



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL



EPA Employees Did Not Act Consistently With Agency Policy in Assisting an EPA Grantee

Report No. 14-P-0247

May 9, 2014



Scan this mobile code to learn more about the EPA OIG.

This is one of the U.S. Environmental Protection Agency Office of Inspector General's products associated with issues related to scientific integrity within the agency. For details on our other reports on issues related to scientific integrity, go to <http://www.epa.gov/oig/reports/2011/20110722-11-P-0386.pdf>, and <http://www.epa.gov/oig/reports/2013/20130828-13-P-0364.pdf>.

Report Contributors:

Eric Lewis
Dwayne Crawford
Alisha Chugh
Christine Baughman
Nyquana Manning

Abbreviations

EPA	U.S. Environmental Protection Agency
FOIA	Freedom of Information Act
NCER	National Center for Environmental Research
OIG	Office of Inspector General
ORD	Office of Research and Development
OSTP	Office of Science and Technology Policy
OW	Office of Water

Cover photo: A sign containing a fish-consumption advisory. (EPA photo)

Hotline

To report fraud, waste or abuse, contact us through one of the following methods:

email: OIG_Hotline@epa.gov
phone: 1-888-546-8740
fax: 1-202-566-2599
online: <http://www.epa.gov/oig/hotline.htm>

write: EPA Inspector General Hotline
1200 Pennsylvania Avenue, NW
Mailcode 2431T
Washington, DC 20460

Suggestions for Audits or Evaluations

To make suggestions for audits or evaluations, contact us through one of the following methods:

email: OIG_WEBCOMMENTS@epa.gov
phone: 1-202-566-2391
fax: 1-202-566-2599
online: http://www.epa.gov/oig/contact.html#Full_Info

write: EPA Inspector General
1200 Pennsylvania Avenue, NW
Mailcode 2410T
Washington, DC 20460



At a Glance

Why We Did This Review

The U.S. Environmental Protection Agency (EPA), Office of Inspector General, received a hotline complaint alleging that an Office of Water (OW) employee interfered with a grant funded by the EPA's Office of Research and Development (ORD). ORD awarded the grant in April 2011. We reviewed complaint allegations that the OW employee: (1) asked the ORD to terminate the grant; (2) directed an EPA contractor not to publish data on mercury and selenium levels in fish; and (3) did not cooperate with the EPA grantee's request for mercury and selenium data.

The requested data were measurements of mercury and selenium in freshwater fish from locations within states that had fish-consumption advisories due to mercury contamination. We generally referred to this data as "fish contamination data." OW acquired the data through an EPA contract in 2008.

This report addresses the following EPA theme:

- *Protecting water: A precious, limited resource.*

For further information, contact our public affairs office at (202) 566-2391.

The full report is at:
www.epa.gov/oig/reports/2014/20140509-14-P-0247.pdf

EPA Employees Did Not Act Consistently With Agency Policy in Assisting an EPA Grantee

What We Found

Our findings did not substantiate a hotline complaint alleging that an OW employee asked the ORD to terminate an EPA grant, or that the OW employee directed an EPA contractor not to publish its fish-contamination data. However, we found that the OW employee and an immediate supervisor did not respond in a timely manner to the EPA grantee's requests for fish-contamination data the OW obtained from an EPA contractor in 2008. In addition, our work shows that the OW employee expressed concern to a senior OW staff member regarding ORD funding the grant. From September 2011 to May 22, 2012, the EPA grantee made eight requests seeking the fish-contamination data from the OW. However, the EPA grantee was not able to obtain the data until May 31, 2012, after the OW posted it on a public EPA website. During this period, both the OW employee and his immediate supervisor did not respond to the EPA grantee's requests because the OW was still trying to figure out what to do with the data. However, the OW did not disclose or explain the reasons for not responding. Unresponsiveness to the EPA grantee/public requests is inconsistent with the agency's *Scientific Integrity Policy*. The OW employee claimed a lack of awareness of the requirements in the policy.

Fish contamination data was withheld that could have been useful to the scientific community and the public.

We also found that the ORD project officers, despite their awareness of the problem, provided limited assistance to the EPA grantee in obtaining the requested data. We believe these actions to be inconsistent with the EPA's Assistance Administration Manual. Consequently, these EPA employees withheld for 8 months data that could have contributed to the scientific understanding of mercury and selenium interactions in fish. In addition, the 4-year delay in making the 2008 data available to the general public prevented certain states from having the opportunity to determine whether they needed to revise their advisories on fish the public could safely eat.

Recommendations and Agency Corrective Actions

We recommend that (1) the agency's Scientific Integrity Official develop standard operating procedures that detail how staff are to comply with the EPA's *Scientific Integrity Policy* requirement to provide timely responses to requests for information by the media, the public and the scientific community; and (2) the Assistant Administrator for Research and Development develop standard operating procedures to ensure that ORD staff that serve as project officers on grants are adhering to their responsibilities under the EPA's *Assistance Administration Manual*. In response to our draft report, agency action officials provided acceptable corrective actions or plans and both the recommendations are resolved. No final response to this report is required.



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

THE INSPECTOR GENERAL

May 9, 2014

MEMORANDUM

SUBJECT: EPA Employees Did Not Act Consistently With Agency Policy in
Assisting an EPA Grantee
Report No. 14-P-0247

FROM: Arthur A. Elkins Jr.

A handwritten signature in black ink, appearing to read "Arthur A. Elkins Jr.", is written over the printed name.

TO: Lek Kadeli, Acting Assistant Administrator
Office of Research and Development

Nancy Stoner, Acting Assistant Administrator
Office of Water

Francesca Grifo, Scientific Integrity Official
Office of Research and Development

This is our report on the subject evaluation conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). This report contains findings that describe the problems the OIG has identified and corrective actions the OIG recommends. This report represents the opinion of the OIG and does not necessarily represent the final EPA position. Final determinations on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

The offices responsible for implementing the audit recommendations included in this report are the Office of Water's Office of Science and Technology and the Standards and Health Protection Division; and, the Office of Research and Development's Office of the Science Advisor and National Center for Environmental Research.

Action Required

In accordance with EPA Manual 2750, your offices provided acceptable and complete corrective actions or planned corrective actions in response to OIG recommendations. All recommendations are resolved and no final response to this report is required. We will post this report to our website at <http://www.epa.gov/oig>.

Should you have any questions, please contact Carolyn Copper, Assistant Inspector General for Program Evaluation, at (202) 566-0829 or copper.carolyn@epa.gov; or Eric Lewis, Director, Special Program Reviews, at (202) 566-2664 or lewis.eric@epa.gov.

Table of Contents

Chapters

1	Introduction	1
	Purpose	1
	Background.....	1
	Responsible Offices	4
	Scope and Methodology	4
2	OW Staff Did Not Respond to Data Requests in a Timely Manner	6
	Two Hotline Allegations Not Substantiated	6
	OW Acquired Fish-Contamination Data in 2008.....	7
	OW Staff Did Not Respond Timely and Provide Data to the Grantee	7
	Reasons for Not Responding to the Grantee’s Data Requests.....	9
	ORD Provided Limited Assistance to Help the Grantee Obtain Data.....	9
	OW Delayed Public Access to Scientific Data and Reports.....	11
	Conclusion	12
	Recommendations	12
	Agency Response to Draft Report and OIG Evaluation.....	13
	Status of Recommendations and Potential Monetary Benefits	14

Appendices

A	OW Response to Draft Report	15
B	ORD Response to Draft Report	24
C	Distribution	26

Chapter 1

Introduction

Purpose

The U.S. Environmental Protection Agency (EPA), Office of Inspector General (OIG), received a hotline complaint alleging that an Office of Water (OW) employee interfered with a grant (assistance agreement) funded by the EPA's Office of Research and Development (ORD). We reviewed complaint allegations that the OW employee:

1. Asked the ORD to terminate the grant.
2. Directed an EPA contractor not to publish fish-contamination data.
3. Did not cooperate with the EPA grantee's request for fish-contamination data.

Background

EPA Grant Funded by ORD

The EPA grant referenced in the hotline complaint was funded by the ORD's National Center for Environmental Research's (NCER's) Science to Achieve Results grant program. The goal of the grant was to examine all existing data on relationships between mercury and selenium in fish from across the United States, and to use this information to develop a more accurate index for determining which fish are safe and beneficial to eat. According to the EPA grantee, the proposed benefit of selenium is that it offsets mercury toxicity. The grant intended to combine existing data sets to determine selenium-health-benefit value for different types of fish that people often consume. The selenium-health-benefit value was developed in prior research as an indicator to determine fish-consumption risk. The grant had three main tasks:

1. Obtain available data sets that report mercury and selenium levels in ocean fish in order to define their selenium-health-benefit value.
2. Obtain available mercury and selenium data generated by government and nongovernment organizations in order to establish selenium-health-benefit values for freshwater fish across the United States.
3. Enhance an existing model to describe biological responses from mercury and selenium interactions in tissue observed in animal and human studies.

The NCER was responsible for monitoring the EPA grant through a project officer. According to NCER guidance, the project officer ensures that:

- The grantee complies with programmatic terms and conditions of the grant agreement.
- The project is carried out as originally outlined in the grantee's workplan or proposal.
- Federal assistance funds are used appropriately.

The project officer provides these assurances through baseline monitoring, which includes accepting progress reports (e.g., annual, semiannual or quarterly) and ensuring that quality-assurance requirements are met.

Scientific Integrity Guidelines

The EPA has spent over a decade developing and issuing policies and procedures on scientific integrity. In 2000, the EPA's National Partnership Council developed the *Principles of Scientific Integrity* as a policy statement that establishes a set of professional principles for EPA scientists. A former EPA Administrator promulgated the *Principles of Scientific Integrity* on March 28, 2000. An excerpt from the policy statement says:

It is essential that EPA's scientific and technical activities be of the highest quality and credibility if EPA is to carry out its responsibilities to protect human health and the environment. Honesty and integrity in its activities and decision-making processes are vital if the American public is to have trust and confidence in EPA's decisions.

The *Principles of Scientific Integrity* requires EPA employees to:

- Ensure that their work is of the highest integrity.
- Represent their work fairly and accurately.
- Represent and acknowledge the intellectual contributions of others.
- Avoid financial conflicts of interest and ensure impartiality.
- Be cognizant of and understand specific programmatic statutes.
- Accept the affirmative responsibility to report any breach.
- Welcome differing views and opinions on scientific and technical matters.

On March 9, 2009, the President issued a memorandum to the heads of all executive departments and agencies to take action to guarantee scientific integrity throughout the executive branch. The President's memorandum specifically stated:

If scientific and technological information is developed and used by the federal government, it should ordinarily be made available

to the public. To the extent permitted by law, there should be transparency in the preparation, identification, and use of scientific and technological information in policymaking.

Following the President's memorandum, the former EPA Administrator issued a memorandum in May 2009 notifying all agency employees about the President's memorandum and the important guidepost it provides for how the EPA should conduct and use science. Following these two memorandums, the EPA enacted its *Scientific Integrity Policy* in February 2012. The policy covers scientific research performed by contractors, grantees or other agency partners who assist with developing or applying the results of scientific activities. According to the EPA's *Scientific Integrity Policy*, the agency's scientist and managers are expected to:

Represent agency scientific activities clearly, accurately, honestly, objectively, thoroughly, without political or other interference, and in a timely manner, consistent with their official responsibilities. While a scientist's primary responsibility is to pursue their scientific activities, it is also a scientist and his/her manager's responsibility to provide timely responses to requests for information by the media, the public and the scientific community.

Assistance Administration Manual

The EPA's *Assistance Administration Manual*—Part 1, Section 2: "Roles and Responsibilities"—designates the roles and responsibilities of grants management offices and program offices, as well as other key staff and managers administering assistance agreements. It is EPA policy to ensure that those with designated roles and responsibilities perform their duties, and they are held accountable for effective grants management. According to the EPA *Assistance Administration Manual*, one of the tasks of an EPA project officer is to provide customer service and to respond to requests and concerns.

Prior Audit Coverage

In EPA OIG Report No. 11-P-0386, *Office of Research and Development Should Increase Awareness of Scientific Integrity Policies*, July 22, 2011, we discussed whether the ORD had controls in place to address scientific integrity and research misconduct, and whether those controls were effective. The OIG found that 32 percent of ORD science staff were unaware of the EPA's *Principles of Scientific Integrity*. The OIG also found that the ORD had not updated the *Principles of Scientific Integrity E-Training* since June 2005. The OIG made a recommendation to improve the *Principles of Scientific Integrity E-Training*, to which ORD agreed. However, ORD also noted that the EPA's Scientific Integrity Committee has been charged with standardizing scientific integrity training for the agency and ensuring that the appropriate EPA staff complete the necessary training courses.

In EPA OIG Report No. 13-P-0364, *Quick Reaction Report: EPA Must Take Steps to Implement Requirements of Its Scientific Integrity Policy*, August 28, 2013, we addressed the EPA's progress in implementing certain requirements of its agencywide *Scientific Integrity Policy*. We found that although an agencywide training program was required by the agency's *Scientific Integrity Policy*, the EPA had not developed or implemented a program to instruct EPA employees on the requirements and standards of scientific integrity. In addition, the EPA had not generated and made publicly available an annual report on the status of scientific integrity within the agency as required by the policy. The report recommended that the EPA Deputy Administrator direct the Scientific Integrity Committee to (1) develop and implement agencywide training on the *Scientific Integrity Policy* in a manner that will minimize further delay in the EPA's adherence to policy requirements, (2) complete and issue an annual report on the status of scientific integrity in the agency before its first formal review of the policy, and (3) provide the Deputy Administrator with a written plan describing the action plan and milestones for implementing and completing the training and issuing the annual report. Since issuing our report, EPA has implemented or is in the process of implementing all recommendations.

Responsible Offices

The offices responsible for implementing the audit recommendations included in this report are the Office of Water's Office of Science and Technology and the Standards and Health Protection Division; and, the Office of Research and Development's Office of the Science Advisor and National Center for Environmental Research.

Scope and Methodology

We conducted our evaluation from July 2012 through December 2013 in accordance with generally accepted government auditing standards issued by the Comptroller General of the United States. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our review objectives.

We interviewed appropriate OW and ORD employees named in the hotline, the EPA grantee, and the EPA contractor staff. We reviewed supporting documents, including EPA grant and contract files and email documentation.¹ We also reviewed fish-consumption advisories for the sites from which fish were sampled by the EPA contractor, and draft products prepared by the EPA contractor for the

¹ The hotline complaint addressed the grant for the selenium in fish work. Therefore, our analysis included the review of the EPA contract awarded to a contractor to conduct a fish-contamination study for the OW that produced the information the grantee requested from the agency and the OW employee.

OW. We also reviewed applicable laws, regulations, and the EPA's policy and guidance documents.

Chapter 2

OW Staff Did Not Respond to Data Requests in a Timely Manner

We did not substantiate hotline allegations that the OW employee requested the ORD to terminate the EPA grant, or that the OW employee directed an EPA contractor not to publish fish-contamination data. However, we found that the OW employee and an immediate supervisor did not respond in a timely manner to the EPA grantee's requests for fish-contamination data the OW obtained from an EPA contractor in 2008. In addition, our work shows that the OW employee expressed concern to a senior OW staff member regarding ORD funding the grant. After making eight requests for the data starting in September 2011, the EPA grantee eventually obtained the data on May 31, 2012, after the OW posted the data on the EPA website. We also found that the ORD project officers provided limited assistance to help the EPA grantee obtain the requested data, which is inconsistent with the agency's *Assistance Administration Manual*. The manual requires that project officers provide customer service and respond to requests or concerns by recipients of EPA assistance agreements.

As a result of these actions, data that could have contributed to a scientific understanding of mercury and selenium interactions in fish was withheld from the EPA grantee for 8 months. In addition, although the OW had the data since 2008, OW did not post the data on the EPA's website until 2012. This 4-year delay in making the data available to the general public prevented certain states from having the opportunity to determine whether they needed to revise their advisories on fish the public could safely eat.

Two Hotline Allegations Not Substantiated

We did not substantiate two of the allegations stated in the hotline complaint. One allegation was that the OW employee contacted the ORD project officer to request termination of the EPA grant. According to the OW employee and both ORD project officers who monitored the EPA grant, the OW employee did not ask the officers to terminate the grant. Although we did not substantiate the allegation that the OW employee requested the grant be terminated, we found that the employee questioned the ORD decision to fund the grant. Specifically, when the OW employee was informed about ORD funding the grant, the employee expressed concern to a senior OW staff member. During an interview with the OIG, the OW employee stated the belief that the EPA grantee supported a scientific hypothesis on the interaction of mercury and selenium in fish, which the employee believed did not agree with the OW's current position on the issue.

Another allegation was that the OW employee directed the EPA contractor not to publish the fish-contamination data that the EPA grantee requested. According to the EPA contractor, the OW employee did not tell the contractor not to publish the data.

OW Acquired Fish-Contamination Data in 2008

Under an EPA contract, the agency paid over \$610,000 to a contractor to conduct a fish-contamination study for the OW. The initial objectives for the study were to determine whether:

1. Mercury levels in fish sampled from selected existing state fish consumption advisory sites issued prior to 2000 have changed since last measured by state and/or tribal agencies.
2. New mercury tissue data support changes to existing consumption recommendations.

The study generated data on mercury and selenium levels in freshwater fish from locations within states that had fish-consumption advisories due to mercury contamination. The EPA contractor provided the data on mercury levels in fish to the OW employee in February 2008. The EPA contractor gave a report on the mercury and selenium study to the OW employee in July 2008. The OW then put the report through both internal and external peer review.

As a result of the peer reviews, the EPA amended the work assignment to have the EPA contractor incorporate comments from the review into the final product. The amended work assignment also required the EPA contractor to change the study report into two manuscripts—one on the mercury results and one on the selenium results. The EPA contractor sent the OW employee a draft manuscript containing results on selenium in fish in October 2008. Draft manuscripts with results on mercury in fish were sent in October 2008, June 2009 and September 2009.

OW Staff Did Not Respond Timely and Provide Data to the Grantee

From September 2011 through May 22, 2012, the EPA grantee made eight data requests to the OW employee. In September 2011, the EPA grantee sent request letters to numerous organizations. The grantee asked the organizations to provide existing data on mercury and selenium in fish in order to support the grantee's research. The grantee stated that a letter was also sent to the OW and directly to the OW employee during this period. The OW employee said he never received this initial request letter, but on September 19, 2011, a Minnesota state official provided the OW employee with a copy of the data-request letter received from the EPA grantee, thereby making the OW employee aware of the grantee's data request for mercury and selenium in fish data. The letter stated that "...In support of this effort, we are seeking all sources of data (published and unpublished) that

report the concentrations of these elements in fish, with emphasis on data sources where both elements were assessed in the same fish sample....” After receiving this letter, the OW employee contacted the ORD project officer in September 2011. The project officer stated that the OW employee complained that the grantee was sending an inappropriate request letter to external organizations requesting data. The project officer researched the issue and found no problems with the request. However, the project officer stated that attempts to contact the OW employee failed because the OW employee never returned calls or responded to a March 2012 email to discuss the issue further.

According to the EPA grantee, by March 31, 2012, most of the organizations had provided the requested data in response to the grantee’s initial request letter. Between February 17 and May 22, 2012, the EPA grantee sent the OW employee seven follow-up emails asking for the data. During that timeframe, however, the OW employee only responded to one of the grantee’s emails, which the grantee sent on April 12, 2012. In that email, the grantee specifically asked for access to the OW fish-contamination data under the Freedom of Information Act (FOIA). On the same day, instead of providing the requested data, the OW employee provided information on how to submit a formal request under FOIA. The EPA grantee decided not to file a formal FOIA request, stating that such a request could potentially make interactions with the OW worse. During our meeting to discuss the agency’s comments on our draft report, the OW manager stated that the OW employee acted appropriately when instructing the grantee to file a formal FOIA request.

According to the OW employee and the immediate supervisor, the employee informed the immediate supervisor about some of the data-request emails received from the EPA grantee. The OW employee stated that the supervisor’s recommendation was for the employee not to reply to the emails, and instead reply to the grantee when the data became available on the EPA website. OW posted the data from its fish study on the EPA website on May 23, 2012. On May 24, 2012, the OW employee used email to notify the EPA grantee that the data of interest may be on the EPA website. The OW employee also provided a website link.

The EPA grantee was not able to locate the study data on the EPA website from the link provided.² As a result, the EPA grantee requested the study data in electronic format from the EPA contractor staff via an email dated May 30, 2012. Since the EPA contractor staff was aware of the data’s availability on the EPA website, on May 31, 2012, contractor staff emailed the EPA grantee two spreadsheets containing the data. According to the grantee’s 2013 annual progress report, the delays in obtaining the data from the agency was one of the factors that necessitated extending the grant’s planned completion date a year.

² The OIG audit team attempted to find the study data on the EPA website and found it difficult without assistance.

Reasons for Not Responding to the Grantee's Data Requests

The OW employee and immediate supervisor acknowledged they did not provide the data to the EPA grantee when the requests were made in 2012. Both the OW employee and immediate supervisor told us that the reason was they were still trying to decide what to do with the fish-contamination data and draft products given to the OW employee by the EPA contractor in 2008 and 2009. According to the OW employee, to meet the OW's original objectives for the study, the plan was to have the EPA contractor compare its mercury measurements to prior mercury measurements that were taken by states and were the basis for issuing the fish-consumption advisories. According to the OW employee, the quality of earlier mercury measurements taken by the states was unknown. Therefore, the OW employee and the contractor determined they could not do the data comparison and could not meet the OW's study objective as originally intended.

The explanations provided by the OW employee and the supervisor do not explain why giving the data to the grantee would impair the OW's use of the data. In addition, despite repeated requests over several months, the OW employee never disclosed or explained to the EPA grantee why the employee was not providing the fish-contamination data.

A lack of awareness by the OW employee and the lack of understanding by the supervisor about the requirements in the EPA's *Scientific Integrity Policy* is also an underlying reason why these OW personnel did not respond to the EPA grantee's requests in a timely manner. The OW employee's supervisor indicated being aware that the EPA has a *Scientific Integrity Policy*, but stated that while the policy requires "timely" dissemination of information, the policy does not indicate specific timeframes. Therefore, despite numerous and repeated requests made by the EPA grantee, the supervisor believed that their release of the data was timely. When we contacted the OW employee in January 2013, the employee acknowledged a general awareness of the existence of the policy, but a lack of awareness concerning the text of the policy or its specific requirements.³

ORD Provided Limited Assistance to Help the Grantee Obtain Data

According to the EPA *Assistance Administration Manual*, one of the tasks of an EPA project officer is to provide customer service and respond to requests and concerns. However, we found that ORD project officers provided limited assistance to the EPA grantee, despite awareness that the grantee was having difficulty obtaining the OW's fish-contamination data needed for grant research. The two ORD project officers responsible for monitoring the grant could have better supported the EPA grantee's effort to obtain the data by communicating more with the OW employee and elevating impediments to a resolution to senior

³ In response to OIG Report No. 13-P-0364, *Quick Reaction Report: EPA Must Take Steps to Implement Requirements of Its Scientific Integrity Policy*, issued August 28, 2013, the EPA on November 21, 2013, implemented its Scientific Integrity training program.

ORD managers. There were also lapses in communication between the OW employee and the ORD project officers. We believe that these actions are not consistent with the *EPA Assistance Administration Manual*.

Although the initial ORD project officer made a limited effort to contact the OW employee to facilitate the EPA grantee's data request, the current project officer did very little to help the grantee obtain the fish-contamination data. The initial project officer's detail to another position a few months after the EPA grant was awarded also impacted communications between the project officer and the OW employee. The initial project officer was detailed to another position in July 2011, and a replacement was not assigned until April 2012. Despite not being able to monitor the grant on a full-time basis, the initial project officer said the following actions were taken regarding the EPA grantee's data requests:

- Held one September 2011 telephone conversation with the OW employee, who was concerned about the language in the EPA grantee's data-request letter sent to state agencies.
- Relayed the OW employee's concerns about the data request to the EPA grantee during a September 2011 workshop.
- Reviewed the language of the EPA grantee's data-request letter sent to state agencies and concluded the language was satisfactory.
- Sent a March 2012 email asking the OW employee to discuss the grant under which the grantee made the data request, but did not receive a response.

Starting in April 2012, the EPA grantee shared ongoing concerns with the current project officer about the difficulty obtaining the requested data. The EPA grantee shared these concerns with the current project officer via telephone and email, and through the grantee's annual progress report for the year ending March 30, 2012.

However, the current project officer said steps were not taken to help the EPA grantee obtain the fish-contamination data because the current project officer:

- Did not see it as a responsibility to intervene because the officer believed there needs to be distance between the project officer and the grantee in order to avoid the appearance of advocating for one grantee over another grantee.
- Believed the OW study data being requested was not fundamental for the EPA grantee to complete the grant research.

The initial project officer raised the EPA grantee's data request issue with an ORD team leader. According to the team leader, the ORD had not previously dealt with an issue of this nature. The ORD team leader did not advise the project officer on the course of action to take in addressing the issue, or share with the team leader's supervisor the concerns discussed with the project officer pertaining to the EPA grantee's data requests. The supervisor for the ORD team leader

confirmed that neither of the two project officers informed her about the difficulties that the EPA grantee experienced obtaining the data from the OW.

OW Delayed Public Access to Scientific Data and Reports

As noted previously, the OW eventually posted its fish-contamination data on the EPA website in May 2012. However, the data was collected by the EPA contractor and provided to the OW employee as early as 2008. To date, the OW has yet to publish or publicly release any of the draft study reports or draft manuscripts that the EPA contractor submitted to the OW employee in 2008 and 2009, despite the EPA investing over \$600,000 in this research. The draft study reports addressed whether the collected mercury and selenium measurements in fish support changes to the existing fish-consumption advisories by states. These study reports remain unpublished by the OW and could potentially impact the health of the public who eat freshwater fish.

States, U.S. territories and Native American tribes have primary responsibility for protecting residents from health risks associated with consuming contaminated, non-commercially caught fish and wildlife. They do this by issuing fish-consumption advisories. The advisories recommend that the general population, including recreational and subsistence fishers, as well as sensitive subpopulations (e.g., pregnant women, nursing mothers and children), limit or avoid consuming certain fish and wildlife species because of mercury concentrations.

The OW published the *Guidance for Assessing Chemical Contaminant Data for Use in Fish Advisories* to guide state health officials responsible for designing contaminant-monitoring programs and issuing fish- and shellfish-consumption advisories. The publication only provides guidance; it does not constitute a regulatory requirement and offers great flexibility to users.

When applying the EPA methodologies found in the guidance publication to mercury and selenium study data, the EPA contractor concluded that some of the current fish-consumption advisories for mercury and selenium could be either more restrictive or less restrictive. With regard to selenium contamination, the EPA contractor's October 2008 manuscript submitted to the OW employee identified two bodies of water in the United States with selenium levels in fish above 1.5 micrograms per gram, which is high enough to limit fish meals to 16 or fewer per month, according to the publication. At the time, these locations had advisories about mercury, but not about selenium. Regarding mercury contamination of the 95 sites reviewed in the report, the EPA contractor's July 2008 draft report stated that:

- The same fish-consumption advisory could be issued for 41 U.S. sites.
- A more restrictive fish-consumption advisory could be issued for 35 U.S. sites.

- A less restrictive fish-consumption advisory could be issued for 19 U.S. sites.

The EPA contractor suggested states might want to periodically re-evaluate their fish-consumption advisories issued to the public, especially those advisories issued for sites where the contractor's study concluded more fish-consumption restrictions might be appropriate. Using its discretion, the OW has not publically released this report because they state the conclusions in the contractor's draft report could not be supported by the data. However, the OW had the report peer reviewed and stated that the data provides an excellent baseline for future studies. Further, OW did not challenge excerpts from the report stating that some fish advisories may need to be changed.

Conclusion

An OW employee and an immediate supervisor did not respond in a timely manner to an EPA grantee's repeated requests for fish-contamination data. The OW employee and the immediate supervisor lacked awareness or understanding of the requirements found in the EPA *Scientific Integrity Policy*, and ultimately demonstrated actions that do not adhere to the policy. In addition, despite their awareness of the problem, two ORD project officers who monitored the grant provided limited assistance to the EPA grantee trying to obtain fish-contamination data from the OW. We believe that the assistance provided by the project officers is inconsistent with the responsibilities they are expected to carry out under the EPA's *Assistance Administration Manual*.

As a result of the actions undertaken by these EPA employees, it took 8 months for a grantee working on EPA-funded research to obtain data that could have been beneficial for completing the grant research. The information withheld could have led to earlier contributions related to furthering the scientific understanding of mercury and selenium interactions in fish. In addition, withholding the information prevented certain states from having the opportunity to determine whether they needed to revise their advisories on fish the public could safely eat. Further, the EPA spent over \$600,000 in government funds to conduct a study for which the OW has yet to publish or publicly release any of the draft study reports or manuscripts provided by the contractor in 2008 and 2009.

Recommendations

We recommend that the agency's Scientific Integrity Official:

1. Develop standard operating procedures that detail how staff are to comply with the EPA *Scientific Integrity Policy* requirement to provide timely responses to requests for information by the media, the public and the scientific community.

We recommend that the Assistant Administrator for Research and Development:

2. Develop standard operating procedures to ensure that ORD staff that serve as project officers on grants are adhering to their responsibilities under the EPA's *Assistance Administration Manual*.

Agency Response to Draft Report and OIG Evaluation

We received comments from the OW and ORD. We reviewed the OW and ORD comments and made changes to the report as needed. Appendix A contains the OW comments and appendix B contains the ORD comments, along with our detailed responses.

The OW did not concur with the draft report findings and believed our report was inaccurate in several areas. Although the OW disagreed with the findings, it agreed with the need for guidance on “timely” release of information, as the EPA’s current *Scientific Integrity Policy* lacks a definition for “timely.” The OW responded that the agency’s Scientific Integrity Official supports the need for a consistent agencywide approach to determining timeliness. The Scientific Integrity Official agreed to take the lead in addressing recommendation 1 and provided a projected completion date of December 2014. Recommendation 1 is resolved and open pending completion of the planned corrective action.

In its response, the ORD stated that the ORD/NCER project officers responded appropriately to the grantee requests. ORD’s response provided additional standard operating procedures and guidance released late in 2013 that they indicate represents standard operating procedures to ensure that ORD staff that serve as project officers on grants are adhering to their responsibilities under the EPA’s *Assistance Administration Manual*. The OIG did not concur and, subsequently, the ORD provided us with a revision to the NCER Operational Manual and Project Officer Manual which is sufficient to meet the intent of our recommendation. Therefore, recommendation 2 is resolved with all agreed-to actions completed.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS						POTENTIAL MONETARY BENEFITS (in \$000s)	
Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Claimed Amount	Agreed-To Amount
1	12	Develop standard operating procedures that detail how staff are to comply with the EPA <i>Scientific Integrity Policy</i> requirement to provide timely responses to requests for information by the media, the public and the scientific community.	O	Scientific Integrity Official	12/31/14		
2	13	Develop standard operating procedures to ensure that ORD staff that serve as project officers on grants are adhering to their responsibilities under the EPA's <i>Assistance Administration Manual</i> .	C	Assistant Administrator for Research and Development	3/12/2014		

¹ O = Recommendation is open with agreed-to corrective actions pending.
 C = Recommendation is closed with all agreed-to actions completed.
 U = Recommendation is unresolved with resolution efforts in progress.

OW Response to Draft Report (January 30, 2014)

MEMORANDUM

SUBJECT: Draft Report: *EPA Employees Did Not Act Consistent with Agency Policy in Assisting an EPA Grantee* - Project No. OPE-FY12-0020

FROM: Michael H. Shapiro, Deputy Assistant Administrator and Deputy Scientific Integrity Official

TO: Carolyn Copper, Assistant Inspector General
Office of Program Evaluation

Thank you for the opportunity to review and comment on OIG's draft report, *EPA Employees Did Not Act Consistent with Agency Policy in Assisting an EPA Grantee*, dated December 18, 2013. As required, we are providing our written response to the OIG's findings, conclusions and recommendations in the draft report that addresses two major areas, covering three allegations. OW nonconcurs with OIG's findings associated with all three allegations, because of numerous inaccuracies. Specifically:

1. The OIG agreed that the OW employee did not take the actions alleged in the hotline complaint, but asserted that the employee expressed "disbelief" regarding ORD funding the grant. The report misrepresents this disbelief as being about the scientific merit behind the grant. However, the correct reason for the OW employee's disbelief was that the grant proposal did not undergo OW's relevancy review before the grant award.

OIG Response 1: Two of the three allegations against the OW employee were not substantiated. We did find that the OW employee and his immediate supervisor did not provide the requested data to the grantee in a timely manner. In a March 6, 2014, meeting to discuss the agency's comments on the draft report, the OW employee stated that his disbelief was due to concerns that the OW was not involved in approving the grant. Based on this clarification, the OIG has changed the term "disbelief" used in the draft report to "concern" in the final report. However, despite this clarification, the OW's explanation does not address all the reasons the OW employee objected to the grant. For example, in an email dated September 19, 2011, the OW employee stated that he could not believe that EPA gave the grantee a half-million dollars to do the work and that it must be a parting gift for an EPA employee who assisted the grantee in previous work related to this topic.

2. The OIG concluded that the OW employee and immediate supervisor did not release fish contamination data in a timely manner to the grantee and the public. The report is inaccurate as to when the grantee first requested the data from the OW employee, why the

report was not released, whether the employee followed the agency's FOIA policies, and many other circumstances.

OIG Response 2: The report accurately reflects when and how the OW employee was notified of the grantee's request. The OW employee stated that on September 19, 2011, a state of Minnesota official provided him with the request they had received from the grantee, and that he talked to OW and ORD officials about it. The grantee stated a data request was mailed to the OW employee on September 21, 2011. Although the OW employee stated he did not get the request, he was aware that a request was made for the data before acknowledging the receipt of the grantee's follow-up request on February 12, 2012. Specifically, the OW employee called the ORD project officer in September 2011 to complain about the grant after a state of Minnesota official provided a copy of the grantee's request letter. The letter specifically requested, from all sources, any published or nonpublished data on mercury and selenium in fish. We address not releasing the data and FOIA issues in OIG Response 6.

Finally, the OIG recommends that the Assistant Administrator for Water develop standard operating procedures that detail how staff is to comply with the EPA *Scientific Integrity Policy* requirement to provide timely responses to requests for information by the media, the public and the scientific community. OW agrees with the need for guidance on "timely" release of information, as the Policy lacks a definition for "timely." Thus, OW believes that a definition needs to be developed which is consistent Agency-wide. Dr. Francesca Grifo, the Agency's Scientific Integrity Official, supports the need for a consistent Agency-wide approach to determining timeliness. In response to a February 22, 2013, memorandum from OSTP, the EPA has submitted a draft plan for increasing access to the results of federally-funded scientific research that would include data sets such as the one in question. Comments are expected back from OSTP in early March. Dr. Grifo will then take steps to work with the OW Deputy Scientific Integrity Official and other members of the Agency's Scientific Integrity Committee to begin to develop Agency-wide guidance.

OIG Response 3: We agree and accept the described plans to develop agencywide guidance for 'timeliness' under the Scientific Integrity Policy. At the March 6, 2014, meeting to discuss the agency's comments on our draft report, the Scientific Integrity Official agreed to be the action official for this recommendation (recommendation 1) because it will apply to all EPA employees. ORD agreed to track the corrective action. The Scientific Integrity Official provided a projected completion date of December 2014 for corrective action. Recommendation 1 is resolved and open pending completion of the planned corrective action.

The attachment to this memorandum identifies the OIG's findings, excerpts statements in the report that purport to support the findings, and responds to inaccuracies in the findings and

supporting statements. We look forward to having an opportunity to discuss the draft report and our comments with you.

Attachment

Response to Draft OIG Report: EPA Employees Did Not Act Consistent with Agency Policy in Assisting an EPA Grantee

Allegation #1: The OW employee asked ORD to terminate the grant (based on a hotline complaint).

Allegation #2: The OW employee directed an EPA contractor not to publish data on mercury and selenium levels in fish (based on a hotline complaint).

- **OIG Finding:** The OIG did not substantiate the hotline complaints regarding a request to terminate the grant and direction to a contractor not to publish data. However, the OIG asserts that the employee expressed “disbelief” to a senior OW staff member regarding ORD’s funding the grant.
- **Statements** on page 5, paragraphs 1, 2 and 3, page 6 and all other locations in the report related to the OW employee’s requesting that ORD terminate a grant or directing an EPA contractor not to publish data on mercury and selenium levels in fish and statements regarding the OW employee’s expression of disbelief.

“ . . . the employee did not ask the officers to terminate the grant.”

“ . . . the OW employee did not tell the contractor not to publish the data.”

“We did not substantiate hotline allegations. . . However, we found that the OW employee expressed disbelief. . .”

“Although we did not substantiate the allegation that the OW employee requested the grant be terminated, we found that the employee questioned the ORD decision to fund the grant. Specifically, when the OW employee was informed about ORD funding the grant, the employee expressed disbelief to a senior OW staff member.”

“ . . . the OW employee did not tell the contractor not to publish the data.” . . .the OW employee expressed disbelief to a senior OW staff member.”

“We did not substantiate hotline allegations. . . However, we found that the OW employee expressed disbelief. . .”

- **OW Response:** OW nonconcurrs with the finding because the OIG misrepresented why the employee expressed disbelief. For two years prior to the events under review in this

report, OW and ORD coordinated high level reviews of ORD presentations, manuscripts and interviews about selenium and fish. The reviews resulted in interoffice agreements on how the Agency would characterize and use information related to interactions between mercury and selenium in fish tissue.

His disbelief was not about the scientific merit of the grant, but that OW had not been included in reviewing the grant proposal for relevancy to national water program research needs.

Regarding the STAR grant award, the senior OW staff person wrote in an email dated September 19, 2011, to the OW employee, "What a mess. Here is the info on line re their grant. I certainly wish that NCER has asked OW to review." After learning the details of the grant award, the OW employee responded in an email on September 20, 2011, "OK – nothing left to find. EERC/NDU competed for and won the grant fair and square. Might even yield some interesting and useful data – though the interpretation/conclusions will potentially be a bit biased."

OIG Response 4: Please see OIG Response 1.

Allegation #3: The OW employee did not cooperate with the EPA grantee's request for mercury and selenium data. (based on a hotline complaint)

1. OIG Finding: The OIG found that eight months elapsed between when the OW employee received a data request from the grantee and when OW made the data available to the grantee.

- **Statements** on pages 5, 6, 11 and all other statements in the report related to how much time elapsed between when the OW employee received a data request from the grantee and when OW made the data available to the grantee.

"After making eight requests for the data starting in September 2011. . ."

"As a result of these actions. . . data was withheld from the EPA grantee for 8 months."

"From September 2011 through May 22, 2012, the EPA grantee made eight data requests to the OW employee."

"According to the grantee's 2013 annual progress report, the delay in obtaining the data from the agency was one of the factors that necessitated extending the grant's planned completion date a year."

- **OW Response:** OW nonconcurrs with the finding because only three months elapsed between when the OW employee received a February 17, 2012, email from the grantee and May 23, 2012, when OW made the data available to the grantee. During those three

months, the EPA made a decision not to finalize the draft report, and evaluated the data to determine how to format it for release to the public. Furthermore, the timing of the release of the EPA's data did not have any impact on launching or delaying the grantee's research effort. The ORD project officer "believed the OW study data being requested was not fundamental for the EPA grantee to complete the grant research." OW believes that:

- The OW employee received the first data request email on February 17, 2012.
- The OW employee posted the data on the EPA's website on May 23, 2012.
- Three months elapsed from the grantee's first request until the data were posted on the OW website.

OIG Response 5: The data was accepted in 2008 and remained unchanged. The OW staff indicated that they did not know what to do with the data because they failed to assess the quality of the pre-1995 comparison data before issuing the contract. In September 2011, the OW employee knew the grantee had requested fish and selenium data (published and unpublished) from all sources when he called the ORD project officer to complain about the issuance of the grant. Consequently, in 2011 the OW employee knew of a user of the data that would have provided some benefit for the \$610,000 investment. However, the OW employee and his supervisor continued to hold onto the data even after acknowledging receipt of several emails from the grantee in February 2012.

2. OIG Finding: The OIG found that the OW employee should have released the data to the grantee when he stated in an email that he intended to file a FOIA request to get the requested data.

- **Statements** on page 7 and all other statements in the report related to FOIA request.

"In that email [i.e., an email dated April 12, 2012, from the grantee to the OW employee] the grantee specifically asked for access to the OW fish-contamination data under the Freedom of Information Act (FOIA). On the same day, instead of providing the requested data, the OW employee provided information on how to submit a formal request under FOIA."

- **OW Response:** OW nonconcurrs with the finding because the OW employee followed the EPA's FOIA policy. According to the EPA's FOIA Intranet website <http://oamintra.epa.gov/?q=node/238>, all FOIA requests to the EPA are received by and filed with the Agency FOIA Officer. "No individual is allowed to respond to a FOIA request unless specifically authorized to do so."

OIG Response 6: Given that the data should have been provided to the grantee when requested in conformity with the EPA *Scientific Integrity Policy* that requires a scientist and his/her manager to provide timely responses to requests for information by the media, the public and the scientific community, the grantee should not have to resort to the FOIA process.

3. OIG Finding: The OIG found that OW delayed public access to scientific data and reports, potentially endangering public health.

- **Statements** on page 9 and all other statements related to not releasing a report.

“These study reports remain unpublished by the OW and could potentially impact the health of the public who eat freshwater fish.”

“In addition, although the OW had the data since 2008, OW did not post the data on the EPA’s website until 2012. This 4-year delay in making the data available to the general public prevented certain states from having the opportunity to determine whether they needed to revise their advisories on fish the public could safely eat.”

- **OW Response:** OW nonconcurrs with the finding because release was not “delayed;” there is no basis for asserting that the timing of the release was “potentially endangering public health;” and the raw data were posted for public use. Releasing final data is a very time-consuming process since it requires QA/QC review and adherence to the EPA peer review policy guidance. Completing these activities can take months to years; in this case from 2006 - 2008. Only after that are the data available for analysis and interpretation, which can take additional years prior to release; in this case, from 2008 to 2012. These time periods are not atypical for fish tissue sampling and analysis, areas in which we have extensive experience.

The intent of the study was to determine whether outdated methods and data were used to establish pre-1995 advisories, and if so, assess the impact of applying new data and the EPA guidance. Unfortunately, documentation of the methods and data used prior to 1995 were not available, preventing OW from meeting the objectives of the study and writing a report. We determined not to publish the draft report because the conclusions could not be supported by the data we had collected. Instead, OW posted the data for public use. The data can serve as an excellent baseline for future studies.

OIG Response 7: The OIG did not use the phrase “potentially endangering public health” anywhere in its report. Rather, the OIG stated that the study reports “. . . could potentially impact the health of the public who eat freshwater fish.” The OW posted the raw data for public use in 2012, which is 4 years after the OW employee obtained study reports on mercury and selenium from an EPA contractor in July 2008. The data revealed that some sites may need stricter fish advisories due to the study findings. The study reported that 35 of the 95 sampled sites (37 percent) need a more restrictive fish advisory. The OW does not explain how the reports could have been accepted by OW and peer reviewed, and yet contain unsupported findings.

4. **OIG Finding:** The OIG found that despite having a draft report from the contractor, OW has not publicly released this report.

- **Statements** on page 10 and all other statements related to the contractor’s draft report.

“When applying the EPA methodologies found in the guidance publication to mercury and selenium study data, the EPA contractor concluded that some of the current fish-consumption advisories for mercury and selenium could be either more restrictive or less restrictive. With regard to selenium contamination, the EPA contractor’s October 2008 manuscript submitted to the OW employee identified two bodies of water in the United States with selenium levels in fish above 1.5 micrograms per gram, which is high enough to limit fish meals to 16 or fewer per month, according to the publication. At the time, these locations had advisories about mercury, but not about selenium.”

" Regarding mercury contamination of the 95 sites reviewed in the report, the EPA contractor’s July 2008 draft report stated that:

- The same fish-consumption advisory could be issued for 41 U.S. sites.
- A more restrictive fish-consumption advisory could be issued for 35 U.S. sites.
- A less restrictive fish-consumption advisory could be issued for 19 U.S. sites."

“The EPA contractor suggested states might want to periodically re-evaluate their fish-consumption advisories issued to the public, especially those advisories issued for sites where the contractor’s study concluded more fish-consumption restrictions might be appropriate. However, the EPA has not publically released this report.”

- **OW Response:** OW nonconcurrs with the finding because OW’s reasons for not finalizing the draft report are not included in the OIG report. We determined not to publish the draft report because the conclusions could not be supported by the data we had collected. However, all of the data from the study were released and made publicly available on May 23, 2012. State fish advisories are based on each state’s assumptions which may or may not be consistent with the EPA’s default assumptions. Therefore, the contractor’s conclusions may or may not be correct and OW exercised prudent judgment in deciding not to issue a report on a study that did not meet its objectives and with conclusions that could not be supported.

OIG Response 8: The OW makes a general statement that the contractor report findings cannot be supported by the data collected. However, the OW does not provide any specific evidence that the report is not reliable. Specifically, no statements are made on the weaknesses of the preceding contractor statements regarding fish advisories. The report was peer reviewed, which resulted in changes that the contractor made and the OW accepted. During the review, the OW staff stated they did not know what to do with the data and contractor reports, not that the data and reports were unreliable.

5. OIG Finding: The IG states the cost of the OW project to be \$610,000.

- **Statements** on pages 6, 9, and 11 and all other statements in the report related to the cost of the project.

“Under an EPA contract, the agency paid over \$610,000 to a contractor. . .”

“To date, the OW has yet to publish or publicly release any of the draft study reports. . . , despite the EPA investing over \$600,000 in this research.”

“Further, the EPA spent over \$600,000 in government funds to conduct a study for which the OW has yet to publish. . .”

- **OW Response:** OW nonconcurrs with the finding because the OIG presents the cost with no context and implies that because a report was not published, the funds were not well-spent. Most of the funding invested in the study was spent on catching, processing and analyzing the fish for mercury and selenium. The cost is typical for the number of samples collected. Although OW did not produce a final report because the conclusions in the contractor’s draft report could not be supported by the data we had collected, all the raw data are posted for public use. Data and information related to the pre-1995 advisories were not available, thus making the objectives of the study unachievable.

OIG Response 9: The report does provide context on this issue. The OW failed to determine the utility of the pre-1995 data before issuing the contract. The contractor reports were peer reviewed, changed based on peer review comments, and accepted by the OW. However, the OW posted the information with no report on the strengths or limitations of the data, including an explanation of why the peer review process was unreliable. Consequently, the OW posted the data but provided potential users no information on the quality of the data.

6. OIG Finding: The IG found that an OW employee and an immediate supervisor did not respond in a timely manner to an EPA grantee’s repeated requests for fish-contamination data.

- **Statements on pages 8, 11 and all other statements in the report related timely release of data.**

"The OW employee’s supervisor indicated being aware that the EPA has a *Scientific Integrity Policy*, but stated that while the policy requires “timely” dissemination of information, the policy does not indicate specific timeframes. Therefore, despite numerous and repeated requests made by the EPA grantee, the supervisor believed that their release of the data was timely."

“The OW employee and the immediate supervisor lacked awareness or understanding of the requirements found in the EPA *Scientific Integrity Policy*, and ultimately demonstrated actions that do not adhere to the policy.”

- **OW Response:** OW nonconcurrs with the finding because the timing of the release of data was appropriate in this situation. Only three months elapsed between when the EPA grantee first requested the data and when it was posted on the website for public use. During those three months, the EPA made a decision not to finalize the draft report, and evaluated the data to determine how to format it for release to the public.

The *Principles of Scientific Integrity* and a March 2009 Presidential memorandum were the documents governing scientific integrity during the study period. The OIG summarizes the requirements of those documents on pages 2 and 3 of its report; neither document addresses timeliness. The *Science Integrity Policy*, which is now the applicable policy document, requires timely responses to requests for information, but it does not specifically indicate what constitutes “timeliness.” What constitutes timeliness in one situation may not be timely in another.

OIG Response 10: We addressed the OW position on timeliness in OIG Responses 2, 3 and 4.

OIG Recommendation

The OIG recommends that the Assistant Administrator for Water develop standard operating procedures that detail how staff are to comply with the EPA *Scientific Integrity Policy* requirement to provide timely responses to requests for information by the media, the public and the scientific community.

OW Response

OW believes that we responded timely to the requests from the grantee for access to data. OW also issued all the data from the study to the public in a timely manner. In addition, all OW employees took mandatory training in the latter part of 2013 on the *Scientific Integrity Policy*. We believe this action made our employees aware of the requirements regarding timely release of data.

However, OW agrees with the need for guidance on “timely” release of information, as the Policy lacks a definition for “timely.” Thus, OW believes that a definition needs to be developed that is consistent Agency-wide. Dr. Francesca Grifo, the Agency’s Scientific Integrity Official, supports the need for a consistent Agency-wide approach to determining timeliness. In response to a February 22, 2013, memorandum from OSTP, the EPA has submitted a draft plan for increasing access to the results of federally-funded scientific research which would include data sets such as the one in question. Comments are expected back from OSTP in early March. Dr. Grifo will then take steps to work with the OW Deputy Scientific Integrity Policy Official and other members of the Agency’s Scientific Integrity Committee to begin to develop Agency-wide guidance.

OIG Response 11: Please see OIG Response 3 regarding the recommendation.

ORD Response to Draft Report

(January 30, 2014)

MEMORANDUM

SUBJECT: Response to the Office of Inspector General Draft Report, *EPA Employees Did Not Act Consistent with Agency Policy in Assisting an EPA Grantee*, dated December 19, 2013

FROM: Lek G. Kadeli, Acting Assistant Administrator

TO: Arthur A. Elkins, Jr., Inspector General
Office of Inspector General

Thank you for the opportunity to review and comment on the OIG's draft report, *EPA Employees Did Not Act Consistent With Agency Policy in Assisting an EPA Grantee*, (Project No. OPE-FY12-0020).

The Office of Research and Development (ORD) appreciates the analysis the OIG staff provided regarding their expectations for "customer service and to respond to requests and concerns." We believe the ORD/NCER project officers responded appropriately to grantee requests. ORD takes customer service seriously.

Provided in the table below, is ORD's response to the OIG's recommendation.

Rec. No.	Subject	Corrective Action	Estimated Completion Date
2	Develop standard operating procedures to ensure that ORD staff that serve as project officers on grants are adhering to their responsibilities under the EPA's <i>Assistance Administration Manual</i> .	ORD will continue providing standard operating procedures and guidance to NCER project officers via the <i>NCER Extramural Management Policies and Procedures Library</i> . Additionally, in 2013, ORD released the <i>NCER Operations Manual</i> , <i>NCER Project Officer's Manual</i> , and <i>NCER Standard Operating Procedures and Guidance for Annual Progress Report Review and Baseline Monitoring Reports</i> , each of which provides guidance and standard operating procedures to ensure that ORD staff that serve as project officers on grants are adhering to their responsibilities under the EPA's <i>Assistance Administration Manual</i> .	Completed

OIG Response 12: The agency's *Assistance Administration Manual* requires project officers to provide customer service and respond to requests or concerns by recipients of EPA assistance agreements. Our draft report demonstrates that the two ORD project officers responsible for monitoring the grant did not elevate to senior ORD officials the OW denial of data to the ORD grantee. That would have allowed senior ORD officials the opportunity to resolve the issue in accordance with the agency's *Assistance Administration Manual*.

In its response, the ORD lists additional standard operating procedures and guidance released late in 2013 that represent standard operating procedures to ensure that ORD staff that serve as project officers on grants are adhering to their responsibilities under the EPA's *Assistance Administration Manual*. Specifically, the *NCER Standard Operating Procedures and Guidance for Annual Progress Report Review and Baseline Monitoring Reports* (dated November 2013) covers project officer responsibilities to discuss any difficulties encountered or that might be encountered in carrying out the project, as well as remedial actions that have or might be taken. The *NCER Operations Manual* (dated September 2013) provides appropriate guidance to assist awardees during post-award management.

Our analysis of these new standard operating procedures and guidance documents revealed them to be more descriptive of project officers' responsibilities in the post-award monitoring phase, which was when the EPA grantee was having data acquisition problems. However, our analysis did not reveal procedures for the elevation of outstanding issues to upper level ORD management for matters that cannot be resolved at the project officer level. During our March 6, 2014, meeting to discuss agency comments on the draft report, the ORD agreed to make revisions to guidance released late in 2013. On March 12, 2014, the ORD provided the OIG with its revised *NCER Operational Manual* and *Project Officer Manual* that included language to elevate conversations to the next supervisory level in order to manage a situation for which no guidance is available for common issues that derail research progress. The OIG has determined the corrective actions taken by the ORD to be sufficient to meet the intent of our recommendation. Therefore, recommendation 2 is resolved with all agreed-to actions completed.

Should you or your staff have any questions related to EPA's Office of Research and Development's responsibilities for recommendation 2, please contact Deborah Heckman at (202) 564-7274.

cc: Ramona Trovato
Bob Kavlock
Jim Johnson

Distribution

Office of the Administrator
Assistant Administrator for Research and Development
Assistant Administrator for Water
Scientific Integrity Official, Office of Research and Development
Agency Follow-Up Official (the CFO)
Agency Follow-Up Coordinator
General Counsel
Associate Administrator for Congressional and Intergovernmental Relations
Associate Administrator for External Affairs and Environmental Education
Deputy Assistant Administrator for Science, Office of Research and Development
Associate Assistant Administrator, Office of Research and Development
Principal Deputy Assistant Administrator for Water
Director, National Center for Environmental Research, Office of Research and Development
Director, Office of Science and Technology, Office of Water
Director, Standards and Health Protection Division, Office of Water
Audit Follow-Up Coordinator, Office of Research and Development
Audit Follow-Up Coordinator, Office of Water