



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
 REGION 2
 290 BROADWAY
 NEW YORK, NY 10007-1866

OCT - 6 2014

MEMORANDUM

SUBJECT: Response to Office of Inspector General Final Report No. 14-R-0278, "New Jersey Department of Environmental Protection Needs to Meet Cooperative Agreement Objectives and Davis-Bacon Requirements to Fully Achieve Leaking Underground Storage Tank Goals," dated June 4, 2014.

FROM: Judith A. Enck
 Regional Administrator

TO: Arthur A. Elkins, Jr.
 Inspector General

Thank you for the opportunity to respond to the issues and recommendations in the subject audit report. Following is a summary of the Agency's overall position, along with its position on each of the report recommendations. EPA Region 2 agrees with three recommendations, and provides high-level intended corrective actions and estimated completion dates for each. Recommendation no. 2 was removed from the report by your office as referenced below.

AGENCY'S OVERALL POSITION

As a result of substantial Agency comments to the Draft Report, as well as many discussions between the Agency and OIG, the number of recommendations in this report has been reduced from twelve to four, including the most significant recommendation, that the Agency seek refund of all funding in the cooperative agreement.

AGENCY'S RESPONSE TO REPORT RECOMMENDATIONS

Agreements

No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
1	"We recommend the Regional Administrator require NJDEP to establish internal controls to ensure that modification in the cooperative agreement work plan are in accordance with the requirements of 40 CFR 31.30 and 31.40."	While the Agency agrees with the intent of the recommendation, please note that it is EPA's responsibility to address/interpret prior approval requirements, and that this issue applies to all EPA assistance agreement	4 th Quarter FY 2015

		recipients. We therefore propose that corrective action take the form of Agency-wide guidance on modification to assistance agreement work plans, to be issued by the Office of Grants and Debarment.	

No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
2	Recommendation removed by OIG.		

No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
3	“We recommend that the Regional Administrator require NJDEP to provide documentation to demonstrate that it has verified that all laborers and mechanics who worked on the projects subject to the DBA requirements per programmatic condition 5 of the cooperative agreement were paid in accordance with Davis Bacon requirements.”	In an e-mail dated October 1, 2014, NJDEP indicated that its auditor has completed an initial review of the three projects in question, and that the auditor was able to do both a Davis Bacon and a prevailing wage determination. He found issues on all three projects. NJDEP’s corrective action will be to present these finding to its contractors and require correction of any discrepancies and proof of proper compensation. NJDEP estimates resolution of this finding in a matter of weeks.	4 th Quarter FY 2015

		We noted that this report will remain open until NJDEP completion and Region 2 validation of the remaining corrective action.	
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No.	Recommendation	High-Level Intended Corrective Action(s)	Estimated Completion by Quarter and FY
4	“We recommend that the Regional Administrator require NJDEP to submit corrections for the one inaccurately reported quarter.”	Quote from OIG Report: “The Agency concurred with the finding and recommendation. Based on OIG research on another audit, quarterly reports for prior periods cannot be amended. Since NJDEP has submitted the revised job creation and retention information and explanations for the error, this recommendation is considered resolved.”	1 st Quarter FY 2013

CONTACT INFORMATION

If you have any questions regarding this response, please let me know or have your staff contact John Svec, Region 2 Audit Coordinator, at (212) 637-3699.