



At a Glance

Why We Did This Review

The purpose of this review was to determine whether, for time and materials contracts, the U.S. Environmental Protection Agency (EPA) has a process to verify that contractor personnel met the qualifications specified in the contract and received the level of services for which it paid. We focused our review on remedial action contract EPS90804 awarded by EPA Region 9. The government should only use a time and materials contract when it cannot accurately estimate either the extent or duration of the work, or anticipate costs with any reasonable degree of confidence. Contract EPS90804 supports EPA responses to releases of hazardous substances and counter-terrorism. Under this contract, the region pays the contractor a fixed hourly rate for labor plus other direct costs. A Region 9 contracting officer and contracting officer representatives monitor the contractor's activity.

This report addresses the following EPA Goal or Cross-Cutting Strategy:

- *Strengthening EPA's Workforce and Capabilities*

For further information, contact our Office of Congressional and Public Affairs at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2013/20130404-13-P-0209.pdf

Opportunities for EPA-Wide Improvements Identified During Review of a Regional Time and Materials Contract

What We Found

EPA Region 9 did not require its contracting personnel to verify that personnel for the contractor had the qualifications necessary to execute contract EPS90804. This may be an EPA-wide problem in managing time and materials contracts. In addition, Region 9 contracting personnel did not consistently:

- Update the statement of work that identifies the work it expects the contractor to perform so EPA can use the statement of work to monitor performance.
- Document the review of the qualifications of contractor personnel performing the contract tasks.
- Document the reviews of monthly progress, contractor performance, and quality of deliverables.
- Become familiar with the contract.
- Issue memorandums appointing contracting officer representatives (CORs).

These practices put EPA at risk of not receiving the level or quality of service for which it paid. As the services ordered under the contract were to restore the environment after the releases of hazardous substances, services that do not meet the standards EPA intended under the contract could increase risk that human health and the environment were not adequately protected.

Additionally, EPA Region 9 personnel negotiated a prohibited profit clause in the contract, resulting in EPA improperly paying the contractor over \$1.5 million in additional profit.

Recommendations and Planned Agency Corrective Actions

We recommend that the Regional Administrator for Region 9 direct the contracting officer for EPS90804 to require CORs to document oversight according to regulations and policies, which he agreed to do. We also recommend that the Regional Administrator recover funds for the prohibited clause, as well as determine if the clause is in other contracts and recover funds for those contracts. Finally, we recommend that the Assistant Administrator for Administration and Resources Management enforce the requirement for CORs to ensure contract staff meet the qualifications, and review EPA's practices for paying contractors who perform similar activities. For the latter recommendations, the EPA officials provided alternative corrective action without completion dates or they disagreed. EPA must provide a corrective action plan in its final response.