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UNITED STATES GENERAL ACCOUNTING OFFICE
WASHINGTON, D.C. 20548

COMMUNITY AND ECONOMIC
DEVELOPMENT DIVISION

MAY 29, 1980

B-198722

The Honorable Douglas M. Costle
Administrator, Environmental
Protection Agency



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Dear Mr. Costle:

Subject: Review of the Environmental Protection Agency's
Efforts to Detect and Prevent Fraud and Abuse
(CED-80-100)

As part of our multiagency fraud task force work, we reviewed the Environmental Protection Agency's (EPA's) efforts to detect and prevent fraud and abuse. Although we plan to issue an overall report on Federal efforts to combat fraud, this report discusses EPA's actions and ways we believe it can improve its effectiveness in detecting and preventing fraud and abuse. Since most of our work was done prior to the establishment of EPA's Office of Inspector General (OIG), our findings should be helpful to the Inspector General in implementing and organizing the OIG.

EPA has improved its fraud detection and prevention activities but still needs to (1) devote more resources to investigative and audit activities, (2) establish more effective fraud detection and prevention programs, (3) establish a management information system to provide routine information on the types and methods of fraud and abuse, and (4) improve communication and followup on investigations and audits.

To obtain an overview of EPA's efforts to identify and control fraud, we reviewed audit and investigative policies, procedures, and practices and interviewed senior headquarters audit and investigative officials, as well as officials from various EPA program and administrative activities. We also reviewed selected case files of closed investigations involving fraud and abuse and discussed their disposition with EPA investigative and program officials. Our review was performed at EPA headquarters, Washington, D.C.

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BACKGROUND

The Inspector General Act of October 12, 1978 (Public Law 95-452; 92 Stat. 1102), authorized 12 major Federal departments and agencies, including EPA, to individually establish offices of the Inspector General to (1) conduct and supervise program audits and investigations, (2) provide leadership and coordination and recommend policies to promote economy, efficiency, and effectiveness and to prevent and detect fraud and abuse in such programs and operations, and (3) provide a means for keeping the head of an agency or department and the Congress informed about progress, problems, and deficiencies concerning such programs.

EPA established the OIG on January 7, 1980, and transferred the existing office of audit and investigative functions of the Inspection Branch, Security and Inspection Division, to the OIG. Prior to the OIG, EPA audit and investigative activities were carried out by these offices. The Office of Audit was responsible for evaluating the economy, efficiency, and effectiveness of financial and program operations. The Inspection Branch was responsible for matters relating to fraud, gross abuse, corrupt practices, or other irregularities. As of April 1980, the OIG had an authorized personnel level of 98 audit positions and 18 investigative positions. According to headquarters OIG officials, the Inspector General has requested an additional 55 positions (25 investigators and 30 auditors) through fiscal year 1980.

Compared to other Federal agencies, EPA did not move as quickly to establish an OIG. Within 2 to 4 months after the act was passed the other 11 agencies established OIGs and informally identified, if not formally nominated, candidates for Inspector General positions. In contrast, although EPA made a selection in May 1979, it did not formally nominate an Inspector General until September 1979.

OIG officials stated they did not know why EPA took longer to establish the OIG than other Federal agencies. The Associate Assistant Administrator for Planning and Management pointed out that beginning in late 1978, EPA interviewed about 25 candidates but was not successful in securing the candidate of its choice. This official also stated that he believes EPA moved reasonably quickly in nominating an Inspector General.

NEED FOR MORE INVESTIGATIVE
AND AUDIT RESOURCES

EPA has not provided the OIG with the resources it needs to effectively implement the act. Neither of the OIG investigative and audit groups have sufficient personnel to carry out their assigned duties.

Investigative resources

The following data provided by OIG investigative officials shows that EPA has one of the smallest investigative staffs relative to its total number of employees. We recognize, however, that this is only one indicator of investigative personnel needs. Other factors must also be considered, such as an agency's budget or the types and numbers of programs it administers.

	<u>Ratio of Investigators to Total Personnel</u>		
<u>Agency</u>	<u>Total personnel</u>	<u>Investigators</u>	<u>Employees to investigators</u>
Health, Education, and Welfare	145,000	172	843 to 1
Environmental Protection Agency	11,000	a/ 18	611 to 1
General Services Administration	36,000	94	383 to 1
Agriculture	84,000	277	303 to 1
Housing and Urban Development	17,000	60	283 to 1
Small Business Administration	4,600	19	242 to 1

a/In addition to this figure the OIG has four security specialists solely dedicated to reviews involving confidential business information abuses.

As of April 1980, EPA planned to cut part of OIG's 18 investigative positions. Eight of the 18 positions are classified as "over ceiling" (not authorized) and are scheduled to be eliminated during fiscal year 1980 if funding is not provided. According to the Assistant Inspector General for Investigations, the Inspector General is attempting to obtain authorized and associated funding for the positions. The effect of this planned reduction was discussed in a briefing package prepared for the new Inspector General by the Office of Audit.

"As it now stands, the Office of Inspector General will lose eight inspectors now on board. This would severely cripple inspection activities and virtually eliminate inspection personnel in the regions."

Audit resources

EPA's audit resources fall short of those necessary to meet audit demands. According to the Office of Audit's fiscal year 1980 workplan, which was developed in part through planning guidance contained in the Office of Management and Budget's circular A-73, the Office needs about 698 staff-years to complete all required audit work yet only about 175 are available. As shown below, EPA will, therefore, be able to meet only about 25 percent of its overall audit requirements.

Budgeted Resources versus Audit Demand

Type of Audit	<u>Demand</u>		<u>Budgeted</u>		Percent of demand met by budget
	<u>Staff-</u> <u>years</u>	<u>Percent</u>	<u>Staff-</u> <u>years</u>	<u>Percent</u>	
Internal and management (note a)	184.0	26	24.4	14	13
Construction grants	307.3	44	b/126.3	72	41
Contracts and other grants	151.2	22	18.6	11	12
Indirect cost	<u>55.1</u>	<u>8</u>	<u>5.3</u>	<u>3</u>	10
Total	<u>697.6</u>	<u>100</u>	<u>174.6</u>	<u>100</u>	25

a/Based on a 5-year cycle.

b/Includes 23.3 workyears for allegation-type audits.

As shown, about 14 percent of EPA's budgeted audits are internal. Further, based on the Office's 5-year planning cycle for accomplishing internal and management audits, such audits would be performed on a 38-year cycle. EPA audit officials stated that the resources needed to keep management adequately apprised of its programs and assure the integrity of EPA's financial operations are far short of what is needed.

The adequacy of EPA's audit resources is not a new issue. EPA historically has been unable to acquire enough staff to ensure adequate audit coverage. As pointed out in one of our previous reports, 1/ Federal OIG audit units may not have the staff necessary to effectively carry out their mission, including combating fraud

1/"Federal Civilian Audit Organizations Have Often Been Unsuccessful In Obtaining Additional Staff," (FGMSD-79-43, Jul. 27, 1979).

and abuse. As part of that report, we pointed out that certain Federal agencies, including EPA, have been largely unsuccessful in obtaining agency approval for audit staff increases. The report also showed that of the 289 additional auditors the former Office of Audit requested from fiscal year 1974 through 1978, EPA approved only 42. The Office of Management and Budget reduced this number to 37. The report further pointed out that EPA was able to obtain additional audit positions over the 37 approved positions by taking 11 authorized positions from its water program.

Internal and management audits can be valuable tools for uncovering administrative deficiencies which could lead to program abuse. The resources which have been allocated to these audits, however, are not adequate to maintain or improve the general level of stewardship, accountability, and efficiency of EPA programs.

MORE EFFECTIVE FRAUD
DETECTION AND PREVENTION
PROGRAMS NEEDED

The main thrust of EPA's audits and investigations have been directed at its Construction Grants Program, which accounts for over 80 percent of EPA's budget (about \$4.5 billion). The limited remaining resources have not been adequate to institute effective fraud detection and prevention programs. Prior to the establishment of the OIG, fraud audits and investigations were done primarily on a reactive basis, and EPA had not taken enough aggressive action to detect and prevent fraud. However, we recognize that the OIG has recently taken some steps to establish a more effective fraud detection and prevention program. According to the Assistant Inspector General for Investigations, the OIG has recently started a pilot program--"Project Look"--which involves a team of auditors, investigators, and engineers reviewing selected construction grant projects. The purpose of this program is to review the expenditures and the operations of selected construction grants and develop indicators of fraud, waste, mismanagement, and abuse.

Although EPA identified the Construction Grants Program as the most vulnerable to traditional types of fraud (bribery, kickbacks, etc.), it has not taken enough

aggressive action to detect or prevent fraud. Agency audit guidelines for this program as well as other grant and contract programs are not specifically designed for detecting fraud. EPA plans to award a contract in fiscal year 1980 to develop a training course for detecting fraud in its Construction Grants Program, but does not have any firm plans for establishing a formal systematic program aimed at actively identifying fraud.

Prior to implementation of the OIG, EPA efforts to carry out some fraud detection and prevention activities, such as the periodic code of conduct briefings, whistleblowers hotline, or the "limited inspection" program have been relatively unsuccessful. According to EPA's Director, Financial Management Division, the periodic code of conduct briefings are considered nonproductive by many EPA officials and, as a result, attendance by supervisors is poor, even though it has been pointed out that the key to fraud prevention is supervisory control. Further, according to the Inspector General, there are presently no OIG personnel available to conduct such briefings.

Similarly the whistleblowers hotline which was started in August 1979 has not been widely advertised. The Assistant Inspector General for Investigations said that the hotline is not receiving many calls. He pointed out that from its inception through April 1980, only about 22 calls have been received. Finally, the former Inspection Branch's limited inspection program (investigators visit construction grantees and project personnel to make them aware of the Inspection Branch's functions, etc.) was never really implemented due to limited resources.

AN IMPROVED MANAGEMENT INFORMATION
SYSTEM COULD ENHANCE
INVESTIGATIVE ACTIVITIES

Routine management information on EPA fraud cases is limited. As pointed out in our report 1/ a viable

1/"Federal Agencies Can, And Should Do More To Combat Fraud In Government Programs" (GGD-78-62, Sept. 19, 1978).

management information system should include data on

- summaries of past fraud schemes perpetrated, methods of perpetration, and means by which detected;
- experiences and findings of other agency offices and law enforcement agencies and;
- management weaknesses previously identified by investigators, auditors, or others--which increase a program's vulnerability to fraud.

The management information system on EPA fraud investigations consists primarily of "files" maintained by the OIG. Answers to such basic questions as the types of fraud investigated, results, and actions by management require manually extracting this information from the files or obtaining it from individual inspectors or EPA program officials. The former Inspection Branch was unable to readily provide us with such information as the current status of investigations, referrals and dispositions, types of fraud, programs affected, and methods of discovery without spending several staff days going through the files or calling regional inspectors. The Assistant Inspector General for Investigations stated that he recognizes the need for a more effective management Information System for investigations. He told us that although no formalized plan has been developed the OIG has implemented a case control system that will provide data regarding current status on open investigations, referrals, dispositions, divisions, regions, programs effected, sources, and time expended. At the present time this system is manual, but it was designed to be computerized when funds become available. The OIG has requested \$30,000 in the fiscal year 1982 budget to develop this system.

IMPROVED COMMUNICATION
AND FOLLOWUP OF
INVESTIGATIONS NEEDED

An effective fraud detection and prevention program not only requires active communication and support from all levels of EPA management, but also effective corrective action on the results of investigations and audits. Although EPA has taken

steps to strengthen its followup system on audit findings to ensure more responsive action, very little has been done concerning investigative results.

Followup on
investigative
and audit results

Recognizing that EPA officials were either choosing not to implement or delaying report recommendations, the former Office of Audit in June 1979 modified its system in an effort to help resolve audit findings more promptly. These modified procedures (EPA Order 2750.2) provide more specific guidance and include

- establishing specific time frames for taking action on audit recommendations,
- establishing accounts receivable based on audit findings,
- tracking resolutions to final settlement, and
- creating an audits resolution board to ultimately decide cases not resolved at the action official level.

Responsibility for taking action on conditions needing improvement based on investigations by the former Inspection Branch is set forth in EPA Order 3120.1A. This order states that management officials are responsible for

- determining the appropriate action EPA would need to take when the investigation or inspection produces evidence requiring corrective action;
- taking corrective action; and
- submitting appropriate summaries to the Director, Security and Inspection Division, of the results of an inspection or investigation originating in the Division.

This order contains very general requirements, unlike the specific requirements in the Office of Audit's order. Among the order's weaknesses, it does not (1) define "management officials," (2) establish specific time frames

for taking action, and (3) require followup on nonresponses. It was not surprising, therefore, that our review showed that the Inspection Branch was not informed of any action taken on about 40 percent of the 62 cases from October 1, 1976, through March 1979, where fraud or abuse was proven. For example, the results of one investigation showed that grantee officials accepted gifts and other favors from contractors in violation of Federal regulations, but the files contained no indication of any action taken by the responsible regional office. Another case showed that a certified public accountant audit disclosed that the grantee and consultant were presenting improper bills for services. Again, there was no indication of any action being taken (or reasons for lack of action by the responsible regional office).

In addition, the former Inspection Branch did not have a system for following up on the completed cases for which responses were due. In fact, little is done once the case was completed. Although investigators were assigned responsibility for following up on referrals to other agencies, no one had been formally assigned followup responsibility for completed investigations. Inspectors did not, therefore, normally followup on specific cases to determine if corrective action was taken.

According to the Assistant Inspector General for Investigations, the OIG initiated a system in March 1980 to obtain responses relative to Agency action on certain types of investigations and during followup on investigative reports. He stated that this system has not yet been formalized due to lack of time to complete and distribute a procedural handbook. He further stated that in the interim, the OIG has established suspense dates in investigative reports and intends to followup on nonresponses. In those instances where cases are declined by the Department of Justice in favor of administrative action, followup with the Agency will be monitored by the OIG to determine if such action was taken and the appropriate U.S. attorney will be notified of the results. However, he readily admitted that an effective followup system does not exist at present. Regardless of how effective the investigation is, it is useless unless prompt, responsible corrective action is taken. Program officials also stated that after they receive the investigative report they often do not hear anymore about the case (status of corrective action taken by the agency, Justice, etc.).

Communication of
investigative results
could be improved

Some senior EPA managers and staff said that investigative reports are confusing and do not always contain conclusions stating whether or not fraud or other abuses actually took place. As a result, some officials we talked to believed such reports were not useful to them in taking corrective action. For example, EPA's investigative report on allegations concerning its region VII management illustrates these observations. As stated in our report, 1/ although the investigative review was complete in determining whether any criminal acts occurred it raised several other questions which were unanswered. The investigative report alluded many times to the fact that adequate procurement or personnel procedures were not followed but did not recommend further action by EPA management.

The Assistant Inspector General for Investigations stated that the purpose of an investigative report is to present facts to a U.S. attorney or an administrative official to allow an objective decision to be made based on fact and preclude influence by third party conclusions. He agreed, however, that program deficiencies should be communicated to and corrected by administrative officials. OIG officials said such reports should only contain impartial and factual statements of pertinent information and sources (except from sources under a pledge of confidence). These officials also told us that investigative reports do not contain recommendations for disciplinary or administrative action to prevent fraud or abuse from occurring in the future because opinions, conclusions, and recommendations will bias the report's objectivity.

In contrast, the Deputy Assistant Administrator for Management and Agency Services told us he believes that investigative reports should contain conclusions. He stated that investigative reports are not always considered useful

1/"Assessment of Allegations Involving the Environmental Protection Agency's Kansas City Regional Office," (CED-80-18, Oct. 19, 1979).

and are sometimes confusing because they do not always conclude if there was a wrongdoing. Further, he believed that the former Inspection Branch should have routinely provided recommendations to EPA management on corrective action needed to prevent a reoccurrence of the irregularity or wrongdoing.

A senior official of the Department of Justice, Criminal Division, stated that to prevent biasing investigative reports, conclusions and recommendations are omitted. However, he said nothing precludes OIG investigative staff from offering recommendations or suggestions to EPA management on program or procedural improvements after a case is closed and Justice has completed all of its work, including criminal proceedings and other legal action. This official pointed out that investigative staff can be a valuable tool in identifying program weaknesses that allowed fraud to occur.

Recognizing the problem, the OIG in March 1980, held a 3-day training session devoted to improving investigative report writing. According to the Assistant Inspector General for Investigations, future reports will contain a brief synopsis stating the results of the investigations, including the appropriate U.S. attorney's proposed course of action or the reasons for declining the case.

Former Inspection Branch officials stated that in August 1978 they began including conclusions and recommendations in the cover letters forwarding their reports to responsible agency officials. However, our review of case files showed that corrective action was not always recommended. For example, in one case involving the misuse of a Government vehicle, the cover letter did recommend disciplinary action, it did not recommend corrective action in the form of tighter controls or procedural changes. In another case involving alleged time and attendance abuses, the cover letter stated that the allegations were triggered by the employee's absences from his office during official duty hours but did not indicate whether the absences were legitimate. Also, the letter did not include any recommendations. The Assistant Inspector General for Investigations agreed that a cover letter can be used to point out management deficiencies and recommend that EPA management respond as to the corrective action taken. However, he disagreed that the OIG should recommend specific

changes because this would encourage some managers to rely on the OIG instead of personal initiative.

Even though the primary purpose of investigative reports is to make prosecution decisions, the reports should also point out to management that certain corrective and/or disciplinary action is necessary. We are not advocating that the Inspector General recommend specific disciplinary action (e.g., reprimands, dismissals, etc.) but we do believe that management officials should be given conclusions and recommended changes in management procedures, practices, etc., to prevent the problem from reoccurring. We believe that failure to do this consistently has contributed in part to EPA's reluctance to take the necessary action and its apparent lack of support for increased investigations.

CONCLUSIONS

Instituting a strong, effective fraud detection and prevention program requires the active support and commitment from all levels of management. Although EPA has recently established the Office of the Inspector General, which provides the nucleus for creating an effective program, EPA must take additional steps if the goals of the Inspector General Act are to be met. Reducing already insufficient investigative resources and not providing needed audit resources will not contribute to a strong fraud detection and prevention program. Likewise, the lack of corrective action on investigative and audit reports further dilutes the effectiveness of limited resources.

EPA's ability to identify fraud and abuse is further handicapped because it lacks a viable ongoing management information system to provide systematic and periodic analysis of trends, patterns, or other unusual occurrences indicating possible fraud. At the same time, investigative reports are not being utilized effectively to help bring about needed changes in management policies and procedures.

We recognize, however, that the Inspector General is attempting to develop a more effective approach to fraud investigations and audits and encourage such actions.

EPA must develop new programs and improve existing methods if it hopes to actively identify and combat fraud and abuse. Our prior work has shown that when Federal agencies make serious attempts to identify fraud, they usually find it.

RECOMMENDATIONS

To properly implement the Inspector General Act, we recommend that the Administrator, Environmental Protection Agency:

- Request the resources necessary for the Office of Inspector General to carry out its responsibilities.
- Direct management officials to be more responsive to investigative reports by revising EPA Order 3120.1A to (1) more clearly define management responsibilities for taking corrective action on investigative findings, (2) establish time frames for taking action, and (3) designate officials responsible for ensuring timely corrective action.

To place more emphasis on fraud detection and prevention activities and to improve existing programs, we further recommend that the Administrator direct the Inspector General to:

- Further develop a more organized, systematic approach to identifying fraud by instituting a management information system which will provide information on the most likely types and methods of fraud and abuse.
- Incorporate fraud detection steps into all routine audits (both external and internal).
- Provide more visibility, publicity, and resources to fraud and abuse programs, such as the whistleblowers hotline and code of conduct briefings.
- Require, where applicable, that the cover letters forwarding closed investigative reports to management officials contain conclusions and recommendations for corrective action.

We discussed this report with the Inspector General and other officials of the OIG, who agreed with matters discussed in the report. We shall appreciate receiving your comments on this report and on any actions you plan to take. As you know, section 236 of the Legislative Reorganization Act of 1970 requires the head of a Federal agency to submit a written statement on actions taken on our recommendations to the House Committee on Government Operations and the Senate Committee on Governmental Affairs not later than 60 days after the date of the report and to the House and Senate Committees on Appropriations with the agency's first request for appropriations made more than 60 days after the date of the report.

Copies of this report are being sent to the Chairmen of the above House and Senate committees; the Chairmen, House Committee on Public Works and Transportation and Senate Committee on Environment and Public Works; the Director, Office of Management and Budget; and the Inspector General, Environmental Protection Agency.

Sincerely yours,

A handwritten signature in cursive script that reads "Henry Eschwege".

Henry Eschwege
Director