistently followed, and for EPA disbursements.

NPFC's Design and Implementation of Internal Controls for Its Damage Claim Disbursements Provide Reasonable Assurance That Expenses Are Appropriately Disbursed from the Fund

Our testing of the 27 selected high dollar damage claim disbursements, which accounted for 93 percent of the total damage claim disbursements for fiscal years 2011 through 2013, found that the design and implementation of relevant key controls provide reasonable assurance that damage claim expenses are appropriately disbursed. For example, our tests of 18 key controls included determining if a claim was submitted within the 3-year statutory period and if NPFC's Legal Division and Office of Claims and Litigation reviewed the claim. We did not identify any deficiencies during our testing of the 27 damage claim disbursements.

Deficiencies Identified in the Statistical Sample of Oil Removal Disbursements

In testing a stratified random sample of 200 oil removal disbursements each valued at less than or equal to \$500,000,³⁶ we found that 9 of the 12 controls tested were effectively designed and implemented, while 1 control was effectively designed but was not effectively implemented and 2 controls were not effectively designed or implemented. Specifically, these internal controls were not effective for (1) certifying invoices, (2) maintaining supporting documentation, and (3) indicating whether an oil spill is classified as a high visibility oil spill. Based on the results of our stratified random sample, we estimate that \$2.5 million from the population of \$108 million in oil removal disbursements each valued less than or equal to \$500,000 made during fiscal years 2011 through 2013 could contain one or more of the following control deficiencies, increasing the risk of improper payments from the Fund.³⁷

Invoice Certifications Missing

In responding to oil spills, the FOSC has available both private contractors and government agencies to provide an appropriate response. For example, if a cleanup contractor is required, the FOSC would place an order for the cleanup contractor with a delivery order under the Basic Ordering Agreement administered by SILC. The contracting officer issues the order and a contract for the necessary services. A copy of the FOSC's documentation is provided to NPFC as documentation of these expenses. Government agencies can also be called upon to provide services during a spill response. The FOSC monitors the performance of the contractors and government agencies, reporting on progress via periodic pollution reports. When oil removal services are completed, the contractor or federal agency provides documentation to the FOSC. The FOSC reviews the documentation and certifies that services have been received. The FOSC then forwards the documentation to SILC's contracting officer or NPFC's case officer, as appropriate. The documentation is reviewed and payments are authorized. Certification of invoices is an important internal control as it reduces the risk of processing ineligible invoices. However, during testing of our stratified random sample of oil removal disbursements, we

³⁶For each of the 200 items, we tested 12 key controls. The sample was designed around the expectation that the upper bound on the confidence interval would be below 5 percent. If the upper bound on the confidence interval was above 5 percent, we concluded that the control failed our test. If the upper bound of the confidence interval was 5 percent or below, we concluded that the control was effective.

³⁷We are 95 percent confident that from \$1.01 million to \$4.04 million is potentially affected by one or more exceptions.

identified five oil removal disbursements that lacked FOSC certification. Two of these five disbursements were made to EPA and the certifications were not requested by NPFC. The remaining three certifications could not be located. In addition, during our testing of the 61 high dollar oil removal disbursements over \$500,000, we identified two additional disbursements that lacked FOSC certification.

Standards for Internal Control in the Federal Government states that control activities, such as verifications, should be effective and efficient in accomplishing the agency's control objectives.³⁸ The Coast Guard and EPA entered into a memorandum of understanding dated June 11, 2012, stating that the EPA FOSC shall review all costs incurred during the removal operation and certify that they are proper and consistent with the *National Contingency Plan*. The *National Contingency Plan* states that during all phases of response, the lead agency (the Coast Guard or EPA) shall complete and maintain documentation to support all actions taken under the plan and to form the basis for cost recovery. It also designates the FOSC to coordinate and direct responses. In addition, NPFC's 2007 *Case Management Division Standard Operating Procedures* states, "As the services are provided, the FOSC certifies that the services were received and are consistent with the *National Contingency Plan* then certifies eligibility for reimbursement."

NPFC officials provided various explanations for the missing certifications. The officials stated that (1) for three of the five invoices from our stratified random sample of oil removal disbursements, NPFC could not produce certified invoices because the invoices were likely filed incorrectly; (2) for the remaining two disbursements from the stratified random sample, which were EPA disbursements, the invoices were already being processed when the memorandum of understanding between the Coast Guard and EPA was signed; and (3) for the two high dollar disbursements tested, NPFC officials stated that the contracting officer had firsthand knowledge of the receipt of services, so it was not necessary to rely on the FOSC's certification. SILC officials further stated that the contracting officer is not bound by the 2007 *Case Management Division Standard Operating Procedures* because, under the Federal Acquisition Regulation (FAR), acceptance of services is the responsibility

³⁸[GAO/AIMD-00-21.3.1.](#)

of the contracting officer.³⁹ However, the FAR also states that acceptance generally constitutes acknowledgment that the supplies or services conform with applicable contract quality and quantity requirements, and when this responsibility is assigned to a cognizant contract administration office or to another agency, acceptance by that office or agency is binding on the government.⁴⁰ Because the *Case Management Standard Operating Procedures* assign the responsibility to the FOSC to certify the receipt of goods, the FOSC should have certified the disbursements. In addition, the 2007 *Case Management Division Standard Operating Procedures* has guidance and related checklists that include obtaining FOSC certification.

Processing invoices that lack FOSC certification puts NPFC at risk of improper payments. For instance, a payment could be made for services or supplies that the FOSC did not authorize. Although NPFC has established policies and procedures, the documentation issues identified demonstrate that management has not reasonably assured that the policies and procedures are consistently followed.

Required Supporting Cost Documentation Missing

We found three oil removal disbursements in our stratified random sample that did not include appropriate supporting documentation. Specifically, NPFC was unable to provide two travel orders and a contract invoice to support three oil removal disbursements. These were in addition to the three FOSC-certified invoices NPFC could not provide, as discussed earlier. According to NPFC staff, the documentation was not included in the case file because it was likely filed incorrectly. We found that NPFC did not have policies and procedures requiring supervisory review of the filing process. Having policies and procedures that require periodic checks of the files could provide reasonable assurance that documentation is properly maintained.

According to NPFC's 2007 *Case Management Division Standard Operating Procedures*, cost documentation, including contract invoices and travel orders, should be maintained. In addition, *Standards for Internal Control in the Federal Government* provides that control activities should be effective and efficient in accomplishing the agency's control

³⁹48 C.F.R. § 46.502.

⁴⁰48 C.F.R. §§ 46.501, 46.502.

High Visibility Spills Not Always Identified

objectives.⁴¹ Specifically, transactions should be clearly documented, the documentation should be readily available for examination, and supervisory activity should occur in the course of operations. The lack of documented transactions could lead to the payment of unauthorized transactions or payment for the wrong amounts.

Our testing of the stratified random sample of oil removal disbursements identified five oil spills each of which had a total cost over \$5 million and was not identified in NPFC's Case Information Management System (CIMS) as high visibility spills.⁴² Per NPFC's 2007 *Case Management Division Standard Operating Procedures*, the identification of a spill as high visibility prompts NPFC to incorporate additional oversight procedures for the oil spill. The additional procedures are necessary to provide the careful consideration required while reviewing a high visibility case. CIMS was designed to allow NPFC case managers to identify any case over \$5 million as high visibility. In addition to the five oil spills found in our stratified random sample that were not identified in CIMS as high visibility oil spills, we identified two additional oil spills during testing of the high dollar oil removal disbursements that were not identified in CIMS as high visibility oil spills. NPFC's 2007 *Case Management Division Standard Operating Procedures* states that among other criteria, any case with a ceiling higher than \$5 million should be identified as a high visibility case. NPFC's practice has changed from using the high visibility identifier, which is specified in the current policy, to routinely discussing all high visibility cases of any value during weekly staff meetings with high-level officials, including the Director, Deputy Director, and the Legal Division Chief. The details of the weekly staff meetings are documented in the meeting minutes and are posted to NPFC's internal website; notification of recent meeting minutes is sent to all staff via e-mail. In response to our inquiry, NPFC officials stated that they plan to eliminate the requirement to identify cases as high visibility in CIMS as the identification of high visibility oil spills take place during the weekly staff meetings where the high visibility oil spills are discussed.

⁴¹GAO/AIMD-00-21.3.1.

⁴²The cumulative costs associated with these spills ranged from \$5 million to \$14.2 million for each spill.

According to *Standards for Internal Control in the Federal Government*,⁴³ control activities should be effective and efficient in accomplishing the agency's control objectives. Specifically, internal controls need to be clearly documented and properly managed and maintained to reasonably assure relevance. Following a practice that differs from policy may cause NPFC to inconsistently monitor high visibility spills and miss identifying or reacting to other important events.

Deficiencies Identified in Other Oil Removal Disbursements

SILC Does Not Have Certain Disbursement-Related Policies and Procedures, and the Finance Center Did Not Follow Procedures

We found that for three disbursements from the high dollar sample, SILC and the Finance Center did not take the discount for early payment offered by the vendors. Some vendors offer cash discounts on the amount owed when a customer pays within specified time frames as a means of encouraging faster payment. However, we found that SILC did not consistently identify available discounts and the Finance Center did not consistently take available discounts. Specifically, in one instance SILC identified the discount terms and the Finance Center paid the vendor within the time frame required to receive the discount, but the Finance Center did not take advantage of the discount when processing the payment. Finance Center officials stated that the discount was not taken because of personnel oversight. We also found two other disbursements where SILC did not identify the discount terms offered by the vendor so the discounts were not taken.

These occurred for two reasons. One, we found that SILC does not have documented policies and procedures for reasonably assuring that available discounts are identified. Second, we found that although the Finance Center has established procedures for the appropriate processing of available vendor discounts, it does not have a mechanism to reasonably assure that its procedures are followed. SILC's lack of policies and procedures for identifying discounts and the Finance Center's failure to follow documented procedures increases the risk that they will not take advantage of opportunities to save the government money.

⁴³[GAO/AIMD-00-21.3.1](#).

In addition, while testing the stratified random sample, we found that SILC made an overpayment to a vendor for one disbursement. Specifically, a vendor presented a charge on an invoice for Pollution Control Services to a contracting officer in SILC that contained a math error; the charge had a corresponding administrative fee of 10 percent. The contracting officer identified the math error and correctly reduced the charge but failed to also reduce the related administrative fee. We found that SILC does not have documented policies and procedures to reasonably assure that invoice amounts are correctly calculated. The lack of such policies and procedures increases the risk of overpayments.

According to *Standards for Internal Control in the Federal Government*, control activities should be effective and efficient in accomplishing the agency's control objectives.⁴⁴ Specifically, policies and procedures should be clearly documented to reasonably assure stewardship of government resources. According to the *Commercial Payables Branch, Commercial Payments Section Contracts Desk Guide*, the Department of Homeland Security advises that any component that has earned a discount must take the discount unless it is not advantageous to do so. In addition, according to Office of Management and Budget (OMB) Circular No. A-123, an improper payment is any payment that should not have been made or that was made in an incorrect amount. Incorrect amounts are overpayments or underpayments that are made to eligible recipients.⁴⁵ The failure to take the discount when the payment was made early and the overpayment to the vendor for the incorrect administrative fee meet the definition of improper payments.

NPFC Does Not Have Sufficient Policies and Procedures for Processing Cash Advances

In January 2013, the Coast Guard and EPA updated their existing June 2012 memorandum of understanding for use of the Fund in an appendix to the memorandum for the provision of cash advances. Per the appendix, EPA requests a cash advance based upon paid and pending invoices for oil removal activities and NPFC validates the documentation supporting the requested amount. The advance is then approved and

⁴⁴GAO/AIMD-00-21.3.1.

⁴⁵Office of Management and Budget, *Requirements for Effective Estimation and Remediation of Improper Payments*, OMB Memorandum M-15-02 (Washington, D.C.: Oct. 20, 2014). Under OMB guidance, improper payments also include payments that are made to an ineligible recipient or for an ineligible good or service, payments for goods or services not received (except for such payments authorized by law), and payments that cannot be determined to be proper because of insufficient or missing documentation.

forwarded to the Finance Center for payment. Subsequently, the appendix requires EPA to submit oil removal cost documentation to an NPFC case officer for review and approval. The information is then forwarded to the Finance Center, where the amount is taken against the advance. According to NPFC officials, EPA is the only agency to which NPFC advances funds, and EPA requested this process change because of cash flow constraints.⁴⁶

Our review found that NPFC does not maintain the cost documentation that supports the EPA cash advances. In addition, NPFC does not verify amounts supporting the requested cash advance. According to NPFC officials, the cost documentation, which is a summary of expenses, is not maintained because of the large size of EPA's submitted files, and NPFC does not verify the amounts contained in the summary of expenses because NPFC does not obtain detailed support, such as invoices, for the EPA summary. NPFC has not developed policies and procedures for providing cash advances from the Fund that include tracking and maintaining supporting documentation for the amounts advanced, reconciling amounts advanced to amounts expensed, and providing approval to the Finance Center to liquidate the advances. Without such policies and procedures to reasonably assure that the key control activities over cash advances are performed, the risk of improperly processing transactions, such as overpaying EPA, is increased.

Standards for Internal Control in the Federal Government states that control activities should be effective and efficient in accomplishing the agency's control objectives. Specifically, internal controls need to be clearly documented and properly managed and maintained to reasonably assure relevance. Further, all documentation should be properly

⁴⁶From August 2010 to September 2011, prior to entering into the memorandum of understanding, NPFC advanced EPA \$37.4 million; from January 2013 to January 2015, NPFC advanced EPA an additional \$53.4 million. Under OPA, amounts in the Fund are only available as provided in annual appropriations acts unless an exception applies. 33 U.S.C. § 2752(a). One exception is the \$50 million per year for the Emergency Fund, which can be used for immediate removal of a discharge and mitigation or prevention of a substantial threat of a discharge, among other purposes. 33 U.S.C. §§ 1321(c), (s), 2752(b). Another exception is for payment of claims for uncompensated removal costs consistent with the *National Contingency Plan* and uncompensated damages. 33 U.S.C. §§ 2712(a)(4), 2752(b). We did not assess whether these advances to EPA were authorized under OPA.

managed and maintained, and the documentation should be readily available for examination.⁴⁷

NPFC Controls Provide Reasonable Assurance That Responsible Parties Were Designated and Billed for Damage Claim and Oil Removal Disbursements over \$500,000

NPFC has established a system of internal controls over designation and billing of responsible parties for damage claim and oil removal disbursements that are over \$500,000. Through our testing of internal controls for the designation and billing of disbursements, we did not identify any deficiencies with the design and implementation of internal controls in this area.

NPFC's Internal Controls over Damage Claim Disbursements Provided Reasonable Assurance That Responsible Parties Were Designated and Billed for the Amounts over \$500,000

We identified and tested the key internal controls for the 27 selected unreimbursed high dollar damage claim disbursements for fiscal years 2011 through 2013. We tested and confirmed that when a responsible party was found liable, NPFC case officers entered the responsible party's identifying information, including a valid name and address, into NPFC's case management system. We determined that the internal controls provided reasonable assurance that responsible parties were designated and billed, as appropriate, for damage claim disbursements that are over \$500,000.⁴⁸

⁴⁷[GAO/AIMD-00-21.3.1](#).

⁴⁸Our review of the billing process for damage claims was limited to tracing the amount of a disbursement to the amount billed to the responsible party and verifying that the responsible party's identifying information was input into the Case Information Management System, when applicable.

NPFC's Internal Controls over Oil Removal Cost Disbursements Provided Reasonable Assurance That Responsible Parties Were Designated and Billed for the Amounts over \$500,000

We identified and tested key internal controls for the 61 selected unreimbursed high dollar oil removal disbursements for fiscal years 2011 through 2013. We tested and confirmed that when a responsible party was found liable, the FOSC forwarded the responsible party's identifying information to NPFC, and that NPFC case officers entered the responsible party's identifying information, including a valid name and address, into NPFC's case management system. We determined that the internal controls provided reasonable assurance that the responsible parties were designated and billed, as appropriate, for the oil removal disbursements that are over \$500,000.⁴⁹

The Fund Has Received Limited Reimbursement for Damage Claim and Oil Removal Disbursements, and Certain Revenue Sources for the Fund Are Set to Expire

NPFC disbursed in total over \$360 million from the Fund for damage claim and oil removal costs in fiscal years 2011 through 2013.⁵⁰ During this same period, NPFC billed in total \$272 million to responsible parties, and collected in total \$39 million.⁵¹ For certain incidents, the Fund was not fully reimbursed, which was appropriate in the circumstances. We found that NPFC was unable to bill for a large percentage of high dollar claim disbursements because either the responsible parties had reached their limit of liability or the spills were classified as mystery spills.

In addition to the collections from billed responsible parties, the Fund is primarily funded by an 8-cent per-barrel tax that increases to 9 cents a barrel in 2017 and expires on December 31, 2017.⁵² As the Fund may not be fully reimbursed for damage claim and oil removal costs, the per-barrel excise tax is the only consistent source of funding for the Fund, as discussed later in this report. Although the balance of the Fund was

⁴⁹Our review of the billing process for oil removal disbursements was limited to tracing the amount of a disbursement to the amount billed to the responsible party and verifying that the responsible party's identifying information was input into the Case Information Management System, when applicable.

⁵⁰As noted previously, we did not include the *Deepwater Horizon* oil spill in this report, including in any of the figures provided in this section, because of the size and unusual nature of the spill, which would have skewed the data. Disbursements for the *Deepwater Horizon* oil spill totaled \$510 million during fiscal years 2011 through 2013, exceeding those of all other spills combined.

⁵¹The \$39 million comprises collections received during fiscal years 2011 through 2013; however, the amount includes collections from invoices issued in periods prior to fiscal year 2011.

⁵²26 U.S.C. § 4611.

\$4.6 billion as of September 30, 2014, the loss of the funding source and the potential for future spills and the cost of their associated cleanup contribute to uncertainty regarding the sufficiency of the funding sources for the Fund in the future.

Disbursements Made from the Fund in Fiscal Years 2011 through 2013

For fiscal years 2011 through 2013, \$146 million was disbursed from the Fund in total for damage claims. There were 409 damage claim disbursement transactions during this period. In addition, for fiscal years 2011 through 2013, NPFC disbursed approximately \$214 million in total for oil removal. There were 11,188 oil removal disbursement transactions during this period. (See table 2.)

Table 2: Damage Claim and Oil Removal Disbursements from the Oil Spill Liability Trust Fund, Fiscal Years 2011-2013

Dollars in thousands				
	FY 2011	FY 2012	FY 2013	Total
Damage claims				
Number of transactions	160	121	128	409
Total amount disbursed	\$36,827	\$44,504	\$64,562	\$145,893
Oil removal				
Number of transactions	6,123	2,959	2,106	11,188
Total amount disbursed	\$99,893	\$67,976	\$46,521	\$214,390
Total for combined damage claims and oil removal	\$136,720	\$112,480	\$111,083	\$360,283

Legend: FY = fiscal year.

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: These amounts do not include *Deepwater Horizon* oil spill disbursements.

Amounts Billed to and Collected from Responsible Parties in Fiscal Years 2011 through 2013

As shown in table 3, NPFC sent bills to responsible parties totaling \$272 million and collected \$39 million in total for fiscal years 2011 through 2013 for both damage claim and oil removal disbursements. It is important to note that collections are for the period indicated and are not necessarily tied to billings made in the same period.

Table 3: Amounts Billed to and Collected from Responsible Parties, Fiscal Years 2011-2013

Dollars in thousands				
	FY 2011	FY 2012	FY 2013	Total
Billings	\$24,868	\$105,979	\$141,595	\$272,442
Collections	\$4,631	\$29,182	\$5,611	\$39,424

Legend: FY = fiscal year.

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: Figures do not include *Deepwater Horizon* oil spill billings and collections. Some amounts may be collected in subsequent years after they are billed.

Because of the unique nature of each spill, cycle times vary for when amounts are disbursed, when bills are sent, and when payments are collected. For example, in March 2011 an oil spill occurred offshore of Louisiana that was determined to have been caused by a company plugging subsea wells. NPFC paid expenses associated with the spill from April 2011 through May 2012 and then sent bills to the responsible party for the expenses in May and June 2012. The responsible party made multiple payments from August through November 2012. As such, the cycle time for this oil spill was 20 months and spanned 3 different fiscal years.⁵³ According to NPFC staff, typically the larger the spill, the longer the cycle is.

A Significant Amount of Disbursements from the Fund Are Not Fully Reimbursable

The high dollar damage claim disbursements we tested for fiscal years 2011 through 2013 included damage claim disbursements for spills that occurred as early as 2004. We identified 95 oil removal disbursements and 27 damage claim disbursements during the period that exceeded \$500,000. As discussed previously, of these, 61 oil removal disbursements and 27 damage claim disbursements during the period were not fully reimbursed. These disbursements ranged from a damage claim of \$505,084 for the F/V *Milky Way* sinking, which was located in Washington State, to a damage claim of \$20,257,121 for the T/V *Athos I* oil spill, which affected Delaware, New Jersey, and Pennsylvania. Certain spills had multiple disbursements over \$500,000 during this period. For instance, the M/V *Jireh* oil spill, which was located in Puerto Rico, resulted in 14 oil removal disbursements over \$500,000 in fiscal years

⁵³The federal government's fiscal year runs from October 1 through September 30.

2011 through 2013, and the M/V *Selendang Ayu* oil spill, which affected Alaska, resulted in 13 damage claim disbursements over \$500,000. More information on the individual disbursements over \$500,000 that were not fully reimbursed is presented in appendixes II and III. We analyzed unreimbursed high dollar disbursements for fiscal years 2011 through 2013, which totaled \$201 million, and determined that 79 percent or \$158 million will most likely not be reimbursed because the responsible party had reached its limit of liability or the spill source could not be determined. The following examples illustrate circumstances when the Fund will not be reimbursed for all expenses it incurs because (1) the responsible party reached its legal liability limit on paying for damage claims or oil removal costs, (2) not all elements of liability were established, or (3) a responsible party could not be determined.

Responsible Party Reached Its Legal Liability Limit

- *M/V Selendang Ayu*. On December 8, 2004, the M/V *Selendang Ayu* cargo ship ran aground off Unalaska Island in western Alaska's Aleutian Islands after its engine failed, resulting in a large oil spill. The company (responsible party) that owned the ship assumed responsibility for the spill and worked with the Coast Guard and state of Alaska to address the spill, including directly paying the oil removal costs and damage claims associated with the spill. The company was not found to be grossly negligent, so its liability under OPA was capped at \$24 million. The response costs and damage claims paid by the company totaled \$149 million. The company filed a damage claim request with NPFC for approximately \$125 million, which comprised the \$149 million in total costs and damages minus the \$24 million liability cap. Of these damage claims, \$88 million was found compensable and reimbursed from the Fund in fiscal years 2012 through 2013.
- *T/V Athos I*. The T/V *Athos I* departed Venezuela for the Citgo Asphalt Refinery in Paulsboro, New Jersey, on November 20, 2004, carrying approximately 13 million gallons of crude oil. On November 26, 2004, tug operators assisting the T/V *Athos I* with docking at the refinery notified the Coast Guard that the tanker was leaking oil into the Delaware River. The vessel had struck several submerged objects while maneuvering to its berth, including an 18,000-pound anchor. The Coast Guard determined that the anchor punctured the vessel's number seven center cargo and port ballast tanks, allowing oil to spill into the river. The Coast Guard estimated that 263,371 gallons had spilled into the Delaware River. As of September 30, 2013, oil removal costs disbursed by the Fund were \$47.6 million and damage claims disbursed by the Fund were \$162.7 million. The Coast Guard determined in 2006 that the responsible party had reached its liability

of \$45.5 million under OPA, which means the responsible party had paid oil removal claims, damage claims, or both that equaled or exceeded its liability limit, and therefore the Fund will be not reimbursed for any further expenses.

Not All Elements of Liability Were Established

- Evolution Petrol Corp. An oily sheen was discovered on a creek in Louisiana on August 1, 2007. The EPA FOSC determined on or about August 2, 2007, that the oily sheen was from Evolution Petrol Corp saltwater tanks. EPA explained that if Evolution did not take responsibility, EPA would hire contractors for cleanup, which could be more expensive, and that Evolution could be subject to penalties of up to \$32,500 per day. Evolution chose to accept responsibility and hired a contractor to handle the cleanup. Evolution received over \$777,000 in reimbursement for the cleanup from its insurance company. The insurance company presented a claim of approximately \$715,000 to the Fund for reimbursement of the oil removal costs based on its analysis that Evolution was not responsible for the spill. NPFC determined that based on its analysis and evidence provided, the oily sheen did not originate at the Evolution facility. The Fund paid the insurance company approximately \$696,000 in fiscal year 2011 and because no liability was established, the Fund will not be reimbursed for its expenses.

A Responsible Party Could Not Be Determined

- S.S. *Montebello*. On December 23, 1941, the S.S. *Montebello* was torpedoed by a Japanese submarine off the coast of Cambria, California, sinking the 8,272 ton tanker carrying 3 million gallons of crude oil that may still have been in its holds. On December 2, 2010, the FOSC determined that there was a substantial threat of a discharge of oil in part due to the reported volume of oil carried by the vessel and the potential damage that a release might have on the marine ecosystem in the surrounding area. In September 2011, the Coast Guard awarded a contract to Global Diving and Salvage, Inc. to conduct a survey to determine the intensity and immediacy (of the threat) and to develop further courses of action for removal if necessary. The survey was conducted in October 2011, at which time a Unified Command led by the Coast Guard and California Department of Fish and Game's Office of Spill Prevention and Response assessed cargo and fuel tanks of the sunken ship. The Unified Command determined that there was no substantial oil threat from the S.S. *Montebello* to California waters and shorelines. The cost of the project was \$3.2 million. These removal costs were not billed because there was not a responsible party.

-
- Mystery spills. The FOSC is unable to determine the source of these spills, so a responsible party cannot be identified. During fiscal years 2011 through 2013, NPFC made about \$16 million (\$2.3 million in damage claims and \$13.9 million in oil removal) in disbursements for mystery spills. These disbursements are for mystery spills that occurred during fiscal years 2004 through 2013.

The Per-Barrel Tax Expires in 2017

Uncertainties exist regarding the primary revenue source of the Fund, an 8-cent per-barrel tax on petroleum products. This tax is set to expire in 2017. If the Fund's primary source of revenue expires, this could affect future oil spill response and may increase risk to the federal government. As discussed above, the Fund at times is unable to bill and collect reimbursements from responsible parties. The Fund enables the Coast Guard and EPA to respond to oil spills as the Fund can be used to cover expenses associated with mitigating the threat of an oil spill as well as the costs associated with containment, countermeasures, and cleanup and disposal activities. During fiscal year 2014, NPFC reported 408 oil spills; the Coast Guard and EPA responded to 324 of these. In the remaining 84 cases, the claimants sustained damages and directly submitted claims to NPFC.

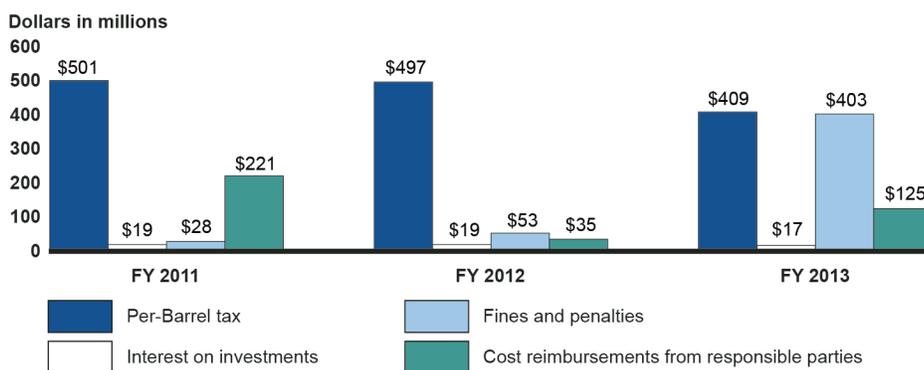
The per-barrel tax was increased and extended by a provision of the Energy Improvement and Extension Act of 2008, through December 31, 2017.⁵⁴ The act also eliminated a restriction on the growth of the balance of the Fund beyond \$2.7 billion.⁵⁵ As shown in figure 4, the Fund's revenue sources include per-barrel tax, interest earned on the Fund's investments in Department of the Treasury securities, fines and penalties paid pursuant to various statutes, and cost reimbursements from

⁵⁴Pub. L. No. 110-343, div. B, § 405(b), 122 Stat. 3765, 3861 (Oct. 3, 2008). The increase was effective starting on January 1, 2009.

⁵⁵At various points the imposition of the per-barrel tax has been limited by statute. From 1987 through 1990, no tax was to be imposed if more than \$300 million had been credited to the Fund. Pub. L. No. 99-509, § 8032(c), 100 Stat. 1874, 1957–1958 (Oct. 21, 1986). Starting in 1990, the tax was not to be imposed during a calendar quarter if during the preceding calendar quarter the Fund's estimated balance exceeded \$1 billion. Pub. L. No. 101-239, § 7505, 103 Stat. 2106, 2363 (Dec. 19, 1989). From 2006 to 2008 the tax was not to be imposed during a calendar quarter if during the preceding calendar quarter the Fund's estimated balance exceeded \$2.7 billion, and was to be reimposed if the Fund's balance fell below \$2 billion. Pub. L. No. 109-58, § 1361, 119 Stat. 564, 1058 (Aug. 8, 2005). The \$2.7 billion limit was removed in 2008. Pub. L. No. 110-343, § 405(b)(1), 122 Stat. 3765, 3860 (Oct. 3, 2008).

responsible parties for costs of removal and damages. The average amount of the Fund's revenue from the per-barrel tax was 60 percent of the total revenue for fiscal years 2011 through 2013.⁵⁶

Figure 4: Oil Spill Liability Trust Fund Revenue, Fiscal Years 2011-2013

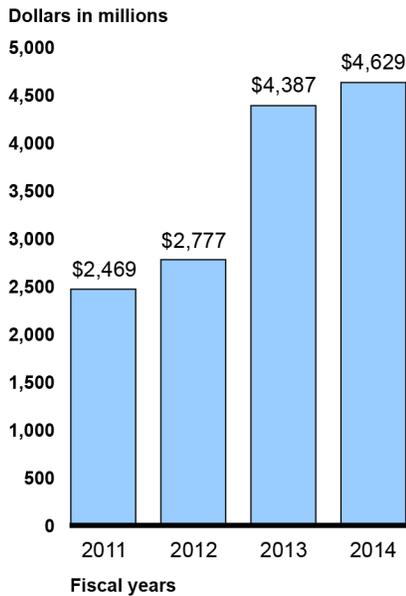


Note: Fines and penalties from Deepwater Horizon Oil Spill created higher than normal revenues from fines in 2013.
 Source: U.S. Department of the Treasury Bureau of the Fiscal Service. | GAO-15-682

The Fund's balance has increased over the years, as shown in figure 5. The significant increase in the balance from fiscal years 2012 through 2013 is primarily the result of the two judgments that resulted in assessments of fines to BP PLC and Transocean Ltd. for the *Deepwater Horizon* oil spill that collectively totaled approximately \$1.3 billion. Although the Fund's balance was about \$4.6 billion as of September 30, 2014, the potential for large spills exists, and if a responsible party is unwilling, unable, or not required to pay, the Fund will be needed to pay for the cleanup, including removal costs and damage claims. As previously discussed, the costs and claims from oil spills can continue for a number of years depending on the circumstances, and a significant amount of disbursements from the Fund are not fully reimbursed for various reasons.

⁵⁶Fines and penalties were unusually high in fiscal year 2013 because of \$399 million in revenue from fines for the *Deepwater Horizon* oil spill. In fiscal year 2013, two judgments were assessed for the *Deepwater Horizon* oil spill; BP PLC was assessed \$1 billion, to be paid over 5 years, and Transocean Ltd. was assessed a total of \$300 million, to be paid over 3 years. In fiscal year 2013, the Fund received \$230 million in fines from BP PLC (\$200 million of which related to the judgment), and \$169 million in fines from Transocean Ltd. (\$100 million of which related to the judgment). The revenue from fines for the *Deepwater Horizon* oil spill is not a consistent funding source.

Figure 5: Oil Spill Liability Trust Fund Year-end Balances, Fiscal Years 2011-2014



Source: Department of Homeland Security. | GAO-15-682

The President’s fiscal year 2016 budget request included a proposal to increase the excise tax on each barrel of oil produced domestically or imported by 1 cent, to a total of 9 cents per barrel for January 1, 2016, through December 31, 2016, and by another cent to a total of 10 cents per barrel starting January 1, 2017. The President’s budget request did not include an extension of the tax past December 31, 2017.

Bills have been introduced in recent sessions of Congress that included provisions to extend the excise tax beyond 2017.⁵⁷ Without such an extension, the primary source of revenue for the Fund will cease to exist after 2017.

⁵⁷H.R. 1930, 114th Cong., § 24 (2015); S. 1041, 114th Cong., § 24 (2015); H.R. 1, 113th Cong., § 7002 (2014); H.R. 3574, 113th Cong., § 25 (2013); H.R. 505, 113th Cong., § 309 (2013); S. 1762, 113th Cong., § 25 (2013); S. 953, 113th Cong., § 5(c) (2013); S. 329, 113th Cong., § 123 (2013); and S. 268, 113th Cong., § 503 (2013).

Conclusions

Hundreds of oil spills occur annually on U.S. land and in U.S. coastal waters. NPFC has an opportunity to improve its internal controls for processing oil removal disbursements by developing and updating policies and procedures. Improving its internal controls contributes to reasonably assuring that the Fund is used efficiently and effectively to pay for oil spill cleanup costs and damage claims. Because the Fund has disbursed more funding than it has been able to recover, its primary source of funding has been the per-barrel oil tax. However, the per-barrel oil tax is set to expire in 2017, creating uncertainty with regard to future funding. Given this, it will be important for Congress to determine what mechanism it would like to rely on to provide sustained funding for the Fund.

Matter for Congressional Consideration

Congress should consider the options for sustaining the Oil Spill Liability Trust Fund as well as the optimal level of funding to be maintained in the Fund, in light of the expiration of the Fund's per-barrel tax funding source in 2017.

Recommendations for Executive Action

We recommend that the Secretary of Homeland Security direct the Commandant of the Coast Guard to take the following four actions to improve the design and implementation of NPFC's internal controls over Fund disbursements.

- Develop and implement a plan to reasonably assure that NPFC staff comply with invoice certification policies and procedures.
- Develop and implement policies and procedures for reasonably assuring consistent supervisory oversight of the filing process related to transaction documentation.
- Update NPFC's high visibility oil spill policy to reasonably assure that it reflects management's current practice of weekly meetings to identify and discuss high visibility oil spills.
- Develop policies and procedures for processing of cash advances from the Fund, covering processes for (1) tracking the amounts advanced, (2) reconciling amounts advanced to amounts spent, (3) providing approval to the Finance Center to liquidate an advance, and (4) maintaining supporting documentation.

We recommend that the Secretary of Homeland Security direct the Commandant of the Coast Guard to take the following two actions to improve the design and implementation of SILC's internal controls over Fund disbursements.

- Develop and implement policies and procedures related to identifying available vendor discounts.
- Develop and implement policies and procedures to reasonably assure that all amounts presented on an invoice are calculated correctly.

We also recommend that the Secretary of Homeland Security direct the Commandant of the Coast Guard to develop and implement a mechanism for the Finance Center to reasonably assure that its procedures for processing available discounts related to Fund disbursements are followed.

Agency Comments

We provided the Department of Homeland Security with a draft of this report for review and comment. In written comments, reprinted in appendix IV, the Department of Homeland Security concurred with our recommendations and described actions taken or planned to address each recommendation. The Department of Homeland Security also provided technical comments, which we incorporated as appropriate.

We are sending copies of this report to the appropriate congressional committees and the Secretary of Homeland Security. In addition, the report is available at no charge on the GAO website at <http://www.gao.gov>.

If you or your staff have any questions about this report, please contact me at (202) 512-2623 or davisbh@gao.gov. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff who made key contributions to this report are listed in appendix V.



Beryl H. Davis
Director
Financial Management and Assurance

List of Committees

The Honorable Marco Rubio
Chairman

The Honorable Cory Booker
Ranking Member

Subcommittee on Oceans, Atmosphere, Fisheries, and Coast Guard
Committee on Commerce, Science, and Transportation
United States Senate

The Honorable Duncan Hunter
Chairman

The Honorable John Garamendi
Ranking Member

Subcommittee on Coast Guard and Maritime Transportation
Committee on Transportation and Infrastructure
House of Representatives

The Honorable Bob Gibbs
Chairman

The Honorable Grace F. Napolitano
Ranking Member

Subcommittee on Water Resources and Environment
Committee on Transportation and Infrastructure
House of Representatives

Appendix I: Objectives, Scope, and Methodology

The Coast Guard Authorization Act of 2010 included a provision for GAO to conduct an audit of Oil Spill Liability Trust Fund (Fund) disbursements.¹ This report examines the extent to which (1) the National Pollution Funds Center (NPFC) has designed and implemented internal controls over damage claim and oil removal disbursements to reasonably assure that amounts are appropriately disbursed from the Fund; (2) NPFC has designed and implemented internal controls to reasonably assure that responsible parties are designated and billed, as appropriate, for disbursements from the Fund that are over \$500,000; and (3) the Fund was reimbursed for damage claim and oil removal costs in fiscal years 2011 through 2013. We also report on the Fund's reliance on the per-barrel oil tax, which is its primary source of revenue. We excluded information about the *Deepwater Horizon* oil spill, as we had previously conducted work on that specific spill.² In addition, it is the only spill of national significance to occur since the Oil Pollution Act of 1990 (OPA) passed, and its size and cost would have skewed our analysis.

We obtained NPFC's damage claim and oil removal disbursement data for fiscal years 2011 through 2013 and performed procedures to determine whether the data were reliable enough for our purposes. Specifically, we interviewed knowledgeable agency officials about the quality control procedures the agency had in place when collecting and creating the data and electronically tested the data for unusual items. Based on the results of these procedures, we determined that the data were reliable enough for our purposes. We used these data to identify 27 damage claim disbursements and 95 oil removal disbursements for fiscal years 2011 through 2013 that exceeded \$500,000. Of these 122 disbursements, we selected and tested all disbursements that were not

¹33 U.S.C. § 2712(g). The act requires that this audit include a detailed accounting of each disbursement from the Fund in excess of \$500,000 that is (1) disbursed by the National Pollution Funds Center and not reimbursed by the responsible party and (2) administered and managed by the receiving federal agencies, including final payments made to agencies and contractors and, to the extent possible, subcontractors. We met this requirement by including in our analysis all disbursements over \$500,000 that were not reimbursed.

²We reported separately on the *Deepwater Horizon* oil spill in three GAO products: GAO, *Deepwater Horizon Oil Spill: Actions Needed to Reduce Evolving but Uncertain Federal Financial Risks*, [GAO-12-86](#) (Washington, D.C.: Oct. 24, 2011); *Deepwater Horizon Oil Spill: Update on Federal Financial Risks and Claims Processing*, [GAO-11-397R](#) (Washington, D.C.: Apr. 18, 2011); and *Deepwater Horizon Oil Spill: Preliminary Assessment of Federal Financial Risks and Cost Reimbursement and Notification Policies and Procedures*, [GAO-11-90R](#) (Washington, D.C.: Nov. 12, 2010).

fully reimbursed,³ resulting in a total of 88 disbursements for both damage claim and oil removal disbursements, which is further explained below.

To determine whether the disbursements were reimbursed, we interviewed NPFC staff about the quality control procedures the agency had in place when collecting and creating the data and reviewed the billings⁴ to the responsible parties and the subsequent collections. Based on our interviews with the NPFC staff and analyzing of the billings and collection data, we determined that the billing and collection data were reliable enough for our purposes. NPFC sends the responsible party an itemized bill containing direct and indirect costs.⁵ The itemized bill typically contains multiple individual disbursements. The responsible party may not always pay 100 percent of the amount billed, but any collection is applied to the total amount billed. Since amounts collected are not applied to individual items, such as disbursements on the bill, we were unable to determine whether individual disbursements were fully reimbursed if the bill was not paid in full. Our analysis found that 32 of the 122 disbursements were fully reimbursed by the responsible party. Additionally, 2 of the 122 disbursements were not fully reimbursed as the responsible party filed bankruptcy and settled with NPFC for a lesser amount; these were excluded from our review, as NPFC recognized these 2 disbursements as paid in full. The remaining 88 items consisted of 27 damage claim disbursements and 61 oil removal disbursements that were over \$500,000 (high dollar disbursements) and not fully reimbursed by the responsible party, guarantor(s), or both for fiscal years 2011 through 2013. These 88 disbursements were either fully uncollected or partially reimbursed (see app. II and app. III).

The selected 27 damage claim disbursements totaled \$136.1 million, which represented 93 percent of total damage claim dollars disbursed during fiscal years 2011 through 2013. The selected 61 oil removal

³Our disbursement testing did not include amounts appropriated from the Fund to other federal agencies, as these funds are transferred from the Department of the Treasury to the relevant agencies and do not go through NPFC.

⁴Our review of the billing process was limited to tracing the amount of a disbursement to the amount billed to the responsible party and verifying that the responsible party's identifying information was input into the Case Information Management System, when appropriate.

⁵Direct costs are damage claims and oil removal costs. Indirect costs are administrative costs, such as those for personnel and equipment.

disbursements totaled \$65.4 million, which accounted for 30 percent of the total oil removal dollar disbursements during fiscal years 2011 through 2013 (see tables 4 and 5).

Table 4: Identification of Damage Claim Disbursed over \$500,000 That Were Not Fully Reimbursed

	FY 2011	FY 2012	FY 2013	Total
Number of damage claim disbursements over \$500,000 identified for review	6	8	13	27
Amount of damage claim disbursements over \$500,000 identified for review	\$33,425,149	\$41,789,989	\$60,848,137	\$136,063,275
Total damage claim disbursements	\$36,826,572	\$44,504,015	\$64,562,182	\$145,892,769
Percentage of reviewed damage claim disbursements to total disbursements	91%	94%	94%	93%

Legend: FY = fiscal year.

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: Data do not include *Deepwater Horizon* oil spill disbursements.

Table 5: Identification of Oil Removal Costs Disbursed over \$500,000 That Were Not Fully Reimbursed

	FY 2011	FY 2012	FY 2013	Total
Number of oil removal disbursements over \$500,000 identified for review	25	23	13	61
Amount of oil removal disbursements over \$500,000 identified for review	\$25,756,394	\$24,597,702	\$15,027,257	\$65,381,353
Total oil removal disbursements	\$99,893,216	\$67,976,192	\$46,521,350	\$214,390,758
Percentage of reviewed oil removal disbursements to total disbursements	26%	36%	32%	30%

Legend: FY = fiscal year.

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: Data does not include *Deepwater Horizon* oil spill disbursements.

Because of the low dollar coverage for oil removal disbursements, we also selected a stratified random sample of disbursements less than or equal to \$500,000. This sample of 200 oil removal disbursements,⁶ which

⁶These selected disbursements were not limited to unreimbursed amounts.

was generalizable, was from the population of 11,093⁷ fiscal year 2011 through 2013 oil removal disbursements.⁸ (See table 6.)

Table 6: Stratified Random Sample Sizes Based on Universe of Oil Removal Costs Disbursed Equal to or under \$500,000

Stratum	Amount of disbursement	Number of disbursements in population	Total disbursements in population	Proportion of dollars disbursed in population	Sample size
1	\$0-\$50,000	10,652	\$31,933,209	29%	59
2	\$50-\$100,000	150	10,809,984	10%	20
3	\$100-\$200,000	149	21,146,958	20%	39
4	\$200-\$300,000	70	16,850,379	16%	31
5	\$300-\$400,000	47	16,514,937	15%	30
6	\$400-\$500,000	25	11,179,460	10%	21
Total		11,093	\$108,434,927	100%	200

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: Data do not include *Deepwater Horizon* oil spill disbursements.

To determine whether the design of existing internal controls over the damage claim and oil removal processes assure that amounts are appropriately disbursed from the Fund, we (1) reviewed OPA and other federal laws and regulations to obtain an understanding of allowed costs, (2) reviewed *Standards for Internal Control in the Federal Government* and evaluated the policies and procedures NPFC has in place for damage claim and oil removal disbursements,⁹ (3) evaluated potential risks and the effectiveness of NPFC’s controls to mitigate those risks (4) interviewed NPFC officials and staff, and (5) performed walk-throughs of the damage claim and oil removal processes. Based on our review of potential risks and NPFC’s documented controls, we identified key controls for the damage claim and oil removal disbursement processes and tested the implementation of those controls for the damage claim and oil removal disbursements described above and for the statistical sample

⁷This population of 11,093 transactions excludes the high dollar disbursements.

⁸With this probability sample, each disbursement of the study population had a nonzero probability of being included, and that probability could be computed for any disbursement.

⁹GAO, *Standards for Internal Control in the Federal Government*, [GAO/AIMD-00-21.3.1](#) (Washington, D.C.: November 1999).

of oil removal disbursements less than or equal to \$500,000. The key controls include verifying that transactions are properly authorized, processed for payment, and recorded. For damage claims, the testing of key controls included

- reviewing controls to reasonably assure that claimants presented their claims to the responsible party before submitting them to NPFC;
- reviewing controls related to the processing of claim reconsiderations and reviewing controls related to NPFC's coordination efforts with the Federal On-Scene Coordinators (FOSC) in adjudicating the claims and identifying responsible parties;
- reviewing controls to reasonably assure that where applicable, responsible parties were identified and recorded; and
- reviewing controls to reasonably assure that claim determinations were appropriately reviewed and approved by an appropriate individual, payments were authorized, and each claimant signed a release letter accepting the payment as full and final within the allowable time frame.

For oil removal costs, the testing of key controls included

- reviewing NPFC's internal controls related to the review and authorization of oil removal activities;
- reviewing controls around the FOSC's certification of the appropriateness of oil removal activities;
- reviewing NPFC's coordination efforts with the FOSCs in identifying responsible parties; and
- reviewing controls to reasonably assure that where applicable, responsible parties were identified and recorded and that payments for removal cost activities were appropriately authorized and recorded in the agency's accounting records.

We analyzed the results of these tests to determine if the internal controls in place were effective.

To assess the design of internal controls for reasonably assuring that responsible parties were designated and billed, as appropriate, for all disbursements,¹⁰ we (1) reviewed NPFC's policies and procedures for designating and billing the responsible parties, (2) evaluated potential risks and the effectiveness of NPFC's controls to mitigate those risks, (3) interviewed NPFC officials and staff, and (4) obtained billings and receipt data for fiscal years 2011 through 2014. To determine if these data were reliable enough for our purposes, we interviewed knowledgeable agency officials about the quality controls associated with the collection of these data. Based on the results of these tests, we concluded that these data were reliable enough for our purposes. Based on our review of potential risks and NPFC's documented controls, we identified key controls for the designation and billing processes and tested the implementation of these controls for the selected 27 high dollar damage claim disbursements and 61 high dollar oil removal disbursements. We analyzed the results of these tests to determine whether the controls in place were effective.

To understand the extent to which the Fund is reimbursed for damage claim and oil removal costs both under and over \$500,000, we interviewed NPFC officials about the billing and reimbursement processes. We analyzed disbursement, billing, and collection data obtained from NPFC. We also identified certain examples of when the disbursement from the Fund is not eligible for reimbursement.

We conducted this performance audit from February 2014 to September 2015 in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

¹⁰Our review of the billing process was limited to tracing the amount of a disbursement to the amount billed to the responsible party and verifying that the responsible party's identifying information was input into the Case Information Management System, when appropriate.

Appendix II: Damage Claim Disbursements

Tables 7, 8, and 9 show damage claim disbursements over \$500,000 for fiscal years 2011 through 2013, which were not fully reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015. As of that date, two items had been partially collected, as noted in tables 7 and 8.

Table 7: Fiscal Year 2011 Damage Claim Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015

FPN	Date of oil spill	Oil spill description	Date of disbursement	Disbursement	Total
P05005	11/26/2004	T/V <i>Athos I</i>	10/8/2010	\$10,178,190	\$31,024,915
			10/8/2010	20,257,121	
			5/23/2011	589,604	
A10005 ^a	10/30/2009	<i>Dubai Star</i>	2/16/2011	675,229	\$675,229
E07635	8/1/2007	Evolution Petrol Corp.	5/19/2011	695,911	\$695,911
N08057	7/23/2008	<i>DM932</i>	6/24/2011	1,029,094	\$1,029,094
Total for fiscal year 2011					\$33,425,149

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: Federal project number (FPN) is a unique number assigned to each oil spill.

^aThis item was partially collected as of March 2015.

Table 8: Fiscal Year 2012 Damage Claim Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015

FPN	Date of oil spill	Oil spill description	Date of disbursement	Disbursement	Total
P05005	11/26/2004	T/V <i>Athos I</i>	11/22/2011	\$3,231,207	\$3,231,207
N10016	10/5/2009	<i>Capt Mike</i>	7/10/2012	2,391,954	\$2,391,954
E10111 ^a	6/11/2010	Charlton Welding	4/18/2012	667,034	\$667,034
J05003	12/8/2004	M/V <i>Selendang Ayu</i>	6/26/2012	546,485	\$29,486,790
			8/8/2012	2,168,445	
			8/8/2012	3,668,596	
			9/12/2012	23,103,265	
E10201	10/23/2009	Gulf refinery fire	2/14/2012	6,013,003	\$6,013,003
Total for fiscal year 2012					\$41,789,988

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: Federal project number (FPN) is a unique number assigned to each oil spill and amounts may differ because of rounding.

^aThis item was partially collected as of March 2015.

Appendix II: Damage Claim Disbursements

Table 9: Fiscal Year 2013 Damage Claim Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015

FPN	Date of oil spill	Oil spill description	Date of disbursement	Disbursement	Total
908039	9/14/2005	F/V <i>Milky Way</i>	10/10/2012	\$505,084	\$505,084
E10527	7/26/2010	Enbridge Energy	4/11/2013	636,479	\$636,479
E11908	1/10/2011	Mystery ^a	12/12/2012	548,527	\$548,527
G05002	1/19/2005	T/B <i>EMC 423</i>	11/1/2012	1,036,475	\$1,036,475
J05003	12/8/2004	M/V <i>Selendang Ayu</i>	5/15/2013	2,099,477	\$58,121,572
			5/15/2013	2,166,024	
			8/19/2013	2,677,168	
			2/28/2013	5,004,635	
			5/24/2013	6,120,304	
			1/22/2013	6,646,574	
			12/18/2012	8,230,390	
			11/28/2012	9,565,223	
			12/6/2012	15,611,777	
Total for fiscal year 2013					\$60,848,137

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: Federal project number (FPN) is a unique number assigned to each oil spill.

^aThe Federal On-Scene Coordinator is unable to determine the source of mystery spills, so a responsible party cannot be identified.

Appendix III: Oil Removal Disbursements

Tables 10, 11, and 12 show oil removal disbursements over \$500,000 for fiscal years 2011 through 2013 that were not fully reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015.

Table 10: Fiscal Year 2011 Oil Removal Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015

FPN	Date of oil spill	Oil spill description	Date of disbursement	Disbursement	Total
A11024	3/11/2011	Tsunami-Crescent City	4/20/2011	\$696,848	\$2,395,248
			5/18/2011	579,391	
			7/8/2011	580,434	
			6/1/2011	538,575	
E09902	2/2/2009	Adobe Creek	10/25/2010	600,532	\$600,532
N10003	10/23/2009	Port Sulfur Discharge	1/6/2011	1,346,710	\$1,346,710
N10050	7/27/2010	Cedyco Well Head	3/1/2011	3,053,984	\$15,132,742
			3/1/2011	1,500,000	
			12/22/2010	848,617	
			5/1/2011	751,052	
			10/25/2010	2,191,432	
			10/25/2010	1,873,174	
			11/2/2010	1,866,529	
			11/2/2010	1,457,122	
			11/2/2010	961,179	
			11/2/2010	629,653	
S11010	1/20/2011	<i>Davy Crockett</i>	6/2/2011	1,159,722	\$6,281,165
			5/18/2011	976,436	
			5/1/2011	729,566	
			6/13/2011	650,707	
			3/1/2011	610,270	
			6/8/2011	574,655	
			7/19/2011	562,455	
			6/14/2011	510,722	
			7/1/2011	506,632	
			Total for fiscal year 2011		

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: Federal project number (FPN) is a unique number assigned to each oil spill.

Appendix III: Oil Removal Disbursements

Table 11: Fiscal Year 2012 Oil Removal Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015

FPN	Date of oil spill	Oil spill description	Date of disbursement	Disbursement	Total
A11034	1/23/2011	S.S. <i>Montebello</i>	11/22/2011	\$817,229	\$2,870,689
			11/8/2011	987,336	
			11/3/2011	1,066,124	
E10901	10/16/2009	CUC Power Plants 1&2	2/6/2012	513,627	\$513,627
E11802	6/21/2012	Milwaukee Round House	12/9/2011	591,735	\$591,735
M12037	6/21/2012	M/V <i>Jireh</i>	8/9/2012	597,098	\$7,607,436
			9/1/2012	645,343	
			8/8/2012	770,311	
			9/12/2012	827,798	
			8/15/2012	877,084	
			9/7/2012	877,572	
			9/1/2012	913,375	
			9/19/2012	984,432	
			8/15/2012	1,114,423	
N11056	9/11/2011	Cedyco Corp - Manila Village	1/2/2012	825,126	\$10,441,228
			5/21/2012	1,034,447	
			2/21/2012	1,209,957	
			3/15/2012	1,309,573	
			2/2/2012	767,821	
			4/23/2012	2,357,911	
			4/3/2012	2,936,393	
N11057	9/13/2011	Cedyco Abandoned Wells	2/16/2012	511,653	\$2,572,987
			2/22/2012	2,061,334	
Total for fiscal year 2012					\$24,597,702

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: Federal project number (FPN) is a unique number assigned to each oil spill.

Appendix III: Oil Removal Disbursements

Table 12: Fiscal Year 2013 Oil Removal Disbursements over \$500,000 That Were Not Reimbursed to the Oil Spill Liability Trust Fund as of March 31, 2015

FPN	Date of oil spill	Oil spill description	Date of disbursement	Disbursement	Total
E13424	6/27/2013	Shubuta Crude Oil	8/14/2013	\$605,571	\$605,571
M12037	6/21/2012	M/V <i>Jireh</i>	10/1/2012	518,635	\$5,128,128
			12/4/2012	540,781	
			10/23/2012	959,271	
			10/19/2012	1,543,703	
			10/24/2012	1,565,738	
N12062	8/27/2012	Hurricane Isaac	2/13/2013	729,500	\$7,733,111
			3/22/2013	1,255,469	
			1/23/2013	2,170,074	
			11/2/2012	665,871	
			11/5/2012	804,131	
S12020	5/13/2012	<i>Deep Sea</i>	10/25/2012	2,108,066	\$1,560,447
			11/1/2012	1,560,447	
Total for fiscal year 2013					\$15,027,257

Source: GAO analysis of National Pollution Funds Center data. | GAO-15-682

Note: Federal project number (FPN) is a unique number assigned to each oil spill.

Appendix IV: Comments from the Department of Homeland Security

U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

September 3, 2015

Beryl Davis
Director, Financial Management and Assurance
U.S. Government Accountability Office
441 G Street, NW
Washington, DC 20548

Re: Draft Report GAO-15-682, "U.S. COAST GUARD NATIONAL POLLUTION FUNDS CENTER: Improved Controls Needed for Oil Removal Disbursements and Action Needed for Sustainable Funding"

Dear Ms. Davis:

Thank you for the opportunity to comment on this draft report. The U.S. Department of Homeland Security (DHS) appreciates the U.S. Government Accountability Office's (GAO's) work in planning and conducting its review and issuing this report.

The Department is pleased to note GAO's positive recognition that the U.S. Coast Guard's National Pollution Funds Center (NPFC) has implemented a system of internal controls which provides a reasonable assurance that damage claim disbursements are appropriately disbursed. The NPFC remains committed to protecting America's environment and when oil spills occur, providing funding for quick response, compensating claimants for cleanup costs and damages, and taking action to recover costs from responsible parties, as appropriate.

The draft report contained seven recommendations with which the Department concurs. Specifically, GAO recommended that the Secretary of Homeland Security direct the Commandant of the Coast Guard to:

Recommendation 1: Develop and implement a plan to reasonably assure that NPFC staff comply with invoice certification and procedures.

Response: Concur. NPFC has reviewed existing policies and procedures and is updating them to clarify the responsibility of those staff accountable for invoice certification and the corresponding documentation of their actions when performing this function. Training will be conducted to ensure all hands understand the new policy and procedure. Estimated Completion Date (ECD): April 30, 2016.

Recommendation 2: Develop and implement policies and procedures for reasonably assuring consistent supervisory oversight over the filing process related to transaction documentation.

Response: Concur. NPFC has reviewed existing policies and procedures dealing with filing processes and will edit them to require consistent oversight over the filing process related to case transaction documentation. Training will be conducted to ensure all hands understand the new policy and procedure. ECD: April 30, 2016.

Recommendation 3: Update NPFC's high visibility oil spill policy to reasonably assure it reflects management's current practice of weekly meetings to identify and discuss high visibility oil spill.

Response: Concur. NPFC will update its standard operating procedures (SOP) to reflect the current practice of reviewing cases that warrant high visibility attention at weekly senior staff meetings. ECD: April 30, 2016.

Recommendation 4: Develop policies and procedures for the processing of cash advances from the Fund, covering processes for (1) tracking the amounts advanced, (2) reconciling amounts advanced to amounts spent, (3) providing an approval to the Finance Center to liquidate the advance, and (4) maintaining supporting documentation.

Response: Concur. NPFC has reviewed existing policies and procedures covering the process of issuing and tracking amounts advanced. A new SOP is under development documenting the processes for (1) tracking the amounts advanced, (2) reconciling amounts advanced to amounts spent, (3) providing an approval to the Finance Center to liquidate the advance, and (4) maintaining supporting documentation. NPFC is also investigating automating the process including the maintenance of supporting documentation. ECD: April 30, 2016.

Recommendation 5: Develop and implement policies and procedures related to identifying available vendor discounts.

Response: Concur. The Shore Infrastructure Logistics Center (SILC) will develop an internal SOP which will detail invoice processing procedures to include identification of prompt payment discounts. The Internal Invoice Payment/Closeout Checklist has been updated, adding a line to identify Prompt Payment Discount, if offered. ECD: April 30, 2016.

Recommendation 6: Develop and implement policies and procedures to reasonably assure that all amounts presented on the invoice are calculated correctly.

Response: Concur. In conjunction with the above internal SOP which will detail invoice processing procedures the SILC will clarify its existing process to include verifying calculations on invoices. ECD: April 30, 2016.

Recommendation 7: Develop and implement a mechanism for the Finance Center to reasonably assure that its procedures are followed for processing available discounts related to Fund disbursements.

Response: Concur. The Coast Guard Finance Center (FINCEN) has documented desk guides that outline the payment processes that should be followed, and an automated system that calculates the discounts. Several prior recovery audits have indicated that the FINCEN has a 99% payment accuracy rate. Nevertheless, we have implemented a Lean Six Sigma project to better focus on the prevention of missed discounts. Currently, FINCEN staff is working on the project to better map out the discount process and implement improved controls to ensure the capture of discounts. ECD: April 30, 2016.

Again, thank you for the opportunity to comment on this draft report. Technical comments were previously submitted under separate cover. Please feel free to contact me if you have any questions. We look forward to working with you in the future.

Sincerely,



Jim H. Crumpacker, CIA, CFE
Director
Departmental GAO-OIG Liaison Office

Appendix V: GAO Contact and Staff Acknowledgments

GAO Contact

Beryl H. Davis, (202) 512-2623 or davisbh@gao.gov

Staff Acknowledgments

In addition to the contact named above, Kim McGatlin (Assistant Director), Teresa Gardner (Analyst-in-Charge), Justin Fisher, Sarah Florino, Wilfred B. Holloway (Assistant Director), Pierre Kamga, Elizabeth Sodipo, and Andrew Stephens made key contributions to this report.

GAO's Mission

The Government Accountability Office, the audit, evaluation, and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's website (<http://www.gao.gov>). Each weekday afternoon, GAO posts on its website newly released reports, testimony, and correspondence. To have GAO e-mail you a list of newly posted products, go to <http://www.gao.gov> and select "E-mail Updates."

Order by Phone

The price of each GAO publication reflects GAO's actual cost of production and distribution and depends on the number of pages in the publication and whether the publication is printed in color or black and white. Pricing and ordering information is posted on GAO's website, <http://www.gao.gov/ordering.htm>.

Place orders by calling (202) 512-6000, toll free (866) 801-7077, or TDD (202) 512-2537.

Orders may be paid for using American Express, Discover Card, MasterCard, Visa, check, or money order. Call for additional information.

Connect with GAO

Connect with GAO on [Facebook](#), [Flickr](#), [Twitter](#), and [YouTube](#).
Subscribe to our [RSS Feeds](#) or [E-mail Updates](#).
Listen to our [Podcasts](#) and read [The Watchblog](#).
Visit GAO on the web at www.gao.gov.

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Website: <http://www.gao.gov/fraudnet/fraudnet.htm>

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Katherine Siggerud, Managing Director, siggerudk@gao.gov, (202) 512-4400, U.S. Government Accountability Office, 441 G Street NW, Room 7125, Washington, DC 20548

Public Affairs

Chuck Young, Managing Director, youngc1@gao.gov, (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, DC 20548



Please Print on Recycled Paper.