

Department of Health and Human Services

**OFFICE OF
INSPECTOR GENERAL**

**THE NATIONAL INSTITUTES OF
HEALTH ADMINISTERED
SUPERFUND APPROPRIATIONS
DURING FISCAL YEAR 2023 IN
ACCORDANCE WITH FEDERAL
REQUIREMENTS**

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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

REPORT HIGHLIGHTS



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The National Institutes of Health Administered Superfund Appropriations During Fiscal Year 2023 in Accordance With Federal Requirements

Why OIG Did This Audit

- The Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA) established the Superfund. CERCLA requires the Inspector General of a Federal organization with Superfund responsibilities to audit all uses of the fund in the prior fiscal year (FY).
- To meet this requirement, OIG conducts an annual audit of the Superfund program at the National Institutes of Health's (NIH's) National Institute of Environmental Health Sciences (the Institute), to determine whether NIH administered Superfund appropriations in accordance with applicable Federal requirements.

What OIG Found

During FY 2023, NIH administered Superfund appropriations in accordance with applicable Federal requirements. Specifically, NIH obligated and disbursed Superfund appropriations in accordance with Federal requirements and in similar proportions to prior years. In addition, the Institute's monitoring of Superfund grants ensured that recipients generally met requirements for financial, performance, and audit reporting.

What OIG Recommends

This report contains no recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

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

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

OBJECTIVE

Our objective was to determine whether NIH administered Superfund appropriations during FY 2023 in accordance with applicable Federal requirements.² Specifically, we determined whether NIH properly obligated and disbursed Superfund appropriations and provided adequate oversight of grant awards and related transactions.

BACKGROUND

Superfund

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

The Institute receives funding to carry out functions mandated by the CERCLA. In carrying out its Superfund responsibilities for FY 2023, the Institute obligated approximately 5 percent of these funds for administrative costs and used the remaining 95 percent to award grants and cooperative agreements (grants) to other organizations to:

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

¹ In FY 2023, NIH received \$83 million to carry out these functions through the Consolidated Appropriations Act, 2023 (P.L. No. 117-328, enacted Dec. 29, 2022).

² NIH includes the Institute.

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

National Institute of Environmental Health Sciences

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

HOW WE CONDUCTED THIS AUDIT

Our audit covered all obligations and disbursements related to FY 2018 through FY 2023 Superfund appropriations that occurred from October 1, 2022, through September 30, 2023 (audit period).³ During the audit period, NIH obligated approximately \$82.6 million and disbursed approximately \$87.5 million in Superfund resources.⁴ Of the \$87.5 million in disbursements, \$13.1 million came from the FY 2023 appropriation and \$74.4 million came from prior years. Of the \$87.5 million disbursed for the Superfund program in FY 2023, \$82.8 million was for grant expenditures and the remaining \$4.7 million was for expenditures to administer the program (administrative expenditures). We performed analytical tests of transactions to determine whether there were large variances between FY 2023 and FY 2022 administrative expenditures that would warrant further testing.⁵

We also analyzed cumulative obligations totaling \$483.7 million and cumulative disbursements totaling \$404.2 million associated with FY 2018 through FY 2023 appropriations to determine whether there were unusual balances of prior-year Superfund appropriations, including large balances of unliquidated obligations, new obligations of expired appropriations, or unusual disbursement activities.

As part of our review of NIH’s monitoring of Superfund grants and to verify that all uses of Superfund appropriations received audit coverage, we reviewed whether (1) single audit or non-Federal audit requirements applied to each recipient, (2) applicable recipients complied

³ Annual appropriations expire at the end of the FY but remain available for 5 years for recording, adjusting, and liquidating obligations that were properly incurred during the time the appropriation was available for obligation (31 U.S.C. §§ 1553(a) and 1552(a)). Therefore, our scope included obligations and disbursements of FY 2018 through FY 2023 appropriations.

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

⁵ No large variances existed; therefore, we did not perform additional testing.

with audit requirements, (3) some audit findings were related to Superfund awards, and (4) NIH resolved those findings.^{6, 7, 8}

We also reviewed whether (1) applicable recipients complied with grant terms and conditions; and (2) NIH adequately monitored the selected grants or took enforcement action to ensure compliance, if applicable.⁹

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our scope and methodology.

RESULTS OF AUDIT

During FY 2023, NIH administered Superfund appropriations in accordance with applicable Federal requirements. Specifically, NIH obligated and disbursed Superfund appropriations in accordance with Federal laws and in similar proportions to prior years. In addition, the Institute's monitoring of Superfund grants ensured that recipients generally met requirements for financial, performance, and audit reporting.

NIH OBLIGATIONS AND DISBURSEMENTS OF SUPERFUND APPROPRIATIONS MET FEDERAL REQUIREMENTS

NIH obligated and disbursed Superfund appropriations in accordance with Federal requirements and incurred costs for administering the Superfund program at levels that were similar to prior years. NIH received \$83 million under the FY 2023 Superfund appropriation, of which it obligated 95 percent of the FY 2023 appropriation for grants and the remaining 5

⁶ 45 CFR part 75 established uniform administrative requirements, cost principles, and audit requirements for Federal awards to non-Federal entities.

⁷ "Single audit" refers to an audit of a State, local government, Indian Tribe, institution of higher education, or nonprofit organization that receives and subsequently expends \$750,000 or more in Federal awards during its FY. Single audits are performed in compliance with 45 CFR § 75.501.

⁸ "Non-Federal audit" refers to an audit of a commercial organization that is organized or operated for the profit or benefit of its shareholders or other owners that receives and subsequently expends \$750,000 or more in Federal awards during its FY. Non-Federal audits are performed in compliance with 45 CFR § 75.501.

⁹ Terms and conditions included requirements for the recipient to submit various documents, such as financial reports and progress reports, used for grant monitoring.

percent for administrative expenditures.¹⁰ Obligations and disbursements for administrative expenditures each had a difference of less than one percent of FY 2022 levels. In addition, no unusual balances of prior-year appropriations—such as large balances of unliquidated obligations or new obligations of expired appropriations—existed.

THE INSTITUTE GENERALLY ENSURED THAT SUPERFUND RECIPIENTS MET REPORTING REQUIREMENTS

In general, the Institute ensured that Superfund recipients met key reporting requirements including the filing of required performance reports,¹¹ financial reports,¹² and audit reports.¹³ Timely reporting, among other things, helps the Institute to ensure that its accounting and administrative internal controls are working as designed. Specifically, timely reporting allows the Institute to monitor recipients’ obligations and costs for compliance with applicable laws and regulations.

As in prior years, the Institute ensured that most recipients filed required reports on time or close to the due date. For the 75 grants that had a performance report, a financial report, or both due during our audit period, recipients were, on average, approximately 14 days late in the filing of financial reports and 1 day late in the filing of performance reports as seen in the table below.¹⁴

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

	On Time	1-30 days late	31-90 days late	91-120 days late	Over 120 days late	Not Submitted	Total
Performance Reports	66	9	0	0	0	0	75
Financial Reports	42	6	2	1	3	0	54

¹⁰ Although the FY 2023 appropriation was less than one percent greater than the FY 2022 appropriation, the proportions obligated for grant and administrative expenditures were comparable between the two FYs.

¹¹ Research Performance Progress Reports.

¹² Federal Financial Reports.

¹³ Non-Federal audit reports.

¹⁴ Of these 75 grants, 54 had a performance report and a financial report due, and 21 had only a performance report due.

Of 68 Superfund recipients that we reviewed for compliance with non-Federal audit requirements, 67 had submitted audits when required and 1 had not. Among the audits submitted timely, none had any high-risk audit findings.

For the one recipient that had not submitted a required audit report for FY 2022, emails from the recipient stated that the audit was delayed by COVID-19 as well as its engagement with a new audit firm. As a result, the Institute placed a special award condition on this recipient's 2023 Superfund award.

In addition, we noted that this recipient had not drawn down funds for a 10-month period during performance of its 2023 Superfund award. During our review, we asked the Institute to explain the lack of drawdowns for this 10-month period that concluded with a large drawdown at the end of the award period.¹⁵ The Institute stated that the program officials responsible for reviewing the recipient's performance report did not identify any red flags and the large drawdown seemed to be consistent with the reported performance. We noted, however, that the performance report predated the large drawdown.¹⁶

Because the Institute has been working with the recipient and has taken actions to ensure its compliance with the audit requirements, we are not making any recommendations. However, we will continue to monitor the status of this recipient's drawdowns and delinquent audit report during our FY 2024 Superfund audit.

CONCLUSION

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

¹⁵ The recipient drew down \$1.4 million on one day, while previous single-day drawdowns averaged \$276,000.

¹⁶ Annual performance reports are due before the budget periods end, so these reports do not include a full year of performance.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

Our audit covered all obligations and disbursements related to FY 2018 through FY 2023 Superfund appropriations that occurred during the audit period.¹⁷ During the audit period, NIH obligated approximately \$82.6 million and disbursed approximately \$87.5 million in Superfund resources. Of the \$87.5 million in disbursements, \$13.1 million came from the FY 2023 appropriation and \$74.4 million came from prior years. Our audit also examined NIH's grant oversight functions because approximately 95 percent of NIH's Superfund appropriations are used for grant funding.

Our audit objective required that we obtain an understanding of internal controls. We used the Government Accountability Office's *Standards for Internal Control in the Federal Government; September 2014*, GAO-14-704G (Green Book) as the basis of our review of internal controls. Of the five components of internal control, control environment and control activities were significant to our audit objective, as were their following underlying principles:

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

METHODOLOGY

To accomplish our audit objective, we took the following steps:

- reviewed applicable laws and regulations regarding Superfund appropriations;
- obtained an understanding of NIH's controls over funding authority, financial reporting, and grants;
- reconciled NIH accounting records with a list that the Institute provided of all Superfund financial transactions recorded during the audit period to determine its accuracy and completeness;

¹⁷ Because annual appropriations may be disbursed up to 5 years beyond the appropriation year, our scope included obligations and disbursements of FY 2018 through FY 2023.

- traced approximately \$79 million in obligations to 91 research and training grant award documents to determine whether grant awards were properly recorded;
- analyzed transactions to test whether there were any large variances in FY 2023 administrative account balances that would warrant further testing;
- analyzed cumulative obligations, totaling \$483.7 million, and cumulative disbursements, totaling \$404.2 million, associated with FY 2018 through FY 2023 appropriations to determine whether there were unusual balances of Superfund appropriations, including large balances of unliquidated obligations, new obligations of expired appropriations, or unusual disbursement activities;
- compared Notices of Award for each Superfund grant that NIH issued during FY 2023 to funding opportunity announcements to assess whether the grants were consistent with Superfund program activities;
- determined whether recipients complied with non-Federal audit requirements, including the submission of audit report information to the Federal Audit Clearinghouse or HHS Audit Resolution Division;
- determined whether NIH resolved applicable recipient audit findings that were related to Superfund grants;
- reviewed applicable grants to determine whether the following conditions were met:
 - recipients complied with grant terms and conditions, including the submission of financial and progress reports to NIH, and
 - NIH adequately monitored the grants to ensure compliance with grant terms and conditions or took actions to ensure compliance with grant terms and conditions, if applicable; and
- discussed the results of the audit with Institute officials.

During our audit, we did not assess the overall internal control structure of NIH. Rather, we limited our review to NIH’s internal controls for compliance with Federal funding and recipient requirements. To evaluate these internal controls, we took the following steps:

- reviewed organizational charts to obtain an understanding of the reporting relationships and hierarchy among NIH staff responsible for grant administration and oversight;

- reviewed NIH’s policies and procedures for awarding, administering, and overseeing grants; and
- identified and documented key processes and controls related to grant administration and monitoring.

On July 9, 2024, we provided NIH with our draft audit report, and on July 22, 2024, NIH notified us that it had no comments.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>The National Institutes of Health Administered Superfund Appropriations During Fiscal Year 2022 in Accordance With Federal Requirements</i>	<u>A-04-23-03586</u>	12/6/2023
<i>The National Institutes of Health Administered Superfund Appropriations During Fiscal Year 2021 in Accordance With Federal Requirements</i>	<u>A-04-22-04088</u>	8/10/2022
<i>The National Institutes of Health Administered Superfund Appropriations During Fiscal Year 2020 in Accordance With Federal Requirements</i>	<u>A-04-21-04081</u>	10/21/2021
<i>The National Institutes of Health Administered Superfund Appropriations During Fiscal Year 2019 in Accordance With Federal Requirements</i>	<u>A-04-20-04077</u>	12/8/2020
<i>The National Institutes of Health Administered Superfund Appropriations During Fiscal Year 2018 in Accordance With Federal Requirements</i>	<u>A-04-19-04072</u>	4/1/2020