INSPECTOR GENERAL
DEPARTMENT OF DEFENSE
400 ARMY NAVY DRIVE
ARLINGTON, VIRGINIA 22202

December 13, 1989

MEMORANDUM FOR ASSISTANT SECRETARY OF THE ARMY (FINANCIAL MANAGEMENT)
COMMANDER, U.S. ARMY TOXIC AND HAZARDOUS MATERIALS AGENCY

SUBJECT: Quick-Reaction Report on the Audit of the Defense Environmental Restoration Program (Report No. 90-015)

Introduction

During our audit of the Defense Environmental Restoration Program (DERP), we found that the Department of the Army's Toxic and Hazardous Materials Agency (USATHAMA) had committed, obligated, and disbursed funds allotted to the DERP for activities such as construction that were not eligible for funds under the restoration program. One of the objectives of the audit was to determine whether funds were used in accordance with DoD guidance. Operating personnel at USATHAMA had committed $894,000 to convert a barracks into an office building and were negotiating with potential contractors for the renovations. Negotiations were scheduled to be completed by the end of the fiscal year, and funds would be obligated at that time.

Background

The Defense Environmental Restoration Program was established by Public Law 99-499, section 211, to fund the activities of the Secretary of Defense relating to environmental restoration. This law also established the Defense Environmental Restoration Account (DERA) as the vehicle through which environmental cleanups were to be funded. In addition, the Deputy Assistant Secretary of Defense (Environment) (DASD [E]) has periodically issued guidance on activities considered eligible and not eligible to use DERA funds. These documents have limited the use of DERA funds through the DERP to installation restoration, minimization of hazardous waste, and building demolition and removal. (Enclosure 1 lists activities that are eligible and not eligible for DERA funding.)

USATHAMA was established in 1972 as the project manager for chemical demilitarization and installation restoration. With the establishment of the DERP, the Department of the Army continued to use USATHAMA as its project manager for environmental cleanup. USATHAMA is currently an operating element of the Corps

of Engineers, and in FY 1989, in addition to its DERP responsibilities, USATHAMA was given control over base closings and environmental compliance. The DoD received $500 million in FY 1989 for environmental restoration programs. Of this amount, USATHAMA received $208 million to carry out the Army's environmental restoration projects.

Discussion

DERA funds were used by the Army for construction, renovation, and modification of buildings, even though these activities were not authorized under current guidance. This occurred because the Army considered the USATHAMA a project management office, and operating personnel at USATHAMA believed that these activities should be funded by the restoration program. As a result, approximately $1.0 million of DERA funds have been used by the Army for activities not eligible for installation restoration. Of the $1.0 million found during our review, $894,000 was committed, and negotiations were in process for renovating a barracks to convert it into an office building. An additional $150,000 was committed for construction of a new building at Aberdeen Proving Ground (APG) to house the Rocky Mountain Arsenal environmental staff at APG.

USATHAMA is the project manager for the Army's management of installation restoration, and is authorized to manage those funds. USATHAMA's management expenses are authorized to be funded by installation restoration monies. However, the USATHAMA used installation restoration funds for building construction, renovation, and modification projects, all of which are not eligible for installation restoration funding.

Under FY 1989 guidance issued by the DASD (E), "management expenses associated with the Installation Restoration Program, to include civilian salaries and training" were eligible for DERA funding. DoD Directive 7040.5, "Definitions of Expenses and Investment Costs," dated September 1, 1966, defines expenses as "costs of resources consumed in use." This includes labor costs, material consumed in use, and services received. It does not include consumable material when these costs are incurred in the production or construction of investment items. The Directive defines investment costs as "the costs of real property and equipment." The Directive includes construction as an investment cost and defines construction as "the addition, expansion, extension, alteration, conversion, or replacement of an existing facility." Thus, the management expenses were eligible for funding with DERA monies, while nonconsumable items such as building renovations were ineligible for funding with DERA monies.

In FY 1989, operating personnel had committed $894,000 of DERA funds to renovate a barracks to convert it into an office building. At the time the draft of this report was issued, negotiations were taking place to award the contract for renovations. Funds were to be obligated as soon as negotiations with contractors were completed; the end of FY 1989 was the goal for obligating the funds. Operating personnel said that the renovation was critically needed to provide office space for performance of their mission. In addition, USATHAMA had committed $150,000 for construction of a new building at Aberdeen Proving Ground. This project was also funded with environmental restoration monies, but as an investment, it was not eligible for DERA funding.

We discussed the renovation with operating personnel from USATHAMA and with the personnel for DASD(E). Operating personnel at USATHAMA stated that DERA funds had to be used for all costs and expenses because USATHAMA was the project manager. However, USATHAMA received $950,000 in non-DERA operation and maintenance funds for FY 1989. These funds were for environmental compliance projects and included salaries, equipment, and facilities.

Personnel at the DASD(E) office stated that converting a barracks into an office building did not constitute management expenses associated with installation restoration, and was not eligible to be carried out with DERA funds. We determined that approximately $1.0 million in DERA funds was committed for projects other than installation restoration.

Recommendation

We recommend that the Commander, U.S. Army Toxic and Hazardous Materials Agency decommit all DERA funds currently committed for construction, renovation, and modification of buildings.

MANAGEMENT COMMENTS

The Assistant Secretary of the Army (Financial Management), the Office of the Chief of Engineers, and the Commander, U.S. Army Toxic and Hazardous Materials Agency all nonconcurred with our findings, recommendations, and potential monetary benefits. They interpreted Defense Environmental Restoration Program guidance as allowing them to use Defense Environmental Restoration Account funds for the projects that were funded. All of them believed that these programmed funds were eligible under the Program and were management expenses necessary to economically and efficiently accomplish the program. A complete text of all Army comments is at Enclosure 2.

AUDIT RESPONSE TO MANAGEMENT COMMENTS

The Assistant Secretary of the Army (Financial Management), the Office of the Chief of Engineers, and the Commander, U.S. Army Toxic and Hazardous Materials Agency disagreed with Recommendation 1. of the draft report, stating that to establish and maintain a separate account would be inappropriate. We agree with their comments and have deleted the recommendation. They also disagreed with Recommendation 2 to decommit funds. However, they reprogrammed other funds for the conversion of the barracks into an office building, and they cancelled the requirement for the Project Management Office for Rocky Mountain Arsenal. These actions satisfy the intent of the recommendation and no further action is required. We have revised the amount of the potential monetary benefits to $150,000, the amount of the cancelled requirement. The Commander, U.S. Army Toxic and Hazardous Materials Agency also suggested we recommend that DoD provide guidance on defining program support costs that are eligible for DERA funding. Although we recognize that clarification may be required, such a recommendation would not be appropriate in this quick-reaction report.

We request that the Assistant Secretary of the Army (Financial Management) respond to the final report, stating concurrence or nonconcurrence with the monetary benefits of $150,000 (Enclosure 3). In order for your comments to be responsive, we request that you respond within 60 days of the date of this report. If you nonconcur with the estimated monetary benefits, or any part thereof, you must state the amount you nonconcur with and the basis for your nonconcurrence. Potential monetary benefits are subject to resolution in the event of nonconcurrence or failure to comment.

We appreciate the courtesies extended to the staff during the audit. The audit team members are listed at Enclosure 4. Copies of the final report will be distributed to the activities listed at Enclosure 5. If you wish to discuss this final report, please contact Mr. Raymond D. Kidd, Program Director, at (202) 694-1682 or AUTOVON 224-1682.

Edward R. Jones
Deputy Assistant Inspector General
for Auditing

Enclosures

cc:
Deputy Assistant Secretary of Defense (Environment)
Secretary of the Army

ACTIVITIES ELIGIBLE AND NOT ELIGIBLE FOR DERA
(Quoted from the Management Guidance for Execution of the FY 1989 Defense Environmental Restoration Program [DERP])

ACTIVITIES ELIGIBLE FOR DERA

Installation Restoration Program:

Investigations to identify, confirm and determine the risk to human health and the environment; feasibility studies; remedial action plans and designs; and removal or remedial actions.

Research, development and technology demonstrations necessary to conduct cleanups.

Expenses associated with cooperative multi-party cleanup plans and activities.

Remedial actions to protect or restore natural resources damaged by contamination from past hazardous waste disposal activities.

Cleanup of low-level radioactive waste sites which have been identified as IRP sites.

Management expenses associated with the Installation Restoration Program, including civilian salaries and training.

Capital costs of long-term monitoring systems.

Operating expenses for the first two years of long-term monitoring systems.

Immediate actions necessary to address health and safety concerns such as providing alternative water supplies or treatment of contaminated drinking water, when the hazard results from a release from DoD property.

Studies to locate underground tanks not used since January 1984 and activities to determine actual or potential contamination.

Cleanup of contamination believed to be harming human health and the environment resulting from tank leaks not used since January 1984, unless such cleanup is incidental to tank replacement.

Cleanup of contamination believed to be harming human health and the environment resulting from tank leaks which occurred prior to March 1, 1986, unless such cleanup is incidental to tank replacement. Components must have evidence that tanks were leaking prior to March 1, 1986. NOTE: Beginning in FY 1992 Components should program cleanups for currently operating tanks in other appropriations.

CERCLA [Comprehensive Environmental Response, Compensation and Liability Act] assessments necessary prior to excessing real property assets.

Response actions at solid waste management units which would meet the definition of a past disposal site under CERCLA/SARA [Superfund Amendments and Reauthorization Act].

Studies and support for R&D of innovative and cost effective technologies for cleanup of hazardous waste sites.

Third party sites where DoD is in receipt of a Potentially Responsible Party (PRP) letter.

Other Hazardous Waste Operations:

Procurement of equipment and conduct of studies to reduce hazardous waste generation that have broad Component-wide applicability or substantially reduce wastes within a Component.

Data collection in support of waste minimization.

Research, development, studies, and technology demonstrations related to hazardous waste management, treatment or disposal needs.

Studies and support for toxicological data collection and methodology on risk of exposure to hazardous wastes.

Studies and support for commonly found unregulated hazardous substances by HHS (ATSDR) [Agency for Toxic Substances and Disease Registry] and for DoD Health Advisories by the EPA.

Building Demolition and Debris Removal:

The demolition of buildings or the removal of debris which constitute a safety hazard on lands formerly used by the Department of Defense, provided such lands were transferred to state or local governments or native corporations.

The demolition of buildings or the removal of debris which constitute a safety hazard on active installations.

Expenses incident to complete restoration, such as restoration of natural resources, are included if such expenses are clearly and directly related to the demolition and debris removal.

ACTIVITIES NOT ELIGIBLE FOR DERA

Closing or capping sanitary landfills unrelated to a hazardous waste cleanup action.

RCRA [Resource Conservation and Recovery Act] closures which are associated with current waste generation or do not meet the definition of a response action under CERCLA/SARA.

Construction of hazardous waste storage or transfer, treatment or disposal facilities.

Demolition or debris removal as part of a new construction project.

Testing or repair of active underground tanks.

Costs of replacing leaking underground tanks.

Cleanup of contamination believed to be harming health and the environment resulting from underground tanks in use after January 1984, unless there is evidence that contamination occurred prior to March 31, 1986.

Cost of replacing PCB transformers.

Costs of recurring service contracts for waste reduction/minimization.

Costs of spill prevention and containment measures for currently operating equipment and facilities.

Cleanup costs of spills covered or required to be covered by spill prevention, containment and countermeasures (SPCC) plans.

Costs of maintenance or repair to existing treatment, storage, or disposal facilities.

Costs of hazardous waste disposal operations, including associated management costs and operational costs.

Overseas IR program activities not subject to U.S. law.

DEPARTMENT OF THE ARMY
OFFICE OF THE ASSISTANT SECRETARY
WASHINGTON, DC 20310-0103

13 October 1989

MEMORANDUM FOR THE INSPECTOR GENERAL

SUBJECT: IG DOD Draft on Quick Reaction Report on the Audit of Defense Environmental Restoration Program (Project 9FH-5002.01)

We agree with the USATHAMA response. Though we cannot comment on the validity of each charge or workorder, the findings by the DODIG do not appear consistent with the published guidance. The findings are based on the DODIG interpretation of the DASD (E) guidance on the types of expenses which may be charged to the program and the DOD Comptroller definitions of expense and investment.

The DASD (E) guidance and AR 37-100 (P788008.11) cite two examples of managerial costs. The examples are not all inclusive. Those expenses the DODIG cites, are also considered "managerial" and are properly chargeable when necessary for the management support of the program.

DOD Directive 7040.5, Part VI, paragraph E specifically defines minor construction projects not funded by the Military Construction Appropriation or the Construction category of the Family Housing Appropriation as an expense as opposed to an investment. Legitimate minor construction projects costing less than $200,000 in direct support of the environmental restoration mission are properly chargeable expenses to the program.

Request you reconsider your findings in view of the above comments.

for Kenneth B. Kramer
Assistant Secretary of the Army
(Financial Management)

Attachments

DEPARTMENT OF THE ARMY
OFFICE OF THE CHIEF OF ENGINEERS
WASHINGTON, D.C. 20310-2600

REPLY TO
ATTENTION OF:

DAEN-ZCZ-A (200-1)

MEMORANDUM THRU ~~ASSISTANT SECRETARY OF THE ARMY, INSTALLATIONS, LOGISTICS AND ENVIRONMENT~~ Lewis A. Walker Acting ASA(ILE) 10/20/89

FOR INSPECTOR GENERAL, DEPARTMENT OF DEFENSE

SUBJECT: IG DoD Draft Quick-Reaction Report on the Audit of Defense Environmental Restoration Program (9FH-5002.01)

1. I reviewed the subject report and the response from the Commander, U.S. Army Toxic and Hazardous Materials Agency (USATHMA). I concur with and endorse the comments of the Commander, USATHMA.

2. I believe the expenses in question were part of the program management expense of USATHMA in direct support of the environmental resotoration effort. In that context these expenses were consistent with the guidance established by the Deputy Assistant Secretary of Defense (Environment) for program management.

3. Point of contact in my office is Colonel Mashburn, 34635.

FOR THE CHIEF OF ENGINEERS:

PETER J. OFFRINGA
Major General, USA
Assistant Chief of Engineers

cf:
SAIG-PA
SAFM-ROM

DEPARTMENT OF THE ARMY
US ARMY TOXIC AND HAZARDOUS MATERIALS AGENCY
ABERDEEN PROVING GROUND, MARYLAND 21010-5401

REPLY TO
ATTENTION OF

CETHA-RM (20-1f)

6 OCT 1989

MEMORANDUM THRU

HQDA(DAEN-ZCZ-A), WASH DC 20310-2600

HQDA(SAIL-DESOH), WASH DC 20310-0103

FOR IG-DOD (AUDITING)

SUBJECT: Draft Quick-Reaction Report on the Audit of the Defense Environmental Restoration Program (Project 9FH-5002.01)

1. References:

a. Memorandum, DOD IG, 28 Sep 89, subject as above.

b. AR 36-2.

2. This command nonconcurs with the finding that U.S. Army Toxic and Hazardous Materials Agency (USATHAMA) used DERA monies for ineligible activities. Existing DOD guidance as understood in the field does not, nor should it, make the subject activities ineligible for DERA funding. DOD DERP guidance states that "management expenses including salaries and training" are allowable under DERA. "Management expenses" are not further defined in this guidance and are not addressed in the other references cited by the report. The subject practices are of long standing use; have been continuously briefed to higher headquarters; and are the accepted modus operandi of other DA agencies. In addition, pertinent facts concerning the uses to which USATHAMA has put these funds have been significantly misconstrued. Finally, USATHAMA believes that its current practices are the most logical and efficient approach to funding staff operating costs of such agencies; that they are in full accordance with the law and existing guidance; and that current guidance is prudently drafted in broad, flexible terms to accommodate the reliability of the non-acceptability of other funds for such purposes.

3. The statement in paragraph 1, Introduction, of the report, that ". . . the funds were used or planned for projects that should have been funded with Army Operation and Maintenance funds. . ." reflects a misconception on the part of the auditors that the DERA is a separate and distinct "appropriation." In actual fact, DERA funds are issued from a DOD transfer account to the Services in the various existing appropriations, i.e., O&M, RDTE, Procurement, and MILCON. The DERA funds used in the cited instances were in the Army O&M account. These non-investment OMA expense funds were authorized for the program support activities for which they were utilized. The level of DERA program management

support costs was clearly identified in the Annual Installation Restoration (IR) Workplan which was presented to DOD during quarterly in-process reviews (IPRs). These program management costs, approximating 10% of total DERP, are well within acceptable guidelines.

4. The conclusion in the "Discussion" that operating funds cannot be used for construction or renovation projects in accordance with DOD Directive 7040.5, Definition of Expenses and Investment Costs is also incorrect. In accordance with the Military Construction Codification Act (PL 97-214, 12 Jul 82), minor construction projects costing less than $200,000 are chargeable to O&M funds, an expense account. The USATHAMA building renovation project work classification conducted by the APG facility engineers office estimated construction work at $170,000 or less with the balance being classified as repair and maintenance. Accordingly, the project was eligible for O&M financing which was provided under DERA, P788008.11.

5. In addition, the statement that $39,000 was used for "planting shrubs around an office building" is inaccurate and misleading. While the subject of Work Order W434 was "Landscaping" and included provision for shrubs, the major items of expense had to do with correction of serious drainage problems, removal of a buried propane tank, buried concrete and dead trees, backfill and grading. Provision of shrubbery was a logical extension of this work.

6. The body of the report contains several other inaccuracies and misstatements. A listing of each such statement and a clarifying comment is enclosed.

7. Specific comment is provided on each of the recommendations, as follows:

a. Recommendation 1, that the ASA(FM) establish and maintain an appropriated fund O&M account for USATHAMA. Nonconcur. It remains the position of this Agency that the financing of non-investment staff operating costs from mission accounts in project management organizations is proper and results in the most efficient utilization of resources. This procedure has existed in this organization since its inception in 1972, and is also standard procedure in other Army project management organizations to this day. Use of other non-related funding has the effect of subsidizing a portion of the management expense and thereby obscuring the true costs of managing these programs. In addition, this will have to be absorbed within the Army's TOA which is inappropriate in this case.

b. Recommendation 2, that USATHAMA decommit all DERA funds currently committed for construction, renovation, and modification of buildings, and for beautification. Action in response to the recommendation has been completed.

Funds were decommitted for Work Order W483 ($894,000) and Work Order W482 ($150,000). Work Order W482 (Construction of new facility at Aberdeen Proving Ground for Program Manager for Rocky Mountain Arsenal) is no longer a valid requirement and the project has been cancelled. The work required under Work Order W483 is still valid. Non-DERA OMA funds were utilized to fund this project and were obligated 30 Sep 89. While action was immediately taken to decommit funds as recommended due to the impending close of the fiscal year, we do not concur with the basic premise on which the recommendation was based as explained in our response to Recommendation No. 1.

8. The indication that a potential savings of $1.8 million will be achieved through implementation of the recommendations is incorrect. The figure was apparently calculated from adding the alleged DERA-ineligible projects ($1.4M) and the total undetermined ($.375M). There is no direct savings because the finding deals merely with the funding source which has no impact on costs incurred. There is, however, a significant cost avoidance associated with the Army's integrated management system since it provides substantial savings program management costs that would otherwise have to be performed by contractors. Additionally, fragmentation of funding sources as suggested by the report and the added complexity of accounting procedures will unduly complicate attainment of these services and will result in deferred delivery of services and increased costs. Ultimately, mission accomplishment will be adversely impacted.

9. Because of the differences of opinion as to what constitutes acceptable "management expenses associated with the DERP including salaries and training" and the lack of specific guidance, it is our suggestion that a third recommendation be added that DOD provide clarifying guidance on the definition of program support costs that are eligible for DERA funding.

Encl

LOUIS M. JACKSON
Colonel, CM
Commanding

DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
WASHINGTON, DC 20310-1700

S: 11 October 1989

SAIG-PA (36-2b) 6 October 1989

MEMORANDUM FOR CHIEF OF ENGINEERS

SUBJECT: IG DoD Draft Quick-Reaction Report on the Audit of Defense Environmental Restoration Program (9FH-5002.01)

1. Enclosed is IG DoD memorandum, with draft report, for review and action. Army Regulation 36-2 requires an information memorandum alerting the Secretary of the Army and the Chief of Staff if the report contains criticism of DA policy, procedures, or practices, which may result in adverse publicity. If required, submit the information **NLT 18 October 1989.**

2. If you require input from other Army elements to formulate an Army position, request that information from those organizations by separate correspondence. Send the correspondence through the internal review offices of other staff or command elements, where applicable.

3. Request that you **coordinate your response with SAFM and forward it through SAIL NLT 11 October 1989 to IG DoD (Auditing).** In addition, forward a copy of that response to SAIG-PA.

4. DODD 7650.3 requires that your comments indicate either agreement or disagreement for each finding, recommendation, or estimated monetary benefit. If you agree, describe the corrective actions taken or planned, the completion dates for actions already taken, and the estimated completion dates for the planned actions. Agreement with monetary benefits may necessitate the recovery of resources; if so, include the status of this recovery action in the DA comments. If you disagree with any of the findings, recommendations, or estimated monetary benefits, state the specific reason(s) for disagreement and provide revised estimates of monetary or other anticipated benefits. If appropriate, you may suggest different methods for accomplishing needed improvements.

5. If you desire further information, contact Ms. Flanagan at 44646.

FOR THE INSPECTOR GENERAL:

James J. McDevitt

JAMES J. McDEVITT
Colonel, IG
Chief, Operations, Plans, and
Analysis Division

Encl

ENCLOSURE 2
Page 6 of 6

CF:

SAFM-ROM	SAFM-FAI	SAPA	CEAO
SAIL	SARD-ZE	DACS-DM	DAEN-ZCZ
SALL	SAAG-PRP	SAIG-PA (OPNS)	

SCHEDULE OF POTENTIAL MONETARY AND OTHER BENEFITS RESULTING FROM AUDIT

Recommendation Reference	Description of Benefit	Amount and Type of Benefit
1.	The requirement for a project management office was cancelled as a result of further evaluation.	Cost avoidance of $150,000 (one-time). Appropriation No. 2192020.

AUDIT TEAM MEMBERS

Nancy L. Butler	Director, Financial Management Directorate
Raymond D. Kidd	Program Director
Thomas E. Byrnes	Project Manager
John Pors	Team Leader
Leonard Fulbright	Auditor
Towanda Brown	Auditor

DISTRIBUTION OF FINAL AUDIT REPORT

Office of the Secretary of Defense

Assistant Secretary of Defense (Public Affairs)
Deputy Assistant Secretary of Defense (Environment)

Department of the Army

Secretary of the Army
Assistant Secretary of the Army (Financial Management)
Commander, U.S. Army Toxic and Hazardous Materials Agency

Non-DoD Activities

Office of Management and Budget

General Accounting Office

Congressional Committees:

Senate Subcommittee on Defense, Committee on Appropriations
Senate Committee on Armed Services
Senate Committee on Governmental Affairs
Senate Ranking Minority Member, Committee on Armed Services
House Committee on Appropriations
House Subcommittee on Defense, Committee on Appropriations
House Ranking Minority Member, Committee on Appropriations
House Committee on Armed Services
House Committee on Government Operations
House Subcommittee on Legislation and National Security, Committee on Government Operations