

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**THE NATIONAL INSTITUTES OF
HEALTH ADMINISTERED
SUPERFUND APPROPRIATIONS
DURING FISCAL YEAR 2019 IN
ACCORDANCE WITH FEDERAL
REQUIREMENTS**

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Office of Inspector General

<https://oig.hhs.gov>

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

The designation of financial or management practices as questionable, a recommendation for the disallowance of costs incurred or claimed, and any other conclusions and recommendations in this report represent the findings and opinions of OAS. Authorized officials of the HHS operating divisions will make final determination on these matters.

Report in Brief

Date: December 2020

Report No. A-04-20-04077

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL



Why OIG Did This Audit

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) established the trust fund known as Superfund. The CERCLA requires the Inspector General of a Federal organization with Superfund responsibilities to audit all uses of the fund in the prior fiscal year (FY).

To meet this requirement, OIG conducts an annual audit of the Superfund program at the National Institutes of Health (NIH), National Institute of Environmental Health Sciences (the Institute), to determine whether NIH administered Superfund appropriations in accordance with applicable Federal requirements.

How OIG Did This Audit

Our audit covered \$79 million of obligations and \$79 million of disbursements related to the FYs 2014 through 2019 Superfund appropriations that occurred from October 2018 through September 2019. We also (1) analyzed cumulative obligations, totaling \$465 million and cumulative disbursements totaling \$374 million and (2) assessed NIH's efforts to ensure grantee compliance with financial, performance, and audit reporting requirements.

The National Institutes of Health Administered Superfund Appropriations During Fiscal Year 2019 in Accordance With Federal Requirements

What OIG Found

During FY 2019, NIH administered Superfund appropriations in accordance with applicable Federal requirements. Specifically, NIH obligated and disbursed Superfund appropriations in accordance with Federal requirements and in similar proportions to prior years. In addition, the Institute's monitoring of Superfund grants generally ensured that grantees met requirements for financial, performance, and audit reporting.

What OIG Recommends

This report contains no recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) (42 U.S.C. § 9601 et seq.) established the Hazardous Substance Response Trust Fund, commonly known as the Superfund. The National Institute of Environmental Health Sciences (the Institute) of the National Institutes of Health (NIH) receives an annual Superfund appropriation to carry out functions mandated by the CERCLA.¹

The CERCLA requires the Inspector General of a Federal organization with Superfund responsibilities to audit all uses of the fund in the prior fiscal year (FY) (42 U.S.C. § 9611(k)). To meet this requirement, the U.S. Department of Health and Human Services (HHS), Office of Inspector General (OIG), conducts an annual audit of NIH's use of its Superfund appropriations. (See Appendix B for a list of related OIG reports.)

OBJECTIVE

Our objective was to determine whether NIH² administered Superfund appropriations during FY 2019 in accordance with applicable Federal requirements. Specifically, we determined whether NIH properly obligated and disbursed Superfund appropriations and provided adequate oversight of grant awards and related transactions.

BACKGROUND

Superfund

The Superfund Amendments and Reauthorization Act of 1986 extended and amended the CERCLA. The Superfund is used to respond to emergency environmental conditions that are hazardous to health and to pay for the removal of toxic substances.

The Institute receives funding to carry out functions mandated by the CERCLA. In carrying out its Superfund responsibilities for FY 2019, the Institute obligated approximately 5 percent of these funds for administrative costs and used the remaining 95 percent to award grants and cooperative agreements (grants) to other organizations to:

- train persons who are engaged in handling hazardous waste and managing facilities where hazardous waste is located and

¹ In FY 2019, NIH received \$79 million to carry out these functions through the Consolidated Appropriations Act, 2019 (P.L. No. 116-6).

² NIH includes the Institute.

- conduct research—using advanced techniques, methods, and technologies—to detect, assess, and evaluate the effects of hazardous substances on human health and to reduce the amount and toxicity of those substances.

National Institute of Environmental Health Sciences

The Institute, located in Research Triangle Park, North Carolina, is 1 of 27 Institutes and Centers of NIH, which is a component of HHS. NIH provides the Institute with direction and other administrative and professional services.

HOW WE CONDUCTED THIS AUDIT

Our audit covered all obligations and disbursements related to FYs 2014 through 2019 Superfund appropriations that occurred from October 1, 2018, through September 30, 2019 (audit period).³ During the audit period, NIH obligated⁴ approximately \$79.0 million and disbursed approximately \$79.4 million in Superfund resources. Of the \$79.4 million in disbursements, \$3.5 million came from the FY 2019 appropriation, and \$75.9 million came from prior years. Of the \$79.4 million disbursed for the Superfund program in FY 2019, \$75.5 million was for grant expenditures, and the remaining \$3.9 million was for expenditures to administer the program (administrative expenditures). We performed analytical tests of transactions to determine whether there were significant variances between FY 2019 and FY 2018 administrative expenditures that would warrant further testing.⁵

We also analyzed cumulative obligations totaling \$465.2 million and cumulative disbursements totaling \$374.3 million associated with FY 2014 through FY 2019 appropriations to determine whether there were unusual balances of prior-year Superfund appropriations, including large balances of unliquidated obligations, new obligations of expired appropriations, or unusual disbursement activities.

³ Annual appropriations expire at the end of the FY but remain available for 5 years for recording, adjusting, and liquidating obligations that were properly incurred during the time the appropriation was available for obligation (31 U.S.C. §§ 1553(a) and 1552(a)). Therefore, our scope included obligations and disbursements of FYs 2014 through 2018 appropriations, as well as those of FY 2019.

⁴ “Obligated” funds are amounts for which the Federal agency has made binding commitments for orders placed for property and services, contracts and subawards, and similar transactions that will require payment immediately or in the future (GAO-05-734SP Budget Glossary, p. 70).

⁵ There were no significant variances; therefore, we did not perform additional testing.

As part of our review of NIH's monitoring of Superfund grants⁶ and to verify that all uses of Superfund appropriations received audit coverage, we reviewed whether (1) single audit⁷ or non-Federal audit⁸ requirements applied to each grantee, (2) applicable grantees complied with audit requirements, (3) some audit findings related to Superfund awards, and (4) NIH resolved those findings.

We reviewed whether (1) applicable grantees complied with grant terms and conditions⁹ and (2) NIH adequately monitored the selected grants or took enforcement action to ensure compliance, if applicable.

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.

Appendix A contains the details of our scope and methodology.

RESULTS OF AUDIT

During FY 2019, NIH administered Superfund appropriations in accordance with applicable Federal requirements. Specifically, NIH obligated and disbursed Superfund appropriations in accordance with Federal laws and in similar proportions to prior years. In addition, the

⁶ For grant awards made prior to December 26, 2014, 45 CFR part 74 establishes uniform administrative and audit requirements governing HHS grants and agreements awarded to nonprofit entities. For grant awards made on or after December 26, 2014, 45 CFR part 75 establishes uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities. The scope of our review covered grants and agreements made before and after December 26, 2014. Therefore, we cite to both regulations as applicable.

⁷ "Single audit" refers to an audit performed in compliance with 45 CFR § 74.26(a) and the Office of Management and Budget (OMB) Circular A-133 (generally applicable to audits of FYs that began on or before December 26, 2014, of not-for-profit entities that expended more than \$500,000 in Federal awards prior to December 26, 2014) or with 45 CFR § 75.110(b) and 45 CFR § 75.501 (generally applicable to audits of FYs beginning on or after December 26, 2014, of not-for-profit entities that expend \$750,000 or more).

⁸ "Non-Federal audit" refers to an audit performed in compliance with 45 CFR § 74.26(d) (applicable to commercial non-Federal entities that received and subsequently expended more than \$500,000 in Federal awards during FYs that began on or before December 26, 2014) or 45 CFR § 75.501 (generally applicable to non-Federal entities that expend \$750,000 or more during their FYs beginning on or after December 26, 2014).

⁹ Terms and conditions included requirements to submit various reports including financial reports, progress reports, and other reports used for grant monitoring.

Institute's monitoring of Superfund grants generally ensured that grantees met requirements for financial, performance, and audit reporting.

NIH OBLIGATIONS AND DISBURSEMENTS OF SUPERFUND APPROPRIATIONS MET FEDERAL REQUIREMENTS

NIH obligated and disbursed Superfund appropriations in accordance with Federal requirements and incurred costs for administering the Superfund program at levels that were in similar proportions to prior years. NIH received \$79.0 million under the FY 2019 Superfund appropriation, of which it obligated 95 percent of the FY 2019 appropriation for grants and the remaining 5 percent for administrative expenditures.¹⁰ Obligations and disbursements for administrative expenditures were within 3 percent of FY 2018 levels, respectively.¹¹ There were also no unusual balances of prior-year appropriations, such as large balances of unliquidated obligations or new obligations of expired appropriations.

THE INSTITUTE GENERALLY ENSURED THAT SUPERFUND GRANTEEES MET REPORTING REQUIREMENTS

In general, the Institute ensured that Superfund grantees met key reporting requirements including the filing of required performance reports,¹² financial reports,¹³ and audit reports.¹⁴ For the 52 grants that had a performance report due, a financial report due, or both due during our audit period, grantees were, on average, approximately 11 days late in the filing of financial reports and 3 days late in the filing of performance reports.

As in prior years, we noted that most grantees filed required reports on time or close to the due date (Table 1). The Institute had also consistently contacted grantees for required reports and received required reports in all but two cases.^{15, 16}

¹⁰ These funding levels were the same for FY 2018.

¹¹The increase in Grant and Administrative obligations are consistent with the increase in appropriation (the FY 2019 appropriation increased 2.1 percent from the FY 2018 appropriation).

¹² Research Performance and Progress Reports.

¹³ Federal Financial Reports.

¹⁴ Non-Federal audit reports.

¹⁵ Two grantees did not file final financial reports, and NIEHS told us that it was in the process of placing these grantees in a unilateral closeout status.

¹⁶ NIEHS had not timely followed up with one grantee that was 170 days late in the filing of an FFR. NIEHS told us that this had occurred because its process for reviewing FFR filings only occurred when grantees were up for a new award or award segment. NIEHS said that it had implemented a new process requiring a monthly review of report filing statuses and follow up with grantees, as necessary.

Table 1: Number of Days Late That Superfund Grantees Filed Performance and Financial Reports

	On Time	1-30	31-90	91-120	Over 120	Not Submitted	Total
Performance Reports	30	18	2	1	1	0	52
Financial Reports	17	4	4	0	1	2	28

Of the 73 Superfund grantees we reviewed for compliance with non-Federal audit requirements, 71 had submitted audits when required. Within these audits, we identified no unresolved, adverse audit findings that we considered to be high risk such as findings that directly related to the Superfund program grants, findings with high monetary values, or findings that independent auditors found to be material weaknesses in the internal control of the grantee organizations.

We identified two for-profit grantees that had received Superfund Small Business Innovation Research (SBIR) grants, as well as other HHS awards, that had not submitted audit reports in accordance with HHS grants requirements.¹⁷ SBIR grantees must submit required audit reports to the HHS Audit Resolution Division (ARD). ARD had also flagged one of these grantees as being delinquent with audit report submissions. We plan to follow up with NIEHS on the status of these two grantees in our next audit.

CONCLUSION

Based on our audit results, this report contains no recommendations.

¹⁷ Non-Federal grantees that receive HHS awards and expend over \$750,000 are required to submit a non-Federal audit report (45 CFR part 75.501).

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered all obligations and disbursements related to FYs 2014 through 2019 Superfund appropriations that occurred from October 1, 2018, through September 30, 2019.¹⁸ During the audit period, NIH obligated approximately \$79.0 million and disbursed \$79.4 million in Superfund resources. Of the \$79.4 million in disbursements, \$3.5 million came from the FY 2019 appropriation, and \$75.9 million came from prior years. Our audit also covered NIH's grant oversight functions because approximately 95 percent of NIH's Superfund appropriations are used for grant funding.

METHODOLOGY

To accomplish our audit objective, we:

- reviewed applicable laws and regulations regarding Superfund appropriations;
- obtained an understanding of NIH's controls over funding authority, financial reporting, and grants;
- reconciled NIH accounting records with a list that the Institute provided of all Superfund financial transactions recorded from October 1, 2018, through September 30, 2019, to determine its accuracy and completeness;
- reviewed the Institute's FY 2019 interagency agreements to determine whether it funded other government agencies using its Superfund appropriations;
- traced approximately \$75.0 million in obligations to 69 research and training grant award documents to determine whether grant awards were properly recorded;
- analyzed transactions to test whether there were any significant variances in FY 2019 administrative account balances that would warrant further testing;

¹⁸ Because annual appropriations may be disbursed up to 5 years beyond the appropriation year, our scope included obligations and disbursements of FY 2014 through FY 2018 appropriations, as well as those of FY 2019.

- analyzed cumulative obligations, totaling \$465.2 million, and cumulative disbursements, totaling \$374.3 million, associated with FY 2014 through FY 2019 appropriations to determine whether there were unusual balances of Superfund appropriations, including large balances of unliquidated obligations, new obligations of expired appropriations, or unusual disbursement activities;
- compared Notices of Award for each Superfund grant NIH issued during FY 2019 to funding opportunity announcements to assess whether the grants were consistent with Superfund program activities;
- determined whether grantees complied with non-Federal audit requirements, including the submission of audit report information to the Federal Audit Clearinghouse or ARD;
- determined whether NIH resolved applicable grantee audit findings that were related to Superfund grants;
- reviewed applicable grants to determine whether:
 - grantees complied with grant terms and conditions, including the submission of financial and progress reports to NIH, and
 - NIH adequately monitored the grants or took enforcement action to ensure compliance with grant terms and conditions, if applicable; and
- discussed the results of the audit with Institute officials.

Our audit objective required that we obtain an understanding of internal controls. Of the five components of internal control;¹⁹ control environment, control activities, and the following underlying principles were significant to our audit objective:

- management should establish an organization structure, assign responsibility, and delegate authority to achieve the entity's objectives;
- management should design control activities to achieve objectives and respond to risks; and
- management should implement control activities through policies.

We assessed the design, implementation, and operating effectiveness of the internal controls we identified as significant to our audit objective.

¹⁹ *Standards for Internal Control in the Federal Government* (GAO-14-704G), Section OV2.09, Figure 3.

We provided NIH with a draft audit report on October 29, 2020. NIH provided technical comments on our draft report that we addressed in this report, as appropriate.

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.

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>The National Institutes of Health Administered Superfund Appropriations During Fiscal Year 2018 in Accordance With Federal Requirements</i>	<u>A-04-19-04072</u>	4/2020
<i>The National Institutes of Health Administered Superfund Appropriations During Fiscal Year 2017 in Accordance With Federal Requirements</i>	<u>A-04-19-04071</u>	9/2019
<i>The National Institutes of Health Administered Superfund Appropriations During Fiscal Year 2016 in Accordance With Federal Requirements</i>	<u>A-04-18-04065</u>	6/2019
<i>The National Institutes of Health Did Not Always Administer Superfund Appropriations During Fiscal Year 2015 in Accordance With Federal Requirements</i>	<u>A-04-16-04046</u>	2/2018
<i>The National Institute of Environmental Health Sciences Generally Administered Its Superfund Appropriations During Fiscal Year 2014 in Accordance With Federal Requirements</i>	<u>A-04-15-04035</u>	4/2016