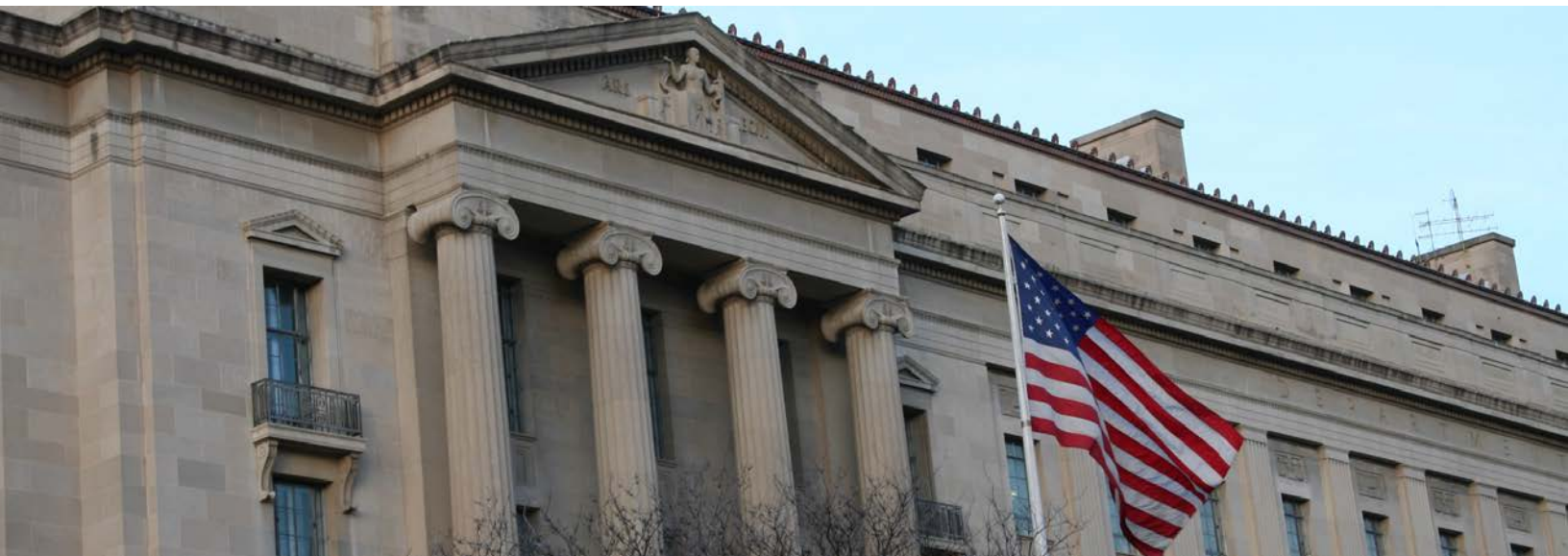




Office of the Inspector General U.S. Department of Justice

OVERSIGHT ★ INTEGRITY ★ GUIDANCE



Audit of the Superfund Activities in the Environment and Natural Resources Division for FY 2017



Executive Summary

Audit of the Superfund Activities in the Environment and Natural Resources Division for Fiscal Year 2017

Objectives

The objective of this U.S. Department of Justice (DOJ) Office of the Inspector General (OIG) audit was to determine if the cost allocation process used by the Environment and Natural Resources Division (ENRD) and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases from fiscal year (FY) 2017. To accomplish this objective, we assessed Superfund case designation, costs distributed to these cases, and the adequacy of the internal controls over the recording of charges to Superfund cases.

Results in Brief

We concluded that the ENRD provided an equitable distribution of costs to Superfund cases from FY 2017. We found that the cost allocation process used by the ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FY 2017.

Recommendations

The report does not contain any recommendations due to ENRD's equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases. The ENRD's response to our draft audit report is included at Appendix 4.

Audit Results

In 1980, the Congress passed the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA or Superfund) to clean up hazardous waste sites throughout the United States. The ENRD administers cases against those who violate CERCLA's civil and criminal pollution-control laws. The Environmental Protection Agency entered into interagency agreements with the ENRD to reimburse its litigation costs related to its Superfund activities.

Our overall assessment of Superfund charges for FY 2017 determined that the ENRD generally provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases. Specifically, we found that the ENRD adhered to its case determination procedures for designating cases as Superfund or non-Superfund. We were also able to reconcile ENRD's accounting records to costs reported in the system designed to process Superfund related financial data from the ENRD's Expenditure and Allotment Reports. We found that the ENRD appropriately allocated incurred costs to Superfund and non-Superfund cases, based on the correct totals for the fiscal years. Further, we found that selected costs charged to Superfund were adequately supported and allocable to Superfund.

**AUDIT OF THE SUPERFUND ACTIVITIES IN THE ENVIRONMENT
AND NATURAL RESOURCES DIVISION FOR FISCAL YEAR 2017**

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AUDIT OF THE SUPERFUND ACTIVITIES IN THE ENVIRONMENT AND NATURAL RESOURCES DIVISION FOR FISCAL YEAR 2017

INTRODUCTION

In 1980, the Congress passed the *Comprehensive Environmental Response, Compensation, and Liability Act* (CERCLA or Superfund) to clean up hazardous waste sites throughout the United States.¹ The law addressed concerns about the need to clean up abandoned hazardous waste sites and the future release of hazardous substances into the environment. When CERCLA was enacted, the U.S. Environmental Protection Agency (EPA) was assigned responsibility for preparing a National Priorities List to identify sites that presented the greatest risk to human health and the environment. Waste sites on the National Priorities List were generally considered the most contaminated in the nation, and EPA funds could be used to clean up those sites. The cleanup of these sites was to be financed by the potentially responsible parties – generally the current or previous owners or operators of the site. In cases where the potentially responsible party could not be found or was incapable of paying cleanup costs, CERCLA established the Hazardous Substance Superfund Trust Fund (Trust Fund) to finance cleanup efforts. The Trust Fund also pays for EPA's enforcement, as well as research and development activities.

Because certain provisions of CERCLA were set to expire in fiscal year (FY) 1985, Congress passed the *Superfund Amendments and Reauthorization Act* (SARA) in 1986.² SARA stressed the importance of using permanent remedies and innovative treatment technologies in the cleanup of hazardous waste sites, provided the EPA with new enforcement authorities and settlement tools, and increased the authorized amount of potentially available appropriations for the Trust Fund.

Executive Order 12580, issued January 23, 1987, gives the Attorney General responsibility for all Superfund litigation. Within the Department of Justice (DOJ), the Environment and Natural Resources Division (ENRD) administers cases against those who violate CERCLA's civil and criminal pollution-control laws. Superfund litigation and support are assigned to the following ENRD sections: Appellate, Environmental Crimes, Environmental Defense, Environmental Enforcement, Land Acquisition, Natural Resources, and Law and Policy.

Beginning in FY 1987, the EPA entered into interagency agreements with the ENRD to reimburse the ENRD for its litigation costs related to its CERCLA activities. As shown in Table 1, cumulative budgeted reimbursements for Superfund litigation totaled over \$831 million between FYs 1987 and 2017, which represented over a quarter of the ENRD's total budget during this period.

¹ 42 U.S.C. §103 (2017).

² SARA is incorporated into 42 U.S.C. Chapter 103 (2017).

Table 1
Comparison of the ENRD's Appropriations and Budgeted Superfund Reimbursements (FYs 1987 through 2017)

FY	ENRD APPROPRIATIONS	BUDGETED SUPERFUND REIMBURSEMENTS	TOTAL ENRD BUDGET
1987 - 2009	\$ 1,441,251,000	\$ 647,509,160	\$ 2,088,760,160
2010	109,785,000	25,600,000	135,385,000
2011	108,010,000	25,550,000	133,560,000
2012	108,009,000	24,550,000	132,559,000
2013	101,835,764	23,050,000	124,885,764
2014	107,643,000	23,050,000	130,693,000
2015	110,024,350	21,430,000	131,454,350
2016	110,512,000	20,145,000	130,657,000
2017	110,512,000	20,145,000	130,657,000
Totals	\$2,307,582,114	\$831,029,160	\$3,138,611,274

Source: ENRD Budget History Report for FYs 1987 through 2017

The EPA and the ENRD Statement of Work required the ENRD to maintain a system that documented its Superfund litigation costs. Accordingly, the ENRD implemented a management information system developed by a private contractor. This system is designed to process financial data from the ENRD's Expenditure and Allotment (E&A) Reports into: (1) Superfund direct costs, including direct labor costs and other direct costs; (2) non-Superfund direct costs; and (3) allocable indirect costs.³

The EPA authorized reimbursements to the ENRD in the amount of \$20.145 million during FY 2017 in accordance with the most recent EPA Interagency Agreement DW-15-92343901-9.⁴

Excise taxes imposed on the petroleum and chemical industries as well as an environmental income tax on corporations maintained the Trust Fund through December 31, 1995, when the taxing authority for Superfund expired. Since that time, Congress has not enacted legislation to reauthorize these taxes. Currently, the funding for Superfund is comprised of appropriations from EPA's general fund, interest, fines, penalties, and recoveries. Consequently, the significance of the ENRD's Superfund litigation can be seen in the commitments and recoveries that the EPA has obtained, with the EPA receiving nearly \$15 billion in commitments to

³ The E&A Report is a summary of the total costs incurred by the ENRD during the fiscal year. The report includes all costs (both liquidated and unliquidated) by subobject class and a final indirect cost rate calculation for the fiscal year. Other direct costs charged to individual cases include special masters, expert witnesses, interest penalties, travel, filing fees, transcription (court and deposition), litigation support, research services, graphics, and non-capital equipment. Indirect costs are the total amounts paid in the E&A Reports less direct charges and are allocated based on the direct Superfund salary costs on each case.

⁴ EPA interagency agreement funds are considered no-year money. ENRD advised that it applied unused funds from previous interagency agreements to supplement the FY 2017 agreement's authorization.

clean up hazardous waste sites and recovering over \$9.5 billion from potentially responsible parties between FYs 1987 and 2017, as shown in Table 2.⁵

Table 2
Estimated Commitments and Recoveries
(FYs 1987 through 2017)

FY	COMMITMENT (\$ MILLION)	RECOVERY (\$ MILLION)
1987 - 2009	\$7,361	\$5,516
2010	753	726
2011	902	376
2012	118	132
2013	1,051	637
2014	49	163
2015	2,548	1,769
2016	335	63
2017	1,659	176
Totals	\$14,776	\$9,558

Source: ENRD Commitment and Recovery Reports, FYs 1987 to 2017

Audit Objective

The objective of the audit was to determine if the cost allocation process used by the ENRD and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FY 2017. To accomplish our objective, we assessed whether: (1) the ENRD identified Superfund cases based on appropriate criteria, (2) costs distributed to cases were limited to costs reported in the E&A Reports, and (3) adequate internal controls existed over the recording of direct labor time to cases and the recording of other direct charges to accounting records and Superfund cases. We designed the audit to compare costs reported in the contractor’s accounting schedules and summaries for FY 2017 (see Appendix 3) to the information recorded in DOJ’s accounting records, and to review the cost distribution system used by the ENRD to allocate incurred costs to Superfund and non-Superfund cases. To accomplish this, we performed the following tests:

- We reviewed the ENRD’s methodology for categorizing Superfund cases by comparing a select number of Superfund cases to the ENRD’s Superfund case designation criteria.
- We compared Superfund total costs recorded as paid in the E&A Reports to the amounts reported as Total Amounts Paid in the contractor’s year-end accounting schedules and summaries, and we traced the costs to Superfund cases.

⁵ Commitments are estimated funds from potentially responsible parties for the cleanup of hazardous waste sites. Recoveries are actual funds received by the EPA that include Superfund cost recovery, oversight costs, and interest.

- We reviewed the contractor's methodology for distributing direct labor and indirect costs to Superfund cases, and we compared other direct costs to source documents to validate their allocability to Superfund cases.

We performed these steps to ensure that costs distributed to Superfund and non-Superfund cases were based on total costs for FY 2017; that the distribution methodology used and accepted in prior years remained viable; and that selected costs were supported by evidence that documented their allocability to Superfund and non-Superfund cases. We used the test results to determine if the ENRD provided an equitable distribution of total labor, other direct costs, and indirect costs to Superfund cases during FY 2017.

Appendix 1 contains a more detailed description of our audit objective, scope, and methodology.

AUDIT RESULTS

In our overall assessment of Superfund charges for FY 2017, we determined that the ENRD generally provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases. Specifically, we found that the ENRD adhered to its case determination procedures for designating cases as Superfund or non-Superfund. We were also able to reconcile ENRD's accounting records to costs reported in the system designed to process Superfund-related financial data from the ENRD's E&A Reports. We found that the ENRD appropriately allocated incurred costs to Superfund and non-Superfund cases, based on the correct totals for the fiscal years. Further, we found that selected costs charged to Superfund were adequately supported and allocable to Superfund.

Reconciliation of Contractor Accounting Schedules and Summaries to E&A Reports

To ensure that the distribution of costs to Superfund and non-Superfund cases was limited to total costs incurred for each fiscal year, we reconciled the amounts reported in the ENRD's E&A Reports to those in the contractor's Schedule 6, Reconciliation of Total ENRD Expenses. According to the E&A Reports, total ENRD expenses were over \$136 million in FY 2017, as shown in Table 3.

Table 3
Total ENRD Expenses

DESCRIPTION	FY 2017
Salaries	\$80,652,750
Benefits	24,301,319
Travel	3,053,513
Freight	272,618
Rent	14,733,222
Printing	13,372
Services	12,975,417
Supplies	411,313
Equipment	42,486
Totals	\$136,456,010

Source: ENRD E&A Reports for FY 2017

We then reconciled the ENRD E&A Report amounts to the distributions in the contractor's Schedule 5, Superfund Costs by Object Classification, and Schedule 2, Superfund Obligation and Payment Activity by Fiscal Year of Obligation. Ultimately, we found that Schedules 1 through 6 reconciled to the E&A Reports.

Superfund Case Reconciliation

The ENRD assigned unique identifying numbers to all Superfund and non-Superfund cases and maintained an annual database of Superfund cases. To ensure that the contractor used the appropriate Superfund database, we reconciled the contractor's Superfund database to the ENRD's original Superfund database.

The reconciliation identified 569 Superfund cases in FY 2017 for which the ENRD incurred hourly direct labor costs.

We also reviewed the Superfund case designation criteria and associated case files to identify the method used by the ENRD to categorize Superfund cases and to determine if Superfund cases were designated in accordance with established criteria. We confirmed that the ENRD memorandum entitled *Environment and Natural Resources Division Determination of Superfund Cases* provides the methodology for designating Superfund cases.

We judgmentally selected 17 cases from the FY 2017 Superfund database to test whether the ENRD staff adhered to case designation procedures outlined in the ENRD Superfund case determination memorandum.⁶ We compared the case number in the Superfund database to the ENRD case file documents including case intake worksheets, case opening forms, case transmittals, and other correspondence. These documents referenced laws, regulations, or other information used to categorize the cases as either Superfund or non-Superfund for tracking purposes. Of the 17 cases reviewed, we found no exceptions.

Superfund Cost Distribution

Because we found that the ENRD's case identification method adequately identified Superfund cases, we proceeded to review the system used by the contractor to distribute direct labor, indirect costs, and other direct costs charged to Superfund cases. Our starting point for reviewing the distribution system was to identify and reconcile the ENRD cases as Superfund or non-Superfund. This enabled us to extract only Superfund data from the ENRD data to compare to the accounting schedules and summaries. The Superfund costs in Schedule 2 of the accounting schedules and summaries for FY 2017 are shown in Table 4.

Table 4
Superfund Distributed Costs

COST CATEGORIES	FY 2017
Labor	\$5,794,646
Other Direct Costs	3,449,162
Indirect Costs	11,598,156
Unliquidated Obligations	6,201,504
Totals	\$27,043,468

Note: The amounts listed in this table reflect obligations and payments during FY 2017. These amounts are also allocated to prior year interagency agreements, as detailed in the accounting schedules and summaries included at Appendix 3 of this report.

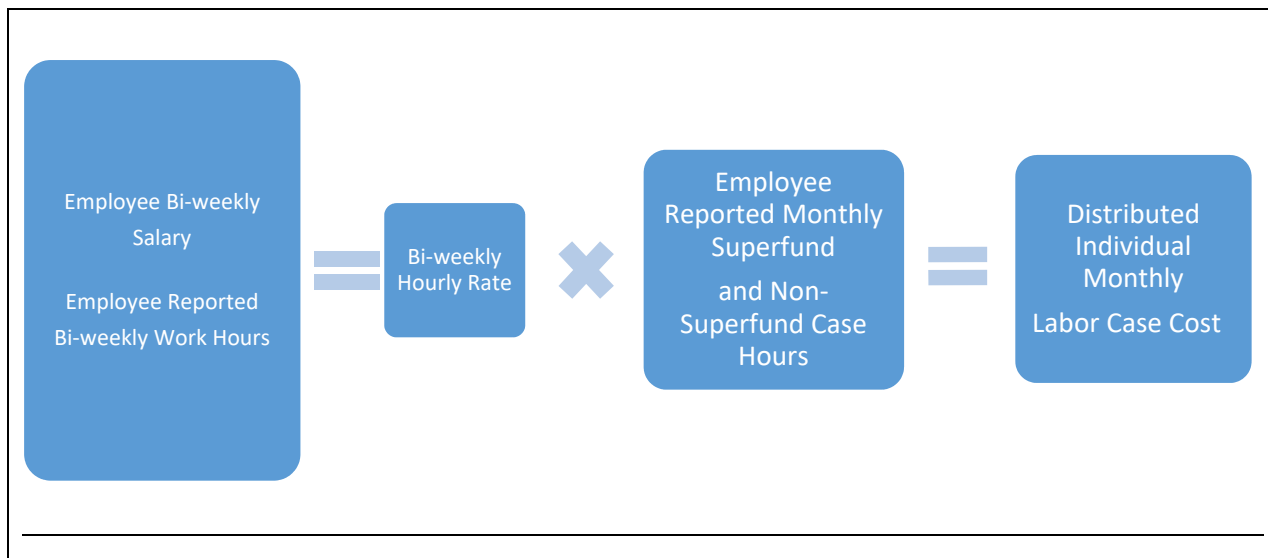
Source: Schedule 2 of the contractor's accounting schedules and summaries.

⁶ See Appendix 2 for the cases we sampled.

Direct Labor Costs

The contractor continued using the labor distribution system from prior years, which our prior audits had reviewed and accepted. The ENRD provided the contractor with electronic files that included employee time reporting information and bi-weekly salary information downloaded from the National Finance Center.⁷ Figure 1 shows the formula the contractor used to distribute labor costs monthly:

Figure 1
Monthly Distribution of ENRD Labor Cost



Source: OIG analysis of contractor labor cost calculation

For the purposes of our review, we:

- compared total Superfund and non-Superfund labor costs to costs reported in the ENRD E&A Reports for FY 2017;
- reviewed the ENRD labor files listing billable time, selected ENRD salary files provided to the contractor, and the resultant files prepared by the contractor to summarize costs by employee and case; and
- extracted Superfund case costs from the contractor files by using validated Superfund case numbers.

We completed reconciliations between ENRD and contractor data files to: (1) compare extractions from the ENRD employee time and case data against the contractor's accounting schedules and summaries and (2) identify Superfund case data.

Using ENRD data, we determined that ENRD employees spent a total of 93,265 hours working on 569 Superfund cases in FY 2017. We verified that the contractor made a similar determination in its billing schedules. To determine if

⁷ The National Finance Center processes bi-weekly payroll information for many federal government agencies, including the DOJ.

the contractor's billing summary for direct labor totaling \$5,794,646 was accurate based on data provided by ENRD, we traced and verified the total direct labor costs for Superfund cases using the contractor's calculated labor rates, ENRD's time reports, and ENRD's list of identified Superfund cases for FY 2017.

Overall, we were able to verify the accumulation of reported hours and the extraction of labor costs for Superfund cases. Therefore, we believe that this process is adequately designed to provide an equitable distribution of direct labor costs to Superfund cases.

Indirect Costs

In addition to direct costs incurred for specific cases, the ENRD incurred indirect costs that were allocated to its cases. These costs included salaries, benefits, travel, freight, rent, communication, utilities, supplies, and equipment. The contractor distributed indirect costs to individual cases using an indirect cost rate calculated on a fiscal year basis.

The indirect cost rate was derived from an ENRD indirect rate and a Superfund-specific indirect rate. To calculate the ENRD indirect rate, the contractor subtracted the amount of ENRD's direct costs from the total costs incurred according to the ENRD's E&A report and divided the remainder by the total direct labor costs for the period. To calculate a Superfund-specific indirect rate, the contractor identified indirect costs that supported only Superfund activities and divided these costs by the Superfund direct labor costs for the period. The rates for FY 2017 are shown in Table 5.

Table 5
Indirect Cost Rates

CATEGORY	FY 2017
ENRD Indirect Rate	172.46%
Superfund-Specific Indirect Rate	27.69%
Combined Indirect Cost Rate	200.15%

Source: Schedule 4 of the contractor's accounting schedules and summaries, percentages rounded to nearest tenth of a percent.

Using the E&A Reports and the contractor's electronic files, we reconciled the total indirect amounts to Schedule 4, Indirect Rate Calculation, to ensure that the contractor used only paid costs to accumulate the expense pool. We determined that the total amount of indirect costs for FY 2017 was \$81,112,357, of which \$11,598,156 was allocated to Superfund cases. We found that this process generally provided for an equitable distribution of indirect costs to Superfund cases during FY 2017.

Other Direct Costs

Table 6 presents the other direct costs incurred by the ENRD and distributed to Superfund during FY 2017 by subobject code.

Table 6
Superfund Other Direct Costs

SUBJECT CODE	DESCRIPTION	FY 2017
1153	Compensation, Masters	\$1,406
1157	Expert Witness Fees	2,597,062
2100	Travel and Transportation	287,592
2508-2510	Reporting and Transcripts	64,333
2529	Litigation Support	490,005
2534	Research Services	1,905
2563	Government-Incurred Interest Penalties	603
2599	Miscellaneous Litigation Expenses	31

Source: Contractor files for FY 2017

As part of our audit, we selected three FY 2017 other direct cost subobject codes to test: (1) 1157 – Expert Witness fees; (2) 2100 – Travel and Transportation, and (3) 2529 – Litigation Support. We note that for FY 2017, these three subobject codes comprised 82 percent of the transaction universe (768 of 934 transactions) and 98 percent of the FY 2017 other direct cost expenditures (\$3.37 million of 3.44 million). Considering the possible variation between these three types of transactional activity measures, we employed a stratified random sampling design to provide effective coverage and to obtain precise estimates of the test results’ statistics. The set of transactions in the universe was divided into two subsets: high-dollar value transactions and non-high dollar value transactions. We reviewed 100 percent of high-dollar transactions within these three subobject codes. In total, we reviewed 158 transactions totaling nearly \$1,731,019 as detailed in Table 7.

Table 7
Sampled Other Direct Costs

SUBJECT CODE	DESCRIPTION	NUMBER OF TRANSACTIONS	AMOUNT
1157	Expert Witness Fees	61	\$1,346,948
2100	Travel and Transportation	59	97,194
2529	Litigation Support	38	286,877
Totals		158	\$1,731,019

Source: OIG

We designed our review of other direct cost transactions to determine if the selected transactions included adequate support based on the following four attributes:

- Subobject code classification – verified that the correct subobject code was used to classify the cost;

- Superfund/non-Superfund case classification – verified that the case number appearing on the documents matched the case number in the Superfund database;
- Dollar amount – verified that the dollar amount listed in the other direct costs database matched the amounts on the supporting documentation; and
- Proper approval – verified that the proper approval was obtained on the vouchers paying the other direct costs.

Our tests resulted in no exceptions regarding Expert Witness Fees or Litigation Support costs.

With regard to Travel and Transportation costs, we tested 59 transactions and found that most transactions were classified correctly, carried the correct dollar amount, and were properly approved. However, we initially noted nine transactions where the travel authorization provided as support did not match the cost and another three transactions where cost allocation between cases was unclear. During our audit, ENRD provided additional explanation and support for these transactions. Table 8 summarizes our analysis of these Travel and Transportation issues.

Table 8
Travel and Transportation Issues

Superfund ID	Amount Billed (\$)	Travel Voucher Amount (\$)	Amount Unsupported	Issue/Resolution
90-11-3-07101/2	4,340.57	7,438.18	-	<p>Issue: Amount billed was inconsistent with travel voucher expense.</p> <p>Resolution: The ENRD explained that the travel crossed fiscal years. Travel expenses incurred through 9/30/2016, were allocated using FY 2016 funds, while the expenses incurring on or after 10/1/2016 were allocated to FY 2017 funds. We were able to verify the expenses across fiscal years by revisiting the ENRD general ledger.</p>
90-11-3-07101/2	3,709.81	6,118.06	-	
90-11-3-07101/2	3,097.61	7,438.18	-	
90-11-3-07101/2	2,861.75	8,329.50	-	
90-11-3-07101/2	2,797.63	4,953.97	-	
90-11-3-07101/2	2,766.22	5,371.47	-	
90-11-3-07101/2	2,633.40	8,329.50	-	
90-11-3-07101/2	2,605.25	5,371.47	-	
90-11-3-10006	1,069.58	2,030.21	-	<p>Issue: Amount billed was inconsistent with travel voucher expense.</p> <p>Resolution: The ENRD explained that the expense was split between three cases. The difference was allocated to two non-Superfund case codes. We were able to verify the expenses by revisiting the ENRD general ledger documentation.</p>
90-11-3-10884/6	859.41	859.41	-	<p>Issue: Voucher contains two Case Matter IDs. Allocation between Superfund and non-Superfund cases was unclear.</p>
90-11-2-430	740.64	1481.28	-	<p>Resolution: The ENRD explained the vouchers were split between two case codes with one case being Superfund and the other a non-Superfund case. We were able to verify the expenses by revisiting the ENRD general ledger documentation.</p>
90-11-3-07523	576.44	1,152.87	-	

Source: OIG analysis and ENRD general ledger documentation

CONCLUSION

We found that the cost allocation process used by the ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FY 2017.

STATEMENT ON INTERNAL CONTROLS

As required by the *Government Auditing Standards*, we tested, as appropriate, internal controls significant within the context of our audit objectives. A deficiency in an internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to prevent or detect in a timely manner: (1) impairments to the effectiveness and efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations. Our evaluation of the ENRD's internal controls was *not* made for the purpose of providing assurance on its internal control structure as a whole. The ENRD management is responsible for the establishment and maintenance of internal controls.

Through our audit testing, we did not identify any deficiencies in the ENRD's internal controls that are significant within the context of the audit objectives and based upon the audit work performed that we believe would affect the ENRD's ability to effectively and efficiently operate, to correctly state financial and performance information, and to ensure compliance with laws and regulations.

Because we are not expressing an opinion on the ENRD's internal control structure as a whole, this statement is intended solely for the information and use of the ENRD. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards* we tested, as appropriate given our audit scope and objectives, select transactions, records, procedures, and practices, to obtain reasonable assurance that the ENRD's management complied with federal laws and regulations for which noncompliance, in our judgment, could have a material effect on the results of our audit. ENRD's management is responsible for ensuring compliance with federal laws and regulations. In planning our audit, we identified the following laws and regulations that concerned the operations of the auditee and that were significant within the context of the audit objectives:

- *Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA)*, 42 U.S.C. Chapter 103, Section 9611(k).
- *Superfund Amendments and Reauthorization Act of 1986 (SARA)*.

Our audit included examining, on a test basis, ENRD's compliance with applicable provisions of the aforementioned laws and regulations that could have a material effect on ENRD's operations, through interviewing ENRD's personnel and contractor, analyzing data, assessing internal control procedures, and examining procedural practices. Nothing came to our attention that caused us to believe that the ENRD was not in compliance with the aforementioned laws and regulations.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of this audit was to determine if the cost allocation process used by the ENRD and its contractor provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FY 2017.

Scope and Methodology

We conducted this performance audit 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.

To accomplish the overall objective, we assessed whether: (1) the ENRD identified Superfund cases based on appropriate criteria, (2) costs distributed to cases were limited to costs reported in the E&A Reports, and (3) adequate internal controls existed over the recording of direct labor time to cases and the recording of other direct charges to accounting records and Superfund cases.

The audit covered, but was not limited to, financial activities and the procedures used by the ENRD to document, compile, and allocate direct and indirect costs charged to Superfund cases from October 1, 2016, through September 30, 2017. We compared total costs recorded as paid on the ENRD's E&A Report to the amounts reported as Total Amounts Paid on the contractor's year end accounting schedules and summaries, and traced the costs to the Superfund cases for FY 2017. We also reviewed the contractor's methodology for distributing direct labor costs and indirect costs to Superfund cases for FY 2017. In addition, we reviewed the ENRD's methodology for categorizing Superfund cases by comparing a select number of Superfund cases to the ENRD's Superfund case designation criteria for FY 2017.

During our audit, we obtained information from ENRD's Case Management System and reports generated from its Fiscal Management Information System (FMIS). We did not test the reliability of those systems as a whole, therefore any findings identified involving information from those systems were verified with documentation from other sources.

We performed detailed transaction testing of other direct costs for FY 2017. Considering the possible variation between subobject codes 1157, 2100, and 2529, we employed a stratified random sampling design to provide effective coverage and to obtain precise estimates of the test results' statistics. We reviewed 100 percent of transactions (52) in one stratum that consisted of high-dollar transactions within

these three subobject codes. The initial test results showed 12 transactions of travel needed further support.

Additionally, we employed a stratified sample design for the non-high dollar transactions with 95 percent confidence interval, 3-percent precision rate, and weighted average of 3-percent estimated exception rate. The non-high dollar sample size was 106 transactions. Our test results showed four transactions of travel needed further support. However, after further discussion and review of alternate documentation, we determined the transaction costs were properly charged and approved; therefore, we have no exception in the non-high dollar sample strata. Since there were no noted errors we did not project any errors to the universe.

APPENDIX 2

FY 2017 CASES IN SAMPLE REVIEW

COUNT	CASE NUMBER	CLASSIFICATION
1	33-12359	Land Acq
2	90-1-23-10202	General Lit
3	90-1-23-14264	General Lit
4	90-11-5-18263	Defense
5	90-11-5-20968	Defense
6	90-11-5-20970	Defense
7	90-11-6-20651	Defense
8	90-11-6-20836	Defense
9	90-11-2-09498/1	Enforcement
10	90-11-2-08879/5	Enforcement
11	90-11-2-07622/2	Enforcement
12	90-11-2-07548/3	Enforcement
13	90-11-2-06089/5	Enforcement
14	198-01557	Criminal
15	198-50-01044	Criminal
16	198-01380	Criminal
17	198-01667/1	Criminal

FY 2017 ACCOUNTING SCHEDULES AND SUMMARIES

AFA Consulting, LLC

14505 Edenmore Ct, Laurel MD, 20707

April 12, 2018

Mr. Andrew Collier
U.S. Department of Justice
Environment and Natural Resources Division
Suite 2038
601 D Street N.W.
Washington, DC. 20004

Dear Mr. Collier:

Enclosed please find the following final fiscal year 2017 year end accounting schedules and summaries relating to costs incurred by the United States Department of Justice (DOJ), Environment and Natural Resources Division (ENRD) on behalf of the Environmental Protection Agency (EPA) under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 and the Superfund Amendments and Reauthorization Act of 1986 (SARA or, hereafter, Superfund):

- EPA Billing Summary - Schedules 1-7
September 30, 2017
- DOJ - Superfund Case Cost Summary (electronic copy)
As of September 30, 2017
- DOJ - Superfund Cases - Time By Attorney/Paralegal
Year Ended September 30, 2017 (electronic copy)
- DOJ - Superfund Direct Costs (electronic copy)
Year Ended September 30, 2017

The schedules represent the final fiscal year 2017 amounts and establish an indirect cost rate applicable to the entire fiscal year. As a result, the summaries included supersede all prior preliminary information processed by us relating to fiscal year 2017.

The schedules, summaries and calculations have been prepared by us based on information supplied to us by the ENRD. Professional time charges, salary data, and other case specific cost expenditures have been input or translated by us to produce the aforementioned reports. Total costs incurred or obligated by the ENRD as reflected in the Expenditure and Allotment Reports (E&A) for the period have been used to calculate the total amount due from EPA relating to the Superfund cases. Computer-generated time reporting information supplied to us by DOJ (based on ENRD's accumulation of attorney and paralegal hours) along with the resulting hourly rate calculations made by us based on ENRD-supplied employee salary files, have been reviewed by us to assess the reasonableness of the calculated hourly rates. All obligated labor amounts reflected on the E&A's as of September 30, 2017, which are not identified as case specific, have been classified as indirect labor.

Our requested scope of services did not constitute an audit of the aforementioned schedules and summaries and, accordingly, we do not express an opinion on them. However, the methodology utilized by us to assign and allocate costs to specific cases is based on generally accepted accounting principles, including references to cost allocation guidelines outlined in the Federal Acquisition Regulations and Cost Accounting Standards. In addition, we understand that the DOJ audit staff will continue to perform periodic audits of the source documentation and summarized time reporting information accumulated by ENRD and supplied to us. Our accounting reports, schedules and summaries will, therefore, be made available to DOJ as part of this audit process. Beyond the specific representations made above, we make no other form of assurance on the aforementioned schedules and summaries.

Very truly yours,



William Kime
AFA Consulting, LLC

**EPA BILLING SUMMARY
SUMMARY OF AMOUNTS DUE
BY INTERAGENCY AGREEMENT
September 30, 2017**

	<u>Fiscal Years</u>					
	<u>2017</u>	<u>2016</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>
EPA Billing Summary - Amount Paid	\$ 17,918,421 (a)	\$ 16,848,509 (b)	\$ 20,495,963 (b)	\$ 22,001,649 (b)	\$ 22,719,770 (b)	\$ 23,629,828 (b)
Add:						
Payments in FY 2017 for 2016 (a)		2,667,218				
Payments in FY 2017 for 2015 (a)			179,697			
Payments in FY 2017 for 2014 (a)				50,631		
Payments in FY 2017 for 2013 (a)					(2,165)	
Payments in FY 2017 for 2012 (a)						28,162
Subtotal	17,918,421	19,515,727	20,675,660	22,052,280	22,717,605	23,657,990
Unliquidated Obligations (c)	5,498,403	412,776	129,426	142,441	18,458	-
Total	\$ 23,416,824	\$ 19,928,503	\$ 20,805,086	\$ 22,194,721	\$ 22,736,063	\$ 23,657,990

(a) See EPA Billing Summary, Schedule 2, September 30, 2017

(b) See EPA Billing Summary, Schedule 1, September 30, 2016

(c) See EPA Billing Summary, Schedule 3, September 30, 2017

**EPA BILLING SUMMARY
SUPERFUND OBLIGATION AND PAYMENT ACTIVITY DURING 2017
BY FISCAL YEAR OF OBLIGATION**

	<u>Fiscal Years</u>						<u>Total</u>
	<u>2017</u>	<u>2016</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>	<u>2012</u>	
<u>Amounts Paid:</u>							
Labor	\$ 5,794,646	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 5,794,646
Other Direct Costs	2,080,889	1,154,050	151,445	36,781	(2,165)	28,162	3,449,162
Indirect Costs	<u>10,042,886</u>	<u>1,513,168</u>	<u>28,252</u>	<u>13,850</u>	<u>-</u>	<u>-</u>	<u>11,598,156</u>
Subtotal	17,918,421	2,667,218	179,697	50,631	(2,165)	28,162	20,841,964
Unliquidated Obligations (a)	<u>5,498,403</u>	<u>412,776</u>	<u>129,426</u>	<u>142,441</u>	<u>18,458</u>	<u>-</u>	<u>6,201,504</u>
Totals	<u>\$ 23,416,824</u>	<u>\$ 3,079,994</u>	<u>\$ 309,123</u>	<u>\$ 193,072</u>	<u>\$ 16,293</u>	<u>\$ 28,162</u>	<u>\$ 27,043,468</u>

EPA BILLING SUMMARY
FISCAL YEARS 2017, 2016, 2015, 2014, AND 2013 UNLIQUIDATED OBLIGATIONS
September 30, 2017

	<u>Fiscal Years</u>				
	<u>2017</u>	<u>2016</u>	<u>2015</u>	<u>2014</u>	<u>2013</u>
ENRD Unliquidated Obligations at September 30, 2017	\$ 33,761,415	\$ 8,777,130	\$ 1,556,888	\$ 773,348	\$ 113,223
Less: Unliquidated Obligations:					
Section 1595 (a)	17,300,992	5,551,767	1,394,455	151,231	11,012
Section 1596 (b)	2,052,000	213,207	33,007	54,203	-
Section 1598 (c)	4,246,365	35,251	129,426	68,622	2,211
Subtotal	<u>23,599,357</u>	<u>5,800,225</u>	<u>1,556,888</u>	<u>274,056</u>	<u>13,223</u>
Net Unliquidated Obligations - ENRD	10,162,058	2,976,905	-	499,292	100,000
Superfund percentage (d)	<u>12.3207%</u>	<u>12.6818%</u>	<u>13.4825%</u>	<u>14.7848%</u>	<u>16.2470%</u>
Superfund portion of Unliquidated Obligations	1,252,038	377,525	-	73,819	16,247
Add - Section 1598 Unliquidated Obligations	<u>4,246,365</u>	<u>35,251</u>	<u>129,426</u>	<u>68,622</u>	<u>2,211</u>
Total Superfund Unliquidated Obligations (e)	<u><u>\$ 5,498,403</u></u>	<u><u>\$ 412,776</u></u>	<u><u>\$ 129,426</u></u>	<u><u>\$ 142,441</u></u>	<u><u>\$ 18,458</u></u>

(a) Section 1595 relates to reimbursable amounts from agencies other than EPA.

(b) Section 1596 relates to non-Superfund charges.

(c) Section 1598 relates to charges that are Superfund specific.

(d) Superfund percentage of unliquidated obligations was calculated by dividing year to date Superfund direct labor by the total direct labor for each of the fiscal years.

(e) Relates only to unliquidated obligations for the fiscal year indicated.

**EPA BILLING SUMMARY
INDIRECT RATE CALCULATION
FISCAL YEAR 2017**

<u>Description</u>	<u>Total Amounts Paid (a)</u>
Indirect labor (b)	\$31,947,819
Fringes	24,301,319
Indirect travel	715,560
Freight	272,618
Office space and utilities	14,733,222
Printing(forms, etc.)	9,667
Training and other services	8,678,353
Supplies	411,313
Non-capitalized equipment and miscellaneous	<u>42,486</u>
Subtotal	81,112,357
Total Direct Labor	47,031,754
ENRD Indirect Costs Rate - F/Y 2015 Obligations	172.4630%
Plus: Superfund Indirect Costs for Prior Year Obligations (c) and Superfund Specific Costs (d)	
	2017 \$ 49,265
	2016 1,513,168
	2015 28,252
	2014 13,850
	2013 -
	2012 -
	<u> </u>
Superfund Direct Labor	Total <u>1,604,535</u>
	5,794,646
Superfund Indirect Rate	<u>27.6899%</u>
Total Indirect Rate	<u>200.1529%</u>

- (a) Indirect cost rate calculations are presented on a fiscal year-to-date basis. All case specific and other unallowable costs (Section 1595 and 1596) have been removed.
- (b) Indirect labor and fringes include certain month-end obligation accruals.
- (c) Indirect cost payments for the prior year obligations included in the totals presented are as follows; \$1,457,913; \$28,252; and \$13,850; for F/Y 2016 through F/Y 2014 respectively.
- (d) The balance of the charges in the totals presented were paid during fiscal year 2016 to maintain Superfund case information or perform other Superfund Specific activities. These charges were initiated as a result of Superfund and are of benefit only to the Superfund Program. They have been allocated only to Superfund cases through this separate indirect approach. The charges are \$49,265; and \$55,018; F/Y2017 and F/Y 2016 respectively.

EPA BILLING SUMMARY
SUPERFUND COSTS BY OBJECT CLASSIFICATION
September 30, 2017

Object Class.	Description	Direct Expenses	Indirect Expenses	Unliquidated Obligations (b)	Total
11	Salaries (a)	\$ 7,406,400	\$ 3,985,463	\$ 2,053,847	\$ 13,445,710
12	Benefits	-	2,994,095	117,489	3,111,584
21	Travel	219,900	88,162	17,947	326,009
22	Freight	-	33,589	6,752	40,341
23	Rent	-	1,815,238	322,970	2,138,208
24	Printing	-	1,192	4,096	5,288
25	Services	249,235	1,069,236	2,971,680	4,290,151
26	Supplies	-	50,676	2,306	52,982
31	Equipment	-	5,234	1,315	6,549
	Total	<u>\$ 7,875,535</u>	<u>\$ 10,042,885</u>	<u>\$ 5,498,402</u>	<u>\$ 23,416,822</u>

(a) Includes costs for direct labor, special masters and expert witnesses.

(b) Represents the Superfund portion of unliquidated obligations.

**EPA BILLING SUMMARY
RECONCILIATION OF TOTAL ENRD EXPENSES**

September 30, 2017

Object Class.	Description	---Superfund---		---Non-Superfund---		Indirect Section 1595 & 1596 Expenses	Total Amounts Paid
		Direct Expenses	Indirect Expenses	Direct Expenses	Indirect Expenses		
11	Salaries	\$ 7,406,401	\$ 3,985,463	\$ 41,249,265	\$ 28,011,621	\$ -	\$ 80,652,750
12	Benefits	-	2,994,095	-	21,307,224	-	24,301,319
21	Travel	219,900	88,162	1,968,213	627,398	149,840	3,053,513
22	Freight	-	33,588	-	239,030	-	272,618
23	Rent	-	1,815,238	-	12,917,984	-	14,733,222
24	Printing	-	1,192	3,705	8,475	-	13,372
25	Services	249,234	1,069,238	2,013,872	7,609,115	2,033,958	12,975,417
26	Supplies	-	50,676	-	360,637	-	411,313
31 & 42	Equipment	-	5,234	-	37,252	-	42,486
Total		<u>\$ 7,875,535</u>	<u>\$ 10,042,886</u>	<u>\$ 45,235,055</u>	<u>\$ 71,118,736</u>	<u>\$ 2,183,798</u>	<u>\$ 136,456,010</u>

DEPARTMENT OF JUSTICE
ENVIRONMENT AND NATURAL RESOURCES DIVISION
September 30, 2017

Section	Hours	Direct Labor	Other Direct Costs	Indirect	Total	Cases
Criminal	\$ 554	\$ 38,478	\$ 31,094	\$ 77,015	\$ 146,587	5
Defense	1,060	69,553	36,458	139,212	245,223	14
Enforcement	91,387	5,669,143	3,383,475	11,346,958	20,399,576	547
Policy	264	17,414	(1,865)	34,855	50,404	2
Land Acq.	1	58	-	116	174	1
Total	<u>93,265</u>	<u>\$ 5,794,646</u>	<u>\$ 3,449,162</u>	<u>\$ 11,598,155</u>	<u>\$ 20,841,963</u>	<u>569</u>

ENVIRONMENT AND NATURAL RESOURCES DIVISION'S
RESPONSE TO THE DRAFT AUDIT REPORT



U.S. Department of Justice
Environment and Natural Resources Division

Executive Office
P.O. Box 7611
Washington, DC 20044

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Facsimile (202) 616-3531
Andrew.Collier@usdoj.gov

August 19, 2019

Jason R. Malmstrom
Assistant Inspector General for Audit
Office of the Inspector General
Washington, D.C. 20530

Re: Audit of Superfund Activities in ENRD for Fiscal Year 2017

Dear Mr. Malmstrom:

I am writing to thank you for the professional and careful audit work performed by staff from the Office of the Inspector General ("OIG") during the recent Audit of Superfund Activities in the Environment and Natural Resources Division ("ENRD") for FY 2017, and to follow-up on the OIG's draft Audit Report. The draft Audit Report contained no findings or recommendations, and we unequivocally agree with the conclusion(s) described in the Report.

Recommendation:

The Report does not contain any recommendations.

RESPONSE: ENRD concurs that, for FY 2017, our Superfund program demonstrated an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases.

Thank you once again for the thoughtful and comprehensive audit work performed by staff from your Washington Regional Audit Office. We have relied for many years on the Office of the Inspector General to provide sound advice to help us ensure that our accounting procedures, systems and operations meet rigorous standards of quality. Please let me know if you have any questions or if you require any additional information or documentation.

Sincerely,

A handwritten signature in blue ink that reads "Andrew T. Collier".

Andrew T. Collier
Executive Officer



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