



U.S. ENVIRONMENTAL PROTECTION AGENCY

OFFICE OF INSPECTOR GENERAL

Cleaning Up Communities

Downriver Community Conference Achieved Results and Expended Funds Under Brownfields Agreement, but Unallowable Costs Were Claimed

Report No. 17-P-0204

May 3, 2017



Report Contributors:

Jean Bloom
Philip Cleveland

Abbreviations

CERCLA	Comprehensive Environmental Response, Compensation, and Liability Act
CFR	Code of Federal Regulations
DCC	Downriver Community Conference
EPA	U.S. Environmental Protection Agency
OIG	Office of Inspector General
U.S.C.	United States Code

Cover photos: At left is a vacant Brownfields site in Trenton, Michigan, as of July 2009; at right, as of November 2016, is the Visitor Center at the International Wildlife Refuge, built on the site. (Photos courtesy of DCC)

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At a Glance

Why We Did This Audit

The Brownfields Revitalization and Environmental Restoration Act of 2001 authorized the awarding of grants to eligible entities for the capitalization of revolving loan funds to assist communities in the remediation of Brownfields sites.

As part of our review of Brownfields grants, we selected Cooperative Agreement BF00E93501 awarded by EPA Region 5 to the Downriver Community Conference (DCC) for audit. DCC is a non-profit organization that is a partnership of 20 communities in Wayne County, Michigan. The objectives of our audit were to determine whether DCC was achieving the environmental results under the agreement, and expending funds in accordance with federal regulations.

This report addresses the following EPA goal or cross-agency strategy:

- *Cleaning up communities and advancing sustainable development.*

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Downriver Community Conference Achieved Results and Expended Funds Under Brownfields Agreement, but Unallowable Costs Were Claimed

What We Found

DCC is achieving the environmental results intended under its Brownfields agreement, but it did not always expend funds in accordance with federal regulations. DCC successfully remediated the three sites selected for review.

By claiming unallowable costs totaling \$26,901, DCC reduced the amount of funds available for Brownfields restorations.

However, of the \$200,000 in costs claimed by DCC between January 11, 2016, and July 27, 2016, we identified \$25,523 in indirect costs that, while allowed by DCC's accounting procedures, were not allowable under law and the terms and conditions of the agreement. Further, after we brought this matter to DCC's attention, it stopped billing the indirect costs, and began charging a portion of its indirect salaries, totaling \$1,378, as direct costs. We believe these costs are indirect expenses and should not be directly charged to the grant.

Recommendations and Recipient's Response

We recommend that the Regional Administrator, EPA Region 5, determine the allowability of the \$25,523 in claimed indirect costs and \$1,378 in claimed direct costs charged by DCC for Cooperative Agreement No. BF00E93501, and recover funds as appropriate. DCC agreed with the findings and recommendations.



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

THE INSPECTOR GENERAL

May 3, 2017

MEMORANDUM

SUBJECT: Downriver Community Conference Achieved Results and Expended Funds Under Brownfields Agreement, but Unallowable Costs Were Claimed
Report No 17-P-0204

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: Robert Kaplan, Acting Regional Administrator
Region 5

This is our report on the subject audit conducted by the Office of Inspector General (OIG) of the U.S. Environmental Protection Agency (EPA). The project number for this audit was OA-FY15-0093. 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 determination on matters in this report will be made by EPA managers in accordance with established audit resolution procedures.

Action Required

In accordance with EPA Manual 2750, you are required to provide a written response to this report within 60 calendar days. You should include planned corrective actions and completion dates for all unresolved recommendations. Your response will be posted on the OIG's public website, along with our memorandum commenting on your response. Your response should be provided as an Adobe PDF file that complies with the accessibility requirements of Section 508 of the Rehabilitation Act of 1973, as amended. The final response should not contain data that you do not want to be released to the public; if your response contains such data, you should identify the data for redaction or removal along with corresponding justification.

We will post this report to our website at www.epa.gov/oig.

cc: Barry Breen, Acting Assistant Administrator, Office of Land and Emergency Management

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Purpose

The objectives of this audit were to determine whether the Downriver Community Conference (DCC) was:

- Achieving the environmental results per Cooperative Agreement No. BF00E93501.
- Expending funds in accordance with federal regulations.

Background

The Brownfields Revitalization and Environmental Restoration Act of 2001 (Title II of Public Law 107-118) authorized the awarding of grants to eligible entities to establish revolving funds for the remediation of Brownfields sites.¹ The act defines a Brownfields site as “real property, the expansion, redevelopment, or reuse of which may be complicated by the presence or potential presence of a hazardous substance, pollutant, or contaminant” (42 U.S.C. § 9601(39)(A)).

DCC is a non-profit organization that is a partnership of 20 member communities working together to identify and act on issues of mutual concern, to improve the lives of its residents and environment in which they live. DCC operates programs in Wayne County, Michigan, and is governed by a Board of Directors, consisting of mayors and supervisors of member communities. An Executive Director heads DCC’s staff.

On September 30, 2009, Region 5 of the U.S. Environmental Protection Agency (EPA) awarded \$2,150,000 under DCC Agreement No. BF00E93501 to operate a Brownfields Revolving Loan Fund program to provide eligible entities, via loans and/or subgrants, funds to conduct cleanup activities at eligible Brownfields sites contaminated with hazardous substances and petroleum compounds.

As of November 29, 2016, six modifications increased the total award amount under the agreement to \$6,400,000. The last modification, issued August 7, 2015, was a no-cost modification that allowed DCC to use EPA funds prior to using program income without a waiver.

Responsible Office

EPA Region 5’s Grants Management Office and the Superfund Division, Community and Land Revitalization Branch, are responsible for awarding the grant and oversight of the agreement with DCC.

¹ The act amended sections of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA).

Scope and Methodology

We conducted this audit from February 2016 to March 2017 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 audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on the audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

To achieve our objectives, we performed the following steps:

- Visited DCC's office and interviewed staff to gain an understanding of their accounting system, internal controls and project management.
- Held meetings with recipient officials to gain a better understanding of the systems and policies of the Brownfields program as administered.
- Selected drawdowns and reviewed supporting documentation to ensure the claimed costs were properly supported and complied with applicable federal laws and regulations, and terms and conditions of the agreement.
- Obtained a listing of the Brownfields projects completed under the agreement, and selected three sites using different funding mechanisms to determine whether the work specified in the agreement was accomplished.
- Held meetings with EPA Region 5 officials to obtain an understanding of how they ensured the desired environmental results were achieved.
- Reviewed quarterly and final reports submitted by DCC to the EPA Region 5 Project Officer.
- Confirmed whether the selected sites achieved the desired environmental results by reading quarterly and final reports, interviewing the EPA Project Officer, and reviewing newspaper articles related to the sites.
- Reviewed single audit information from fiscal years 2011 through 2015 for unresolved audit findings.

Prior Audit Report

The single audit report on DCC for fiscal year 2015, dated March 28, 2016, included a finding to improve monitoring of funds for subrecipients receiving pass-through funds related to the EPA Brownfields program. DCC agreed with the finding and to put processes in place to monitor subrecipients. While

subrecipient monitoring falls outside the scope of our audit, we found that DCC implemented processes for subrecipient monitoring.

Results of Audit

Although DCC is achieving the environmental results intended under Cooperative Agreement No. BF00E93501, it did not always expend funds in accordance with federal regulations. Based on our review, we found that DCC successfully remediated the three sites reviewed in accordance with its agreement. However, of the \$200,000 in costs that DCC claimed between January 11, 2016, and July 27, 2016, we identified \$25,523 in costs that, although allowed by DCC's accounting policies and procedures, were not allowable under the terms and conditions of the agreement and Section 104(k)(4)(B) of CERCLA (42 U.S.C. § 9604(k)(4)(B)).

Environmental Results

The agreement provided DCC with funding to operate a Brownfields Revolving Loan Fund program to provide eligible entities with funds to remediate Brownfields sites to productive use while protecting human health and the environment. Under the agreement, DCC awarded to others a total of \$6,227,341 through subgrants and loans for the cleanup of 14 sites. As of March 2017, 11 of these sites have completed remediation, and the remaining three are in progress, as shown in Table 1:

Table 1: Projects funded under Cooperative Agreement No. BF00E93501

	Project name	Sub-grant amount	Loan amount
Projects completed			
1	Beverly and I-94	\$260,000	
2	Former Quality Inn	200,000	
3	VenTower		\$2,208,535
4	Trenton	1,175,889	
5	Port of Monroe Battlefield	\$375,000	
6	Dearborn City Hall		179,000
7	Willow Run Hanger 2		600,000
8	Melvindale Park	150,000	
9	American Sunroof	100,000	
10	Water Street Development	174,760	
11	Consolidated Lumber	186,418	
Projects in progress			
12	3896 Oakwood Blvd.	16,000	
13	Federal Screw Works		301,739
14	Monroe Pump House		300,000
	Totals	\$2,638,067	\$3,589,274

Source: Office of Inspector General (OIG) analysis of DCC data.

Based on our review of three sites—Former Quality Inn, VenTower and Trenton—DCC achieved the intended results of the agreement, as all three sites were remediated. The status of the sites follows:

- **Former Quality Inn:** The city of Dearborn, Michigan, was awarded funds to remove asbestos from a former Quality Inn site. The city demolished the buildings and prepared the site for a mixed-use redevelopment.
- **VenTower:** The site, located in Monroe, Michigan, was previously a landfill that had various soil contaminant concerns. The soil was removed, and a 100,000-square-foot wind turbine tower manufacturing facility was constructed on the site.
- **Trenton:** The site, located in Trenton, Michigan, was previously an automotive brake and paint plant that had vapor intrusion issues related to chemicals in the soil. DCC’s funds were used for a portion of the cleanup activities (45 of 450 acres); the overall project was a joint effort with the U.S. Department of the Interior, which was responsible for the remainder of the site. The cleanup activities related to shoreline restoration, and resulted in the achievement of final grade for 4 acres of the Wayne County International Wildlife Refuge gateway

Cost Allocations

DCC claimed costs of \$200,000 between January 11, 2016, and July 27, 2016, under its Brownfields agreement. Of this amount, we identified \$25,523 claimed as cost allocations allowed under DCC’s accounting policies and procedures, but not under the terms and conditions of the agreement and Section 104(k)(4)(B) of CERCLA (42 U.S.C. § 9604(k)(4)(B)).

DCC developed a Cost Allocation Plan in December 2015 based on DCC’s interpretation that the Office of Management and Budget’s *Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards* (2 CFR § 200) allowed DCC to claim certain costs previously not claimed.

The Cost Allocation Plan defines an *allocable cost* as “those costs that are incurred for a common benefit of more than one program. These costs are not readily identifiable as benefiting one single program.” The costs are pooled together and allocated out based on goods and/or services received. Examples of costs that are allocated through cost pooling include “salaries, fringes, supplies, rent, maintenance, travel, copier expense, liability insurance, audits and telephones, etc.”

The Cost Allocation Plan identifies five cost pools, of which two—Central Cost and Economic Development—are used by the Brownfield’s program:

- The **Central Cost** pool is used to allocate expenses when all funding sources benefit from the expense and/or are used by the Central, Fiscal and/or Computer Operations Departments. These costs are allocated based on a percentage of agency direct program/fund hours.
- The **Economic Development** cost pool is used to allocate expenses when the economic development grants, which include the Brownfields revolving program, benefit from the expenses of the Economic Development Department. The costs are allocated based on the number of hours charged directly by Economic Development employees. According to DCC officials, prior to the new allocating, the Economic Development direct costs were absorbed by the Economic Development Department and not billed to the EPA.

We found that DCC claimed on its drawdown requests indirect costs totaling \$9,559 under the of Central Cost Allocation, and \$15,964 under the Economic Development Allocation, for a total of \$25,523. Table 2 summarizes the claimed indirect cost allocations:

Table 2: Claimed indirect cost allocations

Draw date	Draw amount	Central Cost Allocation	Economic Development Allocation	Total indirect cost allocation costs
1/11/16	\$18,500	\$1,771	\$6,742	\$8,513
1/13/16	4,000	0	0	0
1/27/16	17,500	0	0	0
2/2/16	56,000	856	5,626	6,482
2/8/16	9,500	0	0	0
2/26/16	12,500	0	0	0
3/2/16	1,500	449	878	1,327
3/21/16	12,000	0	0	0
5/18/16	30,500	4,627	1,084	5,711
6/3/16	4,000	844	674	1,518
7/1/16	9,000	0	0	0
7/27/16	25,000	1,012	960	1,972
Totals	\$200,000	\$9,559	\$15,964	\$25,523

Source: OIG analysis of DCC data.

Section III, Part (C)(2), of DCC’s original agreement specifically states that in accordance with CERCLA regulations, all indirect and administrative costs are prohibited costs. The agreement also identified types of administrative costs that would be ineligible under the agreement, including costs incurred in the form of salaries, benefits, contractual costs, supplies and data processing charges.

We discussed DCC’s Central Cost and Economic Development indirect costs claimed and the use of the Cost Allocation Plan with EPA Region 5 officials, and were informed that the Cost Allocation Plan is used in lieu of indirect cost rates and do not apply to this agreement. Thus, we concluded that, while these costs

may be allowable in accordance with the recipient's accounting policies and procedures (i.e., the Cost Allocation Plan), they are expressly unallowable under DCC's Brownfields agreement. The claiming of indirect costs could reduce the amount of funds directly available for Brownfields restoration.

After notification of our concerns, DCC in August 2016 discontinued claiming these costs. However, beginning on DCC's draw on September 28, 2016, and continuing through its draw on December 7, 2016, DCC began charging a portion of salaries related to the Controller and Fiscal Coordinator as direct charges to the agreement, totaling \$1,378. We inquired about the nature of these charges, and DCC officials informed us that they were for tasks related to the Brownfields program (processing accounts receivable and payables, and preparing drawdown requests). DCC informed our office that these direct charges replaced the Central Cost and Economic Development Allocations previously charged to the agreement, and represented a return to the way costs were charged prior to these allocations. Thus, DCC began claiming its indirect costs as direct costs, inferring that these costs were direct costs prior to being billed as cost allocations.

We disagree with the actions taken by DCC. The nature of the costs in question are indirect and related to administrative costs, which are prohibited under the Cooperative Agreement No. BF00E93501, Section III, Part (C)(2). Furthermore, DCC did not, as previously stated, claim these costs as direct charges prior to establishing the Cost Allocation Plan. Accordingly, we believe these direct costs are unallowable.

Recommendations

We recommend that the Regional Administrator, EPA Region 5

1. Determine the allowability of the \$25,523 in indirect costs claimed by Downriver Community Conference for Cooperative Agreement No. BF00E93501 and recover costs as appropriate.
2. Determine the allowability of the \$1,378 in direct costs charged to Cooperative Agreement No. BF00E93501 by Downriver Community Conference and recover costs as appropriate.

Recipient Comments and OIG Evaluation

We issued a draft report on March 31, 2017. DCC provided a written response to the draft report and agreed with the findings and recommendations. Appendix A provides DCC's response. As no planned completion dates have been provided, the recommendations are considered unresolved with resolution efforts in progress.

Status of Recommendations and Potential Monetary Benefits

RECOMMENDATIONS

Rec. No.	Page No.	Subject	Status ¹	Action Official	Planned Completion Date	Potential Monetary Benefits (in \$000s)
1	6	Determine the allowability of the \$25,523 in indirect costs claimed by Downriver Community Conference for Cooperative Agreement No. BF00E93501 and recover costs as appropriate.	U	Regional Administrator, EPA Region 5		\$25
2	6	Determine the allowability of the \$1,378 in direct costs charged to Cooperative Agreement No. BF00E93501 by Downriver Community Conference and recover costs as appropriate.	U	Regional Administrator, EPA Region 5		\$1

¹ C = Corrective action completed.

R = Recommendation resolved with corrective action pending.

U = Recommendation unresolved with resolution efforts in progress.

DCC Response to Draft Report



15100 Northline Road, Southgate, Michigan 48195
(734) 362-3469

April 11, 2017

John M. Trefry
Director, Forensic Audits
U.S. Environmental Protection Agency
Office of Inspector General
Washington, D.C. 20460

Dear Mr. Trefry:

The Downriver Community Conference (DCC) is in receipt of the Draft Report: Downriver Community Conference Achieved Results Under Brownfields Agreement, but Unallowable Costs Were Claimed; Project No. OA-FY15-0093.

Given the complexity of the issues highlighted in your recommendations, we concur with the recommendations that the Regional Administrator, EPA Region 5 determine the allowability of the costs in question. DCC is very willing to work with the Regional Administrator to accomplish this.

Sincerely,

James S. Perry

James S. Perry
Executive Director

Cc: Jean Bloom
Bloom.jean@epa.gov

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