



Office of Inspector General

Audit Report

EPA's Competitive Practices for Assistance Awards

Report No. 2001-P-00008

May 21, 2001

**Inspector General Division
Conducting the Audit:**

**Mid-Atlantic Audit Division
Philadelphia, PA**

EPA Offices Involved:

Administrator

**Administration and Resources
Management**

Air and Radiation

**Enforcement and Compliance
Assurance**

International Activities

**Prevention, Pesticides, and
Toxic Substances**

Research and Development

**Solid Waste and Emergency
Response**

Water



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OFFICE OF INSPECTOR GENERAL
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May 21, 2001

MEMORANDUM

SUBJECT: Final Report of EPA's Competitive Practices for Assistance Awards
Report Number 2001-P-00008

FROM: Lisa White
Acting Team Leader
Mid-Atlantic Division (3AI00)

TO: David J. O'Connor, Acting Assistant Administrator
for Administration and Resources Management (3101)

Attached is our final audit report on the United States Environmental Protection Agency's (EPA's) Competitive Practices for Assistance Awards. The objectives of the audit were to determine whether EPA promotes competition when awarding assistance agreements, and provides adequate justifications when not competing assistance agreements.

This audit report contains issues that describe conditions the Office of Inspector General (OIG) has identified and corrective actions the OIG recommends. This audit report represents the opinion of the OIG. Final determinations on matters in this report will be made by EPA managers in accordance with established EPA audit resolution procedures. Accordingly, the issues contained in this report do not necessarily represent the final EPA position, and are not binding upon EPA in any enforcement proceeding brought by EPA or the Department of Justice.

ACTION REQUIRED

In accordance with EPA Order 2750, you are requested to provide a written response to the audit report within 90 days of the date of this report. We have no objections to the further release of this report to the public. If you or your staff have questions, please contact me or Karen Wodarczyk at (215) 814-5800. For your convenience, this report will be available at <http://www.epa.gov/oigearth/eroom.htm>.

Executive Summary

Objectives

The objectives were to determine whether the Environmental Protection Agency (EPA) promotes competition when awarding assistance agreements, and provides adequate justifications when not competing assistance agreements.

Competition is essential to ensure that the government obtains the most qualified

Results in Brief

EPA does not have a policy that requires program officials to award discretionary assistance funding competitively. As a result, EPA does little to promote competition when awarding assistance agreements. Also, EPA does not provide adequate justifications when awarding assistance agreements noncompetitively. Instead, EPA often awards noncompetitive assistance agreements to recipients based on the unsupported belief that those recipients were the only entities capable of performing the work. EPA indicated requiring competition would conflict with the intent of federal law that only encourages competition. Without competition, EPA cannot ensure:

- ◆ the highest environmental priorities are funded,
- ◆ the best projects are funded at the least cost,
- ◆ the perception of preferential treatment in EPA's assistance award procedures is eliminated, and
- ◆ all potential applicants have the ability to apply for EPA assistance.

Also, EPA's assistance information is inaccurate in two widely-used sources — the *Catalog of Federal Domestic Assistance* and EPA's Grants Information Control System. These inaccuracies occurred because EPA officials do not place

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adequate emphasis on the maintenance of reliable assistance program data. As a result, potential assistance recipients were misinformed or unaware of program funding availability and priorities, and decisions by EPA and external users may have been compromised.

Recommendations

We recommended that the Assistant Administrator for the Office of Administration and Resources Management (OARM): (1) issue a policy stating that program offices award their assistance agreements on a competitive basis to the maximum extent practicable; (2) ensure there are sufficient written justifications to support noncompetitive awards; and (3) ensure annual funding priorities are established and advertised for each assistance program. We also made recommendations related to improving the accuracy of EPA's assistance program information.

**Agency
Response and
OIG Comment**

OARM agreed that the Agency needs to do a much better job in promoting competition, and indicated that it will prepare a policy requiring competition of assistance agreement awards. OARM stated it will develop an EPA Order that will list those assistance programs for which competition is inappropriate and, for the remaining programs, will require competition unless program offices provide a credible written justification for a non-competitive award. OARM also agreed that better justifications are needed for noncompetitive assistance agreements and will address that issue in the new EPA Order.

Regarding the need to ensure annual funding priorities are established and advertised, OARM believes the Catalog of Federal Domestic Assistance serves this purpose. However, we do not believe it sufficiently addresses funding priorities, and greater emphasis needs to be placed on including funding priorities in the Catalog.

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Chapter 1

Introduction

Purpose

The purpose of this audit was to improve the integrity of the Environmental Protection Agency's (EPA's) award process for assistance agreements. The objectives were to determine whether EPA:

- (5) Promotes competition when awarding assistance agreements.
- (6) Provides adequate justifications when not competing assistance agreements.

Background

An assistance agreement is the legal instrument EPA uses to transfer funds for a public purpose in the form of a grant or cooperative agreement.

Contracts should be used whenever the principal purpose of the award is to acquire goods or services for the Government's own use.

The OIG recognizes assistance agreements as a priority because they are the primary vehicle through which EPA delivers

During fiscal year (FY) 1999, EPA awarded more than \$4 billion in assistance agreements to state and local governments, tribes, universities, nonprofit recipients, and other entities. These assistance agreements accounted for over half the Agency's \$7.5 billion budget. These awards are administered under EPA's 47 assistance programs listed in the FY99 *Catalog of Federal Domestic Assistance*.

EPA's Catalog of Federal Domestic Assistance programs (CFDA programs) are comprised of 10 continuing environmental and 37 discretionary assistance programs:

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- ◆ Continuing environmental assistance programs make awards to entities in accordance with formulas prescribed by law or an agency regulation, or in accordance with statutory guidelines. Because EPA has no discretion over the selection of the recipients, we excluded the 10 continuing environmental assistance programs, totaling about \$2.7 billion in FY99, from our audit.
- ◆ Discretionary programs have the legislative authority to independently determine the recipients and funding levels of financial assistance awards. We determined that the remaining \$1.3 billion of the \$4 billion in funding – approximately \$900 million awarded to state and local governments and tribes and \$400 million awarded to other recipients – represented discretionary funding.

The following chart provides a breakdown by organization of EPA's \$1.3 billion of discretionary funding awarded in FY99.

FY99 Discretionary Awards by EPA Organization			
Organizations that manage the 37 programs	CFDA Programs	Total Awards	Total Funds Awarded
Air and Radiation	2	61	\$7,188,720
Water	7	747	85,342,620
Research and Development	1	545	191,860,268
Administration and Resources Management	1	351	53,517,004
Administrator	6	289	23,975,652
Enforcement and Compliance Assurance	5	311	29,910,150
International Activities	1	1	15,000
Prevention, Pesticides, and Toxic Substances	4	146	16,525,609
Solid Waste and Emergency Response	8	754	233,792,705
Non-Program Specific *	66.606	1	1,749
	66.607	1	513
Totals	37	5,467	1,298,546,846
* 66.606 - Surveys, Studies, Investigations and Special Purpose Grants 66.607 - Training			

Because EPA does not have an Agency-wide competition policy, its assistance award procedures vary from one program office to the next. Of the 37 discretionary CFDA programs, EPA officials award assistance agreements:

- ▶ noncompetitively under 19 CFDA programs,
- ▶ competitively under 14 CFDA programs, and
- ▶ both noncompetitively and competitively under the remaining 4 CFDA programs.

When a program official awards an assistance agreement noncompetitively, a justification should be included in the Decision Memorandum. The Decision Memorandum is forwarded by the program office to the Grants Administration Division and contains the program office's recommendation to fund an assistance proposal.

Chapter 2

EPA Needs to Improve the Integrity of its Assistance Award Procedures

EPA does not have a policy that requires program officials to award discretionary assistance funding competitively. As a result, EPA does little to promote competition when awarding assistance agreements. Also, EPA does not provide adequate justifications when awarding assistance agreements noncompetitively. Instead, EPA often awards noncompetitive assistance agreements to recipients based on the unsupported belief that those recipients were the only entities capable of performing the work. EPA indicated requiring competition would conflict with the intent of the *Federal Grant and Cooperative Agreement Act of 1977*, because the Act only encourages competition. Without competition, EPA cannot ensure it is funding the best products based on merit and cost-effectiveness, thereby achieving program objectives and accomplishing its environmental mission.

Guidance on Competition

The *Federal Grant and Cooperative Agreement Act of 1977* states that federal agencies should encourage competition when appropriate in the award of assistance agreements. In 1979, the Office of Management and Budget (OMB) organized an interagency study group to examine competition in federal assistance programs. The group identified three basic elements that should exist to ensure effective competition in assistance award processes. These elements, listed in OMB's report entitled *Managing Federal Assistance in the 1980s*, are as follows:

- ◆ **Widespread solicitation** of eligible applicants and disclosure of essential application and program information in written solicitations;

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- ◆ **Independent application reviews** that consistently apply written program evaluation criteria; and
- ◆ **Written justifications** for award decisions that deviate from recommendations made by application reviewers.

Fact Sheet Number 9: Competition for Assistance Agreements was issued by EPA's Grants Administration Division in December 1995 and later revised in May 2000. The purpose of the Fact Sheet is to encourage fair and open competition in the award of assistance agreements by indicating that program leaders should: (1) emphasize planning; (2) widely publicize funding availability; (3) provide adequate justifications for noncompetitive awards; and (4) periodically evaluate competition practices, particularly repetitive, noncompetitive awards to the same organizations.

Best Practices

Several other federal agencies, including the Departments of Health and Human Services and Commerce, have prepared policies that embrace competition when awarding assistance agreements. Some key requirements of their competition policies include:

- ◆ **Widespread solicitation for assistance applications, including selection criteria to ensure awards are based on merit.** The solicitation of applicants for program assistance is accomplished through an announcement advertised in the *Federal Register* or other appropriate publications.
- ◆ **Independent internal and external review panels to ensure proposals are evaluated without bias.** Internal review panels include agency personnel who are not directly linked to the advertised project. External review panels might include industry experts, university professors, and other field-related professionals. Both review panels score and rank the proposals, and provide their results to appropriate agency officials to use when selecting the recipient.

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The scores and rankings may not be adjusted to reflect the opinions of people not on the review panels.

- ◆ **Program officials may not specifically solicit applications from any organization.** If unsolicited applications for assistance are received, they are competed to afford funding opportunities to all applicants. Unsolicited proposals are competed under the program announcement that it comes closest to addressing. If outside the scope of a competitive program, the proposal may still be awarded. However, the approving official must provide written documentation showing how the application is so outstanding that it enhances the objectives of the agency. The authority used to fund unsolicited proposals noncompetitively is used sparingly and only in cases of unquestionable merit.

EPA Practices

EPA's Fact Sheet Number 9 does not include requirements similar to those of the Departments of Health and Human Services and Commerce. For example, the Fact Sheet does not require competition, including widespread solicitation, or advertising selection criteria. Moreover, it does not mandate the use of independent internal and external review panels, or prohibit informal solicitation of applications by program officials. As a result, the Fact Sheet does little to promote the use of competition in the award of assistance agreements.

We interviewed representatives from all of EPA's headquarters program offices that administer EPA's 37 discretionary programs to determine whether they award their assistance agreements competitively. We found that more than half of the program offices award all or a portion of their discretionary funds noncompetitively.

Discretionary funds,
*also known as
categorical or project
grants, permit the federal
government to exercise
judgment in selecting the
recipient and determining*

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Some of the headquarters program officials indicated they have limited discretion when the award recipients are: (a) state and local governments, (b) tribes, or (c) designated by Congress (earmarked). These officials believe that limited discretion makes it impractical to award assistance agreements competitively.

In FY99, EPA awarded approximately \$4 billion in assistance funds. About \$3.6 billion of that amount was awarded to state and local governments and tribes, and many EPA officials believe these awards could not have been competed. We agree

Continuing environmental program awards are made to entities in accordance with formulas prescribed by law or an agency

that about \$2.7 billion of that amount could not have been competed because it was used for continuing environmental programs. However, the remaining \$900 million was awarded to state and local governments and tribes under EPA's discretionary programs.

Because discretionary funds are for specific projects and not those of a continuing nature, we believe a significant portion of the \$900 million could have been competed between various state and local governments and tribes.

The remaining \$400 million represented discretionary funds awarded to other recipients, including nonprofit organizations and universities. EPA agrees that awards made to these recipient types can be competed. However, EPA estimates that only about half – \$200 million – was actually competed.

Some EPA program officials indicated they compete funds awarded to state and local governments and tribes when such awards are made under discretionary assistance programs, and believe competition is necessary. For example, in FY99, the Brownfields Pilots Cooperative Agreement Program competed \$48 million awarded to state and local governments and tribes.

Noncompetitive Awards Without Adequate Justifications

When EPA program offices awarded assistance agreements noncompetitively, they often did not adequately support why competition was not practiced. A commonly used reason for not competing was “uniquely qualified.” This was used when (1) the applicant was considered the best or only entity capable of performing the work, or (2) an unsolicited proposal was received and determined to be unique. Of the 49 assistance agreements in our sample, 20 were awarded noncompetitively, and the “uniquely qualified” justification was used in 15 of those instances. Uniquely qualified suggests that the recipient possesses unique capabilities that make it the only organization qualified to do the work. We interviewed the project officers to determine how the 15 grantees were “uniquely qualified.” The following are the explanations provided by the project officers.

- ◆ The award was based on an **unsolicited proposal** that was unique.
- ◆ Past experience with the grantee showed it was **highly qualified**.
- ◆ The grantee was the **only** entity capable of performing the work.

These explanations do not satisfy the definition of “uniquely qualified.” They are based solely on the project officers’ beliefs, without any documented proof that no other organizations were able to perform the desired work. An undocumented belief that an organization possesses unique

qualifications does not justify making a noncompetitive award. There may be other qualified applicants unknown to the program officials who could perform the project more effectively for less money. An adequate justification for a noncompetitive award could

“A market search should include, at a minimum, a pre-award notice in the Federal Register stating that the Agency expects to make a noncompetitive award and inviting other interested and qualified parties to inquire.”

- Department of Commerce Audit Report, March 1999

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include a documented market search to verify or confirm that there is only one source.

No Widespread Solicitation

Widespread solicitation is an effective means to help ensure that EPA receives proposals from a variety of eligible and highly qualified applicants who otherwise may not have known about EPA's funding availability. However, EPA

"Government employees will act impartially and not give preferential treatment to any private organization or individual."

- Executive Order 12674, Principles of Ethical

program officials indicated that widespread solicitation was not necessary because "word gets out" to eligible applicants. Program officials explained that they attend and participate in numerous meetings, conferences, workgroups, and training seminars where environmental issues are discussed. As a result,

proposals for assistance awards are often sent directly to these program officials. EPA then funds many of the proposals using "uniquely qualified" as the justification for the noncompetitive awards.

For example, one proposal was submitted and awarded as a result of the project officer's participation in a workgroup, where he discussed EPA's training needs. The justification for this noncompetitive award indicated that the applicant was "uniquely qualified." However, no documentation existed to support the unique qualifications of the applicant or the project. The project officer acknowledged that other organizations could have conducted the training seminar proposed by the applicant, and therefore the award could have been competed. Another headquarters program office used the same method of awarding assistance agreements, resulting in about \$21.5 million of noncompetitive awards in FY99.

Using "uniquely qualified" based on an unsolicited proposal as a justification for noncompetitive awards appears to be "boilerplate" language in the Decision Memorandum. We believe this justification is often used by program officials to

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circumvent a competitive award process and its primary components, such as widespread solicitations and panel reviews.

Without widespread solicitation, EPA is not only limiting potential applicants, but is also creating the appearance of preferential treatment. Furthermore, during our discussions with EPA program officials, we found implications of preferential treatment in the selection of grantees.

In some cases, EPA selected a grantee without widespread solicitation based on its previous history with the organization or knowledge about the grantee. For example, one noncompetitive grant for \$200,000 was awarded based upon the project officer's experience with the recipient.

Although this project officer told us that others could have performed the work, he asserted that competing the grant would have been a "waste of resources" since he "knew" that the grantee selected would do a good job. While we agree that the applicant certainly could have done a good job, another applicant may have been able to do a better job for the same cost or the same job for less than \$200,000.

"It is very hard to change the culture that exists at EPA. Employees develop a rapport with certain organizations and because of these relationships, the same organizations are selected year after year."

Another noncompetitive award in our sample was based on a referral made from an EPA employee to the project officer. The project officer contacted the applicant and requested that he submit a proposal, which was then funded by EPA. Because the grantee was preselected, no other entities were afforded the opportunity to submit a proposal for this unadvertised award.

**Funding
Priorities
Not Identified**

We believe competing assistance agreements would also provide assurance that each program's annual funding priorities are addressed. *OMB Circular A-110, Uniform Administrative Requirements for Grants and Agreements*

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with Institutions of Higher Education, Hospitals, and other Non-Profit Organizations, requires agencies to provide the public with advance notice of their intended funding priorities for discretionary assistance programs unless such priorities are established by federal statute. *OMB Circular A-102, Grants and Cooperative Agreements with State and Local Governments*, requires the same as A-110 concerning funding priorities, but further requires that advance notices be publicized in the *Federal Register* or by other appropriate means.

When we interviewed representatives from the offices of four Assistant Administrators about the establishment and advertisement of their annual funding priorities, we learned that only one of these four offices could show us its funding priorities for FY99. The remaining three could not provide information to support that annual funding priorities were established or advertised.

EPA would better meet its environmental goals and program objectives by establishing and advertising funding priorities and then conducting

Annual funding priorities should be established and advertised for each program to ensure that funds are being awarded effectively and efficiently. Without first having priorities established, there is a greater chance that awards do not complement program objectives.

Summary

EPA should recognize that a competitive award process will enhance the integrity of its assistance award procedures by helping to ensure:

- (1) the highest environmental priorities are funded,
- (2) the best projects are funded at the least cost,
- (3) the perception of preferential treatment in EPA's assistance award procedures is eliminated, and

- (4) all potential applicants have the ability to apply for EPA assistance.

Recommendations

We recommend that the Assistant Administrator for the Office of Administration and Resources Management:

- 2-1 Issue a policy stating that program offices award their assistance agreements on a competitive basis to the maximum extent practicable. EPA should consider adopting, as a **Best Practice**, competitive award procedures similar to those of the Departments of Health and Human Services and Commerce.
- 2-2 Take appropriate steps to ensure the written justifications used to support noncompetitive awards provide assurances that the awards are made based on merit and cost-effectiveness.
- 2-3 Ensure annual funding priorities are established and advertised for each assistance program.

Agency Response

The Office of Administration and Resources Management (OARM) agrees with Recommendation 2-1 and indicates that a formal competition policy is necessary. Further, they agree that the Agency needs to do a much better job of promoting competition in assistance agreements. As a result, OARM is developing an EPA Order that will replace the current Agency fact sheet on competition. The Order will list those assistance programs for which competition is inappropriate. For the remaining programs, the Order will require competition, unless program offices provide a credible written justification for a noncompetitive award based on stated criteria. The Order will also establish procedures to ensure the level of competition required is commensurate with the amount of funds available for award.

With respect to Recommendation 2-2, OARM agrees that better justifications are needed for noncompetitive assistance agreements. The new EPA Order being developed on

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competition will provide requirements in this area for program offices.

Regarding Recommendation 2-3, OARM believes that annual funding priorities are currently being established by each program and advertised through the use of the Catalog of Federal Domestic Assistance. However, the Grants Administration Division will provide more oversight of program offices when submitting Catalog changes, deletions, or additions to OMB.

OIG Comment

OARM agreed to prepare a policy requiring competition and include requirements for noncompetitive award justifications. However, the response did not provide specifics on:

- ! The program offices' requirements regarding "credible justifications" for noncompetitive awards.
- ! The Grants Administration Division's role in ensuring these requirements will be met.
- ! The criteria that will be used to determine the assistance programs for which competition will be inappropriate.
- ! An explanation of how the level of competition will be affected by the amount of funds available for award.

During the exit conference, EPA officials explained that to supplement the EPA Order on competition, detailed guidance will be issued to address the items noted above.

Regarding Recommendation 2-3, OARM believes that the Catalog is the instrument for the program offices to advertise their funding priorities. However, we found that the program offices could not demonstrate they established annual funding priorities or advertised them in the Catalog.

The Catalog consisted of broad program descriptions that did not address the programs' funding priorities. In addition, the

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non-program specific CFDA numbers, such as 66.606 for Surveys, Studies, Investigations and Special Purpose Grants, excluded all program-specific information. Over \$600 million was awarded under this CFDA program number, which had no clearly defined funding priorities. As noted in the report, the Office of Air and Radiation awarded discretionary funds for multiple programs under this non-program specific CFDA number. Since the Office awards almost all of its discretionary funding noncompetitively with no formal advertisement, the public is unaware of potential funding opportunities from this office.

If the Agency maintains that the Catalog is the source for advertising the programs' annual funding priorities, then we recommend that the program offices be made aware of this practice. Further, OARM should ensure that program offices include their program funding priorities in the Catalog. For offices, such as Air and Radiation, which award assistance agreements under non-program specific CFDA numbers, OARM should ensure program-specific CFDA numbers are established in the Catalog and that funding priorities are included.

In response to the final audit report, OARM should submit a corrective action plan, including milestone dates for completion of its actions.

Chapter 3

EPA's Federal Assistance Program Information is Inaccurate

EPA's assistance information is inaccurate in two widely-used sources — the *Catalog of Federal Domestic Assistance* and EPA's Grants Information Control System (GICS). These inaccuracies occurred because EPA officials do not place adequate emphasis on the maintenance of reliable assistance program data. Moreover, the Grants Administration Division does not provide sufficient oversight to the program offices regarding the accuracy of the Catalog of Federal Domestic Assistance program (CFDA program) information. As a result, potential assistance recipients were misinformed or unaware of program funding availability and priorities. Further, EPA management decisions can be compromised when reliance is placed on inaccurate CFDA program information.

Guidance on Assistance Program Information

The Catalog serves the public as the primary reference tool and guide regarding the availability of federal assistance. The Catalog includes such information as program descriptions and available funding amounts for each program. OMB Circular A-89 states that each federal agency will establish administrative procedures to assure the adequacy and timeliness of program information collected and submitted for publication in the Catalog. To accomplish this, the Grants Administration Division sends biannual letters to each headquarters program office requesting they report any CFDA program changes, deletions, or additions. The Grants Administration Division then gathers the information from program offices and forwards it to OMB to be included in the Catalog.

The Catalog of Federal Domestic Assistance is the comprehensive source document for the public on current federal assistance programs.

– OMB Circular A-89, Federal Domestic

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GICS is EPA's management information system for all EPA assistance programs. GICS is used by headquarters and the regions to award, administer, and monitor grants. The Grants Administration Division is responsible for assuring that accurate and dependable information on all the assistance agreements awarded is recorded in GICS. This includes ensuring that every Decision Memorandum recommending an assistance award includes the appropriate CFDA program number. This number is then entered in GICS by the Grants Administration Division. For example, assistance awards for the National Estuary Program should be recorded in GICS with CFDA program number 66.456.

Catalog Information Inaccurate

We found that EPA has provided incomplete and inconsistent CFDA program information in the Catalog. Some program officials believe the Catalog is minimally used and, therefore, have disregarded the importance of the biannual updates for CFDA program information. We disagree that the Catalog is minimally used by the public. In January 2001 alone, the Catalog website was accessed more than one million times. This demonstrates the importance of the Catalog and the widespread use it receives.

The following are examples of inaccurate information included in the Catalog.

- ◆ **Program Annual Funding Priorities** — While some narratives discussed the programs' objectives, only few of the 37 discretionary CFDA programs in the Catalog sufficiently listed funding priorities.
- ◆ **Available Funding Amounts** — While only an estimate early in the year, program offices are given the opportunity to update the amounts biannually. However, we found in most cases that the estimates were not updated. For example, the Solid Waste Management Assistance Program (CFDA 66.808) estimated \$1.6 million in available funding, yet EPA actually awarded \$6.9 million in assistance agreements for this program. Conversely, the Superfund

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Innovative Technology Evaluation Program (CFDA 66.807) estimated \$6 million for assistance agreements for FY99, even though no assistance awards have been made for this program since 1996.

In addition to these deficiencies, there are numerous other EPA assistance programs not appropriately included in the FY99 Catalog. In these examples, EPA has eliminated the opportunity for many potential applicants to receive assistance awards.

- ◆ **Programs Not in Catalog** – EPA program offices awarded over \$51 million in assistance awards in FY99 under 13 CFDA programs not listed in that year’s Catalog.
- ◆ **Multiple Programs Under One Catalog Number** – The Office of Air and Radiation awarded \$21.5 million in discretionary funds for multiple programs under one non-program specific CFDA number rather than multiple program-specific numbers. For example, \$5.6 million of the \$21.5 million awarded was for the Climate Change Initiative. This Initiative was never specifically included in the Catalog as its own CFDA program, or officially advertised as a source for available assistance funds. Instead, the Office selected the recipients noncompetitively and recorded the awards under the non-program specific CFDA 66.606 — Surveys, Studies, Investigations and Special Purpose Grants.

When EPA program officials do not compete their assistance awards using widespread solicitation, as noted in Chapter 2, the Catalog is the only official link between EPA’s assistance programs and the public.

Accurate and complete Catalog information is the first step for informing the public of

We are not implying that the Catalog should be used as the primary means of informing the public of the Agency’s assistance funding availability, program objectives, and priorities. However, we do believe that it is imperative that

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all CFDA program information in the Catalog be as accurate and complete as possible. This will ensure that eligible applicants have a reference tool to inform them of potential funding opportunities.

GICS Information Inaccurate

EPA entered into GICS inaccurate CFDA program numbers for assistance agreement awards. When incorrect CFDA program numbers are used in GICS, CFDA program award totals can be drastically skewed, thereby causing EPA managers who rely on such data to make inappropriate funding and budget decisions. Program managers may also use these inaccurate CFDA program totals from GICS as a basis for estimating future funding availability for their program. Furthermore, compromised decisions could occur when users outside EPA rely on inaccurate GICS information.

GICS reports can be generated based on the CFDA program numbers, and EPA management can learn the total amount of funds awarded under specific CFDA programs in any given fiscal year. However, of the 37 discretionary programs that we reviewed, 22 (or 59%) had CFDA program totals in GICS for FY99 that were inconsistent with what the program officials believed was awarded under their CFDA programs. For example:

- ◆ GICS showed no awards in FY99 under CFDA 66.033 — Ozone Transport Program. However, there was actually \$650,000 in assistance agreements awarded under this program. These awards were inappropriately recorded under CFDA 66.606 — Surveys, Studies, Investigations and Special Purpose Grants.
- ◆ EPA awarded nearly \$1 million in assistance agreements that should have been listed under CFDA 66.930 — U.S.- Mexico Border Grant Program. However, only one award, for \$15,000, was listed in GICS under this CFDA program; the remaining awards were inappropriately recorded in GICS under CFDA 66.606.

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- ◆ In FY99, EPA awarded about \$7 million in assistance awards that should have been listed under CFDA 66.463 — Water Quality Cooperative Agreement Program. Instead, these awards were also inappropriately listed under CFDA 66.606. It was not until we brought this to the attention of the program officials that corrections were made in GICS to ensure all the Water Quality Cooperative Agreement awards were listed under CFDA 66.463.

GICS data is not only used for internal management decisions. Quarterly, EPA generates information from GICS based on CFDA program numbers and submits the data to the U.S. Census Bureau to use for the Federal Assistance Award Data System (FAADS). FAADS is a central collection of selected, computer-based data on federal financial assistance award transactions reported by all federal agencies. FAADS promotes the government's effort to provide access to information on federal assistance activities. The reports are issued to states and Congress, and identify recipients and award amounts by CFDA program number. If CFDA program information is inaccurately entered in GICS, the unreliable data eventually makes its way to Congress, thereby conveying unreliable information about how EPA awards its assistance funds.

Summary

EPA should establish CFDA program descriptions and numbers in the Catalog for all its assistance programs. This information, coupled with effective competition practices, will ensure that EPA has a larger universe from which to select the most qualified grantees and use its assistance funds in the most efficient manner, thereby improving the integrity of its assistance award procedures. Also, EPA should ensure that award data contained in GICS is accurate and reliable so that it reflects the actual totals for awards made under EPA's CFDA programs. We recognize that EPA is replacing GICS with a new data management system. Nonetheless, the same accuracy and reliability is needed for the new system.

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Recommendations

We recommend that the Assistant Administrator for the Office of Administration and Resources Management:

- 3-1 Develop and implement CFDA program guidance and training to help ensure that EPA personnel record correct CFDA program numbers for their assistance awards, and update the Catalog with current program information.
- 3-2 Have data verification procedures in place for GICS or its replacement to ensure data quality and integrity for CFDA program information.

Agency Response

Regarding the findings in Chapter 3, OARM agrees that the Catalog is very useful and is constantly used by the public sector as a reference tool and guide regarding the availability of federal financial assistance. OARM is committed to assisting program offices in developing and updating appropriate information for the Catalog to reflect Agency funding priorities. Additionally, it believes the training and data checks in the development and deployment of the Integrated Grants Management System will provide an appropriate vehicle to ensure CFDA program data quality and integrity.

OIG Comment

Although OARM agreed that the Catalog is used by the public as a reference tool, it did not provide specific corrective action it plans to take regarding the use of inaccurate CFDA program numbers by EPA personnel, and the existence of outdated program information in the Catalog. During the exit conference, OARM indicated that the training in the deployment and development of the Integrated Grants Management System will ensure CFDA program data quality.

Recommendation 3-2 was satisfied by OARM's response that training and data checks for the Integrated Grants Management System will provide an appropriate vehicle to

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ensure CFDA program data quality and integrity. No further response is necessary.

In response to the final audit report, OARM should submit a corrective action plan, including milestone dates for completion of action it plans to take regarding the use of inaccurate CFDA program numbers by EPA personnel, and the existence of outdated program information in the Catalog.

Appendix A

Scope and Methodology

We performed this audit in accordance with the 1994 Government Auditing Standards (revised) issued by the Comptroller General of the United States, as they apply to program audits. This audit included tests of the program records and other auditing procedures we considered necessary. We also conducted this audit according to the guidelines and procedures established in the Office of Inspector General Audit Process Handbook effective April 19, 2000.

We reviewed management controls and procedures specifically related to our objectives. However, we did not review the internal controls associated with the input and processing of information in EPA's Grants Information Control System or any other automated records system. We also reviewed EPA's FY99 Assurance Letter that was prepared to comply with the *Federal Managers' Financial Integrity Act*, and noted no weaknesses that address EPA's competitive practices for assistance agreements.

We reviewed the *Federal Grant and Cooperative Agreement Act of 1977*, OMB circulars, the *Catalog of Federal Domestic Assistance*, and EPA guidance regarding assistance agreements. We obtained the competition policies for the Department of Commerce, the Department of Health and Human Services, the National Science Foundation, and the Department of Labor to identify best practices for competing assistance agreements.

To accomplish our objectives, we interviewed managers from the Grants Administration Division to learn whether EPA's headquarters program officials use competition when awarding assistance agreements, but they were unable to tell us. Therefore, we conducted more than 50 interviews with

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key personnel from 37 headquarters program offices to learn about their award procedures. We also conducted some teleconferences with regional program officials.

In conjunction with these interviews, we selected a random sample of 49 assistance agreements. We reviewed both the Grants Administration Division files and the project files maintained by the program officials. We obtained copies of program decision memoranda and other pertinent award information. The files were reviewed to determine whether competition was used and, if not, whether program officials provided adequate justification.

We completed the preliminary research phase of our audit on September 7, 2000. We later met with officials from EPA's OARM and presented the results of our research. On December 20, 2000, we provided finding outlines with recommendations to OARM for review. Generally, they agreed with our recommendations and initiated some corrective action. We completed our fieldwork on January 31, 2001 and issued the draft report on March 19, 2001. We held an exit conference with OARM on May 3, 2001. OARM's comments and our evaluation are summarized at the end of each chapter, and the complete response is provided in Appendix B.

Prior Audit Coverage

On March 31, 1998, the EPA Office of Inspector General issued an audit report on a nonprofit organization that received EPA funds. The audit disclosed that EPA awarded a noncompetitive cooperative agreement to the grantee without adequate justification. This created the appearance of preferential treatment that compromised the integrity of the program. Another EPA audit report, dated September 30, 1998, also addressed concerns regarding competition. This audit noted that noncompetitive awards often did not include the required justifications.

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Appendix B

Agency Response

April 16, 2001

MEMORANDUM

SUBJECT: Draft Report of EPA's Competitive Practices for Assistance Awards
Report Number 2000-000044

FROM: David J. O'Connor / *signed David J. O'Connor* /
Acting Assistant Administrator (3101)

TO: Carl A. Jannetti
Divisional Inspector General for Audit
Mid-Atlantic Division (3AI00)

This responds to your March 19, 2001 request to the Office of Administration and Resource Management (OARM) for a written response to the findings and recommendations presented in subject audit report.

The following are comments on specific portions of the draft.

Page 2, first bullet. We recommend that the reference to "formula programs" be changed to "continuing environmental grant programs." The paragraph would therefore read:
"Continuing environmental grant programs make awards to entities in accordance with formulas prescribed by law or an agency regulation, or in accordance with statutory guidelines. Because EPA has no discretion over the selection of the recipients, we excluded the 10 continuing environmental grant programs, totaling about \$2.7 billion in FY 99, from our audit."

Page 4, EPA Needs to Improve the Integrity of its Assistance Award Procedures. The first paragraph states that EPA does not provide "adequate justification" when awarding assistance agreements noncompetitively. We agree that credible justifications are necessary when awards are made without competition. The new EPA Order we are developing on competition in assistance agreements will provide requirements in this area for program offices.

Page 12, Recommendation 2-1. The Office of Inspector General (OIG) recommends that the Agency issue a policy requiring program offices to compete assistance agreements "to the maximum extent possible." While OARM agrees that a formal competition policy is necessary, we believe the policy should reflect the competition standards for assistance agreements contained in the Federal Grant and Cooperative Agreement Act (FGCAA), 31 U.S.C. §§ 6301 *et seq.* In the FGCAA, Congress drew a careful distinction, for competition purposes, between contracts and assistance agreements. One of the stated purposes of the FGCAA is to "...maximize competition in making procurement contracts." Conversely, for assistance agreements, agencies are "to encourage competition...." In

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view of this distinction, OARM believes that the OIG's recommended standard – competition to the maximum extent possible- is inconsistent with the nature of assistance agreements.

We agree with the OIG that the Agency needs to do a much better job of promoting competition in assistance agreements. To that end, OARM is developing an EPA Order that will replace the current Agency fact sheet on competition. The Order will list those assistance programs for which competition is inappropriate. For the remaining programs, the Order will require competition unless program offices provide a credible written justification for a non-competitive award based on stated criteria. The Order will also establish procedures for competitive awards. Under those procedures, the level of competition required will be commensurate with the amount of funds available for award.

Page 12, Recommendation 2-2. We agree that better justifications are needed for noncompetitive assistance agreements. The new EPA Order will address this issue.

Page 12, Recommendation 2-3. We believe that annual funding priorities are currently being established by each program and advertised through the use of the Catalog of Federal Domestic Assistance (CFDA). However, the Grants Administration Division (GAD) will provide more oversight of program offices when submitting CFDA changes, deletions or additions to the Office of Management and Budget.

Page 14, Catalog Information Inaccurate. We agree with the OIG that the CFDA is very useful and is constantly used by the public sector (along with other resources, such as the Federal Register, the Commerce Business Daily, the Internet, and trade journals) as a reference tool and guide regarding the availability of Federal Financial Assistance. GAD is committed to assisting program offices in developing and updating appropriate information for the CFDA to reflect Agency funding priorities.

We appreciate the opportunity to comment on the draft report and look forward to discussing our comments with you. We believe our formal, written policy on competition and its implementation will address your major concerns. Moreover, the training and data checks in the development and deployment of the Integrated Grants Management System will provide an appropriate vehicle to ensure CFDA data quality and integrity.

If you have any questions about these comments, please contact Howard Corcoran at (202) 564-1903.

cc: Jane Moore
Lisa White
Marty Monell
John Showman
Sandy Womack-Butler

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Appendix C

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