



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



# **Audit of Superfund Activities in the Environment and Natural Resources Division for Fiscal Years 2013 and 2014**



# AUDIT OF SUPERFUND ACTIVITIES IN THE ENVIRONMENT AND NATURAL RESOURCES DIVISION FOR FISCAL YEARS 2013 AND 2014

## EXECUTIVE SUMMARY

The *Comprehensive Environmental Response, Compensation, and Liability Act of 1980* (known as CERCLA or Superfund), which was expanded by the *Superfund Amendments and Reauthorization Act of 1986*, established the Superfund program to clean up the nation's worst hazardous waste sites.<sup>1</sup> CERCLA seeks to ensure that individuals or organizations responsible for the improper disposal of hazardous waste bear the costs for their actions. It also established the Hazardous Substance Superfund Trust Fund (Trust Fund) to finance cleanup sites when a liable party cannot be found or the third party is incapable of paying cleanup costs. The Trust Fund also pays the Environmental Protection Agency (EPA) for enforcement, and research and development.

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) enforces CERCLA's civil and criminal pollution-control laws. In fiscal year (FY) 1987, the EPA entered into interagency agreements with the ENRD and began reimbursing the ENRD for its litigation costs. In recent years, the EPA authorized reimbursements to the ENRD in the amount of \$23.05 million during FY 2013 and \$23.05 million during FY 2014 in accordance with the most recent EPA Interagency Agreements DW-15-92343901-2 (FY 2013), DW-15-92343901-3 (FY 2013), and DW-15-92343901-4 (FY 2014).

The EPA and the ENRD Statement of Work required the ENRD to maintain a system that documented its Superfund litigation costs. To this end, the ENRD used a management information system developed by a private contractor. The system was designed to process financial data from the ENRD Expenditure and Allotment (E&A) Reports into: (1) Superfund direct costs by specific case broken down between direct labor costs and all other direct costs, (2) non-Superfund direct costs, and (3) allocable indirect costs.<sup>2</sup>

The DOJ Office of the Inspector General conducted this audit to determine if the cost allocation process used by the ENRD and its contractor provided an

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<sup>1</sup> 42 U.S.C. Chapter 103 (2014)

<sup>2</sup> 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.

equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases from FYs 2013 and 2014. We compared costs reported in the contractor's accounting schedules and summaries for these 2 years to costs recorded in DOJ accounting records to review the cost distribution system used by the ENRD to allocate incurred costs to Superfund and non-Superfund cases.

We concluded that the ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases from FYs 2013 and 2014. However, we identified one exception pertaining to the billing of charges associated with a case that should have been reclassified to non-Superfund status after a December 11, 2012 indictment. While ENRD implemented a new procedure that we believe addresses concerns regarding the accuracy of the Superfund status of future Criminal Section cases, the ENRD needs to adjust future EPA billing to account for the \$131,268 in erroneous charges.

Our report makes one recommendation to the ENRD regarding the misclassified case charges.

**AUDIT OF SUPERFUND ACTIVITIES IN THE  
ENVIRONMENT AND NATURAL RESOURCES DIVISION  
FOR FISCAL YEARS 2013 AND 2014**

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# AUDIT OF SUPERFUND ACTIVITIES IN THE ENVIRONMENT AND NATURAL RESOURCES DIVISION FOR FISCAL YEARS 2013 AND 2014

## 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.<sup>3</sup> 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 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 listed 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 were 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, and research and development activities.

Because certain provisions of CERCLA were set to expire in FY 1985, Congress passed the *Superfund Amendments and Reauthorization Act* (SARA) in 1986.<sup>4</sup> 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 \$769 million between FYs 1987 and 2014, which represented 28 percent of the ENRD's total budget during this period.

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<sup>3</sup> 42 U.S.C. §103 (2014)

<sup>4</sup> SARA is incorporated into 42 U.S.C. Chapter 103 (2014)

**Table 1**  
**Comparison of the ENRD's Appropriations and Budgeted**  
**Superfund Reimbursements**  
**(FYs 1987 through 2014)**

FY	ENRD Appropriations	Budgeted Superfund Reimbursements	Total ENRD Budget
1987 - 2003	\$ 882,314,000	\$ 489,014,360	\$ 1,371,328,360
2004	76,556,000	27,983,900	104,539,900
2005	90,856,000	26,933,000	117,789,000
2006	93,974,000	26,055,900	120,029,900
2007	95,093,000	26,328,000	121,421,000
2008	99,365,000	25,594,000	124,959,000
2009	103,093,000	25,600,000	128,693,000
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
<b>Totals</b>	<b>\$1,976,533,764</b>	<b>\$769,309,160</b>	<b>\$2,745,842,924</b>

Source: ENRD Budget History Report for FYs 1987 through 2014

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 designed by FTI Consulting, Incorporated (contractor). The system was designed to process financial data from the ENRD's Expenditure and Allotment (E&A) Reports into: (1) Superfund direct costs by specific case, allocated between direct labor costs and all other direct costs; (2) non-Superfund direct costs; and (3) allocable indirect costs.<sup>5</sup>

The EPA authorized reimbursements to the ENRD in the amount of \$23.05 million during FY 2013 and \$23.05 million during FY 2014 in accordance with the most recent EPA Interagency Agreements DW-15-92343901-2 (FY 2013), DW-15-92343901-3 (FY 2013) and DW-15-92343901-4 (FY 2014).

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 the tax. Currently, the

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<sup>5</sup> 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.

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 the EPA has obtained, with the EPA receiving over \$10 billion in commitments to clean up hazardous waste sites and recovering over \$7.5 billion from potentially responsible parties between FYs 1987 and 2014, as shown in Table 2.<sup>6</sup>

**Table 2**  
**Estimated Commitments and Recoveries**  
**(FYs 1987 through 2014)**

FY	Commitment	Recovery
1987 - 2003	\$ 5,110,000,000	\$ 4,079,000,000
2004	289,000,000	202,000,000
2005	647,000,000	270,000,000
2006	230,000,000	146,000,000
2007	271,000,000	211,000,000
2008	542,000,000	429,000,000
2009	272,000,000	179,000,000
2010	753,000,000	726,000,000
2011	902,000,000	376,000,000
2012	118,000,000	132,000,000
2013	1,051,276,400 <sup>a</sup>	636,976,511
2014	48,970,000	162,624,622
<b>Totals</b>	<b>\$10,234,246,400</b>	<b>\$7,549,601,133</b>

<sup>a</sup> ENRD reports that it had several large assessments for injunctive relief during this time, including one case with over \$750 million in assessments.

Source: ENRD Commitment and Recovery Reports, FYs 1987 to 2014

### OIG Audit Approach

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 FYs 2013 and 2014. 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.

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

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<sup>6</sup> 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.

## FINDINGS AND RECOMMENDATION

We determined that the ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during FYs 2013 and 2014. However, the ENRD billed charges associated with one case that should not have been classified as a Superfund case. Consequently, the ENRD needs to adjust future EPA billing to account for the \$131,268 in erroneous charges.

We designed the audit to compare costs reported in the contractor's accounting schedules and summaries for FYs 2013 and 2014 (see Appendices 3 and 4) 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 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.
- 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.<sup>7</sup>
- 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 FYs 2013 and 2014; 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 FYs 2013 and 2014.

### **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 E&A Reports to those in the contractor's Schedule 6, Reconciliation of Total ENRD Expenses. According to the E&A Reports, total ENRD

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<sup>7</sup> FY 2007 ENRD memorandum entitled Environment and Natural Resources Division Determination of Superfund Cases provides the methodology for designating Superfund cases.

expenses were over \$135 million in FY 2013 and over \$140 million in FY 2014, as shown in Table 3.

**Table 3**  
**ENRD Expenses**

Description	FY 2013	FY 2014
Salaries	\$77,003,240	\$76,002,934
Benefits	21,330,775	21,083,542
Travel	2,318,350	2,119,355
Freight	296,337	286,171
Rent	13,682,187	13,509,539
Printing	76,592	41,575
Services	20,584,007	27,061,886
Supplies	370,498	359,897
Equipment	26,549	164,677
<b>Totals</b>	<b>\$135,688,535</b>	<b>\$140,629,576</b>

Source: ENRD E&A Reports for FYs 2013 and 2014

We then reconciled the 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. We found that Schedules 1 through 6 reconciled to the E&A Reports.

After reconciling the contractor's accounting schedules and summaries to the E&A Reports, we reviewed the distribution of costs 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 FYs 2013 and 2014 are shown in Table 4.

**Table 4**  
**Superfund Distributed Costs**  
**by Fiscal Year of Obligation**

Cost Categories	2013	2014
Labor	\$7,360,651	\$6,316,262
Other Direct Costs	1,331,495	1,959,334
Indirect Costs	12,145,354	11,249,267
Unliquidated Obligations	2,174,457	3,515,101
<b>Totals</b>	<b>\$23,011,957</b>	<b>\$23,039,964</b>

Note: The amounts listed in this table reflect actual reimbursements. The interagency agreements budgeted \$23.05 million each year for FY 2013 and FY 2014.

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

## 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 823 Superfund cases in FY 2013 and 695 cases in FY 2014 in 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 judgmentally selected 24 cases from the FY 2014 Superfund database to test whether the ENRD staff adhered to case designation procedures outlined in the memorandum, ENRD Determination of Superfund Cases (last updated FY 2007).<sup>8</sup> 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 24 cases we found one exception pertaining to the charges of case number 198-01368 (*U.S. v. Max Spatig*) from the ENRD's Criminal Section. Although billed to the EPA because of its status as a Superfund case, case number 198-01368 should have been reclassified to non-superfund status after a December 11, 2012 indictment, which did not include CERCLA charges. Between labor, indirect, and other direct charges, the ENRD billed a total of \$131,268 for this case between December 2012 and September 2014. ENRD officials told they review the status of cases on a semiannual basis, but due to human error, the status of this case was not updated. In response to our inquiry, ENRD officials: (1) reclassified the status of case number 198-01368 for the current billing year (FY 2015) and (2) began reviewing the status of each Criminal Section case, including indictment activity, each month. While we believe that this new procedure addresses concerns regarding the accuracy of the Superfund status of future Criminal Section cases for billing purposes, the ENRD erroneously billed the EPA for this case in FYs 2013 and 2014. We therefore recommend that the ENRD adjust future EPA billing to account for the \$131,268 in charges billed for case number 198-01368 during this time.

Based on the finding above, we expanded our judgmental sample of Criminal Section cases and chose 3 additional cases to review, for a total of 27 cases (comprising 100 percent of Criminal Section cases in FY 2014). Of the additional cases reviewed, we found no exceptions.

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<sup>8</sup> See Appendix 2 for the cases we sampled.

## 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.

### *Direct Labor Costs*

During the 2-year period under review, 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.<sup>9</sup> 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 E&A Reports for FYs 2013 and 2014;
- reviewed the ENRD electronic labor files and selected salary files provided to the contractor and the resultant electronic 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.

<sup>9</sup> The National Finance Center processes bi-weekly payroll information for many federal government agencies, including DOJ.

We completed reconciliations between ENRD and contractor data files to: (1) compare the ENRD electronic employee time and case data against the contractor's electronic files used to prepare the accounting schedules and summaries and (2) identify Superfund case data. We determined ENRD employees spent a total of 126,778 hours working on Superfund in FY 2013 and 103,237 hours in FY 2014. To determine the number of Superfund cases with direct labor costs for each fiscal year under review, we compared the ENRD Superfund billed time electronic data, which included 695 cases in FY 2014, to the electronic files prepared by the contractor and found no significant differences in the total number of Superfund cases with direct labor costs for each fiscal year.

Next, using the contractor's electronic files, we determined that the direct labor costs for Superfund cases totaled \$6,316,262 for FY 2014. We traced these amounts to the contractor's accounting schedules and summaries, and selected the first two bi-weekly periods in January 2014 to review the calculation of the effective employee hourly rates. We found the contractor calculated the effective hourly rates in compliance with the methodology outlined previously in this report.

Overall, we were able to verify the accumulation of reported hours, the development and application of hourly rates, and the extraction of labor costs for Superfund cases. Therefore, we believe that this process provided an equitable distribution of direct labor costs to Superfund cases during FYs 2013 through 2014.

#### *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 comprised of an ENRD indirect rate and a Superfund-specific indirect rate. To calculate the ENRD indirect rate, the contractor subtracted the amount of direct costs from the total costs incurred according to the ENRD's E&A report and divided this amount by the total direct labor costs for the period. To calculate a Superfund specific indirect rate, the contractor identified indirect costs that support only Superfund activities and divided these costs by the Superfund direct labor costs for the period. The rates for FYs 2013 and 2014 are shown in Table 5.

**Table 5**  
**Indirect Cost Rates**

<b>Category</b>	<b>FY 2013 (percent)</b>	<b>FY 2014 (percent)</b>
ENRD Indirect Rate	163.6	176.2
Superfund-Specific Indirect Rate	26.6	21.7
<b>Combined Indirect Cost Rate</b>	<b>190.2</b>	<b>197.9</b>

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 2013 was \$74,128,935. We also determined that the total amount of the indirect costs for FY 2014 was \$75,295,669. Therefore, we found that this process generally provided for an equitable distribution of indirect costs to Superfund cases during FYs 2013 through 2014.

*Other Direct Costs*

Table 6 presents the other direct costs incurred by the ENRD and distributed to Superfund during FYs 2013 and 2014 by subobject code.

**Table 6**  
**Superfund Other Direct Costs**

<b>Subobject Code and Description</b>	<b>FY 2013</b>	<b>FY 2014</b>
1153 – Compensation, Masters	\$ 113,000	\$ 4,981
1157 – Expert Witness fees	1,929,787	1,713,439
2100 – Travel and Transportation	278,903	199,936
2411 – Printing and Court Instruments	1,151	44
2508 – Reporting and Transcripts – Deposition	115,255	118,457
2510 – Reporting and Transcripts – Court	15,785	3,732
2529 – Litigation Support	1,242,425	801,099
2534 – Research Services	5,440	417
2563 – Government-Incurred Interest Penalties	18	103
2598 – Miscellaneous Litigation Expenses	1811	1,951
<b>Totals</b>	<b>\$3,703,575</b>	<b>\$2,844,159</b>

Source: Contractor files for FYs 2013 and 2014

As part of our audit, we selected three FY 2014 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 2014, these three subobject codes comprised 77 percent of the transaction universe (824 transactions) and 95 percent of the FY 2014 other direct cost expenditures (\$2.8 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 166 transactions totaling nearly \$1.5 million as detailed in Table 7.

**Table 7**  
**Sampled Other Direct Costs**

Subobject Code	Description	Number of Transactions	Amount
1157	Expert Witness fees	54	\$907,856
2100	Travel and Transportation	77	88,702
2529	Litigation Support	35	485,874
<b>Totals</b>		<b>166</b>	<b>\$1,482,432</b>

Source: OIG

We designed our review of other direct costs 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 in the testing regarding Expert Witness Fees. However, our tests of Travel and Transportation and Litigation Support revealed exceptions.

#### Travel and Transportation

While we found all 77 Travel and Transportation transactions reviewed had been appropriately approved, been classified to the correct subobject code, and carried the correct dollar amount, we noted some transactions were not easily identified as Superfund cases or the cost allocation between cases was unclear. Table 8 summarizes our analysis of the Travel and Transportation issues.

**Table 8**  
**Travel and Transportation Issues**

<b>Superfund ID</b>	<b>Voucher Amount</b>	<b>Description of Issue</b>	<b>ENRD Resolution</b>
198-01380	\$2,039	Total voucher totals \$6,076. We requested allocation details between Superfund and non-Superfund cases.	ENRD provided additional support of allocation of cost.
198-01380	\$1,942	Total voucher totals \$2,590. We requested allocation details between Superfund and non-Superfund cases.	ENRD provided additional support of allocation of cost.
198-01380	\$1,344	Total voucher totals \$2,689. We requested allocation details between Superfund and non-Superfund cases.	ENRD provided additional support of allocation of cost.

Source: OIG analysis and ENRD general ledger documentation

Litigation Support

We tested 35 Litigation Support transactions and found that most transactions carried the correct dollar amount, were classified to the correct subobject code, and were properly approved. However, four tested transactions required additional support. Table 9 summarizes our analysis of the Litigation Support issues.

**Table 9**  
**Litigation Support Issues**

<b>Superfund ID</b>	<b>Voucher Amount</b>	<b>Description of Issue</b>	<b>ENRD Resolution</b>
90-7-1-611A	\$34,854	No evidence of Payment Approval	ENRD provided additional support of approval.
90-11-3-07101/2	\$8,505	No evidence of Payment Approval	ENRD provided additional support of approval.
90-11-3-08784	\$494	No evidence of Payment Approval	ENRD provided additional support of approval.
90-11-2-08879/2	\$247	Total voucher totals \$1,123. We requested allocation details between Superfund and non-Superfund cases.	ENRD provided additional support of allocation of cost.

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 FYs 2013 and 2014. Although we noted a few discrepancies, the ENRD and its contractor have resolved or are working to resolve the issues we identified.

## **Recommendation**

We recommend the ENRD:

1. Adjust future EPA billing to account for the \$131,268 in charges billed for case number 198-01368 during FYs 2013 and 2014.

## STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards* we tested, as appropriate given our audit scope and objectives, selected transactions, records, procedures, and practices, to obtain reasonable assurance that ENRD's management complied with the *Comprehensive Environmental Response, Compensation, and Liability Act of 1980* (known as CERCLA or Superfund) and the *Superfund Amendments and Reauthorization Act of 1986* 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 applicable to the ENRD. 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 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 FYs 2013 and 2014.

**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 objective.

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, 2012, through September 30, 2014. 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 FYs 2013 and 2014. We also reviewed the contractor's methodology for distributing direct labor costs and indirect costs to Superfund cases for FYs 2013 and 2014. 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 2014.

We performed detailed transaction testing of other direct costs for FY 2014. 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 (65) in one stratum that consisted of high-dollar transactions within these three subobject codes. The initial test results showed three transactions of travel needed further cost allocation support and one transaction of litigation was not properly approved. However, after further discussion and review of alternate documentation we determined the transaction costs were properly allocated to

Superfund charge and approved; therefore we have no exception in the high-dollar sample strata.

Additionally a stratified sample design was employed 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 101 transactions. The initial test results showed two transactions of litigation were not properly approved and one transaction needed further cost allocation support. However, after further discussion and review of alternate documentation, we determined the transaction costs were properly allocated to Superfund charge 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.

For our assessment of internal controls over the compilation of direct labor charges, we relied on the results in the U.S. Department of Justice Office of the Inspector General, *Environment and Natural Resources Division Network Computer Security and Case Management System Internal Control Audit*, Audit Report 1-19, August 2001; U.S. Department of Justice Office of the Inspector General, *Audit of the U.S. Department of Justice Annual Financial Statements Fiscal Year 2013*, Audit Report 14-04, January 2014; and U.S. Department of Justice Office of the Inspector General, *Audit of the U.S. Department of Justice Annual Financial Statements Fiscal Year 2014*, Audit Report 15-02, December 2014. Additionally we verified the accumulation of reported hours, the development and application of hourly rates, and the extraction of labor costs for Superfund cases.

## APPENDIX 2

### FY 2014 CASES IN SAMPLE REVIEW

Count	Case Number	Classification
1	90-12-14023	Appellate
2	198-01368	Criminal
3	198-01413	Criminal
4	198-01523	Criminal
5	198-01382/1	Criminal
6	198-01380	Criminal
7	90-11-5-18263	Defense
8	90-11-6-122/1	Defense
9	90-11-6-19926	Defense
10	90-11-6-19205	Defense
11	90-11-6-19211/1	Defense
12	90-11-3-10942	Enforcement
13	90-11-2-719B	Enforcement
14	EE20140054	Enforcement
15	90-11-2-07135/6	Enforcement
16	90-11-3-09953	Enforcement
17	90-1-23-10202	General Litigation
18	90-1-23-14081	General Litigation
19	90-1-23-14264	General Litigation
20	33-12359	Land Acquisition
21	33-22-2429-10883	Land Acquisition
22	33-41-128-08208	Land Acquisition
23	33-46-434	Land Acquisition
24	90-12-01316/1	Law and Policy
25	198-01499	Criminal (Additional Sample)
26	198-22-01232	Criminal (Additional Sample)
27	198-50-01044	Criminal (Additional Sample)

FY 2013 ACCOUNTING SCHEDULES AND SUMMARIES



March 31, 2014

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 2013 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, 2013
- ° DOJ - Superfund Case Cost Summary (electronic copy)  
As of September 30, 2013
- ° DOJ - Superfund Cases - Time By Attorney/Paralegal  
Year Ended September 30, 2013 (electronic copy)
- ° DOJ - Superfund Direct Costs (electronic copy)  
Year Ended September 30, 2013

The schedules represent the final fiscal year 2013 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 2013.

Mr. Andrew Collier  
U.S. Department of Justice  
March 31, 2014  
Page 2

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, 2013, 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,  
FTI CONSULTING, INC.



William M. Kime  
Senior Managing Director

Enclosures

**EPA BILLING SUMMARY  
SUMMARY OF AMOUNTS DUE  
BY INTERAGENCY AGREEMENT  
September 30, 2013**

	<u>Fiscal Years</u>				
	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>
<b>EPA Billing Summary - Amount Paid</b>	\$ 20,837,500 (a)	\$ 20,841,001 (b)	\$ 23,222,607 (b)	\$ 23,768,684 (b)	\$ 26,685,853 (b)
<u>Add:</u>					
Payments in FY 2013 for 2012 (a)	-	2,666,381	-	-	-
Payments in FY 2013 for 2011 (a)	-	-	941,596	-	-
Payments in FY 2013 for 2010 (a)	-	-	-	549,848	-
Payments in FY 2013 for 2009 (a)	-	-	-	-	71,443
Subtotal	<u>20,837,500</u>	<u>23,507,382</u>	<u>24,164,203</u>	<u>24,318,532</u>	<u>26,757,296</u>
<b>Unliquidated Obligations (c)</b>	<u>2,174,457</u>	<u>660,753</u>	<u>654,043</u>	<u>868,826</u>	<u>89,382</u>
<b>Total</b>	<u>\$ 23,011,957</u>	<u>\$ 24,168,135</u>	<u>\$ 24,818,246</u>	<u>\$ 25,187,358</u>	<u>\$ 26,846,678</u>

(a) See EPA Billing Summary, Schedule 2, September 30, 2013

(b) See EPA Billing Summary, Schedule 1, September 30, 2012

(c) See EPA Billing Summary, Schedule 3, September 30, 2013

**EPA BILLING SUMMARY  
SUPERFUND OBLIGATION AND PAYMENT ACTIVITY DURING 2013  
BY FISCAL YEAR OF OBLIGATION**

	<u>Fiscal Years</u>					<u>Total</u>
	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>	
<b><u>Amounts Paid:</u></b>						
Labor	\$ 7,360,651	\$ -	\$ -	\$ -	\$ -	\$ 7,360,651
Other Direct Costs	1,331,495	898,066	884,108	518,631	71,274	3,703,574
Indirect Costs	<u>12,145,354</u>	<u>1,768,315</u>	<u>57,488</u>	<u>31,217</u>	<u>169</u>	<u>14,002,543</u>
Subtotal	20,837,500	2,666,381	941,596	549,848	71,443	25,066,768
<b>Unliquidated Obligations (a)</b>	<u>2,174,457</u>	<u>660,753</u>	<u>654,043</u>	<u>868,826</u>	<u>89,382</u>	<u>4,447,461</u>
<b>Totals</b>	<u>\$ 23,011,957</u>	<u>\$ 3,327,134</u>	<u>\$ 1,595,639</u>	<u>\$ 1,418,674</u>	<u>\$ 160,825</u>	<u>\$ 29,514,229</u>

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(a) See Schedule 3

**EPA BILLING SUMMARY**  
**FISCAL YEARS 2013, 2012, 2011, 2010, AND 2009 UNLIQUIDATED OBLIGATIONS**  
**September 30, 2013**

	<u>Fiscal Years</u>				
	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>	<u>2009</u>
<b>ENRD Unliquidated Obligations at September 30, 2013</b>	\$ 32,406,722	\$ 6,115,001	\$ 1,617,423	\$ 1,001,015	\$ 144,176
Less: Unliquidated Obligations:					
Section 1595 (a)	21,212,472	4,911,483	962,541	132,189	54,794
Section 1596 (b)	2,401,484	480,513	-	-	-
Section 1598 (c)	890,590	648,480	653,879	868,826	89,382
Subtotal	<u>24,504,546</u>	<u>6,040,476</u>	<u>1,616,420</u>	<u>1,001,015</u>	<u>144,176</u>
Net Unliquidated Obligations - ENRD	7,902,177	74,525	1,003	-	-
Superfund percentage (d)	<u>16.2470%</u>	<u>16.4686%</u>	<u>16.3979%</u>	<u>16.4618%</u>	<u>18.0148%</u>
Superfund portion of Unliquidated Obligations	1,283,867	12,273	164	-	-
Add - Section 1598 Unliquidated Obligations	890,590	648,480	653,879	868,826	89,382
<b>Total Superfund Unliquidated Obligations (e)</b>	<u>\$ 2,174,457</u>	<u>\$ 660,753</u>	<u>\$ 654,043</u>	<u>\$ 868,826</u>	<u>\$ 89,382</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**

<u>Description</u>	<u>Total Amounts Paid (a)</u>
Indirect labor (b)	\$30,494,141
Fringes	21,290,259
Indirect travel	163,362
Freight	296,337
Office space and utilities	13,682,188
Printing(forms, etc.)	68,672
Training and other services	7,736,930
Supplies	370,497
Non-capitalized equipment and miscellaneous	<u>26,549</u>
Subtotal	74,128,935
Total Direct Labor	45,304,653
ENRD Indirect Costs Rate - F/Y 2013 Obligations	163.6232%
Plus: Superfund Indirect Costs for Prior Year Obligations (c) and Superfund Specific Costs (d)	
	2013            \$ 101,615
	2012            1,768,315
	2011            57,488
	2010            31,217
	2009 <u>169</u>
	Total <u>1,958,804</u>
Superfund Direct Labor	7,360,651
Superfund Indirect Rate	<u>26.6118%</u>
Total Indirect Rate	<u><u>190.2351%</u></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: \$1,717,762; \$(2,475); \$1,258; and \$169; for F/Y 2012 through F/Y 2009 respectively.
- (d) The balance of the charges in the totals presented were paid during fiscal year 2013 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 \$101,615; \$50,553; \$59,963 and \$29,959 for F/Y 2013 through F/Y 2010 respectively.

**EPA BILLING SUMMARY  
SUPERFUND COSTS BY OBJECT CLASSIFICATION**

<u>Object Class.</u>	<u>Description</u>	<u>Direct Expenses</u>	<u>Indirect Expenses</u>	<u>Unliquidated Obligations (b)</u>	<u>Total</u>
11	Salaries (a)	\$ 8,339,402	\$ 5,056,001	\$ 1,176,211	\$ 14,571,614
12	Benefits	-	3,459,030	79,382	3,538,412
21	Travel	250,194	26,541	36,239	312,974
22	Freight	-	48,146	6,489	54,635
23	Rent	-	2,222,946	335,488	2,558,434
24	Printing	964	11,157	3,272	15,393
25	Services	101,586	1,257,023	290,627	1,649,236
26	Supplies	-	60,196	520	60,716
31	Equipment	-	4,314	246,229	250,543
	Total	<u>\$ 8,692,146</u>	<u>\$ 12,145,354</u>	<u>\$ 2,174,457</u>	<u>\$ 23,011,957</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**

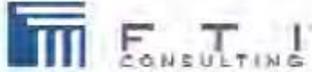
September 30, 2013

Object Class.	Description	---Superfund---		---Non-Superfund---		Indirect Section 1595 & 1596 Expenses	Total Amounts Paid
		Direct Expenses	Indirect Expenses	Direct Expenses	Indirect Expenses		
11	Salaries	\$ 8,339,402	\$ 5,056,001	\$ 37,945,448	\$ 25,539,755	\$ 122,634	\$ 77,003,240
12	Benefits	-	3,459,030	-	17,831,229	40,516	21,330,775
21	Travel	250,194	26,541	1,891,377	136,821	13,417	2,318,350
22	Freight	-	48,146	-	248,191	-	296,337
23	Rent	-	2,222,946	-	11,459,241	-	13,682,187
24	Printing	964	11,157	4,332	57,516	2,623	76,592
25	Services	101,586	1,257,023	2,125,200	6,479,909	10,620,289	20,584,007
26	Supplies	-	60,196	-	310,302	-	370,498
31 & 42	Equipment	-	4,314	-	22,235	-	26,549
<b>Total</b>		<u>\$ 8,692,146</u>	<u>\$ 12,145,354</u>	<u>\$ 41,966,357</u>	<u>\$ 62,085,199</u>	<u>\$ 10,799,479</u>	<u>\$ 135,688,535</u>

**DEPARTMENT OF JUSTICE  
ENVIRONMENT AND NATURAL RESOURCES DIVISION**

<u>Section</u>	<u>Hours</u>	<u>Direct Labor</u>	<u>Other Direct Costs</u>	<u>Indirect</u>	<u>Total</u>	<u>Cases</u>
Appellate	816	\$ 50,489	-	\$ 96,047	146,536	3
Law and Policy	5	298	-	567	865	1
Criminal	4,474	264,657	144,843	503,471	912,971	9
Defense	1,659	103,021	6,356	195,982	305,359	25
Enforcement	119,704	6,933,929	3,552,375	13,190,768	23,677,072	776
Natural Resources	21	1,362	-	2,592	3,954	2
Land Acq.	95	6,895	-	13,116	20,011	7
Total	<u>126,774</u>	<u>\$ 7,360,651</u>	<u>\$ 3,703,574</u>	<u>\$ 14,002,543</u>	<u>\$ 25,066,768</u>	<u>823</u>

FY 2014 ACCOUNTING SCHEDULES AND SUMMARIES



March 11, 2015

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 2014 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, 2014
- \* DOJ - Superfund Case Cost Summary (electronic copy)  
As of September 30, 2014
- \* DOJ - Superfund Cases - Time By Attorney/Paralegal  
Year Ended September 30, 2014 (electronic copy)
- \* DOJ - Superfund Direct Costs (electronic copy)  
Year Ended September 30, 2014

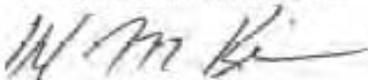
The schedules represent the final fiscal year 2014 amounts, and establish an indirect cost rate applicable to the entire fiscal year. As a result, the summaries included supersede all prior preliminary information processed by us relating to fiscal year 2014.

Mr. Andrew Collier  
U.S. Department of Justice  
March 11, 2015  
Page 2

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, 2014, 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,  
FTI CONSULTING, INC.



William M. Kime  
Senior Managing Director

Enclosures

**EPA BILLING SUMMARY  
SUMMARY OF AMOUNTS DUE  
BY INTERAGENCY AGREEMENT  
September 30, 2014**

	<u>Fiscal Years</u>				
	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>
<b>EPA Billing Summary - Amount Paid</b>	\$ 19,524,863 (a)	\$ 20,837,500 (b)	\$ 23,507,382 (b)	\$ 24,164,203 (b)	\$ 24,318,532 (b)
<u>Add:</u>					
Payments in FY 2014 for 2013 (a)	-	1,859,031	-	-	-
Payments in FY 2014 for 2012 (a)	-	-	67,640	-	-
Payments in FY 2014 for 2011 (a)	-	-	-	107,332	-
Payments in FY 2014 for 2010 (a)	-	-	-	-	102,138
<b>Subtotal</b>	<u>19,524,863</u>	<u>22,696,531</u>	<u>23,575,022</u>	<u>24,271,535</u>	<u>24,420,670</u>
<b>Unliquidated Obligations (c)</b>	<u>3,515,101</u>	<u>249,276</u>	<u>546,531</u>	<u>334,508</u>	<u>139,027</u>
<b>Total</b>	<u>\$ 23,039,964</u>	<u>\$ 22,945,807</u>	<u>\$ 24,121,553</u>	<u>\$ 24,606,043</u>	<u>\$ 24,559,697</u>

(a) See EPA Billing Summary, Schedule 2, September 30, 2014

(b) See EPA Billing Summary, Schedule 1, September 30, 2013

(c) See EPA Billing Summary, Schedule 3, September 30, 2014

**EPA BILLING SUMMARY  
SUPERFUND OBLIGATION AND PAYMENT ACTIVITY DURING 2014  
BY FISCAL YEAR OF OBLIGATION**

	<u>Fiscal Years</u>					<u>Total</u>
	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>	
<b><u>Amounts Paid:</u></b>						
Labor	\$ 6,316,262	\$ -	\$ -	\$ -	\$ -	\$ 6,316,262
Other Direct Costs	1,959,334	604,192	66,689	107,810	106,135	2,844,160
Indirect Costs	11,249,267	1,254,839	951	(478)	(3,997)	12,500,582
Subtotal	19,524,863	1,859,031	67,640	107,332	102,138	21,661,004
<b>Unliquidated Obligations (a)</b>	3,515,101	249,276	546,531	334,508	139,027	4,784,443
<b>Totals</b>	<u>\$ 23,039,964</u>	<u>\$ 2,108,307</u>	<u>\$ 614,171</u>	<u>\$ 441,840</u>	<u>\$ 241,165</u>	<u>\$ 26,445,447</u>

---

(a) See Schedule 3

**EPA BILLING SUMMARY**  
**FISCAL YEARS 2014, 2013, 2012, 2011, AND 2010 UNLIQUIDATED OBLIGATIONS**  
September 30, 2014

	<u>Fiscal Years</u>				
	<u>2014</u>	<u>2013</u>	<u>2012</u>	<u>2011</u>	<u>2010</u>
<b>ENRD Unliquidated Obligations at September 30, 2014</b>	\$ 37,954,297	\$ 2,851,084	\$ 1,156,696	\$ 495,536	\$ 207,031
Less: Unliquidated Obligations:					
Section 1595 (a)	22,783,458	1,804,859	610,165	161,028	68,004
Section 1596 (b)	3,750,000	602,860	-	-	-
Section 1598 (c)	2,143,459	211,625	546,531	334,508	139,027
Subtotal	<u>28,676,917</u>	<u>2,619,344</u>	<u>1,156,696</u>	<u>495,536</u>	<u>207,031</u>
Net Unliquidated Obligations - ENRD	9,277,380	231,740	-	-	-
Superfund percentage (d)	<u>14.7848%</u>	<u>16.2470%</u>	<u>16.4686%</u>	<u>16.3979%</u>	<u>16.4618%</u>
Superfund portion of Unliquidated Obligations	1,371,642	37,651	-	-	-
Add - Section 1598 Unliquidated Obligations	<u>2,143,459</u>	<u>211,625</u>	<u>546,531</u>	<u>334,508</u>	<u>139,027</u>
<b>Total Superfund Unliquidated Obligations (e)</b>	<u><u>\$ 3,515,101</u></u>	<u><u>\$ 249,276</u></u>	<u><u>\$ 546,531</u></u>	<u><u>\$ 334,508</u></u>	<u><u>\$ 139,027</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 2014**

<u>Description</u>	<u>Total Amounts Paid (a)</u>
Indirect labor (b)	\$31,892,462
Fringes	21,041,001
Indirect travel	220,817
Freight	286,171
Office space and utilities	13,509,538
Printing(forms, etc.)	31,662
Training and other services	7,789,445
Supplies	359,896
Non-capitalized equipment and miscellaneous	164,677
Subtotal	75,295,669
Total Direct Labor	42,721,436
ENRD Indirect Costs Rate - F/Y 2014 Obligations	176.2480%
Plus: Superfund Indirect Costs for Prior Year Obligations (c) and Superfund Specific Costs (d)	
2014	\$ 116,981
2013	1,254,839
2012	951
2011	(478)
2010	(3,997)
Total	1,368,296
Superfund Direct Labor	6,316,262
Superfund Indirect Rate	21.6631%
Total Indirect Rate	197.9111%

- (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; \$1,206,454; \$951; \$2,108; and (\$4,013); for F/Y 2013 through F/Y 2010 respectively.
- (d) The balance of the charges in the totals presented were paid during fiscal year 2014 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 \$116,981; \$48,385; \$0, \$(2,586) and \$19 for F/Y 2014 through F/Y 2010 respectively.

**EPA BILLING SUMMARY**  
**SUPERFUND COSTS BY OBJECT CLASSIFICATION**  
September 30, 2014

Object Class.	Description	Direct Expenses	Indirect Expenses	Unliquidated Obligations (b)	Total
11	Salaries (a)	\$ 7,379,234	\$ 4,832,205	\$ 2,178,317	\$ 14,389,756
12	Benefits	-	3,110,862	84,605	3,195,467
21	Travel	186,242	32,647	39,894	258,783
22	Freight	-	42,310	11,426	53,736
23	Rent	-	1,997,354	331,245	2,328,599
24	Printing	-	4,680	2,265	6,945
25	Services	710,120	1,151,652	726,836	2,588,608
26	Supplies	-	53,210	2,484	55,694
31	Equipment	-	24,347	138,029	162,376
	Total	<u>\$ 8,275,596</u>	<u>\$ 11,249,267</u>	<u>\$ 3,515,101</u>	<u>\$ 23,039,964</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, 2014

Object Class.	Description	Superfund		Non Superfund		Indirect Section 1595 & 1596 Expenses	Total Amounts Paid
		Direct Expenses	Indirect Expenses	Direct Expenses	Indirect Expenses		
11	Salaries	\$ 7,379,234	\$ 4,832,205	\$ 36,485,123	\$ 27,177,238	\$ 129,134	\$ 76,002,934
12	Benefits	-	3,110,862	-	17,930,139	42,541	21,083,542
21	Travel	186,242	32,647	1,645,905	188,170	66,391	2,119,355
22	Freight	-	42,310	-	243,861	-	286,171
23	Rent	-	1,997,354	-	11,512,185	-	13,509,539
24	Printing	-	4,680	7,798	26,980	2,117	41,575
25	Services	710,120	1,151,652	9,176,096	6,637,796	9,386,222	27,061,886
26	Supplies	-	53,210	-	306,687	-	359,897
31 & 42	Equipment	-	24,347	-	140,330	-	164,677
<b>Total</b>		<u>\$ 8,275,596</u>	<u>\$ 11,249,267</u>	<u>\$ 47,314,922</u>	<u>\$ 64,163,386</u>	<u>\$ 9,626,405</u>	<u>\$ 140,629,576</u>

**DEPARTMENT OF JUSTICE  
ENVIRONMENT AND NATURAL RESOURCES DIVISION  
September 30, 2014**

<u>Section</u>	<u>Hours</u>	<u>Direct Labor</u>	<u>Other Direct Costs</u>	<u>Indirect</u>	<u>Total</u>	<u>Cases</u>
Appellate	6	\$ 369	\$ -	\$ 731	\$ 1,100	1
Law and Policy	14	1,036	-	2,051	3,087	1
Criminal	2,955	186,215	98,657	368,541	653,413	8
Defense	1,774	102,030	1,414	201,928	305,372	19
Enforcement	98,417	6,021,880	2,744,089	11,917,967	20,683,936	659
Natural Resources	31	1,846	-	3,653	5,499	3
Land Acq.	41	2,886	-	5,711	8,597	4
Total	<u>103,238</u>	<u>\$ 6,316,262</u>	<u>\$ 2,844,160</u>	<u>\$ 12,500,582</u>	<u>\$ 21,661,004</u>	<u>695</u>

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



U.S. Department of Justice

Environment and Natural Resources Division

Assistant Attorney General  
950 Pennsylvania Avenue, N.W.  
Washington, DC 20530-0001

Telephone (202) 514-2701  
Facsimile (202) 514-0557

September 3, 2015

Jason R. Malmstrom  
Assistant Inspector General for Audit  
Office of the Inspector General  
1425 New York Avenue, N.W.  
Washington, D.C. 20530

Re: Audit of Superfund Activities in ENRD for Fiscal Years 2013 and 2014

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"). I also want to take this opportunity to respond to the draft audit report findings and recommendation.

Since the inception of the Superfund program, ENRD has relied on your office to provide sound advice to help ensure that our accounting systems and operations meet rigorous standards for quality. Through the constructive process of regular audits, ENRD has strengthened its accounting, which has helped the government recover hundreds of millions of dollars through cost recovery litigation over the years. These audits are instrumental in maintaining the integrity, reliability and accountability of the Division's Superfund program. We greatly appreciate the role that the OIG plays in this process.

We also appreciate the opportunity to review the subject draft report and to respond to the recommendation. The objective of this audit was to determine if the cost allocation process used by ENRD and its contract accountant provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases during the subject fiscal years. We are pleased with the OIG's conclusion that "ENRD provided an equitable distribution of total labor costs, other direct costs, and indirect costs to Superfund cases from FYs 2013 and 2014." We also are pleased to learn that your review did not identify any instances of non-compliance with the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (known as "CERCLA" or "Superfund law") and the Superfund Amendments and Reauthorization Act of 1986 under which this audit was conducted.

We agree with the findings and conclusions described in the draft audit report. The audit recommendation listed below highlights an important area of improvement which we have already addressed through corrective action.

**RECOMMENDATION:** Adjust future EPA billing to account for the \$131,268 in charges billed for case number 198-01368 during FYs 2013 and 2014.

**RESPONSE:** We concur with this recommendation. We note that in your findings you acknowledge the immediate procedural change made within the Division to avoid future billing adjustments such as the one listed above. In an email dated June 16, 2015, we outlined the changes in procedures in which the Environmental Crimes Section would review cases on a monthly basis instead of semi-annually. In addition, attorneys will verify indictment activity to help ensure that cases are properly classified with a charge that falls under CERCLA. This increased frequency of review and more exact approach to case determinations will avoid the issue described in the report's findings from recurring in the future. We appreciate that in your report you note that the newly implemented procedure addresses the OIG's concerns regarding the accuracy of the Superfund status of future Criminal Section cases.

In addition, the Division has worked with our contract accountant to develop adjustment bills to address the charges originally billed to EPA for case number 198-01368. We have already provided billing documentation as well as reports showing the corrections made through the Intra-governmental Payment and Collection (IPAC) System to OIG auditor staff. While the documents are under review by the OIG, we have assurances from them that the corrective actions taken by the Division, will resolve the audit recommendation.

ENRD is committed to maintaining a reliable and efficient system for allocating Superfund costs. This audit strengthens the integrity of the Superfund program and benefits the government's efforts to recover federal funds spent to clean up the environment. We very much appreciate the Inspector General's willingness to conduct audits of the Superfund program. Should you or your staff require further information, please feel free to contact ENRD's Executive Officer, Andrew Collier at 202-616-3359 or ENRD's Comptroller, Juan Calvo at 202-616-3147.

Sincerely,



John C. Cruden  
Assistant Attorney General  
Environment and Natural Resources Division

**OFFICE OF THE INSPECTOR GENERAL  
ANALYSIS AND SUMMARY OF ACTIONS  
NECESSARY TO CLOSE THE REPORT**

The Office of the Inspector General (OIG) provided a draft of this audit report to the Environment and Natural Resources Division (ENRD). The ENRD's response is incorporated in Appendix 5 of this final report. The following provides the OIG analysis of the response and summary of actions that closed the report

**Recommendation:**

- 1. Adjust future EPA billing to account for the \$131,268 in charges billed for case number 198-01368 during FYs 2013 and 2014.**

**Closed.** This recommendation is closed. The ENRD concurred with the recommendation and provided evidence that showed that it adjusted costs associated with case number 198-01368 in the amount of \$131,268 on its June 2015 billing to EPA.

We reviewed documentation and determined this action adequately addressed our recommendation.

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