

WASTE, FRAUD, AND ABUSE AT EPA DUE TO MISMANAGEMENT OF GRANT FUNDS

HEARING

BEFORE THE

SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS
OF THE

COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
HOUSE OF REPRESENTATIVES

ONE HUNDRED FOURTH CONGRESS

SECOND SESSION

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JULY 30, 1996
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WASTE, FRAUD, AND ABUSE AT EPA DUE TO MISMANAGEMENT OF GRANT FUNDS

TUESDAY, JULY 30, 1996

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES, AND REGULATORY AFFAIRS,
COMMITTEE ON GOVERNMENT REFORM AND OVERSIGHT,
Washington, DC.

The subcommittee met, pursuant to notice, at 9:34 a.m., in room 2154, Rayburn House Office Building, Hon. David M. McIntosh (chairman of the subcommittee) presiding.

Present: Representatives McIntosh, Tate, Ehrlich, Peterson, Waxman, and Slaughter.

Staff present: Mildred Webber, staff director; Chip Griffin and Karen Barnes, professional staff members; Todd Gaziano, chief counsel; Larisa Dobriansky, senior counsel; Keith Ausbrook, special counsel; David Schooler, minority chief counsel; Bruce Gwinn, minority senior policy analyst; Liza Mientus, minority professional staff member; and Ellen Rayner, minority chief clerk.

Mr. MCINTOSH. The Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs will come to order. Today, the Subcommittee on National Economic Growth, Natural Resources, and Regulatory Affairs is holding a hearing into the extent of mismanagement of grants by the Clinton administration at the Environmental Protection Agency.

On September 28, 1995, the EPA's Inspector General released a report exposing serious mismanagement of taxpayers' funds by the Agency. To put the problem in perspective, about half of EPA's budget is composed of grants. In 1996, \$3 billion was handed out by EPA in the form of grants. It appears that the Clinton administration has mismanaged at least half of these grants, based on the Inspector General's report.

In the past, I've expressed deep concerns about how taxpayer funds are spent by Federal agencies. This subcommittee held hearings last year focused on the use of taxpayer funds to promote lobbying and political activity. Today's hearings continue that probe into the effectiveness of existing rules and regulations regarding how the taxpayers' money is spent.

I'm very disturbed to learn of the gross mismanagement of half of EPA's budget. Like every other American, I'm deeply concerned about ensuring the protection of our environment. We are faced today with a Federal system of environmental, health, and safety regulations that is, frankly, dysfunctional.

We all want a cleaner, safer, and healthier America. Yet when 60 percent of the money spent on Superfund goes to trial lawyers, consultants, and studies, that's not cleaner. When the No. 1 OSHA citation is for paperwork and not a real safety violation, that's not safer. When FDA takes twice as long as Great Britain and other industrialized countries to approve new drugs that could save thousands of Americans' lives, that's not healthier.

The Clinton administration has failed to achieve a cleaner, healthier, safer America by failing to ensure that the limited resources available from the Federal Government are spent in the most effective manner.

We're all familiar with the wildly inaccurate claims made by Administrator Browner in the last 2 years about how the Republican Congress is trying to destroy the environment by cutting back on EPA spending. Now, in light of her comments, I'm very disappointed the Administrator refused to appear herself before this subcommittee today. Three billion dollars is certainly a lot of money.

The fact that the IG report indicates that the Clinton administration has lost tens of millions of dollars due to mismanagement and that money could have been spent on Superfund or other environmental protection issues is even more disturbing.

If President Clinton truly cares about the environment, he would do more than just pay lip service to this issue. He would demand a careful investigation into Carol Browner's mismanagement of grants in order to ensure that the taxpayers' money is being spent properly and effectively.

It seems to me incumbent upon the administration to demonstrate that they can effectively and properly use the money that has already been appropriated for them before they turn around and demand that Congress spend more taxpayers' funds.

Now, when I hear that the Clinton administration has used taxpayer funds to pay for an EPA employee to get his Ph.D., I'm outraged. When I hear that the Clinton administration has allowed a grantee to spend \$3 million of a \$5 million grant improperly, I'm outraged. And when I hear that the Clinton administration bought 105 computers for a grantee that only has 24 employees, I'm outraged.

But when I hear that these abuses of taxpayer money could have been prevented if the administration had used basic management techniques, like reading the grantee's application, I'm stunned. I've tried to convince myself that EPA couldn't be this sloppy and careless with billions of taxpayer dollars. Sadly, every piece of evidence I've seen or heard indicates that the situation really is this bad.

Now, the Clinton administration's lack of management skills prevents this subcommittee from knowing whether the taxpayer funds are still being used to subsidize lobbying and political activity. We know that EPA has given millions of dollars to a group called the National Council of Senior Citizens. Despite the fact that 95 percent of their funds come from the taxpayer, this group has been engaged in partisan political activity and even has its own political action committee.

Now, even though the 1995 Lobbying Reform Act prevented lobbying groups like the NCSC from receiving taxpayer funds, the

EPA continues to subsidize the NCSC's political activity. You might ask yourself how. Well, this year, EPA and NCSC arranged a shell game to funnel money through NCSC's 501(c)(3) affiliate and evade the 1995 law.

Finally, today we are going to hear from the Inspector General of the EPA, Mr. John Martin. Mr. Martin will be able to carefully describe the extent of grants mismanagement at the Agency. He will tell us about EPA's responses or lack thereof to his office's studies.

And then we will also hear from EPA's Deputy Administrator, Mr. Fred Hansen, who will explain the Agency's side of the story. He will explain what steps EPA is taking to put meaningful safeguards into place to protect the American taxpayers, and the subcommittee looks forward to hearing his testimony.

Today's hearing will be an important forum to hear about the crisis in grants management in EPA, but it's only a first step. It is vitally important that the Inspector General and his able staff stick to this issue, as I know they will, to ensure that EPA cleans up its act. And President Clinton should start with his own investigation to find out if there are truly mismanagement problems at EPA.

A \$3 billion a year program is nothing to sneeze at. But it's something that must be fixed sooner rather than later. The American taxpayers truly want a cleaner environment, and they deserve better than what they are getting from this administration.

[The prepared statement of Hon. David M. McIntosh follows:]

OPENING STATEMENT OF REP. DAVID M. MCINTOSH
Hearing on EPA's Mismanagement of Grants
July 30, 1996

Today the Subcommittee on National Economic Growth, Natural Resources and Regulatory Affairs is holding a hearing into the extent of mismanagement of grants by the Clinton Administration at the Environmental Protection Agency.

On September 28, 1995 the EPA's Inspector General released a report exposing serious mismanagement of taxpayers' funds by the Agency. To put the problem in perspective, about half of the EPA's budget is composed of grants. In 1996, \$3 billion taxpayer dollars were handed out by the EPA in the form of grants. It appears that the Clinton Administration has mismanaged at least half of these grants.

In the past I have expressed deep concerns about how taxpayers funds are spent by federal grantees. This Subcommittee held hearings last year focused on the use of taxpayer funds to promote lobbying and political activity. Today's hearing continues this probe into the effectiveness on existing rules and regulations regarding how the taxpayers' money is spent.

I was very disturbed to learn of the gross mismanagement of half of the EPA's budget. Like every other American, I am deeply concerned about ensuring the protection of our environment.

We are faced today with a federal system of environmental, health and safety regulations that is dysfunctional. We all want a "cleaner," "safer," and "healthier" America.

When almost 60 % of the money spent on Superfund goes to trial lawyers, consultants and studies, that's not "cleaner."

When the number 1 OSHA citation is for a paperwork violation rather than a real safety violation, that's not "safer."

When the FDA takes twice as long as Great Britain and other industrialized countries to approve new drugs and tens of thousands of Americans die, that's not "healthier."

Part of protecting the environment is ensuring that the limited resources available from the federal government are spent in the most effective manner. We are all familiar with the wildly inaccurate claims made by Administrator Carol Browner in the past 2 years about how Republicans are trying to destroy the environment by cutting back spending at the EPA.

In light of her comments, I am very disappointed that the Administrator refused to appear before this Subcommittee today. \$3 billion is certainly a lot of money. The fact that the IG's report indicates that the Clinton Administration has lost tens of millions of dollars due to mismanagement that could have been spent on Superfund and other environmental protection issues is even more disturbing. If President Clinton truly cares about the environment, he would do more than just pay lip service to the issue. He would demand a careful investigation into Carol Browner's mismanagement of grants to ensure the taxpayers' money is being spent properly and effectively.

It seems to me that it is incumbent on the Administration to demonstrate that they can effectively and properly use the money they have already been given before they turn around and demand more money from Congress.

When I hear that the Clinton Administration is using taxpayers' funds to pay for an EPA employee to get his Ph.D., I am outraged. When I hear that the Clinton Administration allowed a grantee to take \$5 million from the taxpayers' and spend \$3 million of that improperly, I am outraged. When I hear that the Clinton Administration spent \$300,000 to buy 105 computers for a grantee with 24 employees, I am outraged.

But when I hear that these abuses of taxpayers' money could have been prevented if only the Clinton Administration had used basic management techniques -- like reading a grantee's application -- I am stunned. I have tried to convince myself that it is not possible that the EPA is this sloppy and careless with billions of taxpayer dollars. Sadly, every piece of evidence I have seen or heard indicates the situation really is this bad.

The Clinton Administration's lack of management skills prevents this Subcommittee from knowing whether the taxpayers' funds are still being used to subsidize lobbying and political activity. We know that the EPA has given millions of dollars to the National Council of Senior Citizens, despite the fact that they are 95% funded by the American taxpayers and engage in partisan political activity.

And even though the 1995 Lobby Reform Act prevents 501(c)4 groups like the NCSC from receiving taxpayers' funds since they can engage in unlimited lobbying, the EPA continues to subsidize the NCSC's political activities. How, you ask? This year, the EPA and NCSC arranged a shell game that funnels money through the NCSC's 501(c)3 affiliate and evades the 1995 law.

Today we will hear from the Inspector General of the EPA, Mr. John Martin. Mr. Martin will be able to carefully describe the extent of grants mismanagement at the Agency. He will tell you about the EPA's responses -- or lack thereof -- to his office's studies.

Then we will hear from the EPA's Deputy Administrator, Mr. Fred Hansen, who will explain the Agency's side of this story. He will explain what steps the EPA is taking to put meaningful safeguards in place to protect the American taxpayers. The Subcommittee looks forward to hearing his testimony.

Today's hearing will be an important forum to hear about the crisis in grants management at the EPA. But it is only a first step. It is vitally important for the Inspector General and his able staff to stick with this issues, as I know they will, to ensure that the EPA cleans up its act. A \$3 billion a year program is nothing to sneeze at, but is something that must be fixed sooner rather than later.

The American taxpayers deserve better than what the Clinton Administration is giving them.

#

EPA GRANT FILES WOEFULLY INCOMPLETE

Documents Required by EPA's Own Rules and Regulations	Files Requiring Document Type	Files Missing Required Documents	Percentage Missing Required Documents
Final Reports	4	4	100 %
Certification to EPA Grants Admin. Div.	4	4	100 %
Financial Status Reports	10	10	100 %
Audits	13	11	85 %
Site Visit Reports	13	9	69 %
Program Review	13	8	62 %
Amendment(s)	9	3	33 %
Assistance Agreement	13	3	23 %
Decision Memorandum	13	2	15 %
Application	13	2	15 %
Progress Reports	12	0	0 %
TOTAL FOR ALL 13 FILES	117	56	47%

SOURCE: EPA Inspector General

Prepared for Rep. David M. McIntosh

NO EPA GRANT FILE SURVEYED WAS COMPLETE

Grantee	Percent of File Complete
Rural Community Assistance Program (A)	0 %
Rural Community Assistance Program (B)	0 %
Rural Community Assistance Program (C)	0 %
United Brotherhood of Carpenters Health and Safety Fund	0 %
Laborers Union-Associated Gen'l Contractors Ed. & Train. Fund	15 %
American Association for the Advancement of Science	17 %
Izaak Walton League	25 %
National Universities of Continuing Education Association	33 %
Association of Nacional Personas Mayores	45 %
CT Department of Environmental Protection	55 %
National Caucus and Center on Black Aging, Inc.	55 %
NH Department of Environmental Sciences	55 %
Institute for Sustainable Communities	60 %
Reg. Environmental Center for Central and Eastern Europe	67 %
Christopher Columbus Center	89 %
New York University	89 %
Trustees of Columbia University	89 %

SOURCE: EPA Inspector General

Prepared for Rep. David M. McIntosh

OIG Finding: GAD Did Not Comply With The Integrity Act

OIG Recommendation: We recommend that the Assistant Administrator for Administration and Resources Management instruct the Director of Office of Grants and Debarment to use the Integrity Act process to identify and report all weaknesses, not only those contained in this report.

OARM RESPONSE:

Many of the conditions which affect GAD's ability to administer and close out assistance agreements are a result of Agency priorities and lack of resources. Because obtaining additional staff or SEEs will be not be obtainable in the near future, GAD is focusing on reengineering and streamlining as many of our internal processes as possible. The MOU with LVFMC is one example of how GAD has addressed how to close a project in a more timely and efficient manner.

EXCERPT FROM 3/25/96 EPA RESPONSE TO IG'S 9/95 REPORT

PREPARED FOR REP. DAVID MCINTOSH

Mr. MCINTOSH. Mr. Peterson, do you have an opening statement?

Mr. PETERSON. Mr. Chairman, I understood you wanted to limit them to one. But I would yield my time to Mr. Waxman.

Mr. MCINTOSH. Thank you very much.

Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman. It's an important responsibility for the Congress to conduct an oversight to understand how taxpayers' money is being used. What the Inspector General has presented to us is something that we ought to take seriously and be mindful of it. I think we ought to be the watchdog on all Government agencies to be sure they're using their money appropriately.

But I would like to put this in perspective. Half of the EPA budget is used in grants, \$3.5 billion out of a \$6.4 billion budget. And these grants go to construction, drinking water, water infrastructure. Seven hundred million dollars go to States for environmental programs. Some \$300 million, however, are in a category called "miscellaneous." The Inspector General did a review of that \$300 million, not of the \$3.5 billion. And they have raised some serious problems about the use of the \$300 million in grants.

It is a wild exaggeration for you, Mr. Chairman, to say that because the Inspector General has been critical in some ways of the use of \$300 million that \$3.5 billion has been wasted or that there has been mismanagement. That is a huge leap and perhaps a huge partisan leap, because ironically enough, the chairman is outraged, outraged, outraged, over mismanagement, which he puts completely on the blame of the Clinton administration.

Well, it so happens that the Inspector General's report on the \$300 million where there had been problems goes back to the years 1989, 1990, and 1991. That was prior to the Clinton administration being in power. I wonder if the chairman would be equally as outraged because it was under the administration of President Bush.

Well, the fact of the matter is—no, I won't yield. The fact of the matter is, all of us should be outraged at any abuse or misuse of taxpayers' funds, whether they're done under the Democrats or the Republicans. That's our job. But our job shouldn't be to be partisan.

Now, I know it's an election year. In fact, last year seemed to be an election year on this committee, as well. Seems like there's never a nonelection year when this committee's involved, because everything seems to be partisan. But at some point, we ought to put our partisan differences aside. Are funds being used the way they should? That's our concern.

I'm going to be interested in hearing what the Inspector General has to say about that. And I want to also hear from the EPA what they have to say to us to account for the criticisms. And then the question ought to be, how do we avoid these problems in the future, whether in 1997 the administration is under President Dole or in 1997 the administration is under President Clinton.

Are we going to be outraged if there are abuses only if it's under President Clinton but not outraged if it's under President Dole? It seems to me to be our responsibility as Members of Congress to be the watchdogs, no matter who's in power. The partisan makeup of the administration is not what's relevant; the use of taxpayers' money is what should be our focus. And Mr. Chairman, I'm pleased

that we're going to look at these issues, because I think it's our responsibility to do it.

Then the other thing I find a little troubling is to make a leap to the National Council of Senior Citizens. Maybe we can find out why they have a grant. But if they have a grant and they're getting money for that grant and they use it for that purpose because they use their own money, not Government funds for something else, to criticize a proposal on Medicare which affects their constituents, I think that's their Constitutional right.

I know we have differences. You would like to take that right away from them. But we do have differences, and that's not the law. So I would hope when the chairman says "wildly inaccurate" when he spoke of the EPA, let's not just be critical. When we think something may be "wildly inaccurate" on somebody's else's part, we may be "wildly inaccurate" ourselves. Let's try to be accurate, be critical, and be constructive.

I yield back the balance of my time.

Mr. MCINTOSH. I thank the gentleman. Let me answer your question, which at the time was merely rhetorical. But yes, I do think if there were abuses in the Bush administration, those should be uncovered, as well. And if there are similar abuses in a future Dole administration, then I would like to see this committee make sure that we are equally vigilant.

I agree totally. This should be a nonpartisan matter. And I think the public record will show that I've been as readily critical of EPA under the Bush administration as I am under the Clinton administration.

Let me now turn to our first witness, who is the Inspector General of EPA, Mr. John Martin. Mr. Martin, if you would please rise. Chairman Clinger has asked that we swear in all witnesses before this subcommittee.

[Witness sworn.]

Mr. MCINTOSH. Thank you. Let the record show the witness was duly sworn in.

Mr. Martin, thank you for coming today. Your report has been invaluable, I think, in showing serious problems at EPA in the management of its grants. And if you would please share with us your testimony.

STATEMENT OF JOHN MARTIN, INSPECTOR GENERAL, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. MARTIN. Thank you, Mr. Chairman. If I might summarize my testimony and let the full statement stand in the record, I would appreciate that.

Mr. MCINTOSH. Hearing no objection, so ordered.

Mr. MARTIN. During the last 10 years, EPA has experienced a dramatic increase in the number of assistance awards, as new programs were established. The number of assistance programs has increased from 38 in 1984 to 61 last year and account for, as we have already heard, approximately 50 percent of EPA's budget. Including interagency agreements, total assistance awards amounted to \$2.4 billion in fiscal year 1994 and nearly \$4 billion in fiscal year 1995.

My office has performed hundreds of audits on EPA assistance agreements, such as grants, cooperative agreements, and inter-agency agreements. Over the years, many of our audits have shown that some recipients of assistance agreements have wasted taxpayers' dollars and at times, EPA did not get what it paid for.

These conditions occurred because recipients did not always fulfill their responsibilities to carry out the activities specified in the assistance agreements. They either did not meet performance goals and objectives, comply with procurement regulations, or satisfy special requirements in the grant agreements.

For the most part, these problems also existed because EPA did not fulfill its obligation to adequately monitor assistance agreements and apply the sanctions available when recipients did not perform.

Mr. Chairman, my testimony gives a number of specific examples. And rather than go into those in detail, I think I'll as I said, let that testimony stand for right now. If you have any questions, I would be happy to answer them and skip on basically to the conclusion of my statement.

Agency personnel explained to us that their omissions regarding management and oversight were caused by a shortage of resources. In May 1993, they completed a workload study and concluded that because of substantial workload increases, they needed more grant specialists. Many of the issues we reported were not new. The Agency's workload study and several of other audits discussed inadequate management.

In 1993, the grants administration division of EPA developed a 3-year action plan for improving grants practices. However, despite the workload study, the past audit reports, and EPA's own improvement plan, the Agency's post-award management is still inadequate. In this last audit, we recommended that EPA determine if additional resources are needed.

We also recommended other alternatives, such as developing different levels of management for assistance agreements, transferring responsibility from grant specialists, performing site visits, monitoring expenditures, and closing inactive assistance agreements.

EPA initially disagreed with two of our recommendations and did not adequately respond to several others. Just last Friday, EPA gave us a new response to our report. We're evaluating it now, and it does appear to be more responsive to our concerns.

In March 1992, I testified about EPA's vulnerability to fraud, waste, and abuse because of its poorly managed contract operations. Since that time, improving the administration of contracts has been a major focus for EPA. And, in fact, EPA has made positive changes in the contract management practice.

Now, the Agency needs to devote the same time and energy to grants and other types of assistance agreements. This is important, because as I discussed earlier, each year, EPA expends almost half of its budget on assistance agreements. Moreover, EPA is beginning a major new initiative to implement performance partnership grants. The proper administration of these grants can help recipients use funds to accomplish environmental goals.

Our experience in auditing assistance agreements over the years puts us in a position to help EPA identify the corrective actions needed. We will continue to work with Agency management to bring about necessary changes in the grants management function at EPA.

So with that, Mr. Chairman, I'll conclude my statement and be happy to answer any of your questions.

[The prepared statement of Mr. Martin follows:]

TESTIMONY OF JOHN C. MARTIN
INSPECTOR GENERAL
U.S. ENVIRONMENTAL PROTECTION AGENCY
BEFORE THE
SUBCOMMITTEE ON NATIONAL ECONOMIC GROWTH,
NATURAL RESOURCES AND REGULATORY AFFAIRS
OF THE COMMITTEE ON GOVERNMENT
REFORM AND OVERSIGHT
UNITED STATES HOUSE OF REPRESENTATIVES

JULY 30, 1996

Good morning, Mr. Chairman and members of the subcommittee. I have been asked to discuss EPA's administration of assistance agreements. This is an issue my office has been very concerned about. I am pleased to have this opportunity to tell you about the magnitude of EPA's assistance programs and about our work in this area.

During the last ten years, EPA has experienced a dramatic increase in the number of assistance awards as new programs were established. The number of assistance programs has increased from 38 in 1984 to 61 in 1995, and account for approximately 50 percent of the EPA's budget. Excluding interagency agreements, total assistance awards amounted to \$2.4 billion in fiscal year 1994 and \$3.9 billion in fiscal year 1995.

My office has performed hundreds of audits on EPA assistance agreements, such as grants, cooperative agreements, and interagency agreements. Over the years, many of our audits have shown that some recipients of assistance agreements have wasted taxpayers' dollars, and at times, EPA did not get what it paid for. These conditions occurred because recipients did not always fulfill their responsibilities to carry out the activities specified in the assistance agreements. They either did not meet performance goals and objectives, comply with procurement regulations, or satisfy special requirements in the grant agreements. For the most part, these problems also existed because EPA did not fulfill its obligation to adequately monitor assistance agreement activities, and apply the sanctions available when recipients did not perform.

These deficiencies are matters of serious concern, because EPA is initiating a major Performance Partnership Grants program, under which recipients will have even more latitude. We are worried that this new program will suffer because EPA will not improve its management of assistance agreements in a timely manner. In the past, the Agency took years to deal with similar concerns we had about their management of contracts.

CLARK-ATLANTA & 105 AIR GRANTS AUDITS HIGHLIGHT PROBLEMS

Let me point out some recent work that typifies our concerns about inadequate monitoring and unnecessary expenditures. Two reports we issued in 1995, show what happens when grants specialists and project officers do not use the tools available to ensure recipients fulfill their responsibilities under the assistance agreements.

Clark-Atlanta University

The importance of EPA monitoring recipients to ensure accurate cost data and satisfactory product delivery was highlighted in our audit of Clark-Atlanta University. The University mismanaged congressionally earmarked funds for the establishment of a hazardous research center. Almost four years after the initial award of the cooperative agreement and expenditures of over \$5 million, the Center has not been established. Our audit disclosed that \$3 million of these costs were unallowable. The Center had no cohesive organization or direction. As a result, objectives were not accomplished and many projects undertaken were outside the scope of the authorizing law.

The University spent \$667,000 on projects that had little or no relation to research and training in the field of hazardous waste, which was the purpose for the Center. In addition, the University spent \$300,000 for 105 personal computers even though only 24 employees could be specifically identified with the Center. These problems existed because the University did not submit the required progress reports and financial status information, and also because EPA did not fulfill its responsibilities. EPA continued to fund the Center, but did not request progress reports or financial status information, which would have alerted EPA to these problems. Moreover, the project officer was aware that peer reviewers believed some projects Clark-Atlanta proposed were of little value or duplicated the work of others. Despite this knowledge there was no evidence that the project officer ever communicated his concerns to Clark-Atlanta. As a result, the University believed the proposed projects met EPA's requirements.

105 Air Grants

Our audit of EPA's oversight of the Clean Air Act Section 105 grants found both performance and financial problems, on the part of grantees that EPA should have required them to correct. Back in 1963, Section 105 grants were awarded to help develop, establish, and improve state and local air pollution control programs. Subsequent amendments to the Clean Air Act outlined specific actions that state and local agencies must take to prevent and control air pollution. In fiscal year 1995, EPA obligated over \$180 million to support the air pollution control programs of state and local agencies. During fiscal 1996, EPA anticipates obligating over \$169 million to these programs.

States in two of the three regions reviewed, met the majority of their commitments required by air pollution control grants received from EPA. However, in the third region, we found that state agencies completed less than fifty percent of their work plan commitments. These states received \$20 million during fiscal year 1993. EPA does not attach a dollar amount to each commitment, therefore, it is not possible to determine the dollar value of the unfulfilled tasks. However, when we evaluated EPA's

regional reports, we noted that commitments deemed by the region to be key components of the grantee's air program remained incomplete for as long as three years. For example, recipients did not perform the number of inspections required by their grants with EPA. Moreover, some of the inspections performed were inadequate and did not detect violations. Recipients also did not meet grant requirements when they allowed violators too much time to achieve compliance with the Clean Air Act, and assessed penalties that were too lenient.

As an example, EPA's inspections of bulk gasoline terminals resulted in a much larger percentage of violations than did such inspections by the states. Bulk gasoline terminals are storage facilities that supply gasoline to retail service stations by means of tanker trucks. Leaks from these terminals emit volatile organic compounds, which are precursors to the formation of ozone. Excessive exposure to ozone contributes to serious respiratory problems, especially in children and the elderly. Therefore, it is critical that leaks are detected. EPA inspectors attributed their identification of a larger number of violators to two factors. EPA believed that two individuals were necessary to conduct a proper inspection while the states used

one inspector; and EPA's measuring equipment was more accurate than that used by the states and thus could detect less obvious leaks.

If a state fails to conduct an adequate enforcement program, EPA, in turn, has to expend its own resources to litigate some of the cases. Also, as a result of these unmet commitments, the implementation of some state and local environmental programs may not have achieved the environmental impact desired.

In order to remain eligible for the Section 105 grants, a recipient must match or exceed its prior year expenditures. We found that several recipients significantly understated total expenditures. As a result, EPA cannot accurately determine which states are eligible to receive future grants.

The inadequate inspections, insufficient penalties, and understated expenditures are program and administrative problems that EPA should have required the recipients to correct. We believe these corrections did not occur because the Agency did not act forcefully to see that agreements were properly implemented. For example, EPA did not withhold funds from recipients for repeated noncompliance.

CONTROLS OVER ASSISTANCE AGREEMENTS

Because of problems similar to those found in the Clark-Atlanta audit, the 105 Air grants program and other audits, we performed a broader audit in 1995 to look at recurring problems in EPA grants management. This audit showed that project officers and grants specialists in EPA Headquarters did not thoroughly review grant applications, perform site visits, review payment requests, obtain single audit reports, provide final certifications, or complete closeouts. All of these are tools that grants specialists and project officers should use to ensure that recipients spend taxpayers' money properly. In effect, EPA merely awarded the assistance agreements and paid the recipients' claims without knowing whether the costs were legitimate, or the work being paid for was performed.

Reviewing Applications

One-third of the files we evaluated in our 1995 audit of EPA's grants administration indicated that grants specialists did not thoroughly review applications. Grant application reviews are the Agency's first line of defense for identifying ineligible or questionable costs. When grants specialists do a good job on

these reviews, the Agency can identify unallowable costs, and avoid paying the recipients for the items we later question as unallowable in our audit reports. For instance, we have audited grants that included thousands of dollars for flowers and entertainment. In another case, an assistance agreement helped pay for an EPA employee's PhD. These costs are unallowable, but because the EPA grants specialists had not adequately reviewed the applications, the grants were approved with the unallowable costs included.

Management and oversight responsibilities continue after EPA processes the application and awards the assistance agreement. However, the assistance files we reviewed in EPA Headquarters frequently did not indicate that the grants specialists and project officers fulfilled these duties.

Performing Site Visits

Site visits are one of the best ways to monitor recipient performance. Site visits should be used to provide technical assistance, as well as to review program accomplishments and management control systems. They are not only useful for

detecting problem areas, but allow the project officer or grants specialist to give the recipient constructive advice about the project.

Although grants specialists agreed that site visits would benefit EPA and the recipients, they did not conduct site visits for any of the 31 projects we reviewed. And only a few project officers performed site visits. Both the grants specialists and project officers said they did not perform site visits because travel funds were not available. However, this was not a valid reason in all cases since we identified three recipients not visited who were located literally blocks from the project officers' desks.

Site visits are necessary to learn if work is on schedule, and is of adequate quality. It is unreasonable to give recipients millions of dollars to complete projects, and then not visit them to review their progress. Performing site visits could have precluded many of the problems discussed in our audit reports.

Project Status Reports

Grants specialists and project officers are responsible for monitoring progress by reviewing reports submitted by the recipients. For example, grants specialists must review Financial Status Reports, commonly called FSRs, to assure that the recipients used EPA funds properly. However, not only were grants specialists not reviewing the FSRs, in 8 of 15 completed projects, FSRs were not in the files, and the grants specialists had made no attempts to obtain them.

Besides not always receiving the FSRs, the specialists did not obtain progress reports for the 15 completed projects we reviewed. As a result, they could not compare payments to work accomplished to ensure payments were justified. This type of comparison is important. Unfortunately, project officers did not compare expenditures with progress reports either. In effect, the Agency paid recipients more than \$6 million under the 15 completed assistance agreements we reviewed, without comparing accomplishments to payments.

Using Audit Reports

Grants specialists and project officers are required to obtain recipient Single Audit reports. These reports provide valuable information on recipient activities. For example, we obtained one of the reports that the grants specialists and project officers did not have and found it disclosed that over 7,000 equipment items were missing. EPA should have been aware of this because it paid this recipient \$190,000 for equipment, and the Agency needed to ensure that corrective action was taken by the recipient.

Final Reports

The project officer is responsible for reviewing technical reports and certifying to the grants specialist that the project was complete. However, the project officers did not provide these certifications for any of the 15 completed projects we reviewed. Several of these projects were completed five years ago, and the grants specialists never asked for the certifications. As a result, EPA paid millions of dollars to recipients without knowing if the projects were completed.

Projects Not Closed

It is understandable in this era of limited resources that a higher priority is placed on awarding new assistance agreements than closing out old ones. The downside to this is that closeout becomes more difficult with the passage of time. The people responsible for managing the project resign, retire, or transfer; memories of events are less clear; the interests of the project officer and recipient shift to other priorities; and at times documents become lost or destroyed.

EPA Headquarters needs to close 4,700 inactive assistance agreements that provided almost \$600 million to recipients. By not closing these agreements timely, EPA could not ensure that all the technical work and administrative requirements were completed. Moreover, had these agreements been closed, we estimate that \$26 million of unused funds may have been available to pay for other projects, instead of remaining idle. EPA managers contended that because grants specialists have an overwhelming workload they do not have time for closeouts. According to the specialists, closeout was a "sore subject" because there were not enough specialists to handle both the awards and closeouts.

Missing Files

Besides being a concern during closeout, lost and destroyed files were an issue during our audit. One file we wanted to review was lost. Project officers also destroyed three other files, even though there are laws and regulations prohibiting the destruction of official records such as these.

AGENCY STUDY REPORTS PERSONNEL SHORTAGE

Agency personnel explained that their omissions regarding management and oversight were caused by a shortage of resources. In May 1993, they completed a workload study, and concluded that because of substantial workload increases, they needed more grants specialists. Many of the issues we reported were not new. The Agency's workload study and several of our other audits discussed inadequate management. In 1993, the Grants Administration Division developed a *3-Year Action Plan for Improving Grants Practices*. However, despite the workload study, the past audit reports, and the improvement plan, the Agency's post-award management is still inadequate.

RECOMMENDATIONS

In this last audit, we recommended that EPA determine if additional resources are needed. We also recommended other alternatives, such as developing different levels of management for assistance agreements, transferring responsibilities from grants specialists, performing site visits, monitoring expenditures, and closing inactive assistance agreements. EPA disagreed with two of our recommendations, and did not adequately respond to several others. We are working with the Grants Administration Division to resolve these matters.

CONCLUSION

In March 1992, I testified about EPA's vulnerability to fraud, waste, and abuse because of its poorly managed contract operations. Since that time, improving the administration of contracts has been a major area of focus for EPA. And, in fact, EPA has made positive changes in its contract management practices.

Now, the Agency needs to devote the same time and energy to grants and other types of assistance agreements. This is

important because, as I discussed earlier, each year EPA expends almost one-half of its budget on assistance agreements.

Moreover, EPA is beginning a major new initiative to implement Performance Partnership Grants. The proper administration of these grants can help recipients use funds to accomplish environmental goals.

Our experience in auditing assistance agreements over the years puts us in a position to help EPA identify the corrective actions needed. We will continue to work with Agency management to bring about necessary changes to the grants management function at EPA.

This concludes my prepared statement. I will be happy to answer any questions you may have.

Mr. MCINTOSH. Thank you very much for coming today. We will submit your complete statement for the record. I wanted to inquire briefly about the scope and the magnitude of the problem that you've identified. There's a question of whether your study was limited to only \$300 million of grants.

On page 1 of your executive summary, it indicates that there were \$380 million in headquarters and \$300 million in region 3 involved. Is that the correct magnitude of the study?

Mr. MARTIN. Well, Mr. Chairman, I think there—what we probably should not do is focus just on the one report that we issued in September 1995. I think you've correctly illustrated the bounds of that report. But as my testimony says, we have issued hundreds of reports over many years that focus on this same issue.

We have covered all the various aspects of the Agency's grant programs, many reports in the construction grant area, reports of other kinds that relate to States, to private parties, to universities. So this one report has certain boundaries to it. But the breadth of our experience is much beyond this individual report.

Mr. MCINTOSH. And do you find similar problems, particularly with the lack of close-out procedures on the grants in a lot of the other areas, as well?

Mr. MARTIN. Well, probably one of the biggest programs the Agency has ever managed is the construction grants program. And we are—since that program has been terminated, we are working now with the Agency in a systematic close-out of that program.

And basically, we're finding—we have found and continue to find many of the same kinds of problems in that program as we have in other parts of the Agency's grant program.

Basically, you can find situations where there has been very little attention paid to the grant at the time it was awarded, little attention paid as the grant progressed, and then at the end, very difficult problems to deal with because there are horrendous problems in how—for example, a project was built with that money, and now we're trying to struggle with how to close that project out. So the concept is that grants administration has the same problems throughout the variety of Agency's programs.

Mr. MCINTOSH. Let me direct your attention to the chart over there that was prepared by the subcommittee staff. It indicates several grants that I take it were reviewed by you and the percentage of completion of the files. At the top of it—it shows that the Rural Community Assistance Program, A, B, and C, were three grants where there was zero percent completed.

And then it lists several down at the bottom. Several of the best ones were at the universities. New York University and trustees of Columbia University had 89 percent completed. But even there, the file wasn't 100 percent complete.

Could you explain to us—and maybe use one of the examples from your testimony to illustrate this—how the incompleteness of one of those files leads to a loss to the taxpayer of funding or a misuse of the funding, so that we'll be able to have for the record a clear tracking of how a failure to do the paperwork ends up a failure to ensure that they were properly spent.

Mr. MARTIN. One of the major problems that EPA has in dealing with grants, generally speaking—and it's a problem that they

themselves have identified, and in some cases, they identified this problem a number of years ago—is that essentially, they give the money out but then don't do anything after that.

In some cases, there's even an inadequate review up front of the grant proposal as to why the money's being given out, exactly what the grantee is even going to do for the money.

So the problem is that if the focus is on giving the money out but there is not adequate followup either from a financial point of view or a technical point of view as the project proceeds and EPA has little information about what the grantee is actually accomplishing, there's obviously tremendous potential there for the money to be spent in an improper manner or just misspent in some way.

Now, what this chart illustrates is that there was little information in these files as to what was happening with those grants. So this is an illustration of the materials that should have been in a normal file in order to allow EPA to follow the progress of a grant, what you're seeing here is, in most cases, there's precious little information that would allow EPA to monitor those grants. And so that can mean that the money could be dispensed in an improper manner.

Mr. MCINTOSH. And the file indicates whether or not proper safeguards were used to ensure that they were spent for allowable purposes?

Mr. MARTIN. Yes, absolutely. Exactly.

Mr. MCINTOSH. So the absence of that paperwork indicates there may have been a problem. And I guess in my second round of questioning, I'll elicit some examples from you on how those problems arise in the files you've looked at that were incomplete.

Mr. MARTIN. Fine.

Mr. MCINTOSH. Let me turn now to Mr. Peterson, if you have any questions.

Mr. PETERSON. Thank you, Mr. Chairman.

You said that the focus seemed to be more on giving the money out. From what I'm hearing, apparently, they had this money and they didn't have enough people, so they just tried to kind of get it out the door; is that what you're saying, in simple terms?

Mr. MARTIN. A large part of the money that we're talking about here, Mr. Peterson, is administered by a headquarters office called the grants administration division. And our review of their work, as well as their own internal reviews that analyze what they are capable of, would show basically that this is a group of people that's hopelessly overburdened with such a tremendous workload that their whole focus is giving money out instead of the followup that might be necessary.

Mr. PETERSON. The Appropriations Committee, I assume, authorized these—this money, right?

Mr. MARTIN. Certainly, money has to be appropriated.

Mr. PETERSON. Right. Did the Appropriations Committee—did you testify in front of them, or did you notify them of this problem?

Mr. MARTIN. I don't recall ever being asked by the Appropriations Committee, nor have I—

Mr. PETERSON. Did you make any attempt to alert them to this problem, the fact that this agency didn't have enough people to run this program?

Mr. MARTIN. Well, as a matter of fact, we routinely provide our audit reports to the appropriations committees, particularly the Appropriations Committee of the House. So—

Mr. PETERSON. Well, Mr. Chairman, I think one of the things we ought to find out is why the Congress was continuing this program with these kind of problems. I mean, I don't think the Agency is completely at fault. I think the Congress is at fault. If clearly they're overworked and we're not going to get enough people to do the job, why are we doing this in the first place?

Second of all, what is this miscellaneous grants program, and why do we need it? Maybe the answer to this is to eliminate it, if they can't—you know, that will solve the problem. That will reduce their workload, and they can concentrate on the other parts of the—has anybody followed that up, or have you just issued this report, or what?

Mr. MARTIN. Well, I think you're actually making a pretty good point. Much of the money that we're talking about here comes from earmarked appropriations by the Congress. And in many cases, there seems to be little thought given on anybody's part as to how those earmarked funds are going to be spent. That's one of the big problems here. One of the major—

Mr. PETERSON. So these—sorry to interrupt you. But these were earmarked probably by some Member of Congress for their disbursement?

Mr. MARTIN. I'm certain of that.

Mr. PETERSON. So, I mean, I think that there's some culpability on our part in this whole situation.

Mr. MARTIN. Well, I can't argue on that.

Mr. PETERSON. And it's probably not fair to ask you about this. I can maybe ask Mr. Hansen. It might be more appropriate. You didn't really get into the construction part of the grants program very much.

Mr. MARTIN. We have done thousands of audits in the construction grant program.

Mr. PETERSON. And you've found the same problems there? Is that what you're saying?

Mr. MARTIN. Generally speaking, the construction grant program has been a well-managed program.

Mr. PETERSON. So you haven't had the same kind of problems there?

Mr. MARTIN. But we have found—for example, when I first became the Inspector General of EPA, there was something like 10,000 active construction projects going on in the United States under this program. Now, when we audit, we focus on those grants that we can—we have reason to believe are problem projects.

So we have found almost an endless supply of problem projects in that program. Even though generally, the program is well-managed, there are all kinds of problems, and they generally relate to the same kinds of issues we're talking about here today. There was little effort made to focus on the grant at the time it was issued.

There was little followup during the construction of a project. There was little followup at the end. You know, basically, give the money out and don't do anything else.

Mr. PETERSON. Well, you know, I commend you for your work.

I guess, Mr. Chairman and other members of the committee, you know last session when I was chairman of one of these subcommittees, we were dealing with the problems in HUD. And we ran into the same kind of situation, where we knew we had all these problems, but the Appropriations Committee was over heading in a completely different direction. And they were basically ignoring what we were doing over here.

The one way we solved that is we finally brought the Appropriations Committee kicking and screaming into a meeting with us and with HUD in that case. And finally, after about a year, they finally changed directions and made some of these changes in the law.

Maybe we need to do the same thing with the appropriators in this particular situation, so at least we're aware and make sure that they're aware that this is going on and try to kind of call them on the carpet as to why they're continuing to fund this stuff if we have got these kinds of problems.

If the Agency doesn't have the personnel to review these things in the first place, it's kind of—it seems to me to be crazy to be giving them money if we're not going to even make sure that there's not an allowable cost. It says in here that you're—that the grant programs have been funding flowers and stuff like that that was in the original—apparently, in the original deal.

Mr. MARTIN. Right. Exactly.

Mr. PETERSON. So it seems to me that we need to get the EPA, the appropriators, maybe the authorizers, all in the same room so at least to make sure they're aware of this, and we can have some dialog about why they're continuing to fund this stuff.

I mean, I think it's unrealistic to think that we're going to give the EPA a whole bunch of new people. I don't think that's going to happen. I mean, given the budget situation. So if that's—you know, it would be my judgment. And if we're not going to and if they can't do this, then I think it's a real question about whether we ought to be doing this at all.

Mr. MCINTOSH. Let me say, I think that's a valuable suggestion. And it looks like there are two separate problems involved here. One is whether the grant should be made, and the other is, once it's made, is it adequately monitored. But as to that first problem, I think that's a very valuable suggestion, and we'll seek to arrange that.

Let me turn now to Mr. Waxman.

Mr. WAXMAN. Thank you very much, Mr. Chairman.

Mr. Martin, I want to commend you on your report, and I thank you for your activities.

Mr. MARTIN. Thank you, Mr. Waxman.

Mr. WAXMAN. One of the—Mr. Chairman, you probably want to run the time. One of the grants that everybody supports is a clean air grant from the EPA to the States for the States to be monitoring the Clean Air Program. So if we're talking about grants and whether it should be a divisive issue or not, here's a grant everybody would support.

But this kind of grant was singled out by you in your statement for criticism because the EPA was too lenient in overseeing whether the States were doing their job in enforcing the Clean Air Act. And, in fact, you were critical of the fact the States were much too lenient in sanctions and inspections in their attempts to detect violations; isn't that correct?

Mr. MARTIN. Yes, that's right.

Mr. WAXMAN. Now, last year, we had a proposal to cut EPA by 24 percent. If we cut EPA by 24 percent, don't you think it would be harder for EPA to have the resources to do the kinds of things that we expect them to do in a grant like a Clean Air grant to the States? Don't you expect they'll have less resources to make sure the grant is being fulfilled?

Mr. MARTIN. Well, certainly depending on where the cuts came from, it would be hard to argue that any substantial cut in the administration of a program like that would not have a negative effect on its administration, if that's where the cut was to come from.

Mr. WAXMAN. And you're critical of the EPA not being more hands-on in supervising the States' activities to enforce the Clean Air Act; doesn't that indicate you think it's appropriate that the Federal Government be more involved in State activities under these grants rather than less involved and more permissive as to letting the States have discretion to do whatever they want?

Mr. MARTIN. You're getting into, I think, an excellent area, which is, as I mentioned in my testimony, the Agency's move to performance partnership grants and what is the proper balance between the Federal role and the State role. And it's not an easy answer.

The Agency has already published a conceptual framework for these performance partnership grants. We worked with them to put that plan together. It's a good plan. The question is, like with so many other things that EPA does, will they follow their own plan?

Mr. WAXMAN. Even their plan, however, has less of a Federal involvement in the State and local government grant recipient's activities.

Mr. MARTIN. That is true. That is true. Mr. Waxman, when we do an audit, one of the fundamental things that we do is take the ground rules that are given to us by someone else. We don't set the ground rules. So if the Agency has—for example, in the Clean Air Program you're talking about a program that everybody can understand or regulations, there's money given for certain purposes, our goal would be to see whether the agency is fulfilling its own plan.

If they then change their own plan for a policy reason, for example, moving to a more permissive system like a performance partnership system, we aren't in a position to be critical of that policy change. That's not our role in life. We'll take as a given the fact that the Agency has now moved to a new framework, and we'll help them in that framework.

Mr. WAXMAN. Mr. Martin, that clock is always on my mind.

Mr. MARTIN. All right.

Mr. WAXMAN. I think that's helpful criticism about the performance partnership. We need to look at that very carefully. I just want to understand the totality of the report you are giving to us. As I understand, all but 7 of the 31 grant cases you raised issues with in your report were grants that EPA originally issued before

1993, when the administration and President Clinton took office; is that correct?

Mr. MARTIN. Mr. Waxman, I don't—as I stated in my earlier testimony, I don't believe it's a right approach to limit the essence of our testimony to the one report that was issued in September 1995. And I really don't recall exactly what dates those grants were issued. But one of the important points is that they were active during the Clinton administration.

I'm not here to be political one way or the other, but they were certainly active during the Clinton administration. So even if they were issued prior to that, the agency had an obligation to administer them properly over the last several years.

Mr. WAXMAN. And some of those grants were mandated by Congress.

Mr. MARTIN. Oh, absolutely. Absolutely.

Mr. WAXMAN. So your criticism was not limited to the time the administration of President Clinton took office, but your criticism was how these grants were being handled prior to the Clinton administration and even after the Clinton administration was in place?

Mr. MARTIN. Yes. That's exactly right.

Mr. WAXMAN. And did the Clinton people try to respond to these concerns and try to deal with the problems once they came into responsibility?

Mr. MARTIN. Generally speaking, we have been very disappointed in how the agency has responded to the matters that we're dealing with here.

Mr. WAXMAN. So what do you recommend in order to make sure they do their job, more resources or less?

Mr. MARTIN. I don't think it's necessarily a resource issue.

Mr. WAXMAN. What is it? What is the issue?

Mr. MARTIN. For example—

Mr. WAXMAN. What message could we get across to EPA at this hearing that would be helpful in getting them to do their job as you see it?

Mr. MARTIN. The main message is, they have to do what they say they're going to do. They can't just issue a set of theoretical policies, procedures, regulations, and then at will disregard their own set of policies, procedures, and regulations. And they have a tendency to do that if that serves the purpose that they're trying to get to. They have to do what they say they're going to do.

Mr. MCINTOSH. Thank you, Mr. Waxman.

Let me followup on that line of questioning, actually. Did you notice any trend in the grants where they failed to followup on the procedures they themselves say they want to do? Was it because they were less concerned about the followup once the money was out the door, or was it certain grants received attention, and others didn't?

Mr. MARTIN. The issue of the Agency's following its own guidance is one that cuts across a lot more than just the grant program. I mean, the Deputy Administrator, who is here today, and I have had personal conversations about my concern about how the Agency does not follow its own guidance on many issues, not just the grants program.

Basically, it's a mindset they have that they issue guidance, but they're not necessarily bound by it. And I don't think it falls into some of the categories you're talking about. It's a widespread philosophy in how they do business that we have a lot of problems with. If the Agency issues guidance, it ought to mean something.

Mr. MCINTOSH. And the guidance was issued for the purpose of ensuring that the taxpayer dollars are well spent and appropriately spent.

Mr. MARTIN. Yes. Exactly.

Mr. MCINTOSH. OK. So there's not a particular trend of a problem area, but it's widespread across a lot of different areas in the Agency?

Mr. MARTIN. Yes. That is a fair statement.

Mr. MCINTOSH. The second question, and I think Mr. Waxman began to focus in on is the resources question. And unfortunately, the staff doesn't yet have the 1995 budget numbers, so we can't find out for sure what changes there were from 1995 to 1996.

But you mentioned in your report one area that intrigued me as a possible area where additional resources could be obtained for the use of making sure there was adequate maintenance of these grant programs or for other programs to clean up the environment. And I'm looking now for the page on the report that says this, but somewhere in there, you mentioned there were \$700 million of grants for which the project was completed, but it hadn't been closed out.

Mr. MARTIN. Yes. That's right.

Mr. MCINTOSH. That close-out would allow \$33 million of unused funds to be utilized to pay for current Superfund projects, as well as other Government programs or EPA initiatives. Can you describe for us how that would occur and how much freedom the Agency has to turn that back to use for other current needs?

Mr. MARTIN. If the Agency can get current in its grant process, it can funnel unused money—at the time a particular project is completed and there may be unused money in it, it can funnel that money back into more useful projects, assuming that that appropriation has not expired, or the authority under which that money is given has not expired. So it's certainly to the Agency's benefit to be able to recycle those funds.

Now, unfortunately, in this case, because the Agency in some cases, I've been told, were something like 15 years behind in the close-out of some of these grants, we're talking about money that the authority to expend has long since expired.

So the money would revert to the Treasury. It would not revert to EPA. But if they can get current in the system, it's a tremendous benefit to them, because the money can be recycled within the Agency's programs.

Mr. MCINTOSH. The \$333 million includes some of those 15-year-old grants?

Mr. MARTIN. I would have to go back, Mr. Chairman, to analyze exactly that. But I think our report says that just in the headquarters grants administration division alone, there are nearly 4,500 grants that are just pending. They are not being closed out.

So that's one piece of the problem. But you have to look at the whole issue of grants administration from the beginning when the concept is created, how the grantee deals with EPA when the grant

is awarded, the middle section where there's technical and financial work being done to help the grantee get the job done to make sure we get what we paid for, and then the final piece when we close out the grant and perhaps recycle any unused money back into our programs.

Mr. MCINTOSH. And that's where the potential savings could occur so that if the Agency felt they needed additional resources, that would be one potential place to improve management?

Mr. MARTIN. Yes. I think that's a good point.

Mr. MCINTOSH. Let me start quickly before my time expires. You mentioned a project in which EPA ended up funding the cost for one of its employees to receive a Ph.D.

Mr. MARTIN. Yes.

Mr. MCINTOSH. Is that an allowable expense under those grants?

Mr. MARTIN. That particular case is one that I really would prefer not to discuss in detail, because as a result of that case, the U.S. attorney in Montana has filed a civil action against the parties involved to recover the money, because the money was obtained through deceptive practices on the part of some of our own employees. So I'm reluctant to get into any of the details of that right now.

Mr. MCINTOSH. OK. I can understand that. To make the general point, though, it was an unallowable expense that might have been avoidable or detected earlier if the project had been reviewed more thoroughly?

Mr. MARTIN. Absolutely.

Mr. MCINTOSH. All right. Mr. Peterson, do you have additional questions?

Mr. PETERSON. I just want to followup on your comment to Mr. Waxman, that you didn't think that necessarily more resources would solve the problem. So I take it from that that this is more of a management problem than it is—in your judgment than it is a lack of resources, that if they don't change their mindset, if they don't change the way they approach things, just giving them more people or more money is not necessarily going to solve the problem?

Mr. MARTIN. Had I had a little more time to converse with Mr. Waxman, that's where I would have wound up, that there are—I believe there are particular situations in EPA's grants administration that can use more resources today. There are groups within that organization that are just overwhelmed with work, but I didn't want to limit it to that, because it's more of fixing the system.

It's getting everybody that works in this type of job every day in a different mindset. It's getting systems in place that can deal with grants in a methodical fashion. So there are a lot of aspects to it.

Mr. PETERSON. Has the EPA appointed a CFO?

Mr. MARTIN. There is an acting CFO.

Mr. PETERSON. An acting CFO?

Mr. MARTIN. Yes.

Mr. PETERSON. Maybe this is more appropriate for Mr. Hansen. So they haven't put a permanent one in, as far as you know?

Mr. MARTIN. That's right.

Mr. PETERSON. And the person that's acting, what is their background?

Mr. MARTIN. Well, that individual is here today, I believe. No? The person is not here today.

Mr. PETERSON. When you're working on these things, do you confer with the CFO?

Mr. MARTIN. We work very closely. The Agency—

Mr. PETERSON. I mean, do you tell them that they have got these problems and—I mean, it's not totally their responsibility, but some of the problems there would be things that the CFO should be trying to fix with the Agency, right?

Mr. MARTIN. It's a little complicated, because the Agency has just recently split out CFO functions from the office we're talking about here today, which is grants management. They are actually handled by two different organizations now. They used to be handled by the same organization. So we have worked at all times with the head of either that single organization or both the CFO and the head of the organization that deals with grants management.

Mr. PETERSON. But the head of the organization that deals with these grants, still the CFO would have some—

Mr. MARTIN. Some interrelationship? Absolutely. Surely. And we all—

Mr. PETERSON. Have they got the right things in place in terms of the right procedures and so forth, and they're just not following them, or what?

Mr. MARTIN. One of the questions that I was asked by Mr. Waxman was how—again right at the end, was how did I feel about the Agency's reaction to all this. And I said I was disappointed by it. And the reason for that is, we issued this report back last September. And it has only been a few days ago that we even received the Agency's truly final response to the report.

Their answer has a lot of good ideas in it and a lot of plans, again, in it. But it's a question once again of actually doing what it says it's going to do.

Mr. PETERSON. Well, it's not just you that's frustrated by a lack of response. I mean, I have had a number of situations with the EPA where they don't do anything until you threaten them, basically. You know, it seems like it's an agency that doesn't so much make the wrong decisions, it's just that they won't decide. They won't do anything. They just kind of are in a—I don't know what kind of a mode it is.

But anyway, I appreciate very much the work that you've done. And I think some of these questions that I have are probably more appropriately referred to Mr. Hansen, so thank you very much.

Mr. MARTIN. Thank you.

Mr. MCINTOSH. Thank you, Mr. Peterson.

Mr. Ehrlich has now joined us. Do you want a few moments to prepare, and then I'll come back to you?

Mr. EHRLICH. Thank you.

Mr. MCINTOSH. OK. I've got another round of questions I would like to pursue. On the chart up there that we mentioned earlier, the top four grants have zero percent of their files completed. And I understand from my staff that those files were either missing or had been destroyed prior to the completion of the report last September; is that accurate on that?

Mr. MARTIN. Yes.

Mr. MCINTOSH. Could you go into any information that you have about those particular grants? What was the purpose of the three

rural community assistance programs and the United Brotherhood of Carpenters grants? Do you have any knowledge about them, given the files we're completing?

Mr. MARTIN. I don't have any details here, Mr. McIntosh. I'm sorry. I would be happy to answer it for the record.

Mr. MCINTOSH. OK, if you could. And of the ones that were missing, do you know if they were ever located by the Agency?

Mr. MARTIN. My staff tells me one of them, we believe, was found.

Mr. MCINTOSH. Was found? If you could refer to that and let us know what the purposes of those grants were.

Mr. MARTIN. All right.

Mr. MCINTOSH. Let me now also distribute a second chart that we were also going to try to have blown up but apparently weren't able to do in time for the hearing. This chart goes into 17 specific files that were requested and listed on that other chart. Of those, you did receive files on 13 of them and were able to examine them.

And the second chart indicates the type of document and the number of files in which those documents were missing and then has a percentage next to it. What I thought would be helpful for me in understanding this would be to go through those different types of documents, and if you could share with us the relative importance of each as it relates to the ability to ensure that the grant has been properly used. And I guess we'll startup at the top of this new chart.

Final reports, which you discussed somewhat earlier in the opening testimony and some of the other questions and answers, seemed to be very important in order to ascertain whether the funds were properly used and whether there were any funds remaining that could be reallocated. Was there any other significant information that you received from those final reports? And how would you relatively weigh that? Is that an important document or a less important document?

Mr. MARTIN. I believe it would be very important. You want to make sure that you got what you paid for.

Mr. MCINTOSH. Is it often or frequently or infrequently the case that based on a final report, the Agency would ask for a reimbursement of funds that either weren't properly spent or otherwise question what a grantee had done with its grant money?

Mr. MARTIN. Well, it would certainly be the last opportunity they would have. We would hope that that type of analysis would be done much closer to the front of a project, so that if we're going off track to begin with, we're not going to waste all the money.

Part of the problem here in reviewing all these items is this illustrates the fact that there's sort of a haphazard approach to the entire administration process. That's probably the message you can get out of this, that things come in, they don't come in, who knows, who cares. You know, we just move along. That's sort of the message that you get here.

Mr. MCINTOSH. Which document would give you that early warning about a problem? Would that be the financial status report or the progress report?

Mr. MARTIN. I think you can go all the way back to the application. In many cases, the application, if we had only read it, might

have revealed that the grantee is trying to do things that aren't right. And then certainly, the progress reports ought to give us some indication.

But again, if they don't come in and we don't really care about it, one of the problems in not giving my full testimony, was that I wasn't able to convey some of the examples to you.

For example, one of the primary items that I talk about in my written testimony is the unfortunate situation in Clark Atlanta University, where for many years, EPA provided almost \$5 million to that university and did virtually nothing to see how the money was being spent.

So after many years of giving that money, it was only because of our audit that it was revealed that \$3 of the \$5 million was misspent. The center that was supposed to have been created with funds was never even established. After many years, it was never even established.

So we didn't even get to step one with that grantee, even though they received funds for many years. But if no one goes out and looks and no one checks on it and we just provide the money, grantees in some cases do what they want to do. And that's an unfortunate example.

Mr. MCINTOSH. And we all hope that people will be trustworthy with public funds, but obviously, there are people out there who can't be trusted with it. In that specific example, should the agency have paid more attention to a site visit or to a progress report? When should the red flag have been raised that the money wasn't being spent on the center that the agency thought was being created with that grant?

Mr. MARTIN. I would think that a site visit or a progress report, as you're using those terms, either of those things would have revealed after the first year that, in fact, the university was nowhere on the track that the money was going for. It wouldn't—it didn't take much for us to find out that the money was being misspent. All we had to do was ask.

Mr. MCINTOSH. And you were asking the university?

Mr. MARTIN. We were asking the university, yes.

Mr. MCINTOSH. Actually what it was being spent for.

Mr. MARTIN. That's right. We went out and looked. We went out and saw, after all these years and all this money, where's the center that was supposed to have been established. And there wasn't any.

Mr. MCINTOSH. And I guess from this chart, I am pleased to see that there weren't any missing progress reports according to your estimation. But two of the files didn't even have the application in it, so they couldn't have been read.

And apparently, the progress reports in at least that one case with the university were ignored, or there wasn't sufficient attention paid to what the report said to know whether future grants should be given. This is shocking.

Let me turn now to Mr. Peterson, if you've got additional questions.

[No response.]

Mr. MCINTOSH. Mr. Ehrlich, do you have some questions for this witness?

Mr. EHRlich. This is really interesting. Sir, I practice toxic tort law in my practice in Superfund cleanup, and issues related to the Superfund are of great interest to me. Tell me about how the Superfund money is squandered.

As you know, we're trying to get something done in this Congress. There are people on both sides of the aisle who want to get something done with respect to Superfund and actually get the sites cleaned up. You found that more than \$33 million in funds had been closed out or improperly closed out.

By failing to do so, grantees escaped a final audit. The American public, in my view, has been cheated out of one of the most important programs that Government does. Give me some background. Give me some of your observations about specifically Superfund.

Mr. MARTIN. Well, I must say, you've caught me somewhat off guard, because that's a whole subject in itself that was not the purpose of this hearing. But—

Mr. EHRlich. I understand.

Mr. MARTIN. My staff tells me that of the money that you've just indicated in our report, about half of that is Superfund money. So once again, it's a question of—perhaps before you arrived, there were—we had some exchange about how money can be recycled in a program.

And I think that's a concrete example of how money in the Superfund program, if there is \$15 million, as in the example you just gave, could have been recycled back into the program, we would have had a better expenditure, obviously, of those funds rather than have them sitting unused.

The larger question of what is right to make the Superfund program better, I think we could probably spend the rest of the day here talking about that.

Mr. EHRlich. More than 1 day. I have not read your opening statement. I'm informed, in your opening statement, you described how an EPA grant helped pay for an EPA employee to secure his Ph.D. Can you expand on that particular anecdote?

Mr. MARTIN. Yes, I can. As I mentioned earlier, that particular matter, because of what happened there where in our view, certain EPA employees created a series of deceptive documents that allowed an agreement to be entered into with a university out West that surreptitiously obtained this employee his Ph.D. Because of that whole situation, the U.S. attorney in the district of Montana has filed a civil action against the EPA employee involved in the matter. And that's now in litigation.

So I would be reluctant to talk too much about the case. But it is an example of one of the things that—that specific example came out of an audit that we did at our own EPA laboratory in Athens, GA.

We also found during the same audit that EPA employees there had diverted funds to pay for a daycare center by once again running the money through a grantee-type recipient, that they had also engaged in an improper exchange of funds with another Federal agency in order to augment their travel budget.

So there were a lot of things that grew out of this one audit that we did of this one EPA facility and the agreements that it had with various other entities.

Mr. EHRLICH. Either specifically with respect to the grantees referred to or generally with respect to these grantees and the surreptitious way some of this money is spent, what—in law, we refer to it as “mens rea.” It’s the element of knowledge. Are they all in cahoots? Do you have innocent grantees out there being used?

Mr. MARTIN. Well, in the one particular case you’re talking about, the Ph.D., as an example, the university involved felt exactly that way. They never understood why they were getting this money and wound up giving this employee his Ph.D. as part of the whole process. From their point of view, they weren’t doing anything wrong. EPA gave them money, and they carried out what they thought their agreement was.

They didn’t understand what was going on behind the scenes, how EPA employees were manipulating the money for a particular purpose.

Mr. EHRLICH. Now, is that generally the case, the grantee in many cases is relatively innocent or at least lacks the requisite motive to—

Mr. MARTIN. I would say that’s generally not the case. I can give you other examples of where I think it probably is the case. But generally speaking, the grantees are very knowledgeable and well aware of what they need to do to properly spend EPA’s money.

Mr. EHRLICH. My time is about to run out. Real quickly, concerning your answer to the chairman’s question about the establishment of the center at that particular university, when you find out this stuff, what do they say? I mean, when you—how do they explain it to you? Are they embarrassed?

I mean, what rationale do they use to explain to you that on the basis of what I’ve heard today, nothing has ever been done in the way of even beginning to establish the center, which was the original purpose of the grant money? What do they say to you?

Mr. MARTIN. Well, that whole matter is under a separate investigation now by another U.S. Attorney’s Office, because it basically borders on fraud. So the whole—

Mr. EHRLICH. Obviously, that’s what I’m getting at.

Mr. MARTIN. So the people who receive that money, I don’t think, are saying very much at all right now.

Mr. EHRLICH. This is very interesting, Mr. Chairman. This is an interesting hearing.

Thank you, sir.

Mr. MCINTOSH. Thank you, Mr. Ehrlich. I’ve got one more set of questions.

Mr. Peterson, you indicated you had another—

Mr. PETERSON. Thank you, Mr. Chairman.

Mr. MCINTOSH. I’ll turn to you.

Mr. PETERSON. When I used to do audits on these—some agencies that had grants such as this, I always had the feeling that nobody ever paid any attention to what we were doing, and it was kind of all an exercise in futility. And I assume that somebody out there is auditing all of these grants, right?

Mr. MARTIN. No, that’s not true.

Mr. PETERSON. That’s not true?

Mr. MARTIN. We have like every other Federal agency—

Mr. PETERSON. Under the Single Audit Act, don't they have to— if somebody gets Federal financial assistance, don't they have to have a—

Mr. MARTIN. Well, that's really something different than—I understood your question to be, are we auditing each of the—

Mr. PETERSON. No, not you. I'm talking about, there's independent auditors that are hired to audit these grants, right?

Mr. MARTIN. Only if you mean that in the general sense. They do not audit each specific grant. They audit generally—they audit the entity generally to see whether its practices are acceptable. They don't go into any particular grant, except on a sample basis.

Mr. PETERSON. They do an internal control audit and—

Mr. MARTIN. Right. That's right.

Mr. PETERSON. And they go and do some testing.

Mr. MARTIN. Yes, they do.

Mr. PETERSON. I mean, they could pull out one of these and test this particular grant.

Mr. MARTIN. That's right.

Mr. PETERSON. Right. My question is, you know, where does all of that stuff go? In some cases, some of the agencies where I've asked the question, it goes to some regional office that nobody ever sees. It just kind of piles up. If you think of the Department of Labor, these audit reports went to Chicago, and nobody really even knew they were there.

In the case of the EPA and these grants, for example, this university had to have an audit under the Single Audit Act. I'm sure they get a lot of Federal money. Does EPA have this audit information, or do you know that?

Mr. MARTIN. Our organization is the organization that initially receives single audit reports for those entities that we're responsible for. Excuse me just 1 minute.

I was just checking on one thing. I seemed to remember in our report, we actually have examples in the report of single audits coming back to EPA that showed substantial problems on the part of grantees. But those were ignored once they were received—

Mr. PETERSON. OK. So what came to you also came to the EPA?

Mr. MARTIN. Right. That's right.

Mr. PETERSON. And they ignored those?

Mr. MARTIN. Right.

Mr. PETERSON. But you get—because you're the IG, every audit that is involved with the EPA comes to you, one copy comes to you? I think that's right. When I was thinking about how this is distributed, when I was doing these audits, I think one goes to the IG and one goes to the agency and so forth.

Mr. MARTIN. Yes. That's correct.

Mr. PETERSON. Do you have people—enough people to go through each one of these, or not? Or do you just kind of put them in a room and check a few of them?

Mr. MARTIN. Well, no, we don't just put them in a room. We have a system that reviews the audits, and when major issues are found, we make sure that those issues are brought to the attention of the EPA officials involved. And other than that, as I just said, we have actually examples of—

Mr. PETERSON. But what you would bring to the attention would be if the auditor found some significant weaknesses or whatever?

Mr. MARTIN. Yes. That's right. That's right.

Mr. PETERSON. And then in all cases, that is brought to the attention of the Agency?

Mr. MARTIN. Yes.

Mr. PETERSON. And whether they do something about it—what if they—do you have no authority to force them to do something about this?

Mr. MARTIN. We have no authority to force anybody to do anything.

Mr. PETERSON. Who does? I mean, what good do the audits do if they are finding people have violated the law, if they—what do you do? Do you give it to the U.S. attorney?

Mr. MARTIN. If it's a violation of the law, then we certainly do go to U.S. attorneys, as I've illustrated today, and have those matters pursued. I actually believe, Mr. Peterson, that the kind of exchange we are having today here serves a major purpose in getting issues like this on the right track.

We can issue audit reports, as we have done in many situations, and the agency can tell us things they're going to do. But basically, we have no authority to instruct the agency to do anything. It's strictly a voluntary thing on their part.

Mr. PETERSON. One last thing. Have you read the testimony of Mr. Hansen?

Mr. MARTIN. Yes, I have.

Mr. PETERSON. Maybe this isn't a fair question, but, I mean, it seems to me to be a pretty general kind of mushy kind of response here. I mean, it's—you know, I don't see—I mean, they say they're going to do something, but it's pretty general. Do you have a lot of confidence that what they say here is going to fix the problems over there?

Mr. MARTIN. Well, I have a lot of confidence in Mr. Hansen. I believe he is a very dedicated management official.

But I think I couldn't say it better than you did. The problem is, once again, we're faced with basically promises for the future, and we just got this final responses from the agency to one of our major reports just a few days ago after waiting almost a year. So it's difficult to judge—

Mr. PETERSON. Well, it looks like they have set up a bunch more bureaucratic deals here, councils, and they're training people. I mean, I don't know what they did before they were trained. I mean, they had been there for 10 years. But it's probably not fair to ask you about all of this. I'll ask Mr. Hansen.

Mr. MARTIN. All right.

Mr. MCINTOSH. Thank you, Mr. Peterson.

I've got a different area that I would like to pursue in this last round of questioning. As you know, last year, we in this subcommittee looked into the issue of grantees using Federal money to subsidize their other projects so they could use their private sector money for political and lobbying purposes.

And one of the things that was said in response to that was, there are adequate safeguards currently in Federal law that prohibit the use of taxpayer funds from subsidizing political activity

by the grantees. I guess my question is, if that is the case, if there are adequate assurances, is it possible to tell currently whether EPA grantees are using taxpayer funds to directly or indirectly subsidize any political or lobbying efforts they may be engaged in.

Mr. MARTIN. You—one of your exhibits shows all the items that a grantee has to provide EPA theoretically in order to successfully execute their grant. I think if this was complied with and someone took the time to actually understand what the grantee was doing and saying and how they were carrying out their responsibilities, this system can certainly reveal that type of activity.

If these documents are not collected or no one cares if they are collected or not if they don't read them, unless we go out and do an audit and we occasionally do find grantees that have violated the lobbying provision and then try to get the money back, if that's not done and the Agency doesn't do it, then you can have any kind of system in place, but if nobody carries it out, what good is it?

Mr. MCINTOSH. None of the files seem to have the financial status report and the final reports that were required. Given the absence of many of the critical documents, is it possible at this point for EPA to give us assurances that their grantees are not engaging in improper lobbying and political activity?

Mr. MARTIN. Well, for those grants where they don't even have any paperwork, I would find it hard for the agency to do that unless they went out and reconstructed everything.

Mr. MCINTOSH. Have you in the Office of the Inspector General ever conducted a specific inquiry into whether grant funds were being misused for lobbying of political purposes?

Mr. MARTIN. Not as an audit subject in itself. We—as I say we have come across expenditures of that kind as we do audits of grantees, but we have not specifically focused on that as an audit subject.

Mr. MCINTOSH. Would you now or would you be able to look into that question as to whether taxpayer funds are distributed through grants that are used for lobbying and political activities?

Mr. MARTIN. Well, I would be happy to talk to my staff about it and see how we could construct an audit program that might get at that objective, and I would be happy to get back to you and your staff about it.

Mr. MCINTOSH. OK. And that would be greatly appreciated.

Let me actually at this point ask unanimous consent to hold open the record for 5 days. There were a couple of questions earlier that you needed to go back and check the answers. And there may be some questions that arise at the end of the hearing that we would submit to you and maybe also to Mr. Hansen. So if there's unanimous consent, we'll hold that open.

I would like to ask the staff to also put into the record the appropriation figures for 1995, 1996, and 1997 so that everyone will know with regard to Mr. Waxman's comments about budget reductions what the magnitude is.

I have no further questions. And let me say thank you, Mr. Martin, for coming.

[The information referred to follows:]



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

AUG 29 1996

The Honorable David McIntosh
Chairman, Subcommittee on National Economic Growth,
Natural Resources and Regulatory Affairs
Committee on Government Reform and Oversight
U. S. House of Representatives
Washington, D.C. 20515

OFFICE OF CONGRESSIONAL
AND LEGISLATIVE AFFAIRS

Dear Chairman McIntosh:

Thank you for providing Deputy Administrator Fred Hansen the opportunity to give an overview of EPA's grants program at the July 30 hearing before your Subcommittee. As he explained in his testimony, grants are critical to the Agency's ability to accomplish and fulfill our environmental mission. States, localities and tribal governments receive the lion's share (90%) of EPA's assistance budget and we are committed to working with those stakeholders and Congress to implement smarter, cheaper and more efficient methods to effectively manage grants resources and, at the same time, guarantee protection of human health and the environment.

I have enclosed information, as appendices, in response to your August 2nd letter to Deputy Administrator Fred Hansen. Appendix I contains the new terms and conditions we are requiring be placed on all grant agreements and expanded guidance dealing with federal prohibitions on using grant money for lobbying activities. Appendix II contains a table outlining, by appropriation, EPA grant resources and a brief description of the kinds of programs funded under these broad budget categories for fiscal years 1995, 1996 and 1997. Appendix II also includes a listing of actual grant awards for fiscal year 1995 by individual program. Appendix III answers your question on how many employees are working in EPA's Public Affairs division at headquarters. Appendix IV contains the actual Project Officer manual (*Managing Your Financial Assistance Agreement - Project Officer Responsibilities*) and handouts from the grants management training sessions as well as a copy of the FY95 EPA Institute of Learning Opportunities listing this course offering. Appendix V contains EPA's Action Plan to improve its grants management practices.

I hope the enclosed response and the testimony of Deputy Administrator Fred Hansen fully address your concerns and I will be happy to arrange for the appropriate Agency officials to meet with you and your staff to keep you informed of the Agency's progress in addressing the concerns of our Inspector General. If you have any questions, please contact me at (202)260-5203.

Sincerely,

Lynne Ross
Director, Legislative Division

cc: The Honorable William F. Clinger, Jr.
The Honorable Collin C. Peterson

Enclosures

APPENDIX I

Anti-lobbying Requirements in Assistance: EPA's Action Plan

- Effective August 1, 1996, is requiring GMOs to use a new Term and Condition to be included on all assistance awards (grants) made to all recipients other than State or local governments or Indian Tribes to emphasize the restrictions for lobbying or political activities in accordance with OMB Circulars A-21 and A-122 and EPA guidance.¹
- In addition, GAD is requiring that Grants Management Offices (GMOs) use a new Term and Condition to be included on all assistance awards (grants) made to nonprofit organizations to ensure Federal funds are not being awarded to 501(c)(4) organizations that engage in lobbying activities. The term and condition requires recipients to agree 1) it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or 2) it is a 501(c)(4) organization but does not and will not engage in lobbying activities as defined in the Lobbying Disclosure Act of 1995. (See Footnote 1)
- GAD will require GMOs to include a guidance document on lobbying restrictions in grant awards effective September 1, 1996. Guidance is attached.
- GAD will develop by September 30, 1996, a draft comprehensive policy to provide Guidance and procedures on implementing the Lobbying Disclosure Act of 1995.

¹A copy of the memo from the Grants Administration Division to the Agency's Grants Management Offices including the new term and condition language is attached.



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
WASHINGTON, D.C. 20460

OFFICE OF ADMINISTRATION AND
RESOURCES MANAGEMENT

July 10, 1996

MEMORANDUM

SUBJECT: Lobbying Term and Condition

FROM: Gary M. Katz, Director
Grants Administration Division (3903F)

TO: Grants Management Offices

In an effort to emphasize Federal laws and government-wide restrictions on lobbying activities for non-profit organizations and educational institutions, GAD is requiring that Grant Management Offices (GMOs) use the following new terms and conditions. GMOs must include Grant Condition Number 1 on all new assistance awards made to recipients other than State or local governments or Indian Tribes after August 1, 1996. Term and Condition Number 2 must be included on all new assistance awards made to nonprofit organizations after August 1, 1996 - either non-501(c)(4) organizations or 501(c)(4) organizations that do not lobby.

1. Term and Condition for all recipients other than State or local governments or Indian tribes:

"The recipient agrees that it will not use assistance funds (Federal or non-Federal share) for lobbying or political activities, in accordance with OMB Circulars No. A-21 and A-122 and EPA guidance"

2. Term and Condition for nonprofit organizations [non-501(c)(4) organizations and 501(c)(4) organizations that do not lobby]:

"Pursuant to Section 18 of the Lobbying Disclosure Act of 1995, P.L. No., 104-65, 109 Stat. 691, the recipient confirms that:

(1) it is not a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986; or

(2) it is a nonprofit organization described in Section 501(c)(4) of the Internal Revenue Code of 1986 but does not and will not engage in lobbying activities as defined in Section 3 of the Lobbying Disclosure Act of 1995."

If you have any questions, please call Linda Yancey at (202)260-5264.

GUIDANCE ON LOBBYING RESTRICTIONS

The purpose of this guidance is to remind nonprofit organizations, universities, and other non-government recipients of EPA grants² that, with very limited exceptions, you may not use Federal grant funds or your cost-sharing funds to conduct lobbying activities. The restrictions on lobbying are explained in Office of Management and Budget (OMB) Circular No. A-21, "Cost Principles for Educational Institutions," 61 Fed. Reg. 20880 (May 8, 1996),³ and OMB Circular No. A-122, "Cost Principles for Nonprofit Organizations; 'Lobbying' Revision," 49 Fed. Reg. 18260 (April 27, 1984). (The two Circulars are attached to this guidance as Attachments A and B. Additional, detailed guidance on specific issues regarding the lobbying restrictions of OMB Circular No. A-122, contained in correspondence from OMB to Congress at the time the Circular was issued, is attached here as Attachment C.) As a recipient of EPA funds, you must be aware of and comply with these restrictions.⁴

The general objective of the restrictions is to prohibit the use of appropriated funds for lobbying, publicity, or propaganda purposes designed to support or defeat legislation. The restrictions do not affect the normal sharing of information or lobbying activities conducted with your own funds (so long as they are not used to match the grant funds).

Unallowable Lobbying Activities

Under Circulars A-21 and A-122, the costs of the following activities are unallowable:

- (1) Contributions, endorsements, publicity or similar activities intended to influence Federal, State or local elections, referenda, initiatives or similar processes.
- (2) Direct and indirect financial or administrative support of political parties, campaigns, political action committees, or other organizations created to influence elections. Recipients may help collect and interpret information. These efforts must be for educational purposes only, however, and cannot involve political party activity or steps to influence an election.
- (3) Attempts to influence the introducing, passing, or changing of Federal or State legislation through contacts with members or employees of Congress or State legislatures,

² The term "grant" as used in this guidance refers to grants and cooperative agreements.

³ Grants awarded before May 8, 1996, are subject to the previous version of Circular No. A-21, but the provisions on lobbying have remained essentially unchanged.

⁴ This guidance does not address the restrictions on lobbying contained in 40 CFR Part 34, the EPA regulations implementing section 319 of P.L. No. 101-121, known as "the Byrd Amendment," generally prohibit recipients of Federal grants, contracts, and loans from using Federal funds for lobbying the Executive or Legislative Branches of the Federal Government in connection with a specific grant, contract, or loan. Part 34 includes detailed certification and disclosure requirements. This guidance also does not address section 18 of the Lobbying Disclosure Act of 1995, P.L. No. 104-65, which provides that organizations described in section 501(c)(4) of the Internal Revenue Code that engage in lobbying activities are not eligible for Federal grants or loans.

including attempts to use State and local officials to lobby Congress or State legislatures. For example, you may not charge a grant for your costs of sending information to Members of Congress to encourage them to take a particular action. Also prohibited are contacts with any government official or employee to influence a decision to sign or veto Federal or State legislation. The restriction does not address lobbying at the local level.

(4) Attempts to influence the introducing, passing, or changing of Federal or State legislation by preparing, using, or distributing publicity or propaganda, i.e., grass roots lobbying efforts to obtain group action by members of the public, including attempts to affect public opinion and encourage group action. For example, the costs of printing and distributing to members of the public or the media a report produced under a grant, if intended to influence legislation, are unallowable.⁵

(5) Attending legislative sessions or committee hearings, gathering information about legislation, and similar activities, when intended to support or prepare for unallowable lobbying.

Exceptions

There are three exceptions to this list of unallowable lobbying activities in Circulars A-21 and A-122. These exceptions do not necessarily make the cost of these activities allowable; they make the costs potentially allowable. Allowability will be determined based on whether the costs in a particular case are reasonable, necessary, and allocable to the grant.

The first exception is for technical and factual (not advocacy) presentations to Congress, a State legislature, member, or staff, on a topic directly related to performance of the grant, in response to a request (not necessarily in writing) from the legislative body or individual. For requests that are not made in writing, recipients should make a note for their files documenting the requests. The information presented must be readily available and deliverable. Costs for travel, hotels, and meals related to the presentation are generally unallowable unless related to testimony at a regularly scheduled Congressional hearing at the written request of the chairperson or ranking minority member of the congressional committee.

The second exception is for actions intended to influence State legislation in order to directly reduce the actual cost of performing the Federal grant project or to protect the recipient's authority to perform the project. The exception does not apply to actions that are intended merely to shift costs from one source to another. For example, in response to Federal funding cutbacks, a Federally-funded recipient lobbies for State funds to replace or reduce the Federal share of project costs for next year. The cost of that lobbying activity would not be allowable because its purpose is not to directly reduce the actual cost of performing the work but merely to shift from Federal funding to State funding.

⁵ Circular A-122 addresses public information service costs that do not relate to lobbying. Attachment B to the Circular, at paragraph 36, makes allowable, with prior approval of the Federal agency, costs associated with pamphlets, news releases and other forms of information services if their purpose is: to inform or instruct individuals, groups or the general public; to interest individuals or groups in participating in a service program of the recipient; or to disseminate the results of sponsored and nonsponsored activities.

Finally, Circulars A-21 and A-122 allow lobbying costs if they are specifically authorized by law.

Indirect Cost Rate

When you seek reimbursement for indirect costs (overhead), you must identify your total lobbying costs in your indirect cost rate proposal so that the Government can avoid subsidizing lobbying. This is consistent with the circulars' requirement of disclosure of the costs spent on all unallowable activities. This requirement is necessary so that when the Government calculates the amount of an organization's indirect costs that it will pay, it does not include the costs of unallowable activities that the organization happens to count as indirect costs

Enforcement

In cases of improper lobbying with grant funds, EPA may recover the misspent money, suspend or terminate the grant, and take action to prevent the recipient from receiving any Federal grants for a certain period. To avoid improper lobbying activities, please review carefully this guidance and the attachments: Circular A-21, the Lobbying Revision to Circular A-122, and the OMB correspondence. Your project officer is available to handle any questions or concerns.

APPENDIX II

Grant programs	Purpose Of Assistance	FY1995 Dollars (Actuals)	FY1996 Dollars (Enacted)	FY1997 Dollars (President's Budget)
Environmental Program Management	Funds training activities including fellowships, demonstration projects, environmental education projects, environmental equity projects, Senior Environmental Enrollees', general studies, surveys and investigations, and state environmental control programs. In 1996, the majority of the state money was moved to the STAG appropriation.	684,249,500	200,461,400	194,287,800
State and Tribal Assistance Grants	Supports state environmental programs and the State Revolving Fund beginning in 1996 and 1997.		2,812,284,400	2,851,484,800
Water Infrastructure	Funds the construction of wastewater treatment plants, the State Revolving Funds, and selected state environmental programs - Nonpoint source and drinking water programs. Appropriation rolled into the STAG appropriation in 1996 and 1997.	2,197,013,100		
Science and Technology	Funds general research activities.	187,760,400*	165,011,900	185,886,500
LUST Trust Fund	Support oversight and clean up of petroleum releases from underground storage tanks.	62,309,700	37,870,000	56,008,000
Superfund	Supports remedial actions at hazardous waste sites.	136,460,900	Approx 130 - 140,000,000**	Approx 130 - 140,000,000**
Oil Spills Trust Fund	General research, surveys, and studies on oil spill remediation methods and practices.	2,627,000	269,000	520,900

Source: EPA Budget Documents

**Planned Superfund Trust Fund grant awards. Historically, these numbers have not been included in budget planning documents.

NOTE: Enrollees are funded from many EPA Appropriations

SUMMARY OF AWARD ACTIVITY BY PROGRAM
ALL REGIONS PLUS HEADQUARTERS
BETWEEN 94/10/01 AND 95/09/30

FY 95

PROGRAM	HEADCOUNT AWARDS	DOLLARS AWARDED		INCREASE AMEND	DOLLARS AWARDED		DECREASE AMEND	DOLLARS AWARDED		NO COST ACTIONS	TOTAL ACTIONS	DOLLARS AWARDED
		AWARDED	AMEND		AWARDED	AMEND		AWARDED	AMEND			
(A)-AIR POLLUTION PROGRAM	120	96,200,314	97	74,430,443	80	-9,269,885	57	354	161,950,892			
(AA)-RADONCLINQUE STATE GRAN	2	214,500	0	0	0	0	1	3	214,500			
(B)-HVT CONSTRUCTION	40	707,279,768	174	160,266,897	338	-76,821,652	102	674	792,722,613			
(C3)-CHESAPEAKE BAY	19	13,879,160	6	1,353,289	2	-133,408	5	32	15,099,041			
(CD)-WETLANDS PROTECTION	136	15,609,107	10	232,151	9	-25,802	187	322	15,815,456			
(CE)-NATIONAL ESTUARY PROGRA	22	4,039,999	19	6,647,094	33	-543,301	55	129	10,142,792			
(CL)-CHESAPEAKE BAY RESTOR	1	52,000	0	52,870	6	-197,443	14	20	195,932			
(CM)-MUNICIPAL WATER POLLUT	5	19,000	0	0	0	0	0	5	19,000			
(CP)-POLLUTANT DISCHARGE ELI	67	11,056,937	39	2,840,800	4	-73,180	98	208	13,822,537			
(C3)-SRF	52	1,183,972,445	7	41,239,030	0	-2,151,045	34	111	1,225,211,475			
(C3)-WATER QUALITY MANAGEMEN	37	7,211,786	18	2,199,769	22	-1,12,423	2	3	7,256,510			
(C3)-NONPOINT SOURCE DEVELOP	0	0	0	0	0	0	0	0	0			
(D)-WATER POLLUTION CONTROL	43	94,018,811	0	8,761,801	1	-1,12,423	2	3	101,752,423			
(D)-HAZARDOUS WASTE TREAT PRO	64	41,435,246	64	55,017,604	36	-3,459,341	137	165	92,997,489			
(E)-PESTICIDES COMPLIANCE	151	17,820,679	115	11,300,367	112	-3,448,595	47	425	25,652,451			
(E0)-ENVIRONMENTAL EQUITY PR	210	8,009,929	34	4,494,267	1	-10,000	43	288	12,494,196			
(F)-PUBLIC WATER SYSTEM	52	33,303,338	69	32,694,301	23	-2,754,988	12	156	63,842,651			
(G)-UNDERGROUND WATER	42	3,665,577	64	3,842,956	22	-337,976	25	153	7,168,557			
(G)-SOLID WASTE/REUSE PROG	4	3,692,180	0	5,323,321	0	0	0	4	8,015,501			
(G)-SOLID WASTE/NATIONAL PR	55	7,047,179	24	1,787,143	0	0	21	103	9,008,519			
(G1)-SHALLOW INJECTION WELL	1	30,500	0	0	0	0	0	1	30,500			
(H)-SAFE DRINKING WATER	3	137,300	1	2,500	0	0	3	7	139,800			
(I)-WATER POLLUTION CONTROL	124	38,622,735	87	24,938,248	75	-4,402,742	66	352	59,158,241			
(J)-ASBESTOS ENHANCEMENTS	5	329,234	5	205,551	8	-206,142	6	26	328,643			
(K)-SOLID WASTE/REUSE PROG	3	1,523,339	3	1,376,758	25	-1,649,872	27	115	6,168,242			
(K1)-STATE INDOOR RADON	0	5,523,339	12	1,376,758	2	-461,651	0	2	6,168,242			
(K3)-PCB STATE ENHANCEMENT	0	0	0	0	0	0	0	0	0			
(L)-SOLID WASTE DEMO	78	27,529,728	75	23,021,659	39	-4,433,228	59	251	46,098,159			
(LC)-LAKE CHAMPLAIN MANAGEHE	0	0	1	65,000	0	0	1	2	65,000			
(LS)-LEAKING UNDERGROUND STO	12	3,908,053	14	18,581,896	4	-163,566	6	36	22,226,383			
(M)-WATER POLLUTION CONTROL	0	0	0	0	0	0	0	0	0			
(N)-CONTRACTED SUPPORT	11	2,621,044	22	20,013,480	10	-2,076,349	8	3	20,564,157			
(O)-REGIONAL MULTI-MEDIA IM	24	1,333,556	8	561,650	1	-75,000	20	53	1,800,206			
(O0)-GULF OF MEXICO PROGRAM	36	2,146,498	5	181,729	0	0	0	62	2,328,227			
(OEX)-ENVIRONMENTAL EDUCATION	264	2,845,429	3	166,068	29	-55,400	154	450	2,956,035			
(OEX)-PROGRESSION EDUCATION T	1	294,000	4	278,775	0	0	1	6	572,775			

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SUMMARY OF AWARD ACTIVITY BY PROGRAM
ALL REGIONS PLUS HEADQUARTERS
BETWEEN 9/10/01 AND 9/9/03

PROGRAM	HEMCOUNT AWARDS	DOLLARS AWARDED	INCREASE AMOUNT	DOLLARS AWARDED	DECREASE AMOUNT	DOLLARS AWARDED	NO COST AMOUNT	TOTAL ACTIONS	DOLLARS AWARDED
(M1)-MULTI-MEDIA INDIANS	6	380,000	50	2,472,789	8	-75,884	15	79	2,776,905
(NP)-POLLUTION PREVENTION	67	5,872,652	16	1,099,021	3	-12,649	86	172	6,959,044
(NS)-NATIONAL AND COMMUNITY	2	293,858	5	158,181	0	0	2	3	452,039
(NT)-ENVIRONMENTAL EDUCATION	2	1,958,450	8	868,000	1	-21,838	27	39	1,035,815
(RM)-RURAL CREST GRANTS	60	10,961,061	11	2,857,421	2	-228,147	53	126	13,370,335
(R2)-RURAL CREST GRANTS	69	4,139,221	0	0	0	0	0	69	4,139,221
(P1)-POLLUTION PREVENTION GR	3	346,189	11	670,990	2	-25,748	37	23	1,031,421
(P2)-PUBLIC/PRIVATE PARTNERS	13	5,489,345	395	45,369,805	5	-173,347	1	394	50,468,203
(O1)-SEE PROGRAM	0	0	2	120,593,923	0	0	0	2	120,593,923
(GS)-SENIOR ENVIRONMENTAL EN	309	67,166,530	545	2,916,746	23	-322,562	63	1,200	187,769,453
(R)-RESEARCH	11	3,673,033	11	15,690,095	10	-17,982	87	110	6,467,197
(T)-TRAINING	110	12,815,520	106	60,292,082	34	-76,415	203	313	28,487,633
(U)-UNIVERSITY	244	4,427,594	42	264,357	0	0	8	294	4,691,951
(V)-FELLOWSHIPS	84	75,594,531	187	390,358,170	52	-142,929,650	395	462	8,748,261
(V)-SUPERFUND	18	4,249,133	86	70,000	2	-32,797	3	2,065	686,732,154
(V)-CORE PROGRAM COOPERATIV	732	437,383,826	884	108,248,355	70	-1,091,468	627	1,906	246,069,184
(V)-ING LEAD PROTECTION DEN	763	138,912,317	446	0	0	0	0	44	510,399,344
(V)-SURVEYS, STUDIES, ETC.	38	510,599,344	0	245,964	16	-85,993	69	201	4,671,951
(W)-FY 1995 WATER INFRASTRU	95	4,069,624	21	0	0	-4,618	0	11	15,388
(X1)-SOLID WASTE MANAGEMENT	1	20,000	0	0	0	0	0	2	130,000
(X2)-STATE/EPA DATA MGMT (S	1	11,000	0	0	0	0	0	1	11,000
(Y)-CONSOLIDATED SPEC PURPOSE	26	1,534,000	10	435,982	7	-112,528	25	70	1,757,454
(Z)-NONPOINT SOURCE RESERVA	0	0	0	0	1	-19,274	0	1	-19,274
FY 95 TOTAL	4,475	3,627,468,825	3,859	1,262,219,269	1,161	-333,256,439	3,415	12,910	4,556,451,655

SUMMARY OF AWARD ACTIVITY BY PROGRAM
ALL REGIONS PLUS HEADQUARTERS
BETWEEN 10/01/95 AND 09/30/96
FY 96

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PROGRAM	HEEDONT AWARDS	DOLLARS AWARDED	INCREASE HEEDONT	DOLLARS AWARDED	DECREASE AWARDS	DOLLARS AWARDED	NO COST HEEDONT	TOTAL HEEDONT	DOLLARS AWARDED
(A)-AIR POLLUTION PROGRAM	118	41,473,781	300	108,160,263	60	-13,317,376	26	504	136,316,668
(AR)-RADIOACTIVE STATE GRAN	0	0	0	0	0	0	0	1	-49,043
(BD)-PERFORMANCE PARTNERSHIP	20	13,788,368	3	5,204,338	0	-101,289,083	0	23	18,992,704
(C1)-COUNCIL ON	26	12,257,529	105	18,762,811	186	0	0	131	31,020,340
(CA)-CHESAPEAKE BAS	24	6,764,714	18	6,056,837	1	-769,983	5	48	14,642,015
(CD)-WETLANDS PROTECTION	126	13,232,952	27	1,859,172	19	-175,548	158	330	14,916,576
(CE)-NATIONAL ESTUARY PROGRA	11	3,440,842	0	4,960,783	9	-39,322	54	94	8,362,308
(CL)-CLEAN LAKES PROGRAM	0	0	0	0	0	-165,974	57	68	-165,974
(CM)-MUNICIPAL WATER POLLUTI	4	152,750	2	90,000	1	-4,622	10	17	245,128
(CN)-NONPOINT SOURCE MGT	1	1,655,662	0	1,655,662	0	0	184	185	1,655,662
(CS)-SEW	45	403,082,985	105	1,100,599,866	2	-2,476,868	21	173	1,501,200,041
(CS)-WATER QUALITY MANAGEMEN	43	8,432,450	62	4,614,637	19	-2,748,516	22	146	10,298,571
(CB)-NONPOINT SOURCE DEVELOP	0	0	0	0	4	-99,205	5	9	-99,205
(CP)-NONPOINT SOURCE IMPLEM	59	62,022,601	77	34,340,239	16	-728,037	99	251	95,654,802
(D)-HAZARDOUS WASTE MGMT PRD	49	17,390,196	147	74,351,477	38	-5,732,903	14	248	86,005,770
(E)-EMERGENCY RESPOND	16	1,051,800	27	13,808,429	10	-3,268,766	28	61	15,591,463
(EO)-ENVIRONMENTAL EQUITY PR	160	4,784,190	21	8,809,547	11	-5,268,346	108	300	21,515,394
(F)-PUBLIC WATER SYSTEM	44	16,675,744	154	50,257,736	36	-3,903,112	15	249	63,030,368
(G)-UNDERGROUND WATER	49	2,617,751	145	5,162,300	30	-625,252	21	245	7,156,799
(GA)-GENERAL ASSISTANCE PROG	76	6,399,264	78	5,961,594	0	0	34	188	12,360,858
(GL)-GREAT LAKES NATIONAL PR	23	4,026,418	7	812,161	0	0	41	71	4,838,579
(G1)-SHALLOW INJECTION WELL	2	36,648	0	0	0	0	0	2	36,648
(G2)-DEEP INJECTION WELL	2	156,400	0	0	0	0	0	2	156,400
(I)-WATER POLLUTION CONTROL	146	17,133,240	252	46,021,940	71	-3,453,600	90	374	59,108,580
(J)-WATER POLLUTION CONTROL	31	117,694	8	309,597	12	-112,928	1	24	314,363
(K)-TOXICS COMPLIANCE	3	1,434,226	49	1,941,594	24	-371,748	28	132	3,006,072
(K1)-STATE INDOOR RADON	50	4,781,421	19	1,231,307	27	-232,496	29	125	5,780,232
(K3)-PCB STATE ENHANCEMENT	2	82,594	0	0	0	0	0	2	82,594
(L)-LEAKING UNDERGROUND STO	9	70,000	16	15,880,516	53	-1,039,484	56	329	17,900,300
(LC)-LAKE CHAMPLAIN MANAGE	0	0	0	0	0	0	0	0	0
(L3)-LEAKING UNDERGROUND STO	22	10,312,700	63	18,430,247	4	-343,561	8	97	28,395,386
(M)-MINING WASTE	0	0	0	0	0	0	0	1	0
(N)-CONSOLIDATED SUPPORT	9	2,315,658	45	19,972,566	13	-2,420,406	9	76	19,867,818
(O)-REGIONAL HEALTH MEDIA IN	61	2,152,632	11	608,670	2	-648	21	95	2,766,654
(ON)-OPERATIONAL SUPPORT	2	154,776	4	233,005	1	-50,000	31	40	349,843
(OE)-ENVIRONMENTAL EDUCATION	197	2,050,332	1	70,000	53	-1,034	131	382	2,167,668

SUMMARY OF AWARDS ACTIVITY BY PROGRAM
ALL REGIONS PLUS HEADQUARTERS
BETWEEN 10/01/95 AND 09/30/96

FY 96

PROGRAM	HEM/CONT	10/25/96		DOLLARS AWARDED	INCREASE AMEND	DOLLARS AWARDED	DECREASE AMEND	DOLLARS AWARDED	NO COST AMEND	TOTAL ACTIONS	DOLLARS AWARDED
		AWARDED	AMEND								
(US)-PROGRESSION EDUCATION T	0	0	0	0	0	1,923,391	0	0	0	3	0
(M)-MULTI-MEDIA INDUAMS	18	657,759	65	4,979,373	10	647,548	9	-156,126	29	119	2,429,024
(NP)-POLLUTION PREVENTION	70	4,979,373	10	1,414,335	6	28,120	1	-79,368	76	165	5,547,593
(IS)-NATIONAL AND COMMUNITY	1	25,000	0	0	0	0	0	-28,120	3	11	1,414,215
(NT)-ENVIRONMENTAL EDUCATION	0	0	0	0	0	0	0	0	0	2	0
(ND)-NEAR COASTAL WATERS	1	25,000	4	8,250,000	24	781,209	2	-21,161	0	11	755,039
(PA)-STATE LEAD REDUCTION	56	8,250,000	24	50,000	1	4,131,987	14	-659,497	40	136	11,962,200
(P)-POLLUTION PREVENTION GR	3	50,000	1	40,000	2	141,370	20	-141,370	20	24	-51,370
(P)-PUBLIC/PRIVATE PARTNERS	3	152,400	5	224,991	2	30,340,214	2	-41,396	3	13	335,995
(O)-SEE PROGRAM	13	3,513,064	295	838,000	0	0	0	-25,970	14	324	33,827,308
(GS)-SENIOR ENVIRONMENTAL	113	39,220,606	450	69,643,928	2	0	0	-59,172	0	2	108,828,000
(R)-RESEARCH	5	14,282,499	11	16,488,203	21	837,433	8	-837,433	346	913	108,828,000
(S)-DEMONSTRATION	71	5,660,670	107	16,488,203	8	0	0	-42,927	90	276	22,235,946
(U)-UNIVERSITIES	165	3,783,780	131	2,423,925	0	0	0	0	4	300	6,207,705
(U)-SUPERFUND	69	36,119,721	187	67,781,071	74	-14,830,374	214	-1,234,326	20	74	8,573,892
(VC)-CORE PROGRAM COOPERATIV	11	3,002,435	34	437,985,499	51	-14,062,727	523	2,172	12	653	1,314,324
(U)-IAG	515	229,201,550	981	48,508,267	85	0	0	-570,131	796	1,866	126,464,638
(U)-WELLHEAD PROTECTION DEN	2	34,000	0	13,500,000	0	0	0	0	8	21	77,560,000
(U)-WELLHEAD PROTECTION DEN	568	78,528,320	437	741,334	13	0	0	-56,846	69	190	5,779,365
(CP)-FY 1995 WATER INFRASTRU	8	63,860,000	5	500,000	0	0	0	0	0	3	500,000
(X1)-SOLID WASTE MANAGEMENT	90	5,094,877	18	486,391	0	0	0	-62,517	23	51	1,251,706
(X2)-STATE/EPA DATA MGMT (S.	1	150,000	12	0	0	0	0	0	0	2	0
(Y)-CONSOLIDATED SPEC PURPOSE	1	150,000	12	0	0	0	0	0	0	2	0
(Z)-SUPERFUND AC	17	827,846	0	0	0	0	0	-6,132	2	4	-6,132
(Z)-NONPOINT SOURCE RESERVAT	0	0	0	0	0	0	0	0	0	0	0
FY 96 TOTAL	3,454	1,191,421,918	4,911	2,358,205,219	1,133	-177,980,063	3,603	13,121	3,371,647,074		

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APPENDIX III

The Office of Communications, Education, and Public Affairs (OCEPA) operates within the Office of the Administrator. Currently, OCEPA has 49.1 FT (Full Time Equivalents) supporting public affairs activities. This is the lowest number of public affairs FT in the past four years.

APPENDIX IV

The Training Manual and Course Handouts from the EPA Project Officer Training Curriculum: *Managing Your Financial Assistance Agreement - Project Officer Responsibilities*

The EPA Institute FY1995 Schedule of Classes listing the Project Officer Course. The Institute did not publish a schedule of classes in FY96.

APPENDIX V

GAD ACTION PLAN FOR IMPROVING GRANTS PRACTICES

ACTION TO BE TAKEN	STATUS	DATE
Distribute Interim PO Handbook	completed	93/4
Train New Employees	completed	93/6
Focus Group for Improving Grant Mgmt	completed	93/7
Train Senior Management	completed	93/7
Train Grants Staff	completed	93/4
Re-emphasize Policy on Timely Awards with 1-page Fact Sheet	completed	93/11
Establish requirement and Structure for PO Training	completed	94/3
Issue Policy on Grants vs. Contracts	completed	94/3
Establish criteria for SROs to follow in their review of grant actions over certain dollar thresholds	completed	94/7
Complete development of PO Training Course	completed	94/3
Increase Pre- and Post-Award Reviews; Desk and On-site	completed	94/7
Include Grants Mgmt in Performance Agreements	completed	94/3
Issue Reminder Memo to Refer Cases to Suspension and Debarment Division	completed	94/9
Include Grants Mgmt Responsibilities in Job Announcements	completed	94/3
Complete a listing of all major GAD policies including synopsis	completed	94/6
Establish PO Certification ⁷	completed	95/3

⁷Certification requirement will be replaced with Sallyanne's memo requiring all Pos to take the PO Training Course. Memo was signed on 3/13/95.

GAD ACTION PLAN FOR IMPROVING GRANTS PRACTICES

ACTION TO BE TAKEN	STATUS	DATE
Operate QAT to Streamline the Grants Process at HQ	completed	95/2
Develop Fact Sheet on Criteria for Competition	completed	96/2
Ensure the CFDA Includes All Grant Programs	Due	96/9
Develop Small Grants Policy	Due	96/9
Develop Strategy to Closeout Older Grants and to Resolve Generic Closeout Issue	Due	96/12
Develop Policy on GMO Oversight Responsibilities	Due	96/12
Develop MOU with Dept. Of Commerce-- Electronic Access to Single Audits	Due	96/12
Issue Policy on PO Roles, with emphases post award administration	Due	96/12
Develop Policy on Using Audit Reports for Managing Grants	Due	97/3
Closeout 50% of Grants Physically Completed Before 1996	Due	97/7
Develop Policy on Incremental Funding ⁸	Due	97/9
Realign GOB To Allow More Time for Post Award Grant Administration	Due	97/7
Develop Memo w/OHRM Re: Consequence of Conflicts of Interest	Due	97/7
Explore Options to Provide Cost Analysis Training Geared Toward EPA	Due	97/9

⁸Policy on incremental funding included within Small Grants Policy. See Priority Rank #24.

GAD ACTION PLAN FOR IMPROVING GRANTS PRACTICES

ACTION TO BE TAKEN	STATUS	DATE
Working with FMO to develop Grants Performance Measures, for use by program offices and GMOs ⁹⁹	Due	98/9
Implement PO Training Validation Strategy	Due	98/10
Work with Facilities Mgmt to Develop Action Plan for Property Management	Due	99/9
Re-do Assistance Administration (AA) Manual to reflect a more stream-lined grants process	Due	99/9
Train the trainers for Project Officer Training	on-going	
Operate the Grants Customer Relations Council (GCRC)	on-going	
Examine Grade Structure for Grants Mgmt	on-going	
Develop a Career Track for Grants Managers	on-going	
Publish Regulatory Changes as Required	on-going	

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⁹⁹Development of Grants Performance Measures supersedes original action to develop checklist for FMIA Vulnerability Reviews.

Mr. MARTIN. Yes, sir.

Mr. MCINTOSH. Let me turn now to Mr. Ehrlich. Do you have a final question?

Mr. EHRLICH. Sir, I am not blowing smoke, but I am really impressed with what you all do, all the IGs I've met in my year-and-a-half in Congress. And I think you do a good job. And I congratulate you, which leads to one question. Do you have enough personnel to do your job?

Mr. MARTIN. Well, we're shrinking. You know, there's an emphasis on reduction of the kinds of work that we do, frankly. And our office is shrinking.

Mr. EHRLICH. Specifically with regard to EPA grant personnel, do you have enough?

Mr. MARTIN. Well, we do many different kinds of work.

Mr. EHRLICH. And I think the chairman just asked you to take on an additional task, which leads to my question.

Mr. MARTIN. We do many different kinds of work, and it's—as someone was suggesting earlier, do we audit everything, I mean, we don't even come close to auditing everything that's out there to take a look at.

So I would say that certainly, our staffing as far as grant audits and investigations or any other aspect of our work is gradually shrinking, and we're getting—we're able to do less and less because of the staff cutbacks that we face.

Mr. EHRLICH. Now, let me ask you a somewhat different question. I appreciate your honesty. Do you have an opinion with respect to EPA personnel whether EPA has enough personnel to—I mean, obviously, with regard to what we have heard today, it's either they don't have enough people to do it, or they have enough people and they're not doing it. Which is it, if you have an opinion?

Mr. MARTIN. I think it's both. I think as I said earlier, there is at least a pocket in EPA, the grants administration division, that in our view has an overwhelming work burden. There are only 11 employees in that office responsible for a tremendous amount of work involving the grant system.

But beyond that, EPA also has that function spread out among its various offices, so there are other people that do that work. And so what has to be considered is not only the personnel situation but the structure of how grants are administered, do we have a system in place that's sensible and efficient to operate.

So all that has to be considered. But we do have the belief that that one unit in EPA that does grants administration is simply snowed under the volume of work that they have.

Mr. EHRLICH. Not enough folks, and in any event, not enough efficiency to even make up some of the shortfall?

Mr. MARTIN. Yes. That's correct.

Mr. EHRLICH. Thanks.

Mr. MCINTOSH. Thank you very much, Mr. Martin. I appreciate your coming this morning and ask if you've got some time, if you could stay through the rest of the hearing in case any additional questions come up that we may need to ask you.

Mr. MARTIN. Surely, Mr. Chairman, I will.

Mr. MCINTOSH. Let me turn now to our second panel, which is a panel of one. Mr. Hansen is the Deputy Administrator at EPA.

I appreciate you coming today, and let me apologize for delaying the beginning of this hearing. I realize you've got some time constraints. When they changed our voting schedule, many of the members decided to stay in their districts until today. If you would please rise, Mr. Clinger has asked us to swear in all witnesses before this committee.

[Witness sworn.]

Mr. MCINTOSH. Thank you very much. Let the record show the witness was duly sworn in and answered in the affirmative.

Mr. Hansen, you've heard, obviously, all of the previous testimony and a lot of the concerns that have been raised about the grants. And we have received a copy of your written testimony, which we'll gladly put into the record in its entirety. But if you could share with us a summary of your testimony, the points you would like to make.

STATEMENT OF FRED HANSEN, DEPUTY ADMINISTRATOR, U.S. ENVIRONMENTAL PROTECTION AGENCY

Mr. HANSEN. Thank you, Mr. Chairman. I would like to be able to do that and then obviously be able to go back and answer any questions or go back across some of the issues that have been raised already.

For the record, again, Fred Hansen, the Deputy Administrator for the Environmental Protection Agency. Let me indicate that, as Mr. Martin said at the end, he and I have talked often about the issues of management within the Agency.

Part of the reason why I was willing to leave my home in Oregon to be able to join EPA as Deputy Administrator is really three principal areas of my focus. One is to be able to make environmental regulations strong, protective, but to be able to have them be common sensical. And certainly, my involvement in the implementation of environmental regulations over more than a decade has led me to believe how important that is.

No. 2, I wanted to be able to see a substantially more integrated, science-based approach to our approaches in environmental protection and to be able to see it addressing a broader array of threats to both the environment and public health.

And third and most relevant here is to be able to address strong management issues within the Agency, not just solving problems, but putting in place systems to provide the means of meaningfully achieving our goals and to hold people both within the agency and those that we deal with as partners, either through grantees or other relationships, to be accountable.

As the chief operating officer, I do have specific responsibilities as directed by the Administrator to be able to accomplish the management responsibilities in a straightforward, strong approach which ensures that we actually achieve those ends and that the dollars that are available for us to be able to expend are expended in a fashion that ensures that the taxpayers are fully able to achieve their results.

There has been a broad study done of the Environmental Protection Agency by the NAPA panel—that is, the National Academy of Public Administrators. They have, in fact, made a series of recommendations that we are implementing. Among those are what

was referenced in Mr. Martin's testimony of a unit really addressing planning, budget, and accountability. And it is that that is headed by our chief financial officer.

Within the context of grants, the area of making sure that we have systems and accountability mechanisms in place is very important.

I think it's critical to be able to put in context that the overall grants in fiscal year 1995, an anomaly in one regard because of the amount of congressional earmarks, totaled approximately \$4.6 billion, though there were within that slightly over 4,400 different separate grants that were made.

Now, the large share of those grants have been in the waste water area, both within the construction grant program—although that has been terminated, it is still phasing out—and in the program that has taken its place, the State revolving fund. In total, those two programs in fiscal year 1995 accounted for just slightly over \$2 billion, nearly half of the total grant dollars.

That is an area that we at EPA have focused most of our attention on in terms of being able to ensure that there is proper close-out, proper management because of the sheer dollar size associated with the construction grant program, again representing somewhere around \$55 to \$60 billion over the life of that program.

No. 2, the area that we are moving into that generally represents the second most significant category of funding in the grant area are the grants we make to States. I think as you, Mr. Chairman, know and Mr. Ehrlich, I'm sure, does as well, Mr. Peterson, that most of the environmental programs of this country is a national program delegated to the States which allowed the States to be able to operate in lieu of the Federal Government.

That does not relieve the Federal Government of responsibility to oversee those programs but does mean that the States are operating those programs. The categorical grants that are given to assist the States in that is, as I said, the second largest area of single grant category.

We have, as of May 17th of last year, entered into a new agreement with the States to be able to provide for much more of a partnership relationship between us and the States as we move toward partnerships. We have had the assistance of the Inspector General, as well as many of our State partners and people within EPA, to develop a system to ensure that we have full accountability within that.

Last, the area that we're talking about here is, the \$380 million amount that was within the audit period, representing surveys, studies, other analyses that are supported by grants. The program that we have in place to be able to address, again, strong controls in that system is something we self-identified in our vulnerability study in 1993, and we are moving to be able to put into place.

For us, there are three key elements, training of all of our project officers, about 2,500, that will be completed—not just promised, but completed—by September 30th of this year. Second, putting into a much more concise and understandable fashion, formal, written, fully up-to-date guidance. And third, to be able to move on close-out of these areas.

Last, EPA's broad mission is, obviously, to work with many, many partners to achieve our goal. Grants are an important tool we utilize in that process but is not the only tool. We believe absolutely that strong mechanisms must be in place to ensure that every safeguard is there relative to the dollars being spent. We have put a number of those in place. We are in the process of putting others in place. We are committed to this.

Thank you. I would be happy to answer any questions.

[The prepared statement of Mr. Hansen follows:]

Good morning Mr. Chairman, members of the Subcommittee. For the record I am Fred Hansen, Deputy Administrator of EPA. I am pleased to appear before you to give you an overview of the Agency's grants program and respond to issues raised in the Inspector General's September, 1995 Audit.

Accountability has been a cornerstone in this Administration's approach to ensuring effective public health and environmental protection. In March of this year the Administrator and I launched an agency-wide effort to integrate and strengthen the Agency's planning, budgeting and accountability programs. This new approach, which we believe will dramatically improve the Agency's ability to manage for environmental results, seeks to: (1) improve the link between long-term environmental planning and resource management; (2) make better use of scientific information in setting priorities; and (3) create a new accountability system to assess accomplishments and provide the data necessary for all key.

As we implement this approach, we are restructuring key management processes including planning, budgeting, financial management, and program analysis and evaluation. Our work in grants is part of our overall effort to improve the way EPA operates and to strengthen accountability for public resources.

Grants are critical to the Agency's ability to accomplish and fulfill our environmental mission. We use grants to accomplish a host of complex environmental goals including the construction of vital water infrastructure projects, supporting State and local environmental programs, remediating Superfund sites, conducting general research and studies, and providing training. Our primary partners in this effort are the State, local and Tribal governments who receive about 90% of EPA's total assistance budget. The balance, approximately \$300 million, is awarded to universities and non profit organizations to support our research, training, analytical studies, public outreach and education efforts. This administration has worked tirelessly to

promote and enhance our relationship with our stakeholders as a key ingredient in our effort to improve our management, using smarter, cheaper and more efficient methods to attain our goals and protect the environment.

Under the umbrella of uniform grant regulations codified in 40 CFR Parts 30 and 31, the Agency takes a decentralized approach to managing its grants programs. This reflects our long term belief that administrative and technical management should take place at the level closest to where the actual work is taking place. As a result, grants management functions are performed in the ten Regional grants management offices as well as at EPA Headquarters. In addition, grants management is a shared responsibility between grants project officers in the program offices who provide technical expertise to assure the work agreed under the grant is completed and the administrative experts in the grants and financial offices who assure administrative requirements are met.

We take our responsibilities for federal resources very seriously. Our past successes, especially in the construction grants arena, with awards exceeding \$60 billion, exemplify the Agency's commitment to prudent and careful oversight. There are, however, ongoing improvements the Agency is making to strengthen its grants management functions as part of our strong commitment to continuous improvement in environmental and public health protection and careful oversight of federal dollars.

Three years ago, we undertook critical reviews of our grants management function, not as a result of any specific audit finding or recommendation, but in conjunction with a review of EPA's overall management of extramural funds. Our internal reviews identified three major areas of concern: (1) incomplete understanding on the part of project officers about their roles and responsibilities; (2) outdated policies and guidance; and, (3) inadequate post-award management. In response, we began a number of actions to remedy these problems.

First, we developed a training course to ensure project officers understand their pivotal role in managing public funds. In addition, we instituted a new requirement that all assistance project officers must have received project officer training by September 30 of this year in order to remain an active project officer. We are pleased to report that the Agency is on target to meet its self imposed deadline and expect to have all of the Agency's active project officers trained by this September. Three quarters of the grants noted in the Inspector General audit of grants management occurred prior to the initiation of this training. We anticipate this training will improve all aspects of grant award management and contribute to our overall effort to improve the agency's management processes.

In conjunction with this new training requirement we are addressing the second area of concern by issuing and updating a number of agency policies to replace obsolete or inadequate guidance. In response to the concerns raised in the Inspector General's September, 1995, report we will soon issue a revised policy clarifying the roles and responsibilities of the assistance project officer including guidance on critical oversight activities; a policy requiring at least annual project progress reporting including financial information on expenditures; and expanded guidance on appropriate post award management practices for administrative grants managers including the need for on-site visits. In addition to issuing new and updated policies, we periodically distribute additional guidance to senior agency executives on specific grants management issues, emphasizing senior management's responsibilities in assuring effective management of assistance programs. This additional guidance offers advice on how to handle specific grants management problems. Over the past 3 years, we have distributed additional guidance in nine different areas, covering issues ranging from improper expenditure of grant funds to competition under grants.

To enhance communication we established a standing Grants Council composed of representatives from every program office in the Agency from (Headquarters and the Regions) with grant making authority. The Council meets monthly and provides the grants community with a regular forum in which to raise grants management issues. The Council has been operating for three years and continues to receive high praise from its membership.

To address timely closeout of all grants we have developed an action plan to eliminate our backlog within 4 years and ensure prompt closeout of all future assistance agreements. Our action plan calls for us to examine our grants process to identify which activities can be streamlined so as to eliminate unnecessary tasks and to ensure our processes are as efficient as possible. Our goal will be to realign grants administration responsibilities to devote more time to crucial post-award monitoring and oversight activities. We are also looking at automation as a way to make routine tasks more efficient and less burdensome and have developed a comprehensive automation strategy to create a fully automated grants process using technology to efficiently manage the day-to-day grants workload. The fundamental principles underlying these efforts is to find cheaper and smarter ways of doing business.

Finally, to ensure the seriousness with which we take these responsibilities, we expect to update the 1996 Federal Managers Financial Integrity Act Integrity Report to expand on our reported weakness on Extramural Agreements when it is finalized this December. We have included additional corrective actions on weaknesses that were cited in the Inspector General's 1995 audit recommendations. These weaknesses were also cited in our agency initiated vulnerability assessments and we will continue to use the Federal Managers Financial Integrity Act to ensure that we are correcting those issues which have been noted by the Inspector General.

For the past several years, the Agency has been transforming its Federal Managers Financial Integrity Act program into an effective tool that managers can use to identify and address problem areas. By placing less emphasis on reporting and greater attention on managerial accountability, the program has become results-focused. The Office of Management and Budget (OMB) recently featured the EPA Federal Managers Financial Integrity Act program as a "promising practice" in government at a recent Chief Financial Officers' Council-sponsored forum. We are confident this new direction will lead to many improvements and better use of limited resources.

In conclusion, I am aware of the challenges the Agency is facing in terms of strengthening its grants management business practices and am committed to seeing those challenges met. I am pleased with the substantial efforts EPA's grants managers have taken, but also recognize that we still have to continually improve grants management efforts. I would be happy to answer any questions you might have.

Mr. MCINTOSH. Thank you very much, Mr. Hansen. I appreciate your coming forward today. I've got several areas I would like to address with you, but let me start, I guess, with the magnitude of the problem.

Given that around half of the EPA's budget, or somewhere around \$3.5 to \$4 billion a year goes out to grantees and there has been these significant problems identified by the Inspector General, wouldn't you say that EPA is putting its budget and, therefore, the ability of the U.S. Government to have an impact in several environmental problems at significant risk by not taking every step possible to assure that these grants aren't mismanaged?

Mr. HANSEN. Mr. Chairman, I agree with you in that we have a responsibility to ensure that grants are managed appropriately. As I have indicated in our own self-assessment that was completed in 1993, we identified a number of areas that needed improvement and are, in fact, marching forward on those. The Inspector General I think highlighted again the same problems that we had self-identified and are moving ahead to be able to put in place those corrections.

Mr. MCINTOSH. I was a little distressed to find out that when we originally scheduled the hearing, there hadn't been a response from your office or the Administrator's office to that report. I'm glad to see that it finally came in last Friday.

Let me ask you, is the Agency prepared to undertake all of the different recommendations that the Inspector General has proposed to try to solve these problems?

Mr. HANSEN. Mr. Chairman, there were a series of recommendations made by the Inspector General, although there are some areas of what I would term to be relatively minor disagreements. The problem areas that were identified by the Inspector General, we believe, do need to be able to be addressed and addressed appropriately.

Maybe I can just give you one quick example, because a lot of the discussion here has been around it, and that is the completeness of the files. A number of these grants—in fact, 21 of the 31 that have been looked at by the Inspector General are ones where the award period has been completed by this time—or pardon me, 10 that are still active. Some of those are quite old, going back into the, in fact, late 1980's and early 1990's.

And as a result, the ability to be able to find file information is more difficult than we would like to be able to see. We are putting in place a requirement that even our most senior managers of the grant programs who have no need to be able to have a list to make sure they have done everything right because they have worked so long with this, we have said, "Nope, still not good enough."

We want to be able to have a checklist in each file that goes through not only the list of items that you have included here, but to be able to have an "other items" as well to ensure that all items are both within that file at the project officer level or at the grant management level.

Mr. MCINTOSH. In your prepared testimony, you want to set as a goal eliminating the backlog in 4 years.

Mr. HANSEN. Yes.

Mr. MCINTOSH. To be honest with you, that doesn't seem adequate to me, especially if there's a potential to have additional funds that could be available for use in other areas to help clean up the environment and critical problems. My question is, what's stopping you from going through and eliminating the backlog in 6 months?

Mr. HANSEN. Mr. Chairman, the issue of eliminating the backlog is one that we felt that we were devoting a substantial enough of resources to be able to move it ahead in a 4-year period, half within the first 2 years. Though certainly as we have discussed this with the Inspector General, it is my understanding that the Inspector General would feel that the 4-year timeframe was adequate, although Mr. Martin certainly can speak for himself.

Let me make another point, though, that I think was maybe misunderstood. In the area of the grant dollars, most of those grant dollars are available what was referred to as "2-year money." That is, it's available to be able to be obligated within 2 years.

Most grants run for at least 2 years. Consequently, those dollars that have not yet been—or pardon me, have been obligated but have not been drawn down by a grantee sit within the U.S. Treasury.

The ability to be able to go back—and again, we think it is important to do so, to be able to go back in and de-obligate those dollars—is important to be able to clean the books. But first off and most importantly, those dollars are still in the U.S. Treasury. They're not elsewhere.

No. 2 is that because of the 2-year nature of the money, most of that money, maybe all of it, would, in fact, be reverting to the U.S. Treasury, not available to the agency. Again, it does not remove our need to be able to go back and close out those grants in a timely fashion, but because of the nature of the 2-year-plus grant period, usually, that will not mean the dollars would be freed up to the Agency itself.

Mr. MCINTOSH. And earlier, we discussed this, and I guess there was some difficulty in ascertaining what percentage of that \$33 million, which was the example given by the Inspector General, would be in that 2-year grant money, which would be older so that you no longer have appropriations authority to use it—but I still think it would make sense to at least prioritize it and go after that first and second, do whatever you can to try to speed up that 4 years.

One of the suggestions the Inspector General report had was to allow senior environmental employment program personnel to oversee that. And I was wondering, is that one of the suggestions you all are prepared to accept and implement?

Mr. HANSEN. Mr. Chairman, it is. And we have—as a result of a late appropriation to the Agency, we have just been able to finalize our operating plan. Within that operating plan is really—which is the detailed nature of it—we have allocated dollars to the program to be able to hire some of those, in fact, what we call "C employees" to be able to do just that very work.

Mr. MCINTOSH. OK. Thank you. I'll have some additional questions.

Let me turn now to Mr. Peterson, if you've got any questions for Mr. Hansen.

Mr. PETERSON. Thank you, Mr. Chairman.

Mr. Hansen, are you involved in the process of setting the budget with the appropriators and going to the authorizing committee and also dealing with the administration when they set your budget levels? Are you—

Mr. HANSEN. Mr. Chairman, Mr. Peterson, yes, I am.

Mr. PETERSON. And during that process, was there any discussion of these audit reports? I mean, are those people aware of all of these problems in those different committees and at the White House budget-setting level?

Mr. HANSEN. Mr. Chairman, Mr. Peterson, we have internally in our own processes for identifying what are significant or important financial management issues and will identify areas that we need to be able to improve at various levels, either those that are of significance to the White House level, other areas. So we do, in fact, internally have a series of approaches to be able to, in fact, as we had here—

Mr. PETERSON. Well, but given your experience, I don't have a lot of confidence in your internal—my question is—you know, I still can't understand why we're giving you this money if you can't—if you don't have the ability to monitor it or to even just make sure that the grant application doesn't have unallowable costs, why we're even giving you this money in the first place.

Mr. HANSEN. Mr. Chairman, I think the one thing that Mr. Peterson has had difficulty, is that, although certainly there have been some grants, as has been identified in the Clark Atlanta grant or actually in the IPA, the governmental personnel action to Montana State University; and that grant, by the way, was in the 1989 to 1991 period.

I've asked our people to go back in and take a look at both the grant application in that setting—that is, the Montana State University—as well as the progress reports to identify was there anything in that that would have indicated to us that there was, in fact, a grant going for an improper purpose; that is, for granting or providing a Ph.D., a degree. They could find nothing that would have indicated that; that is, that it appeared the deception really did mislead us.

Mr. PETERSON. I think that's—I agree with that. But the IG testified that you guys weren't reviewing these applications, that they don't have enough people, that they're way behind, that they're not doing the work.

Mr. HANSEN. Mr. Chairman and Mr. Peterson—

Mr. PETERSON. And in your testimony, you've got a lot of general stuff here, but there's nothing that I can see that's specific that leads me to believe that that has been corrected.

Mr. HANSEN. Mr. Chairman, Mr. Peterson, we believe that there are a number of steps, some of which have been taken, a number of which yet to be taken, to be able to properly ensure the kind of control that I expect and I know the Administrator expects to be able to have within the grant program.

The first item that we think is most important, is the grant staff, which is a small, centralized unit that oversees much of the me-

chanical grant work; but rather the project officer or those individuals who understand what is, in fact, expected to be able to be achieved by the grant and to be able to monitor that progress.

Those approximately 2,500 people throughout the Agency, we believe, were not properly trained. As a result—in fact, our highest priority system was to put those in for training.

Mr. PETERSON. If I could just stop you there. What were they doing, then? I mean, if they were in charge of these projects and they didn't know what their job was, what were they doing and how could they not be trained?

Mr. HANSEN. Well, they certainly—

Mr. PETERSON. Were they trained for something else, or what?

Mr. HANSEN. Mr. Chairman, Mr. Peterson, I certainly think that they were trained, they were—but what they did not have is the type of uniform understanding and expectations across all the programs of exactly what needed to be done in the management of each grant.

Mr. PETERSON. But there were some things that they did that they were trained for, and then there was some responsibilities that they weren't trained for, or what?

Mr. HANSEN. No, they're—Mr. Chairman, Mr. Peterson, the process has been that a project officer oftentimes will have other responsibilities, that they will be working on a particular environmental goal, a particular rule or regulation or other type of analytical work and that as a part of a process to be able to help further that mission that's associated with that, a grant will be associated with it.

As a result, individuals were torn in terms of the amount of time they should spend on that project. Oftentimes, those people changed over time, either got assigned new spots, or new people came in. What we are now saying is that we want to be able to have uniform training across all those people and to ensure that no one can serve after October 1st of this year as a project officer unless they have had such training.

So the idea of attrition or other things will bring in people who are inexperienced to deal with those grants will not happen. Those people will then have to have that training before they can serve in that role.

Mr. PETERSON. So these people are more regulators, and that was their focus, and not project administrators?

Mr. HANSEN. They could be an analyst, they could be a whole series of things within the different agency responsibility.

Mr. PETERSON. Who is the acting CFO?

Mr. HANSEN. Sally Ann Harper is her name.

Mr. PETERSON. And what's her background?

Mr. HANSEN. She is, I believe, an accountant by training. I would have to get you, though, specifically the educational background.

Mr. PETERSON. Why—you know, the Act was passed in 1989. Why are you still sitting there with an acting CFO?

Mr. HANSEN. Mr. Chairman, I think that was—Mr. Peterson—one of the things that left an inaccurate impression.

We have had a permanent CFO—in fact, that individual, Mr. John Cannon, who is here in the audience, was—when we had a vacancy in our General Counsel Office did, in fact, transfer him to

the role of general counsel. Sally Ann Harper, who had been the deputy CFO—

Mr. PETERSON. He's a lawyer? The CFO you had was a lawyer?

Mr. HANSEN. Was a lawyer? Yes, was a lawyer. Still is, I think, unless he has been debarred recently.

Mr. PETERSON. Does he also have a financial or accounting background?

Mr. HANSEN. Mr. Chairman, he informs me that he has no accounting background.

Mr. PETERSON. So the person you appointed was a lawyer to be the chief financial officer?

Mr. HANSEN. Mr. Chairman, the responsibilities of the chief financial officer in many regards are to be able to properly make sure that the management responsibilities that the agency has are in place. We believe that strong management—

Mr. PETERSON. Well, Mr. Chairman, my time has run out. But if I could just say, in reviewing this CFO Act, that it's my judgment that many of these agencies did not want to comply with it, put people in that really were not—the mindset was not to comply with it and not to move toward getting understandable financial information, trying to continue this gobbledygook that we call a budget so nobody can figure out what you guys are doing.

And I don't know enough about this, but it just seems to me that if you're putting a lawyer in there, that you're one of those agencies that really didn't want to do this. And I commend you if you now have a CPA in there. Maybe that means you're moving in the right direction. But I would like to know what her background is and are you going to put somebody in there permanently then pretty quick, or what?

Mr. HANSEN. Mr. Chairman, Mr. Peterson, our intent is that it's a position that requires both a Presidential appointment and subject to Senate confirmation. We do expect to be able to have a permanent CFO. I should also stress that I do take very, very seriously as the chief operating officer the financial responsibilities and welcome, in fact, the role that the CFO plays, as well as the CFO Act.

Mr. PETERSON. Well, I'll pursue this when—my time is up.

Mr. MCINTOSH. Thank you.

Mr. Ehrlich, do you have any questions?

Mr. EHRlich. Sir, I appreciate your testimony. I want to get into, I guess, a little bit more of the specifics as far as what you've done but, of equal importance, what you think needs to be done in order to correct some of the problems we have discussed today.

In a very specific way, you referred earlier to steps that have to be taken to cure some of these problems. You specifically identified the lack of uniformity of training. And within that category, you talked about folks feeling wedged between their grantmaking duties and their oversight duties.

Is the new policy going to have specific folks just devoted to grantmaking duties who do not have other duties, or what exactly you're going to do, or is it a function of lack of training and you think one person can do both efficiently with the proper training?

Mr. HANSEN. Mr. Chairman, Mr. Ehrlich, two things. One is, the people within the grants division, which is our more centralized area, those people are full time dealing with just grants.

Mr. EHRLICH. Only 11 folks, though?

Mr. HANSEN. Yes. The project officer, which is up to 2,500 people throughout, which really are overseeing the daily activities, I do believe that they can, in fact, do other responsibilities than just straight project—

Mr. EHRLICH. OK. That's my question.

Mr. HANSEN. But they need to know what their duties are, and they need to be held accountable to be sure that they have actually accomplished those. That's what both the training does and our other system.

Mr. EHRLICH. And is your testimony that to this point, you do not feel as though—and I'm going back to previous administrations, obviously—but they have not been held properly accountable?

Mr. HANSEN. Mr. Chairman, I don't think—Mr. Ehrlich, I don't believe that they have been given the clear direction of what they're expected to be able to be doing, what is, in fact, a part of a project file and all the detailed information that must always be in there. That is what we are both accomplishing.

And once having set that down clearly, I do believe that they need to be held accountable. I cannot speak to whether or not in individual cases, people were properly held accountable or not.

Mr. EHRLICH. I understand part of the problem is not knowing exactly what to devote your energy to if you're given two missions. Is there a distinct problem with respect to their level of knowledge, level of training, level of education, I guess the intellectual part of the job? Is that also a problem with respect to those 2,500 people?

Mr. HANSEN. Mr. Chairman, Mr. Ehrlich, I do not believe it is in the sense of intellectual capability. We do believe and by the very fact that we identified that training was the high priority to be able to fix the system, that they did not have the proper skills developed to be able to do the job we think they need to do.

Mr. Chairman, one last thing on that. We also recognize that things are changing in the law. Not only is there the Lobbying Disclosure Act, which is new in 1995, there are additional findings that the Inspector General has made which then also direct—redirect where we want to be able to put emphases. As a result, even experienced individuals need to be able to be brought up to speed on what new requirements are.

Mr. EHRLICH. I understand that. Do you agree with the Inspector General's observation that you need more people in the grants administration, more than 11?

Mr. HANSEN. Mr. Chairman, as—Mr. Ehrlich, as the chairman asked me in relationship to one of the specific recommendations of the IG, that is to put in additional "C employees" to be able to assist in the close-out, we do agree, have, in fact, committed to that. I'm not sure if anybody has been hired yet, though the dollars are there to be able to do so.

Mr. EHRLICH. Well, I know you'll be interested—I know the chairman shares my concern in this respect. We'll be interested to see exactly what happens. Thank you. Thank you very much.

Mr. HANSEN. Certainly.

Mr. EHRlich. Yield back, Mr. Chairman.

Mr. MCINTOSH. Thank you, Mr. Ehrlich.

Let me pursue, actually, that last line of questioning a little bit. First of all, do you think with those additional C employees, that you will have adequate resources to manage all of the grants?

Mr. HANSEN. Mr. Chairman, as it has been reported to me, that the answer is "yes," though I also expect that if there is—as the work progresses, that if it is not sufficient, that I am so notified so that I can address the problem.

Mr. MCINTOSH. OK. Good. Because I understand that there have been a large number of additional employees in the public affairs department and was wondering what type of priorities people had in the Agency. Is it true that there were 19 additional employees in the last couple of years in that department?

Mr. HANSEN. Mr. Chairman, I'm not—can't recall what the numbers are. I can certainly supply that for the record.

Mr. MCINTOSH. OK. That would be great. Yes, how many there are totally and how many are new. Let me ask this. In looking at this chart that we put up there, what types of things do you think people needed training about before they could administer a grant program?

I mean, do you think it was necessary to train people that they shouldn't destroy the files or get rid of the files until they have been completed. Apparently in four of the cases, there are no files? Wouldn't it be common sense that you would want to get an application before you sent the money out to people?

Mr. HANSEN. Mr. Chairman, maybe first taking your second point about the applications and then coming back to the destruction of files. It would certainly be my expectation, though I cannot give you the fact that we can identify each and every item, that there would have been an application associated with each of those grants.

What it is, is that because it's multiple years since the grant was first awarded and probably although maybe a couple of years short of those multiple years in which it was closed out; our files aren't complete. At least my understanding is that an application would have always been there, though we cannot find them against some of those old files.

Maybe that comes back to your first point, and that is, are people, in fact, properly trained that it's important to be able to have a paper trail that exists over multiple years, not just during the active time that one is working on that file or working with that project. And the answer, I think, is "yes," and that's what training does.

No. 2, I think when somebody comes in new that takes over a grant part way through a grant period, they need to also have the knowledge of what's important to be able to both maintain and to be able to review.

Last, in terms of the destruction, I would guess—and this is a guess only, and I recognize that—that nobody destroyed because they wanted to get rid of files but because they were probably just cleaning out offices or cleaning out a file cabinet and not recognizing that it was inappropriate to be able to destroy that file. That is a guess, I recognize.

Mr. MCINTOSH. I understand. I guess part of the point of my question was, are there some problems here that training may not be able to solve? Some of these seem to be common sense. In light of that, specifically on some of the problems that the IG identified back in the fall of 1995 as serious problems of fraud, it appears now from his testimony that at least two of those cases have been referred to the U.S. attorney for appropriate legal action.

What administrative action have you taken, without getting into the legal matter that's being handled by the U.S. attorney? But what administrative action have you taken to ensure that employees that either intentionally or negligently allowed that type of fraud to go on are not handling other grants?

Mr. HANSEN. Mr. Chairman, first in the issue of the specific example of the Montana State University—that is, the IPA, the inter-governmental personnel action, the loan of an individual.

We have, in fact, issued new directives on exactly what intergovernmental personnel actions may be utilized for, what the individual may do when they are working in such a setting to ensure that, in fact, people aren't misunderstanding that they could potentially receive a degree, leave aside the issue of whether there was deception in that particular case.

In the case of the Clark Atlanta, I think it's important to note that it was our project officer, not within the IG's Office, but within the program arm, that felt that as they reviewed information that came from Clark Atlanta, that things were not being accomplished and, in fact, initiated the request to the Inspector General to do the audit that is, in fact, now discovering the very problems that we have.

That's the way the process ought to work. The project officer evaluates it, determines that there is a problem or a potential problem, and then seeks a way to be able to redress that or to resolve those problems, either by directly intervening or, in this case, by asking the Inspector General.

Mr. MCINTOSH. Was it the same project officer that reviewed the first year's report, or was there a personnel change?

Mr. HANSEN. Mr. Chairman, my understanding is that there was an original project officer. There were four grants—actually, I think, seven grants, but four major grants over to Clark Atlanta—three of them were earmarked congressional earmarks, one was not—that the original project officer in I think about 1988 or 1989 did leave. The new project officer came on. And as a result of the review by the new project officer, the IG audit was initiated.

Mr. MCINTOSH. Well, I guess, kudos to that new project officer.

Mr. HANSEN. Yes.

Mr. MCINTOSH. And please pass them on from us. But is the original project officer still managing other grants, or have you taken administrative action to ensure that that type of personnel has been reassigned to other duties?

Mr. HANSEN. Mr. Chairman, I would have to be able to check on that particular individual. I do believe, though, that there was a history that we are very anxious about changing, which is that when there was a congressional earmark of a grant, that there was limited oversight, because I think a determination was felt to be

made that the Congress had spoken, and therefore, it was not the agency's responsibility to look in detail at it.

We believe that when there were earmarks, a policy decision has been made, but the financial responsibility to ensure dollars are spent well needs to be in place.

Mr. MCINTOSH. And let me say—and I may take some heat from some of my colleagues not on this committee for saying this—but I definitely would urge you to treat them with the same amount of diligence, if for no other reason than to ensure that the purpose of that earmark, which was to create a center in this case, actually was accomplished.

Mr. HANSEN. Yes.

Mr. MCINTOSH. But also to determine that it meets the priorities, as well, and is properly being spent. And you can report back to us, and I'll help take the heat from the Members of Congress or the Senate.

Because I do think it's very important to send a signal in that way that people who fail to perform their jobs in overseeing these grants are not going to be rewarded and sent on to promotions and better jobs in the Agency but that there are consequences for failing to follow through, which sounds like it has occurred over multiple years and multiple administrations. So I would urge you to do that.

Let me turn now to Mr. Peterson, if you've got additional questions.

Mr. PETERSON. Yes. I guess following up kind of on what your line of questioning—apparently, your new system is to train these 2,500 people so that they don't make this mistake in the future, and you're not going to add any people to this one area where there's 11 people that are approving these grants; is that—

Mr. HANSEN. Mr. Chairman, Mr. Peterson, that is where we have added people. And as I indicated to the Chair—

Mr. PETERSON. How many did you add?

Mr. HANSEN. Five additional people. Five. Pardon me, Mr. Chairman.

Mr. PETERSON. Where do they close these files, whatever these 5,000 files that are not closed? Where does that happen? Is there someplace where that happens?

Mr. HANSEN. Mr. Chairman, Mr. Peterson, that would be in this area and that a large portion of their work would be aimed at closing out. As the chairman has indicated, he has urged—and I will go back and re-evaluate whether we can by putting in any additional resource speed that up even faster.

Mr. PETERSON. So there's—these five people are going to close these 5,000 files over the next 4 years?

Mr. HANSEN. Yes.

Mr. PETERSON. But—so you're kind of—that group is kind of cleaning up the mess. But you're going to train these other people so this doesn't happen again; is that the plan?

Mr. HANSEN. Mr. Chairman, among other—Mr. Peterson, among other things, we believe that the training is an important component. But it also needs to be coupled with ensuring that we have written, clear direction about what is, in fact, required to be able—

Mr. PETERSON. My concern is, you know, here we are at this point, and we have kind of known about this. And there's nobody really accountable because we had all these 2,500 people that were involved, and they weren't trained. It just seems to me that what you're doing here—I mean, what happens if this doesn't work and we're sitting here 5 years from now and we still have these problems, the IG is in here saying that you're not doing this?

Are you going to fire those 2,500 people? Or are you going to say, "Well, it's really not their fault, because they're project managers, and this is just part of what they do?" Because that's kind of what I'm hearing here. I mean, where is the accountability? I mean, where's the responsibility for this big problem that we have got here, and who's paying the price?

Mr. HANSEN. Mr. Chairman, Mr. Peterson, clearly the individual who is, in this case as we're speaking, the project officer or somebody in the grants division, wherever, has certain responsibilities. And we need to ensure that they actually are performing those responsibilities and holding them accountable if they don't. But when we, in fact, have—

Mr. PETERSON. But who will be held accountable for this?

Mr. HANSEN. When we do have individuals who are not being properly trained, who are not being given the proper direction, then I think that's a management responsibility.

And I think what we are identifying is, as we have worked our way through and focused on the largest dollar amounts and have moved, I think, effectively to be able to address the problems within the construction grant program, we are now training those same efforts to be able to work on the other grant areas and are expecting to be able to improve those systems.

Mr. PETERSON. But who—is there anybody that paid any price for this problem that has been identified? Have you laid anybody off? Have you fired anybody? Have you transferred anybody? Can you identify anybody that has been held responsible for where we're at right now?

Mr. HANSEN. Mr. Chairman, I would not be able to identify any individual person to you, Mr. Peterson, although it does seem to me ultimately that the chief operating officer, which is the role I hold, is the person who's most responsible, much of which has happened over previous chief operating officers.

Mr. PETERSON. Well, I still haven't—I mean, it just seems to me that this is something that—the way you're setting this up, there's no way we're going to get a handle on this. I mean, you can sit here and say that this is a system, but, I mean, if this doesn't work, I don't think you're going to fire these 2,500 people. I mean, you haven't set up a system.

And that—I mean, and that's part of what I was trying to ask with the CFO questions. I mean, my sense—and I don't know a lot about all of this. But my sense in looking at how these agencies deal with this is that the more that they can keep from being accountable, that's kind of what they have tried to do. And the Appropriations Committee has played this game, has fought the CFO Act.

Because they kind of go over there, and there's a few people that understand this, and nobody else can figure out what in the world's

going on. And there's no way to trace this. And what we are trying to do with the CFO Act was set up a way where you at least have some financial statements, have some accounting system, and have some way to hold people accountable.

I'm not seeing or hearing, I guess, a way that I can see that we're going to be able to hold you accountable. Because you've kind of got this thing all through the whole agency. And if it doesn't work, what are we going what do, abolish you? I mean, that will just get the Sierra Club just going even more crazy than they are and running more ads in my district.

Mr. HANSEN. Mr. Chairman, Mr. Peterson, I think ultimately, the Congress as you are doing today has the responsibility and the duty to be able to ask me those questions.

Even if you didn't ask those questions, I expect to be able to have periodic reports from our managers about whether or not the systems that we have put in place are working, are we, in fact having complete project files; are we, in fact, spotting problems; are we, in fact, doing proper close-outs. And that is a part of my responsibility as manager.

Mr. PETERSON. Before I run out of time, why don't you take 100 of these project managers and put them in a division and fix this problem and hold them accountable, rather than take 2,500 people and train them to do something in addition to what they're already doing, and then if it doesn't—I mean, I don't understand why you don't put a focus on this, put some people—take some of these resources, shift it over there, and fix this problem.

It seems to me when you've got 2,500 people sitting there, that transferring four people is a pretty anemic approach to this.

Mr. HANSEN. Again, Mr. Chairman, Mr. Peterson, there are two different parts to the process which we're addressing. One is to be able to increase by 5 people a unit that's at about 11 now. So it is nearly a 50 percent increase in terms of the resource that those people are doing. We believe that the work that they are expected to be able to accomplish can be accomplished if they don't have a backlog to be able to handle that.

As I've indicated earlier, if that is not the case, I expect that people will, in fact, come to me to be able to identify additional resource needs.

Second, in terms of the project officers, we think it's very important, because oftentimes, what is being, in fact, accomplished through the grant is, in fact, programmatically oriented.

And as a result, to have people knowledgeable about what that is, to be able to understand whether or not it's making sense, is it coming together, whether or not the cleanup by remediation activity, that it was attempting to be able to be funded actually at Montana State University has relevance. Is it, in fact, scientifically credible? It really needs to be able to have people who have those skills to help evaluate that to ensure that we are getting the product that we ought to be getting from that grant.

Mr. PETERSON. Well, I guess I'm still skeptical about this whole strategy you've set up. And I, for one, would be more comfortable if you took some of these—I mean, I have some real questions about where some of these people are coming from.

I mean, you may think that they're scientific. And I think some of them are on an ideological deal that I think is questionable. But, you know—I guess you'll have to do what you'll have to do. But it just seems to me that the response I've heard here does not make me feel real comfortable that you're going to get a handle on this.

Mr. HANSEN. Mr. Chairman, Mr. Peterson, I'll go back and take another look at that very issue as you raise it.

Mr. MCINTOSH. Let me second Collin's concern on that. Because I think he is accurate that more needs to be done.

Let me actually focus on another aspect. In the Office of Administration and Resource Management, initial response back in March to the question of adequate review, they indicated that it wasn't only lack of resources but that agency priorities that were a part of the reason that the grant administration office had not closed out some of the files.

I guess I'm troubled by that, because it's a signal that somebody down there, at least in the Office of Administration and Resources Management, seemed to be saying they didn't think that was that key of a priority for the agency. Has there been steps taken to correct that?

Mr. HANSEN. Mr. Chairman, yes, there has, although I'm not particularly familiar with that actual wording. It doesn't surprise me, either. That was still at a time when we were operating under a continuing resolution. We had had a hiring freeze in since the past July. We had, in fact, added no new C employees since that period, as well. And as a result, a response that said, "Hold it; we're not sure where the resources are coming from" does not surprise me.

However, as I indicated already, within the operating plan for fiscal year 1996, post the appropriation, we have identified those resources and are—

Mr. MCINTOSH. My point was, beyond the resources question, it looked to me that they were also sending a signal that closing out grants was a low priority and inadequately dealing with the grants oversight.

Mr. HANSEN. Mr. Chairman, the IG, I think, testified that the area of getting grants out had been considered, as he would describe it, the most important role for the Agency. My perspective is that if one is going to do a grant or any other activity—but in this case, a grant—there are elements that must go with that, a grant in complete terms, not only the awarding of it, it's the managing of it and it's the closing out; and that you've got to do all three of those or whatever the steps are if you're going to be able to do that work.

My expectation is that we will be doing that. This is certainly what I'm going to be holding my subordinate managers responsible for, that we actually do move ahead on the close-out, most importantly, that we keep current with the current grants, that we are closing those out in a timely way and moving toward eliminating the backlog.

Mr. MCINTOSH. And at least in terms of budget numbers, since apparently half of EPA's budget, at least in 1995 went to these grants, I would say it's a top priority that needs to be handled correctly.

Let me ask this, since the staff didn't get it for me. Do you happen to know or maybe some of the folks with you what the comparative numbers for 1996 and 1997 were? If the grants were \$3.9 billion in 1995—was it around \$7 billion overall appropriations? Do you happen to know those off the top of your head? Or otherwise, if you can submit them for the record.

Mr. HANSEN. I can get some of the numbers off the top of my head, but my guess is on some of the grant numbers, it would be better to get them to you. Actually appropriation in fiscal year 1996 was about \$6.65—\$6.5, pardon me.

Mr. MCINTOSH. \$6.5. OK.

Mr. HANSEN. And the anomaly of 1995 grants, which were at about \$4.6, was because of a large number of congressional earmarks. It does run in about that \$3.9, \$3.7 range.

Mr. MCINTOSH. So that probably held throughout. And then in 1997, I guess we don't have a final number yet, because there are—both the Senate and the House versions. I'm sure you track that through the legislative office. If you could give me those, too, plus the President's request, I think that would be helpful for us to get that into the record.

Mr. HANSEN. Certainly.

Mr. MCINTOSH. Finally, we addressed earlier the question of grant moneys being used for political and lobbying activity, which is a concern that we have in the subcommittee. And the Inspector General indicated that without full information in the files, it's difficult to give any assurance that some of those grants may not have been diverted to that and used for those activities or indirectly used to subsidize those activities.

Can you tell me what steps your office will be taking to make sure that that type of assurance can be given to us here in Congress?

Mr. HANSEN. Mr. Chairman, yes. There are a series of steps that we have taken. At the grant application time and certainly in terms of the grant agreement, we have clear written requirements about what, in fact, must be complied with in terms of not only the Lobbying Disclosure Act, but in terms of other requirements of law.

As we have reviewed that, we do not believe that that is as clear as it should be; that is, it references certain statutes rather than necessarily explicitly repeating those requirements. And we are, in fact, making changes so that the grant agreement for all grants will, in fact, contain those explicit directions.

Clearly, the ability—if somebody did—and I have no indication that they have—does, in fact, deceive us and, in fact violate that, there are the audit procedures that had been discussed earlier that potentially—potentially—could catch those. But our goal certainly is to have all the mechanisms in place to assure that each and every element of law is fully complied with by any grantee.

Mr. MCINTOSH. Let me ask if you would share with us, for the record, those changes in the grant agreements.

Mr. HANSEN. Yes.

Mr. MCINTOSH. Also, second, let me urge you to put in some additional concrete steps for the grant supervisors at the interim stage and at the close-out stage to ensure that those questions have

been addressed with respect to each of the grants. I think that will be very important.

Mr. HANSEN. Yes.

Mr. MCINTOSH. And then finally, let me say I am very disappointed that the Agency and that at least the National Council of Senior Citizens and maybe some other grantees that are heavily engaged in lobbying and political activities and organized as 501(c)(4)'s, that a way around the law that was passed last December was found that apparently is legal according to the letter of the law but certainly violates the spirit of what Congress attempted to do then, which is to say, "If you're going to be primarily a 501(c)(4) engaged in political and lobbying activities, then you're not eligible for these grants."

And I was fairly distressed to see that this evasion was occurring here and in other places, as well, by the Agency. And I would urge you to basically make a decision not to do that but to avoid those grants and to instead give grants to other entities that are not that heavily engaged in political activities.

Mr. HANSEN. Mr. Chairman, certainly the issues of what the Congress intends to do with the law are those issues that you must all decide. What we get from whether it is that particular grant or seven—a total of seven that we utilize to get C employees, it's really remarkable the quality of employees we're able to achieve at a cost lower—a cost-effective approach that are our senior citizens, who are oftentimes some of the best trained people by corporations, by universities who are able to come in and accomplish important work for the Agency. But I understand your comments.

Mr. MCINTOSH. Yes. I think it has got to be possible to get those same quality employees through a system that's not tied into a political and lobbying effort. I mean, they operate a PAC at the NCSC, so they're very politically aware and active. And I would urge the Agency to find other mechanisms to achieve the same result in terms of the purposes of those grants. I have no further questions.

Mr. Peterson, do you have any additional—

Mr. PETERSON. In the current budget that—or the appropriations bill we just passed, do you know how many of these miscellaneous grants was in that?

Mr. HANSEN. Mr. Chairman, Mr. Peterson, I'm not recalling. I would assume that they're somewhere in that \$3 to \$400 million range. We could get you an exact dollar amount if it is broken out within the appropriation process.

Mr. PETERSON. Did this subject of this IG report come up when this appropriation was going through the Appropriation Committee?

Mr. HANSEN. Mr. Chairman, Mr. Peterson, I was there for the hearing. And although certain IG reports came up, this one did not.

Mr. PETERSON. So the issue of the miscellaneous grants did not come up for discussion?

Mr. HANSEN. I do not recall an item being raised about it, certainly not in the broader context that's being addressed here.

Let me make clear, though, if I may, Mr. Chairman and Mr. Peterson, that the recipients within that \$300 to \$400 million grant category area involve a substantial number of activities that are

everything from achieving specific benefit furthering our mission in the science and technology program, our Extramural Star Program, which is really trying to be able to get some of the best and brightest minds from academia and other places to be able to assist us in our scientific work.

It is substantial amounts of work with universities and colleges. There are a whole series of grants that are from that area, the vast majority of which I don't think are being questioned in the sense of whether they're being properly managed.

I do not minimize the questions that are being raised by the Inspector General about whether or not we need to be able to have more systems in place. As I said, we self-identified those areas and are moving to be able to correct them.

Mr. PETERSON. Were there earmarks in this appropriation bill?

Mr. HANSEN. Mr. Chairman, Mr. Peterson, I would like to get back to you on that. I'm sure there must have been some, though I think they were somewhat more limited than in past years. But I would like to get the specifics for you, if you would like.

Mr. PETERSON. And this bill is in conference committee now?

Mr. HANSEN. Mr. Chairman, Mr. Peterson, no. The Senate has not acted. They are expected to potentially act this afternoon on that bill or tomorrow. It would then be eligible for conference, though certainly some questions about whether that would happen before the August recess.

Mr. PETERSON. Mr. Chairman, maybe it would be good for us to get some of this information over to these appropriators that are going to be at the conference.

The other thing I would like you to make available to me, if you could, would be whatever—wherever you're at with the implementation of the CFO Act in terms of developing an accounting system and a financial management or a financial statement for your Agency so we—where you're at in that process and whether we're going to be able to have financial information so we can measure your performance and so forth and whether that's on track or it's in—

Mr. HANSEN. Mr. Chairman, Mr. Peterson I would be very happy to. Generally speaking, we are considered to be very progressive in terms of all of Federal Government. In that, we take those responsibilities very seriously, and I personally take them particularly seriously.

Mr. PETERSON. Thank you.

Mr. MCINTOSH. Thank you, Mr. Peterson. Let me explore this, actually, because I think you've got a very good suggestion that we do make this available and this information available to the Appropriations Committees.

As we're leaving the end of this week for the August recess, we talked about leaving the record open for 5 days earlier with the Inspector General. The questions that Mr. Peterson had and some of the ones that I had asked earlier, is it possible to get that by Thursday? If that's difficult, we can send a memo next week.

Mr. HANSEN. Since I'm not the one who has to do this, I will—

Mr. MCINTOSH. We'll do what works for you.

Mr. HANSEN. We can get parts of it immediately, even though like this afternoon on the budget figures and so on, I think some

of the detailed work within the grants area is probably going to take a little bit longer. Can we work with your staff to be able to figure out how best to be able to get that to you as quickly as we can, all elements of it, but maybe phase some of it?

Mr. MCINTOSH. Yes. Let's leave the record open, then, for the 5 days. And if you could work with Chip on my staff and Liza on Mr. Peterson's staff to make sure that we get that also with the Inspector General. I think it would behoove us to send a report over to the Appropriations Committee based on some of the testimony today.

Thank you. Without any further comments or questions, this hearing is now concluded. The subcommittee stands adjourned.

[Whereupon, at 11:46 a.m., the subcommittee was adjourned.]

