

February 1997

Superfund Program Management





**United States
General Accounting Office
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**Comptroller General
of the United States**

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The President of the Senate

The Speaker of the House of Representatives

In 1990, the General Accounting Office began a special effort to review and report on the federal program areas its work identified as high risk because of vulnerabilities to waste, fraud, abuse, and mismanagement. This effort, which was supported by the Senate Committee on Governmental Affairs and the House Committee on Government Reform and Oversight, brought a much-needed focus on problems that were costing the government billions of dollars.

In December 1992, GAO issued a series of reports on the fundamental causes of problems in high-risk areas, and in a second series in February 1995, it reported on the status of efforts to improve those areas. This, GAO's third series of reports, provides the current status of designated high-risk areas.

This report describes our assessment of the progress made in correcting weaknesses in the Environmental Protection Agency's (EPA) management of the Superfund program. Given the hundreds of billions of dollars estimated to be needed to clean up hazardous waste sites, the report focuses on the need for EPA and federal agencies to make greater use of risk as a criterion in setting priorities for their cleanup work. The report also discusses EPA's limited recovery of Superfund cleanup

costs from responsible parties and inadequate controls over contractors' costs.

Copies of this report series are being sent to the President, the congressional leadership, all other Members of the Congress, the Director of the Office of Management and Budget, and the heads of major departments and agencies.

A handwritten signature in black ink that reads "James F. Hinchman". The signature is written in a cursive style with a large initial "J" and "H".

James F. Hinchman
Acting Comptroller General
of the United States

Contents

Overview	6
Weaknesses in Superfund Program Management	12
Progress Made	20
Further Action Needed	34
Related GAO Products	39
1997 High-Risk Series	41

Overview

The Environmental Protection Agency's (EPA) Superfund program began in 1980 as a relatively short-term project to clean up abandoned hazardous waste sites. At that time, the country's hazardous waste problems were thought to be limited. Since then, thousands of waste sites have been discovered. Furthermore, cleaning up these sites—many of which are owned by the federal government—has proved to be far more complicated and costly than anticipated. Recent estimates show that cleaning up these sites could amount to over \$300 billion in federal costs and many billions more in private expenditures.

Under the Superfund law, EPA can compel the private parties responsible for abandoned or inactive hazardous waste sites to clean them up, or it can conduct the cleanup and demand reimbursement of its costs from the responsible parties. Currently, EPA has negotiated with private parties to do about 70 percent of the cleanups. To pay for EPA's cleanups, the agency draws on a legislatively established trust fund that is primarily financed by a tax on crude oil and certain chemicals and by an

environmental tax on corporations.¹ Federal agencies generally use their annual appropriations to finance cleanups of the facilities under their jurisdiction.

The Problem

The magnitude of the nation's hazardous waste problem calls for the efficient use of available funds to protect the environment and the public. As we have reported in the past, however, certain management problems have put this investment at risk.² First, EPA and other federal agencies have not consistently allocated their cleanup resources to reduce the most significant threats to human health and the environment. For instance, EPA historically has not taken into account on a consistent basis the relative risk of sites in establishing priorities for its work. Similarly, the government has not had a priority-setting system for allocating the funds to clean up federal hazardous waste sites nationwide. Second, although EPA is responsible for pursuing reimbursement when it funds a

¹In December 1995, the authority to collect these taxes expired, and taxes are no longer being collected. However, as of September 1995, the trust fund had an unappropriated balance of \$2.9 billion. As a result, the fund could still be used to finance the Superfund program.

²High-Risk Series: Superfund Program Management (GAO/HR-93-10, Dec. 1992) and High-Risk Series: Superfund Program Management (GAO/HR-95-12, Feb. 1995).

cleanup, the agency has recovered from responsible parties only a fraction of the moneys that it has spent. Finally, while about half of the Superfund program's budget annually goes to contractors, EPA has had long-standing problems with controlling the contractors' costs.

Progress

Since our 1995 report, EPA and other federal agencies have taken steps toward addressing these areas. First, EPA has begun using a risk-based process to set priorities and allocate some of its fiscal year 1996 cleanup funds for those sites that are ready to begin the construction of the cleanup method. However, EPA's regions make the decisions to allocate the funds for sites in the earlier phases of the cleanup process, and our recent review showed that EPA's regions varied in the extent to which they consider risk in making their decisions. Other federal agencies have made uneven progress in (1) taking the first step toward setting priorities—that is, developing a complete inventory of the waste sites that need cleanup—and (2) implementing systems to rank sites for cleanup according to risk.

Second, EPA has made some improvements in its cost recovery program. The agency has

continued to obtain legal agreements with responsible parties to privately fund the majority of the cleanups. EPA enforcement officials point out, however, that this approach generally leaves the more difficult cleanups for cost recovery action and thus decreases their ability to recover past costs. While some costs are not expected to be recovered, EPA's historically low recovery rate in part results from the agency's slow pace in completing action on its 1992 proposed rule to increase the indirect costs that it could recover. The agency's delay, in fact, has been a costly one to the government. When EPA proposed in 1992 to recover more of its indirect costs, the agency estimated the cumulative value of these costs at \$1.1 billion. In 3 years, the estimated value of these excluded costs has grown to \$3.8 billion, according to EPA.

Finally, for the past several years, EPA has focused attention on strengthening its management of Superfund contracts. The agency has continued to exercise oversight, such as conducting reviews of its regions' performance in this area, and made other improvements. However, our recent review found that in spite of the agency's actions, several problems persist: (1) EPA's regions are still too dependent upon the contractors'

own cost proposals to establish the price of cost-reimbursable work, (2) EPA continues to pay its cleanup contractors a high percentage of total contract costs to cover administrative expenses rather than ensuring that the maximum amount of available moneys is going toward the actual cleanup work, and (3) little progress has been made in improving the timeliness of audits to verify the accuracy of billions of dollars in Superfund contract charges.

Outlook for the Future

Thus, despite many improvements, further actions are needed to safeguard the investment of hundreds of billions of dollars. EPA needs to continue using risk as a criterion in setting priorities for cleaning up sites and to ensure greater consistency in its regions' use of risk in setting the priorities for initial cleanup work at nonfederal sites. Also, the federal government needs to complete its inventory of the federal facilities requiring cleanup and consistently implement a process to set cleanup priorities and allocate funding for its sites nationwide.

To help recover more of its program costs, EPA needs to move expeditiously to increase the amount of indirect program costs that can be recovered. By the end of 1997, EPA

officials said that they plan to make changes in their accounting system and guidance that will increase the recovery of indirect costs. The officials estimated that such changes could increase cost recoveries by as much as \$500 million (of the \$3.8 billion in excluded indirect costs). In addition, EPA needs to establish specific goals and performance measures that would allow it to more effectively evaluate its performance in recovering costs.

Finally, although EPA has been addressing the weaknesses in contract management, the agency remains vulnerable to overpaying its contractors and not achieving the maximum cleanup work with its limited resources. EPA needs to better estimate the costs of contractors' work, use the estimates to negotiate reasonable costs, provide contractors with appropriate incentives to hold down their administrative expenses, and increase the timeliness of contract audits.

Weaknesses in Superfund Program Management

Past waste management and disposal practices have allowed hazardous substances to seep into the land and water at thousands of federally and privately owned hazardous waste sites. Cleaning up this contamination will cost the federal government hundreds of billions of dollars. Given the limited resources available for cleanups, it is essential that the government

- give greater and more consistent consideration to allocating cleanup dollars first to the sites that present the greatest threat to human health and the environment,
- replenish the trust fund by increasing to the maximum extent its recovery of costs from the parties responsible for cleaning up these sites, and
- spend its cleanup contract dollars wisely.

Risk Plays a Limited Role in Allocating Resources

In the past, EPA did not set priorities according to the relative health and environmental risks posed by waste sites. Consequently, EPA could not demonstrate that it was spending its Superfund resources to achieve maximum protection. EPA has a policy to allocate its resources first to the sites that present the greatest risk. However, EPA's regions, which generally establish workload priorities, were not consistent in

using risk as a factor to set their priorities. This inconsistency was important because the regions decide which sites move into the initial phases of cleanup, such as conducting site studies to examine the nature and extent of the contamination. These sites in turn would continue to receive priority for federal funds until cleanup is completed, which can take years. More recently, EPA and its regions have begun to take steps to give greater consideration to the sites' relative risks when setting priorities.

Likewise, we have reported that the government does not have an integrated system to set cleanup priorities in order to ensure that other federal agencies involved in cleanups are efficiently spending billions of dollars each year to identify and address their waste sites. For example, a critical first step in establishing priorities is completing an inventory of sites. However, even after 10 years, federal agencies had made uneven progress in accomplishing this task.³

The government also does not have a good system for ranking sites according to their relative health and environmental risks and using the rankings to allocate funding to

³Federal Facilities: Agencies Slow to Define the Scope and Cost of Hazardous Waste Site Cleanups (GAO/RCED-94-73, Apr. 15, 1994).

hazardous waste site cleanups—either within individual agencies or across agency lines. The costs to clean up the Department of Energy’s nuclear weapons complex, for example, may run up to \$265 billion. However, we reported that the agency was not setting priorities by comparing the risks among sites. Instead, the Department of Energy’s program has been driven by goals and milestones in interagency cleanup agreements, which may not achieve the maximum protection of public health and safety with the available resources.

EPA Recovers a Small Fraction of Its Cleanup Costs

While EPA has successfully negotiated with private parties to do over 70 percent of the cleanups (worth an estimated \$12 billion), it has been less successful in recovering the costs from responsible parties when the agency does the work. Through the end of fiscal year 1995, EPA had obtained agreements with responsible parties to recover only \$1.6 billion (14 percent) of the \$11.6 billion the agency spent. Of course, not all costs are expected to be recovered. In fact, EPA enforcement officials point out that the agency’s success in getting responsible parties to privately finance most of the cleanup work generally leaves the more difficult cases for cost recovery.

Nevertheless, EPA, while it seeks to fully recover direct costs spent at a site (including contract, personnel, and travel costs), has excluded a significant portion of its indirect costs from the agency's recovery efforts, such as the research and development costs for new cleanup approaches. As a result, through the end of fiscal year 1992, EPA enforcement officials estimated that the agency had excluded \$1.1 billion.

Second, EPA lacks (1) specific goals and performance measures that could be used to improve the results of its cost recovery program, (2) adequate management information to monitor progress against these goals and measures, and (3) reliable financial information to monitor the program's progress.

Finally, the Superfund law further prevents EPA from recovering millions of dollars annually by restricting the interest rates charged to the responsible parties on recoverable costs. The law specifies that interest is to accrue from the date that EPA actually spends the money or from the date that EPA demands payment from the responsible parties, whichever is later. EPA usually waits until most reimbursable work at a site is completed before it negotiates

with the responsible party for repayment because it combines these efforts to save on legal and other enforcement costs. As a result, this practice can postpone interest charges for several years. Furthermore, the Superfund law limits EPA to charging interest on recoverable amounts to the government's borrowing rate, which is lower than commercial borrowing rates. This requirement, in effect, results in an advantage to the parties that leave cleanup work to the government. Whereas the responsible parties that borrow money to fund their own cleanups have to obtain financing from lenders at commercial rates, the parties that reimburse EPA are charged the government's lower borrowing rate.

**Weaknesses in
Contract
Management
Could Lead to
Excessive Costs**

For almost a decade, we have reported on major weaknesses in EPA's management of Superfund contracts, primarily in reducing the agency's exposure to excessive payments for contractors' work.⁴ These weaknesses result from EPA's (1) heavy reliance on contractors to do much of the work in the Superfund program and (2) the use of cost-reimbursable contracts. This type

⁴See Superfund Contracts: EPA Needs to Control Contractor Costs (GAO/RCED-88-182, July 29, 1988) and Superfund: EPA Has Not Corrected Long-Standing Contract Management Problems (GAO/RCED-92-45, Oct. 24, 1991).

of contract requires special oversight by the agency because it reimburses the contractors for all allowable costs and gives them little incentive to control costs. We have repeatedly reported that EPA has not overseen its cost-reimbursable contracts as necessary to prevent contractors from overcharging the government.

For example, we found in 1988 and 1991 that EPA had not protected itself against potentially wasteful spending by independently estimating how much the contracted work should cost. Instead, the agency was relying primarily on the contractors' own cost proposals to establish budgets for its contracted work. In response to these reported weaknesses, EPA Superfund program officials in 1992 required the staff, among other things, to independently prepare cost estimates of contracted work and to use them in negotiating the contractors' costs. The agency also subsequently provided its staff with guidance and training in preparing these estimates. However, EPA's internal reviews still found problems with the agency's preparation of the estimates.

We also reported in 1991 that EPA's Alternative Remedial Contracts Strategy

(ARCS) contractors were spending only two-thirds of their total contract costs directly on cleanup work. Another third of the costs was going toward items such as managers' salaries, rents, computers, telephones, and reports (called program management costs).⁵ After learning of these high indirect costs, the Congress capped them for fiscal years 1994 and 1995 at 15 percent and 11 percent of the total contract cost, respectively. As we reported in 1995, EPA worked with these contractors to get the contracts' costs down, on average, to meet the annual targets. However, the program management costs for individual contracts still varied widely, ranging up to 22 percent.

We also reported on a large audit backlog of EPA contracts.⁶ Audits are necessary for effective management and are a primary tool for deterring and detecting waste, fraud, abuse, and mismanagement. With cost-reimbursable contracts, audits are performed to verify the accuracy of the contractors' charges. We identified several steps that EPA and its Office of Inspector

⁵See Superfund: EPA Has Not Corrected Long-Standing Contract Management Problems (GAO/RCED-92-45, Oct. 24, 1991).

⁶EPA's Contract Management: Audit Backlogs and Audit Follow-Up Problems Undermine EPA's Contract Management (GAO/T-RCED-91-5, Dec. 11, 1990).

**Weaknesses in Superfund Program
Management**

General (OIG) could take to reduce the number of insufficient or untimely audits, such as identifying and requesting the resources required to reduce the backlog within a reasonable time.

Progress Made

EPA and the other federal agencies have taken initiatives to address the areas that we have identified, but serious weaknesses remain that leave the government vulnerable to wasteful spending.

Risk Plays More of a Role in Allocating Resources

EPA and the other federal agencies involved in cleaning up hazardous waste sites have begun to establish risk-based priorities to allocate their resources. In fiscal year 1996, EPA had unstable funding and a backlog of sites waiting to enter the construction phase of cleanup. As a result, EPA chose not to employ its previous practice of having individual regions allocate these resources for the sites in their respective states. Instead, the agency established a panel, composed of regional and headquarters representatives, to rank all of the sites nationwide that needed federal funds to begin cleanup. The panel used five weighted criteria, four of which addressed health and environmental risks, to rank the sites. According to the EPA senior manager in charge of the panel process, the panel results were provided to the Assistant Administrator for Waste Management who then used the results to allocate the available funds nationwide.

Also, we found that EPA's regions, which allocate the funding for the work done at sites before the actual cleanup begins, were not consistent and varied in the extent to which they based their funding allocations on risk. Some regions said that they used teams to place sites into different risk categories for allocating resources. Another region, however, used a less formal process than assigning sites to specific categories to set priorities. When the regions use different approaches, EPA cannot be assured that it is consistently addressing its worst sites first and achieving the maximum protection with available funds.

Other federal agencies have made uneven progress in identifying and assessing their contaminated facilities. For example, the four major land management agencies in the Departments of the Interior and Agriculture have made limited progress in completing an inventory of potential mining waste sites.⁷ The slow progress stems from a variety of factors, such as limited resources and the low priority that some agencies have assigned to this effort. On the other hand, the Departments of Defense and Energy and several other agencies have made substantial

⁷Federal Land Management: Information on Efforts to Inventory Abandoned Hard Rock Mines (GAO/RCED-96-30, Feb. 23, 1996).

progress in identifying sites with potential hazardous waste problems.⁸ Given the continuing restraint on federal resources, it is even more important that the government rank sites for cleanup on the basis of relative risk—something it cannot do until a full inventory of sites is available.

Moreover, the government has not developed an integrated approach for setting federal cleanup priorities across agency lines on the basis of relative risk, although individual agencies have made progress in establishing their own approaches. For example, we found that the Departments of Defense and Energy had developed priority-setting approaches, but neither has fully compared the risks agencywide. Thus, the agencies are unable to compare the risks for sites at different facilities. Furthermore, because agencies have independently developed different approaches to set risk-based priorities, interagency comparisons of risks are difficult. Yet setting priorities for federal cleanups is critical because nearly \$54 billion has already been budgeted, and the remaining cleanup work may cost hundreds of billions of dollars more.

⁸Federal Hazardous Waste Sites: Opportunities for More Cost-Effective Cleanups (GAO/T-RCED-95-188, May 18, 1995).

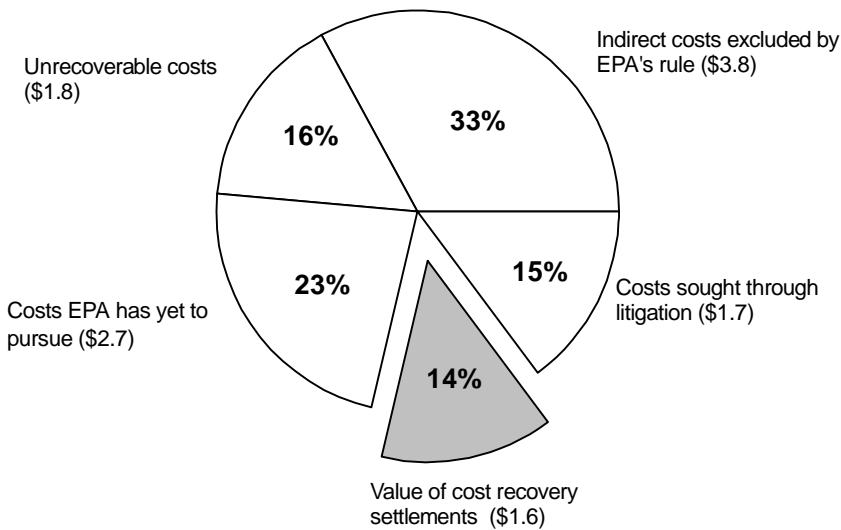
EPA Has Made Limited Progress in Recovering More Costs

EPA has taken steps to improve its cost recovery program but still needs to address several key problems. The agency has adopted procedures so that it can more accurately identify and report on the costs that are and are not potentially recoverable.⁹ As a result, EPA has increased its ability to better focus its recovery efforts. The agency has also revised its approach to more efficiently allocate about half a billion dollars in contractors' non-site-specific costs so that the agency can now include these costs in its recovery efforts.

However, EPA has not completed action to make final its 1992 proposed rule that would allow it to significantly increase the indirect costs that the agency could recover from responsible parties. Through the end of fiscal year 1995, EPA enforcement officials estimated that these excluded costs totaled more than \$3.8 billion in indirect costs—up from \$1.1 billion just 3 years earlier. (See fig. 1.)

⁹Superfund: EPA Has Opportunities to Increase Recoveries of Costs (GAO/RCED-94-196, Sept. 28, 1994).

Figure 1: Status of EPA's Efforts to Recover Superfund Program Costs Through Fiscal Year 1995 (Dollars in Billions)



Note: EPA enforcement officials estimated all of the dollar values except the value of the cost recovery settlements. Of the \$1.6 billion that EPA has legal agreements to recover, a total of \$1.2 billion had been collected.

Source: GAO's presentation of data from EPA and the Treasury Department.

EPA postponed completing its rulemaking because, among other things, the agency received many adverse comments from the private parties that may pay these costs. To

expeditiously increase the indirect costs that the agency can recover, EPA enforcement officials and the Acting Chief Financial Officer said that they plan to make changes in the program's accounting system and cost recovery guidance by the end of 1997, rather than to continue moving forward with the rulemaking approach. EPA enforcement officials recently estimated that these changes, if implemented as planned, could increase recoveries by as much as \$500 million. The officials estimated that the remaining \$3.3 billion cannot be recovered, for example, because some of these costs are linked to recovery cases that have already been settled or because no financially viable party could be identified.

In addition, EPA has not established specific goals and performance measures that would allow the agency to more effectively evaluate its performance in recovering costs. These measures would also be useful in assessing the reasons behind the program's continued low rate of recovery. EPA has agreements with responsible parties to recover only 14 percent of the \$11.6 billion that the agency has spent through fiscal year 1995. Instead of specific results-oriented goals and performance measures, the agency continues to establish annual targets that

focus on the number of cases for which the regions should decide how the agency should pursue cost recovery actions. EPA enforcement officials said that, while they consider their current goals to be adequate, they are in the process of establishing goals and measures under the Government Performance and Results Act.¹⁰

We also reported in 1995 that EPA's staff lacked the information needed to efficiently perform Superfund cost recovery work.¹¹ The limitations in the agency's automated information and financial systems prevent cost recovery staff from relying on these systems to provide all of the information needed to identify and report cost recovery data. As a result, staff must do excessive manual searches and reconciliations to ensure that the information supporting cost recovery cases is accurate, reliable, and complete. The efficient identification of supporting cost and cleanup documentation is critical because if the information is not available, the government can be prevented from recovering its costs. While EPA has

¹⁰This act requires EPA and other federal agencies to establish long-term strategic plans that cover a period of at least 5 years, no later than the end of fiscal year 1997. These plans are to be the starting point for agencies to set annual goals for programs and to measure the programs' performance in achieving those goals.

¹¹Superfund: System Enhancements Could Improve the Efficiency of Cost Recovery (GAO/AIMD-95-177, Aug. 25, 1995).

efforts under way to improve its financial and management information systems, the agency has not validated the effectiveness of these actions.

Even With Improvements, Serious Weaknesses Remain in Controlling Contractors' Costs

Our recent work shows that EPA has improved its management of Superfund contracts, but the agency is still vulnerable to paying excessive contractors' costs because of (1) the poor quality of the independent cost estimates that EPA prepares to evaluate the contractors' proposed costs and the limited use EPA makes of these estimates in negotiating the price of contracted work, (2) the large amount of costs going toward remedial contractors' administrative and other program management expenses rather than to conducting cleanup work, and (3) the persistent and large backlog of the audits of the costs that contractors have charged the government.

EPA's Cost Estimates Provide Little Control Over Contract Costs

EPA regional contracting officials are generally preparing independent estimates of the cost of Superfund contracted work, as required. However, we found that the poor and inconsistent quality of the estimates often did not provide the government with a

good idea of what a contractor's work assignment should cost. Furthermore, EPA infrequently used these estimates to negotiate a better contract price for the government. This situation places the government at risk of paying more than is reasonable or necessary to accomplish Superfund work.

EPA's own internal reviews have identified problems with the quality of the agency's cost estimates for Superfund contracted work. A 1995 review in one region found several examples of projects for which no government cost estimates had been prepared. In another region, EPA found in 1996 that the contracting officers had inappropriately revealed the government's cost estimate (i.e., its negotiating position) to the contractors before the cost negotiation process. Other internal reviews found that some EPA cost estimates were not detailed enough to meet the agency's standards for such estimates. Still another review raised questions about whether regional contracting personnel had adequate expertise to prepare meaningful cost estimates. One review suggested that EPA may want to expand its use of government expertise from sources such as the Army Corps of Engineers, an agency that has

extensive experience in contracting for construction projects.

Similarly, our recent review found problems with both the quality and use of independent government cost estimates. In developing cost estimates, we found that EPA staff sometimes omitted key work steps or made incorrect assumptions; in one case, a significant mathematical error was made. In other cases, EPA expressed these estimates in such wide ranges of acceptable costs that the estimates were not effective for evaluating the contractors' proposals. Besides this poor quality, our review also raises questions about how well EPA staff members were using the estimates to negotiate the contractors' costs. We found that EPA usually (in 21 of 26 cases)¹² accepted the contractors' proposed costs unchanged—even though EPA's estimates ranged from 48 percent below to 164 percent above the contractor's proposed costs. Furthermore, while EPA requires its staff to justify any differences between its estimate and the contractors' proposal, we found that EPA staff commented on the differences but then usually deferred to the contractor's

¹²Our review included all of the government cost estimates prepared in two regions for Superfund work assignments during the first 9 months of 1995.

position, stating that the contractor's cost appeared "fair and reasonable."

Superfund
Contractors'
Program
Management Costs
Remain a Concern

While the annual average percentage of program management costs that contractors charge EPA has declined, our work shows that EPA still has some problems in controlling these costs. First, our analysis shows that only 7 of the 41 ongoing ARCS contracts have met the agency's original 11-percent target for program management costs, over the 10-year life of these contracts. Almost half of these contracts had cumulative program management costs that ranged from 15 to 22 percent, in part because EPA did not control these costs in the early years of the contracts.

Second, we found that EPA needs to continue controlling program management costs as it begins awarding its next group of contracts, known as Response Action Contracts (RAC). After more than a year of operation, EPA's first two active RAC contracts have incurred program management costs of 21 and 38 percent. EPA officials told us that while they expect higher program management percentages early in a contract before cleanup work is fully under way, they are concerned about the high rate of these

charges. Moreover, the officials noted that these contracts' first year of operation was during fiscal year 1996—when the agency operated for 8 months without a final budget. This unusual situation hampered the agency's ability to assign cleanup work to these contractors and thus contributed to some of the high program management costs.

Finally, we found that one of EPA's key tools for controlling these costs rewards those contractors with the highest costs. EPA intended the contracts to provide financial incentives (or award fees) to encourage the contractors to control their program management costs. However, our analysis of EPA's data shows that the contractors with the highest program management costs received the highest award fees because the fees are calculated as a percentage of the program management costs. To illustrate, two of these contractors did about \$40 million worth of remedial work. However, one contractor incurred about \$7 million in program management costs, while the other contractor incurred about \$4 million. For their performance in program management, EPA awarded about \$300,000 to the first contractor and about \$155,000 to the

second. EPA officials said that they plan to further explore this matter.

Contract Audit
Backlog Continues
to Place Superfund
Dollars at Risk

Finally, EPA has not made much progress in reducing the risk to Superfund contract dollars resulting from insufficient or untimely audits. The backlog, which EPA's OIG attributes to a governmentwide problem of limited audit resources, has remained steady at about 500 unfulfilled requests for audits. The OIG audits about 15 percent of the backlog and funds other agencies (in particular, the Department of Defense) to do the remaining audits because the contractors conduct more business with these other agencies. EPA's audit needs, however, must compete with the other demands within these agencies for audit resources. While more resources would help address this problem, according to OIG officials, the agency also needs to compel contractors to submit complete and timely documentation for the final audit requests. Our analysis of EPA's data shows that 54 percent of the incurred-cost data submitted for audit are either inadequate or untimely. EPA and its OIG have recently completed a joint review to try to correct the backlog and acknowledged that EPA needs to find a way to devote more

resources and take other actions to diminish the audit backlog.

While the audit backlog is not entirely within the agency's control, the resulting lag in performing audits increases the vulnerability of EPA's contracting dollars to waste, fraud, and abuse. When the audit of contracts is delayed by years, changes in personnel and old documentation make it difficult for auditors to decide whether contractors have charged only allowable costs. Therefore, increasing the agency's efforts and resources to reduce the audit backlog would help to alleviate this risk.

Further Action Needed

While EPA has addressed weaknesses in its management of the Superfund program, it needs to more effectively use its limited resources and take additional steps to better control the program's costs.

Risk Should Drive Resource Allocation

EPA needs to continue considering sites' relative risk in setting priorities to allocate Superfund's limited resources. EPA officials have indicated that they will continue using the panel process to rank sites by risk. However, several years ago, when available funding appeared insufficient, EPA set up a similar panel process but never fully implemented it because the funding situation improved. Thus, we would like to see the agency continue using this approach and make it an integral part of its program operations.

Also, EPA needs to ensure that its regions are consistently considering sites' relative risk when setting priorities for the cleanup work they manage. This action is important because the regions' decisions affect which new sites can begin the early stages of the cleanup process and eventually move into the national panel process for funding. Thus, without a consistent and broad application of priority setting, EPA cannot ensure that it

is spending its resources in the most effective way to reduce risk.

To set priorities for federal facilities, the government needs to complete its inventory of the sites requiring cleanup. Thus, we have recommended that the Congress amend the Superfund law to require (1) that agencies submit plans for completing their inventories to EPA for review and approval, (2) that agencies report annually to EPA on their progress in carrying out these plans, and (3) that EPA report annually to the Congress on the agencies' progress. Finally, the federal government needs to establish a priority-setting process for federal site cleanups based on relative risks, and agencies need to consistently implement this process nationwide. Otherwise, federal agencies and the Congress will be hindered in making informed decisions about the priority, pace, or level of federal cleanups.

EPA Must Improve Its Efforts to Recover More Costs

Further improvements in cost recovery will depend on EPA's expeditious expansion of the indirect program costs it recovers. Until then, the government will continue to lose the opportunity to more fully recoup hundreds of millions of dollars. In addition, EPA enforcement officials said that their

ability to recover costs will depend on the effect of the agency's new administrative initiative to waive a portion of the past and future costs that are attributable to the parties that do not have the financial capability to pay their share.

To better track its progress in recovering past costs, EPA needs to establish goals and performance measures for its efforts. Also, EPA needs to continue to collect better information on the success of its cost recovery negotiations and on the recoverability of many of its costs. These actions would improve the agency's ability to evaluate its accomplishments and forecast the amounts that it is likely to recover. The agency also needs to validate the improvements made to its accounting system and complete its current initiative to improve its information systems to support cost recovery efforts. Finally, as we have suggested in the past, the Congress may want to consider revising the Superfund law's interest provisions to increase the interest that EPA could charge on recoverable costs.

Continued
Attention to
Contract
Management Is
Needed

Although EPA has made progress in addressing some of its persistent contract management weaknesses, the agency still needs to better control its Superfund contractors' costs. In particular, EPA needs to improve the quality of its independent cost estimates and more effectively use them to determine the scope and size of its contractors' work budgets. As suggested in EPA's internal reviews, EPA may need to make greater use of available government expertise, such as the Army Corps of Engineers, to help it improve this aspect of contract management.

EPA also needs to ensure that its contractors are reducing their program management costs, so that the available funds are spent on the actual cleanup work to the maximum extent possible. Finally, given the risk of fraud, waste, abuse, and mismanagement resulting from the backlog of contract audits, EPA needs to ensure that its contractors are submitting timely and complete final bills. The agency also needs to work with its OIG to decide how more resources can be allocated to auditing contracts and whether EPA can assume more audit responsibility for its contracts.

Further Action Needed

In conclusion, until these steps are taken, the government remains at risk of spending hundreds of billions of dollars in federally funded cleanups—but not addressing the most significant threats to human health and the environment. At the same time, EPA loses the opportunity to recover hundreds of millions more of its past costs that could be returned to the Treasury. In addition, the agency remains vulnerable to inefficiently spending about half of its Superfund program budget because of inadequate controls over its contractors' costs.

Related GAO Products

Executive Guide: Effectively Implementing the Government Performance and Results Act (GAO/GGD-96-118, June 1996).

Federal Facilities: Consistent Relative Risk Evaluations Needed for Prioritizing Cleanups (GAO/RCED-96-150, June 7, 1996).

Superfund: More Emphasis Needed on Risk Reduction (GAO/T-RCED-96-168, May 8, 1996).

State Cleanup Standards (GAO/RCED-96-98R, April 24, 1996).

Superfund: Implications of Key Reauthorization Issues (GAO/T-RCED-96-145, April 24, 1996).

Environmental Protection: Selected Issues Related to EPA's Fiscal Year 1997 Appropriations (GAO/T-RCED-96-164, April 17, 1996).

Superfund: How States Establish and Apply Environmental Standards When Cleaning Up Sites (GAO/RCED-96-70FS, March 20, 1996).

Superfund: System Enhancements Could Improve the Efficiency of Cost Recovery (GAO/AIMD-95-177, Aug. 25, 1995).

Superfund: Information on Current Health Risks (GAO/RCED-95-205, July 19, 1995).

Superfund: EPA's Use of Risk Assessments in Cleanup Decisions (GAO/T-RCED-95-231, June 22, 1995).

Superfund: Risk Assessment Assumptions and Issues (GAO/T-RCED-95-206, May 24, 1995).

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