U.S. ENVIRONMENTAL PROTECTION AGENCY
OFFICE OF INSPECTOR GENERAL

Catalyst for Improving the Environment

Audit Report

EPA Needs to Improve Cost Controls for Equipment Used during Emergencies

Report No. 10-P-0047

December 16, 2009

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Abbreviations

BPA	Blanket Purchase Agreement
ERRS	Emergency and Rapid Response Services
FAR	Federal Acquisition Regulation
MATS	Management Audit Tracking System
OAM	Office of Acquisition Management
OARM	Office of Administration and Resources Management
OSC	On-Scene Coordinator
OSWER	Office of Solid Waste and Emergency Response
RCMS	Removal Cost Management System
START	Superfund Technical Assessment and Response Team

U.S. Environmental Protection Agency
Office of Inspector General

10-P-0047
December 16, 2009

At a Glance

Catalyst for Improving the Environment

Why We Did This Review

The Office of Inspector General (OIG) sought to determine whether the U.S. Environmental Protection Agency (EPA) had the controls and processes in place during its responses to Hurricanes Gustav and Ike to timely obtain goods and services it needed at reasonable prices. We also followed up on actions EPA committed to take after Hurricane Katrina.

Background

In 2006, the OIG issued a report titled *Existing Contracts Enabled EPA to Quickly Respond to Hurricane Katrina; Future Improvement Opportunities Exist*. Hurricanes Gustav and Ike made landfall in Louisiana and Texas in September 2008 and caused significant damage.

For further information, contact our Office of Congressional, Public Affairs and Management at (202) 566-2391.

To view the full report, click on the following link:
www.epa.gov/oig/reports/2010/20091216-10-P-0047.pdf

EPA Needs to Improve Cost Controls for Equipment Used during Emergencies

What We Found

EPA did not monitor costs paid for equipment used during its responses to Hurricanes Gustav and Ike against average purchase prices. In our sample of 97 equipment items, with usage charges of $4,399, EPA may have paid a total of $2,048 more than the average purchase price for 22 items. EPA did not require the contractor to submit average purchase price information as required in the contract. While EPA had controls to monitor equipment charges, it did not use the tools effectively. EPA could have mitigated the risk of excessive charges for equipment rentals by using the Removal Cost Management System for all emergency response contracts, and tracking equipment rental costs by contract. Improvements are needed so that EPA can better control equipment costs.

Using lessons learned from Hurricane Katrina, EPA established additional emergency response contracting mechanisms to meet the Agency's needs during future emergencies. EPA implemented the corrective actions it agreed to take in response to recommendations in our 2006 report on Katrina contracting issues. However, EPA never established a review board for Hurricanes Gustav and Ike; review boards can help improve future emergency contracting procedures.

EPA did not notify the OIG as required that several corrective actions were going to be delayed by more than 6 months. This can impact the completeness and accuracy of reports to Congress.

What We Recommend

We recommend that EPA review equipment charges for Hurricanes Gustav and Ike for usage fees that exceeded average purchase price, negotiate new rates, and amend contract language. We also recommend that EPA develop a system or process to identify and prevent overcharges for all emergency response contracts, and notify the OIG when corrective actions are delayed more than 6 months. EPA agreed with our recommendations or proposed acceptable alternative corrective actions that, when implemented, should adequately address the findings.

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

OFFICE OF
INSPECTOR GENERAL

December 16, 2009

MEMORANDUM

SUBJECT: EPA Needs to Improve Cost Controls for Equipment Used during Emergencies
Report No. 10-P-0047

FROM: Melissa M. Heist
Assistant Inspector General for Audit

TO: Craig E. Hooks
Assistant Administrator
Office of Administration and Resources Management

Mathy Stanislaus
Assistant Administrator
Office of Solid Waste and Emergency Response

Al Armendariz
Regional Administrator, Region 6

This is our report on the subject audit 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 estimated cost of this report – calculated by multiplying the project's staff days by the applicable daily full cost billing rates in effect at the time – is $395,481.

Action Required

In accordance with EPA Manual 2750, the Office of Administration and Resources Management is required to provide a consolidated written response for the Agency within 90 calendar days. The response should include a corrective actions plan for agreed upon actions, including

milestone dates. We have no objections to the further release of this report to the public. This report will be available at http://www.epa.gov/oig.

If you or your staff have any questions, please contact Janet Kasper, Director, Contracts and Assistance Agreement Audits, at 312-886-3059 or kasper.janet@epa.gov.

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Chapter 1
Introduction

Purpose

The Office of Inspector General (OIG) reviewed how the U.S. Environmental Protection Agency (EPA) responded to Hurricane Katrina and in 2006 issued the report *Existing Contracts Enabled EPA to Quickly Respond to Hurricane Katrina; Future Improvement Opportunities Exist* (Report No. 2006-P-00038). In October 2008, we began a follow-up review of EPA's actions in response to our 2006 report. The objectives of our review were to determine whether EPA:

- Paid reasonable prices for equipment when responding to Hurricanes Gustav and Ike.
- Established Blanket Purchase Agreements (BPAs) to provide emergency response technical support and logistical services and such agreements incorporated lessons learned from the Hurricane Katrina response and met the Agency's needs when responding to Hurricanes Gustav and Ike.
- Implemented the corrective actions it agreed to take in response to our 2006 report on Hurricane Katrina regarding contract management.

Background

Part of EPA's mission is to respond to emergencies that threaten our environment and human health. In September 2008, two hurricanes struck the Louisiana and Texas coasts. Hurricane Gustav made landfall in Louisiana on September 1, 2008, triggering the largest evacuation in U.S. history; over 3 million people fled the oncoming hurricane. Hurricane Ike made landfall in Texas on September 13, 2008. Ike was the third most destructive hurricane to ever make landfall in the United States, with damages estimated in 2008 at $22.4 billion.

EPA's role under the national response system is to respond to emergencies with respect to the release or threat of release of oil, hazardous substances, pollutants, contaminants, or fire or explosion hazard. To accomplish its role, EPA uses contracts with specialized contractors, including the following types of contracts:

- **Superfund Technical Assessment and Response Team (START).** Typically, START contractors arrive at the scene of an emergency first. START contracts are used to provide technical support to EPA On-Scene Coordinators (OSCs) and other federal officials implementing EPA's responsibilities.

- **Emergency and Rapid Response Services (ERRS).** Next on the scene of an emergency typically are ERRS contractors. ERRS contracts are used

> to provide responsive environmental clean-up services for releases of hazardous substances, wastes, contaminants, materials, and petroleum products that are harmful to human health and the environment.

The START and ERRS contracts are (a) cost reimbursement, (b) indefinite-delivery indefinite-quantity, (c) fixed-rate, and (d) time-and-materials contracts. Time-and-materials contracts include materials at cost, including handling costs, fixed hourly labor rates plus general and administrative costs, and profit. If EPA needs goods or services from those contractors, EPA orders the goods using delivery orders, task orders, and/or technical direction documents. The contractor submits an invoice to EPA for reimbursement.

Indefinite-delivery indefinite-quantity, time-and-materials contracts expose the government to risk and should be subject to strict controls to prevent contractors from overcharging. The Federal Acquisition Regulation (FAR) states, "A time-and-materials contract provides no positive profit incentive to the contractor for cost control or labor efficiency. Therefore, appropriate Government surveillance of contractor performance is required to give reasonable assurance that efficient methods and effective cost controls are being used."

A March 4, 2009, presidential memorandum to all federal agencies on contracting stated that excessive reliance on cost reimbursable contracts creates a risk that taxpayer funds will be spent on contracts that are wasteful, inefficient, subject to misuse, or otherwise not well designed. The memorandum calls on federal agencies to manage the risk associated with the goods and services being procured to ensure that taxpayer funds are not subject to excessive risk.

Noteworthy Achievements

EPA regional personnel initiated internal meetings after specific emergencies to identify and use lessons learned from responding to those emergencies. Regions called these "Hotwash" meetings, and the meetings included open discussions among managers and staff who directly participated in the emergency responses. The purpose was to respond more effectively to future emergencies. These efforts indicate EPA's desire to continuously improve its processes for responding to emergencies.

Scope and Methodology

We conducted this performance audit in accordance with generally accepted government auditing standards. 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 our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We performed audit field work from October 2008 to October 2009. We followed up on recommendations made in our 2006 report on Hurricane Katrina contracting issues. We also conducted Headquarters and regional interviews to determine how the emergency acquisition process is implemented and what controls are in place for emergency acquisitions. Regional interviews included officials in Region 6, which is responsible for both Louisiana and Texas.

We reviewed the ERRS, START, and logistics contracts and the two BPAs available for emergency acquisitions on Hurricanes Gustav and Ike. We conducted analyses to determine whether the prices EPA paid were reasonable for particular items of equipment used during emergency operations. For additional details on our scope and methodology, see Appendix A.

Chapter 2
Improvements Needed to Ensure EPA Pays Reasonable Prices for Equipment

EPA did not monitor costs paid for equipment used during its responses to Hurricanes Gustav and Ike against average contractor purchase prices. In our sample of 97 equipment items, with usage charges totaling $4,399, EPA may have paid a total of $2,048 more than the average purchase prices for 22 items. EPA did not require the contractor to submit average purchase price information as required in the contract. EPA was using time-and-materials contracts and the FAR instructs federal agencies to closely monitor this type of contract to provide a reasonable assurance of effective cost controls. While EPA had controls to monitor equipment charges, it did not make full use of those controls. EPA could have mitigated the risk of excessive charges for equipment rentals by using the Removal Cost Management System (RCMS) for all emergency response contracts, and tracking equipment rental costs by contract. Improvements are needed so that EPA can better control equipment costs.

EPA Did Not Monitor Equipment Usage Costs Against Average Purchase Prices

In responding to Hurricanes Gustav and Ike, EPA may have paid more in usage fees for some equipment than the contractor's average purchase price. Federal contracting regulations define a cost as being reasonable if it does not exceed that which would be incurred by a prudent person in the conduct of competitive business. EPA paid about $3.5 million to rent equipment to respond to Hurricanes Gustav and Ike. In our sample of 97 items with usage charges totaling $4,399, EPA may have paid contractors more than the average purchase price for 22 of those 97 pieces of equipment (23 percent), representing a total overcharge of $2,048. See Appendix B for details.

EPA agreed to limit charges on contractor-owned equipment in its response to our 2006 report on Katrina contracting issues. EPA stated that the Office of Administration and Resources Management (OARM) and its Office of Acquisition Management (OAM) would review all current and future contracts to ensure that flow-down clauses are included to prevent contractor overcharging. The existing contract clause limiting equipment charges in the ERRS contracts (Section B.6(4)(a)) states that, "The maximum charge for each contractor-owned specific equipment item used on this contract shall not exceed the contractor's average purchase price/average capital value for all pieces of equipment in that category in his inventory." The clause goes on to say that if the average purchase price is reached, "[A] usage rate must be negotiated with the Contracting Officer before any additional costs are incurred." That new usage rate is intended to

reimburse the contractor for operating costs such as maintenance, license, and insurance.

Not all the equipment used in the hurricane responses was contractor-owned. For example, contractors rented items such as cameras, printers, and wireless cards. EPA told us that for this equipment the contract clause limiting charges to average purchase prices would not apply. Even if the contract clause limiting charges to average purchase prices would not apply to this equipment, FAR provisions on cost reasonableness would still apply. FAR 31.201-3 states a cost is reasonable if it does not exceed what a prudent person would incur in the conduct of a competitive business.

The contractor is entitled to costs in excess of the average purchase price to compensate for maintenance of the equipment and indirect costs, but EPA has not computed what the additional costs would be. The contract allows the contractor to negotiate a maintenance fee once the usage fees exceed the average purchase price. Neither EPA nor the contractor negotiated maintenance fees for the items in our sample. EPA Region 6 staff said usage rates in the contract include general and administrative costs and profit. Region 6 and OAM stated that to obtain the actual purchase price the invoiced cost would have to be reduced by a percentage to reflect cost factors such as general and administrative fees and profit. They explained that those calculations would have to be made to make valid comparisons between total rental costs to average purchase prices. Since Region 6 has not made those calculations, Region 6 personnel stated that they are not sure whether they have paid more than the average purchase price for the equipment in our sample.

EPA Did Not Require Contractor to Comply With Contract Terms

The ERRS contractor for Region 6 did not submit average purchase price information until almost 2 years after the contract was signed. According to the contract, the contractor shall supply the contractor's average purchase price/average capital value for all pieces of equipment that have fixed rates to the contracting officer. The ERRS contracts were signed in May 2007 but the contractor did not submit the average purchase price information until April 2009.

Region 6's Procurement Chief and her contracting staff acknowledged they had not obtained the data and it had been an oversight on the Region's part. While the contract required the contractor to supply information on average purchase price, it did not include a timeframe for providing, or penalties for not providing, the information. Without average purchase price information, EPA could not enter the information into RCMS for the ERRS contracts.[1] As a result, EPA could not determine whether the limit for rental charges on any particular piece of equipment was being approached or exceeded.

[1] A separate EPA contractor in Edison, New Jersey, enters average purchase price information into RCMS.

EPA Did Not Make Full Use of Available Internal Controls

EPA needs to strengthen its internal controls over equipment charges during emergencies. Internal controls are tools that program and financial managers use to safeguard the integrity of Agency programs. While EPA has controls that it could use to monitor equipment charges, it has not always used the tools effectively. Region 6 personnel told us that they believe the risk of being overcharged is low and that EPA can collect overcharges before contract close-out. Although EPA might be able to recover overcharges if it performs checks on invoices after the fact, relying on this method constitutes an ineffective and labor-intensive method.

EPA uses the RCMS for some but not all emergency response contracts. RCMS enables EPA to track equipment costs against average purchase prices for individual pieces of equipment. EPA requires ERRS contractors to input daily actual cost data to RCMS during emergency responses. However, EPA does not require START contractors and Region 6's logistics contractor to use RCMS in that way or to provide average purchase price information. However, an OSC may elect to use RCMS for a START contract if the OSC believes it would be a cost-effective method of tracking equipment costs.

RCMS is currently set up to track costs by task order, not by contract. As a result, contractors have the ability to spread equipment rental costs out over different task orders, and EPA will not be able to identify instances where the combined cost exceeded the average purchase price. For example, the pressure washer EPA rented appeared in two different task orders (042-003 and 045-003). If equipment rental charges are only tracked by task order, each time there is a new task order the equipment rental charge accruals start over. Region 6 officials told us that they are working with EPA's RCMS expert to fix this problem.

EPA reviewed affected contracts before April 7, 2007, but did not ensure that future procurement vehicles (such as Region 6's logistics contract) contained the flow-down clause. The clause stipulates that maximum charges for contractor-owned equipment "[Apply] to team subcontractors and tier subcontractors." Not having flow-down clauses puts EPA at risk of being overcharged for equipment EPA contractors rent from subcontractors, and the clause gives EPA the legal grounds to recover overcharges. When we asked Region 6's Procurement Section Chief in December 2008 about the flow-down clause, the Chief acknowledged that it was not in the logistics contract awarded in July 2008 and should have been. EPA modified the contract to include the flow-down clause effective May 8, 2009. EPA also modified one of the BPAs to include the flow-down clause effective July 14, 2009.

Conclusion

Federal agencies should manage the risk associated with the goods and services being procured to ensure that taxpayer funds are not subject to excessive risk. Region 6's START, ERRS, and logistics contracts are all cost reimbursable contracts. There are internal controls available to EPA to reduce the risk of such contracts – for example, the ability of the RCMS system to identify when contract charges exceed average purchase prices. However, EPA did not fully use these internal controls. As a result, EPA may have paid more to rent equipment than was reasonable and may continue to do so.

Recommendations

We recommend that the Regional Administrator for Region 6:

2-1 Review all equipment charges for responding to Hurricanes Gustav and Ike and identify any items where the usage fees exceeded the average purchase price. For these equipment items, the contracting officer should negotiate maintenance rates for the equipment and then require the contractor to repay any charges in excess of negotiated rates.

2-2 Amend the ERRS contract to require the contractor to provide average purchase price information within a specific timeframe.

We recommend that the Assistant Administrator for Solid Waste and Emergency Response:

2-3 Develop a system or process to identify and prevent overcharges for contractor-owned equipment for START and emergency logistics contracts. If RCMS is not used, provide policies and procedures for how to track equipment costs.

2-4 Modify RCMS so that it tracks equipment charges by contract rather than just task order.

Agency Comments and OIG Evaluation

EPA concurred with Recommendations 2-1, 2-2, and 2-3. While it did not agree with Recommendation 2-4, EPA proposed an alternative corrective action. This corrective action would not modify RCMS, but would provide project officers and contracting officers with the ability to query the system.

Regarding our audit finding related to overcharged equipment items, EPA requested that the OIG examine new data related to the pressure washer and generator. EPA explained that during our audit it initially provided inaccurate

data to us because the contractor "inadvertently reported" incorrect average purchase prices for those two items. We reviewed additional cost documentation that EPA provided and revised our report based on the new data. As a result, we are no longer including the pressure washer and generator in our list of items that had costs exceeding average purchase prices.

In its response to Recommendation 2-1, EPA did not provide details on how it would address the finding. While EPA stated that it has started taking corrective actions, it also did not provide a completion date. When responding to the final report, EPA needs to provide details on how it would address the finding and provide a completion date.

For Recommendation 2-2, in its response EPA stated that it had already implemented the suggested corrective action. EPA has required both ERRS contractors to provide average purchase price information in RCMS within 60 working days after the initial award and on each anniversary date of the contract. Region 6 provided copies of the contract modifications that were approved for both of the ERRS contracts after our draft report was issued. We believe EPA's actions adequately address our recommendation.

For Recommendation 2-3, EPA agreed that either a system or process needs to be developed to prevent overcharging of rented equipment. EPA stated that to develop such a process will require coordination with all regional stakeholders. EPA plans to complete this corrective action by December 2010. EPA stated that until then, the regions will continue to perform invoice reviews to ensure the government is not overcharged for equipment. This corrective action will adequately address our recommendation. Upon completion of the action, the OIG requests EPA provide documentation of the new process.

EPA did not agree with Recommendation 2-4. However, it proposed to train project officers and contracting officers on how to query RCMS by July 2010. These queries will enable project officers and contracting officers to capture individual equipment costs so that they can be tracked by contract, not just by task order. We believe EPA's actions adequately address our recommendation.

The full text of the Agency response is in Appendix D.

Chapter 3
EPA Incorporated Lessons Learned after Hurricane Katrina

Using lessons learned from Hurricane Katrina, EPA established additional emergency response contracting mechanisms to meet Agency needs during future emergencies. EPA developed and awarded two national BPAs and a logistics support contract that met Region 6's needs during Hurricanes Gustav and Ike. EPA procedures require that OAM establish a review board to assess internal controls and the execution of contracts and purchase card actions for significant emergency responses, and discussions on convening a board began 5 months after the hurricanes made landfall. However, OAM never established a review board for Hurricanes Gustav and Ike. EPA can enhance its emergency contracting procedures to clarify when OAM is to establish the review board.

EPA Awarded Two BPAs and an Additional Logistics Support Contract

Following lessons learned from Hurricane Katrina, EPA developed two BPAs and a logistics contract for Region 6 that met EPA needs during emergency responses. One BPA required the vendor to provide housing/lodging services to support EPA's OSCs and other federal officials implementing EPA's responsibilities in all EPA regions. The other BPA required the vendor to provide an Incident Command Post and associated services to support Agency emergency actions. The logistics contract included providing and coordinating logistical support services that address Region 6's immediate and high priority needs for lodging and support services.

The BPAs addressed the OIG recommendation in our 2006 audit report that EPA establish advance agreements with vendors that are flexible and detailed for the items EPA used substantially during its Katrina response, such as housing and food services. The BPAs also specifically addressed prior OIG concerns regarding such issues as whether all office space needed to be under one roof and the definition of private bedroom areas. Personnel from the three EPA regions we spoke with believed they had more control and alternatives now to procure goods and services during emergency actions; they believe that there are mechanisms now in place to handle any kind of situation.

Enhancing Control Board Procedures Would Further Minimize Risk

EPA did not establish a control board to review contracts and purchase card actions for Hurricanes Gustav and Ike. According to Section 1.5.4.1 of OAM's *Emergency Contracting Procedures,* a contract control review board comprised of

management level officials from OAM, the Office of General Counsel, and the Office of the Chief Financial Officer will assess the effectiveness of internal controls and execution of contracts and purchase card actions. Representatives from these three offices will ensure that emergency funds are used in support of the Agency's mission and are protected from fraud, waste, and abuse.

The Office of Federal Procurement Policy's *Emergency Acquisitions* guide, dated May 2007, states:

> *Agencies should consider the creation of a mitigation board to control the increased risks during an emergency. Such boards allow for increased communication, clear policy direction, and effective resource utilization.*

EPA's response action for Hurricanes Gustav and Ike started in August 2008. Five months after the two hurricanes made landfall, EPA attempted to convene a review board but never did. According to the OAM Acting Director, Gustav and Ike were nowhere near the "magnitude" of Katrina and initially they were not even sure they would need to establish a contracts control board. OAM said that within 2 weeks of Gustav and Ike making landfall OAM was tracking purchases to stay on top of issues and was totally aware of what was happening.

While EPA may have been tracking purchases, current Agency procedures require that a control review board be established. EPA established a control review board for Hurricane Katrina in 2005 while the response action was on-going, and it enabled EPA to reduce the risk of overcharging and manage problems as they occurred.

EPA needs to clarify the emergency contracting procedures to specify for what type of emergencies the control board is to be established, how soon after the emergency it is to be established, and how long the board is to remain active. Updating the procedures will ensure that contract funds will continue to be safeguarded during future emergencies.

Recommendation

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

3-1 Expand the *Emergency Contracting Procedures* to describe when EPA should convene a control review board, what offices should participate in board meetings, and how long the board should remain active.

Agency Comments and OIG Evaluation

EPA concurred with Recommendation 3-1 and agreed to modify its emergency contracting procedures related to convening a contract control review board. EPA stated it will complete the revision by October 2010. This corrective action will adequately address our recommendation. Upon completion of the action, the OIG requests EPA to provide the OIG with documentation of the new process.

Chapter 4
OIG Not Notified of Delays in Corrective Actions

EPA did not notify the OIG when corrective actions were delayed more than 6 months after agreed to milestone dates. EPA implemented the corrective actions it agreed to take in response to our 2006 report on Katrina contracting issues, but there is one effort that EPA still needs to complete. EPA Manual 2750 requires the Agency to notify the OIG when EPA anticipates delays of more than 6 months in implementing corrective actions. OARM acknowledged that it forgot to notify the OIG. When EPA does not properly notify the OIG of delays in corrective actions, EPA hinders communication with the OIG on the effectiveness of Agency programs and may impact the completeness and accuracy of reports to Congress.

EPA Manual Provides Guidance on Notifying OIG

Action officials (usually Assistant and Regional Administrators) and audit follow-up coordinators have specific audit management responsibilities, as shown in Table 4-1. According to EPA Manual 2750, one of the responsibilities of action officials is to notify the OIG when planned milestones for corrective actions are going to be delayed more than 6 months.

Table 4-1: Audit Management Responsibilities

Title	Duties
Action Officials	• Ensures that corrective actions are documented, tracked, and implemented • Certifies that corrective actions are complete (or designates a certifying official to do so)
Audit Follow-up Coordinators	• Provides guidance and ensures that responses to OIG reports are complete and timely • Maintains official files containing the record of management decisions and certifications of completed corrective actions • Provides status reports to the Agency Audit Follow-up Coordinator on corrective actions and audit resolution, and tracks reasons for delay • Prepares reports to Congress

Source: *EPA Manual 2750.*

EPA Did Not Notify OIG of Delayed Corrective Actions

EPA was more than 6 months late implementing the corrective actions for eight recommendations and did not notify the OIG of the delays.[2] For example, the *Emergency Contracting Procedures* document (in response to Recommendation 2-1) was produced 11 months after the agreed-upon milestone date. The *Incident Management Handbook* document (in response to Recommendation 4-1, Bullet 1) was produced 9 months after the agreed-upon milestone date. See Appendix C for a list of all the actions that were delayed.

During our audit, the Office of Solid Waste and Emergency Response (OSWER) finalized guidance related to the Response Support Corps into an EPA Order to address Recommendation 4-1, Bullet 2. The Order was effective August 4, 2009. EPA still needs to finish implementing one corrective action. In its response to our 2006 report on Katrina contracting issues, EPA pledged to deploy a national inventory tracking system by December 31, 2006. EPA personnel have told us that the roll-out is progressing and that the system should be fully deployed by the end of December 2009. OSWER is already tracking this corrective action as a result of an OIG report on emergency response equipment.[3]

EPA Offices Unsure Who Is Responsible for Updating Tracking System

EPA did not notify the OIG of delayed corrective actions regarding our 2006 report on Katrina contracting issues because there was confusion between OSWER and OARM as to who was ultimately responsible for updating EPA's Management Audit Tracking System (MATS). OARM was listed as the action official in MATS. The OAM Director signed a memorandum certifying that all corrective actions in response to the OIG's 2006 report on Katrina contracting issues were completed by June 30, 2008. However, some of the actions where OSWER was taking the lead had not been completed. When we asked the audit follow-up coordinators about the dates in MATS, the audit follow-up coordinator for OSWER agreed to take the steps necessary to accurately update MATS. Not properly tracking corrective actions in MATS may adversely affect the completeness and accuracy of audit follow-up information and reports to Congress.

[2] Recommendation 4-1 had five parts (bullets). We are counting each of those five parts as a separate, individual recommendation requiring one corrective action each.

[3] *EPA Plans for Managing Counter Terrorism/Emergency Response Equipment and Protecting Critical Assets Not Fully Implemented*, Report No. 09-P-0087, dated January 27, 2009.

Recommendation

We recommend that the Assistant Administrator for Administration and Resources Management and the Assistant Administrator for Solid Waste and Emergency Response:

4-1 Notify the OIG when planned milestones for corrective actions are going to be delayed more than 6 months.

Agency Comments and OIG Evaluation

EPA concurred with Recommendation 4-1. EPA stated that it would comply with the requirements of MATS and EPA Manual 2750 for notifying the OIG of delayed corrective actions. OSWER also stated that it would check the status of milestones on a quarterly basis. We agree with EPA's proposed corrective actions.

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
2-1	7	Review all equipment charges for responding to Hurricanes Gustav and Ike and identify any items where the usage fees exceeded the average purchase price. For these equipment items, the contracting officer should negotiate maintenance rates for the equipment and then require the contractor to repay any charges in excess of negotiated rates.	O	Regional Administrator for Region 6			
2-2	7	Amend the ERRS contract to require the contractor to provide average purchase price information within a specific timeframe.	C	Regional Administrator for Region 6	10/20/09		
2-3	7	Develop a system or process to identify and prevent overcharges for contractor-owned equipment for START and emergency logistics contracts. If RCMS is not used, provide policies and procedures for how to track equipment costs.	O	Assistant Administrator for Solid Waste and Emergency Response	12/31/10		
2-4	7	Modify RCMS so that it tracks equipment charges by contract rather than just task order.	O	Assistant Administrator for Solid Waste and Emergency Response	07/31/10		
3-1	10	Expand the *Emergency Contracting Procedures* to describe when EPA should convene a control review board, what offices should participate in board meetings, and how long the board should remain active.	O	Assistant Administrator for Administration and Resources Management	10/31/10		
4-1	14	Notify the OIG when planned milestones for corrective actions are going to be delayed more than 6 months.	O	Assistant Administrator for Administration and Resources Management and Assistant Administrator for Solid Waste and Emergency Response	12/31/10		

[1] O = recommendation is open with agreed-to corrective actions pending
C = recommendation is closed with all agreed-to actions completed
U = recommendation is undecided with resolution efforts in progress

Appendix A

Details on Scope and Methodology

We analyzed the laws, regulations, and guidance pertaining to emergency response contracts. We reviewed internal controls related to planning, organizing, directing, and controlling acquisitions operations. We also reviewed controls for measuring, reporting, and monitoring emergency acquisitions. We gained an understanding of internal controls by performing the steps outlined below.

- We interviewed OAM and OSWER managers and staff members in EPA Headquarters in Washington, DC. We also interviewed EPA acquisitions personnel in Regions 6, 7, and 9; an OSWER Environmental Response Team RCMS equipment specialist in Cincinnati, Ohio; and an OARM program analyst in Research Triangle Park, North Carolina.

- We examined the Region 6 START and ERRS contracts and a logistics contract available for emergency acquisitions during EPA's responses to Hurricanes Gustav and Ike. We examined the two national BPAs that EPA awarded after Hurricane Katrina.

- We judgmentally selected 25 equipment categories of non-expendable personal property that EPA rented during Gustav and Ike to determine whether the rental costs exceeded the average purchase price of those items. The audit team selected equipment items to review based on rental rates that seemed high and could likely be above purchase prices. The 25 categories of items in our sample of equipment represented 97 individual pieces of equipment rented under the START, ERRS, and Region 6 logistics contracts between September and December 2008. The sample represented about 10 percent of the equipment rented to respond to the Hurricanes. Our review focused on the costs for equipment only and not other emergency response cost categories. Because we used a non-statistical sample, the results of our review cannot be projected.

- We reviewed relevant criteria documents, such as FAR Parts 16, 18, and 31; the Office of Federal Procurement Policy's guidance on emergency acquisitions; and a presidential memorandum calling for less reliance on cost-reimbursable contracts.

- We reviewed numerous documents related to EPA's response to our 2006 report on Katrina contracting issues to gain an understanding of EPA progress in completing the related corrective action plan. We reviewed the MATS entry for that audit to determine whether EPA had used the system to appropriately track and finalize proposed audit response actions.

- Besides the 2006 OIG Report No. 2006-P-00038, there was one other OIG report on contracting during emergencies. That was Report No. 2007-P-00015, *New Housing Contract for Hurricane Katrina Command Post Reduced Costs but Limited Competition*, issued March 29, 2007. The report did not contain any recommendations.

Appendix B

Equipment Spreadsheet

Item Name	Contract Type	Average Purchase Price[4]	Total Rental Cost	Cost Overrun	Price Range
Camera (RFW21158)	START	$323.23	$361.53	$38.30	$237.90-497
Camera (RFW23609)	START	$323.23	$355.77	$32.54	$237.90-497
Camera (WSH00028)	START	$109.50	$253.93	$144.43	$66-153
Camera (WSH00025)	START	$109.50	$159.18	$49.68	$66-153
Camera (WSH00026)	START	$109.50	$159.18	$49.68	$66-153
Camera (WSH00027)	START	$109.50	$159.18	$49.68	$66-153
Camera (WSH00029)	START	$109.50	$159.18	$49.68	$66-153
Camera (WSH00030)	START	$109.50	$159.18	$49.68	$66-153
Camera (WSH00031)	START	$109.50	$159.18	$49.68	$66-153
Printer (WSH00048)	START	$347.00	$396.00	$49.00	$200-494
Printer (WSH00049)	START	$347.00	$396.00	$49.00	$200-494
Wireless Card (WSH00075)	START	$22.24	$230.10	$207.86	$19.99-24.75
Wireless Card (WSH00077)	START	$22.24	$230.10	$207.86	$19.99-24.75
Wireless Card (WSH00078)	START	$22.24	$230.10	$207.86	$19.99-24.75
Wireless Card (WSH00074)	START	$22.24	$214.50	$192.26	$19.99-24.75
Wireless Card (WSH00144)	START	$22.24	$214.50	$192.26	$19.99-24.75
Wireless Card (WSH00076)	START	$22.24	$171.60	$149.36	$19.99-24.75
Wireless Card (WSH00222)	START	$22.24	$78.00	$55.76	$19.99-24.75
Wireless Card (WSH00223)	START	$22.24	$78.00	$55.76	$19.99-24.75
Wireless Card (WSH00224)	START	$22.24	$78.00	$55.76	$19.99-24.75
Wireless Card (WSH00225)	START	$22.24	$78.00	$55.76	$19.99-24.75
Wireless Card (WSH00226)	START	$22.24	$78.00	$55.76	$19.99-24.75
Totals		**$2,351.60**	**$4,399.21**	**$2,047.61**	

Source: OIG analysis of EPA and market data.

[4] The contractors did not provide the average purchase prices for the START equipment items; as a result, we contacted vendors directly and did research via the Internet to obtain the purchase price data. The average purchase prices for START items are what it would have cost to purchase the item and do not include overhead and maintenance costs the contractor may incur. The average purchase prices for the wireless cards did not include airtime, which was included in the contractor's fixed rate.

Appendix C

Corrective Actions Delayed More than 6 Months

(from OIG Report No. 2006-P-00038)

Recommendation #	Recommendation	Agreed-Upon Milestone Dates[5]	Completion Date in MATS	Actual Completion Date
Recommendation 2-1	Develop a strategy/plan to deploy sufficient personnel to an emergency response area	Document completed by December 2006	December 6, 2007	November 7, 2007
Recommendation 2-3	Continue exploring advance agreements for support services	BPAs developed by September 30, 2006	September 30, 2006	September 26, 2007 and January 30, 2008
Recommendation 3-1	Establish a policy and procedures for adequate invoice review	*Handbook* completed by December 31, 2006	December 31, 2007	*Handbook* completed September 2007; *Job Aid* completed January 2009
Recommendation 3-2	Make sure subcontractor limitation clauses are in contracts	Insert flow-down clauses by December 31, 2006	April 7, 2007	May 8, 2009
Recommendation 4-1, Bullet 1	Centralize or reduce the number of locations for equipment receipt	*Handbook* completed by December 31, 2006	December 31, 2006	September 2007
Recommendation 4-1, Bullet 2	Provide a sufficient number of property specialists to the emergency area	Guidance document by December 31, 2006	December 31, 2006	August 4, 2009
Recommendation 4-1, Bullet 4	Develop a purchase log system	Implemented in Fiscal Year 2007	June 30, 2008	Deployed in June 2008
Recommendation 4-1, Bullet 5	Establish a national custodial area in Fixed Asset System	Deployed by December 31, 2006	December 31, 2006	Proposed implementation date December 2009

Source: OIG analysis of EPA data.

[5] Milestone dates are the dates EPA inserted into its response to OIG's 2006 report on Katrina contracting issues.

Appendix D

Agency Response

November 5, 2009

MEMORANDUM

SUBJECT: Response to Draft Audit Report: EPA Needs to Improve Cost Controls for Equipment Used during Emergencies

FROM: Craig E. Hooks
Assistant Administrator

TO: Janet Kasper
Director of Contracts and Assistance Agreement Audits

Thank you for the opportunity to comment on the draft report entitled, "EPA Needs to Improve Cost Controls for Equipment Used during Emergencies." We are in general agreement with the findings and recommendations. However, we offer the following specific and detailed comments below.

General Comments on Report/Findings:

Report Title - The original report entitled, "EPA Is Better Prepared to Respond to Emergencies, Yet Areas for Improvement Exist," does not have the negative impact the new title "EPA Needs to Improve Cost Controls for Equipment Used during Emergencies," infers. We recommend using the original title.

Chapter 2, Page 4 - Improvements Needed to Ensure EPA Pays Reasonable Prices for Equipment - Paragraph 2 states, "In our sample of 97 items, with usages charges totaling $15,399, EPA may have paid $4,532 more than the average purchase price of the equipment." The language is misleading. We suggest changing the language to read, "In our sample of 97 items with usages charges totaling $15,399, EPA may have paid contractors more than the average purchase price for 24 of those 97 individual pieces of equipment (25 percent), representing a total overcharge of $4,532."

Comments on Recommendations:

Recommendation 2-1: Review all equipment charges for responding to Hurricanes Gustav and Ike and identify any items where the usage fees exceeded the average purchase price. For these equipment items, the contracting officer should negotiate maintenance rates for the equipment and then require the contractor to repay any charges in excess of negotiated rates.

Region 6 Response: We concur with the findings and have started taking corrective actions. All equipment charges for Emergency Rapid Response Services (ERRS) contracts have been reviewed and are being discussed with the contractors. Based on our review of recent data provided by the contractor, the pressure washer and generator identified in Appendix B of the report did not exceed the purchase price as stated in the report. The contractor inadvertently reported an incorrect purchase price of $5,885.38 for the pressure washer and $2,630.83 for the generator. The correct price for the pressure washer is $8,276.46 and $3,601.98 for the generator. We recommend that the OIG upon verification of the data reflect these changes in the final report.

Recommendation 2-2: Amend the ERRS contract to require the contractor to provide average purchase price information within a specific timeframe.

Region 6 Response: We concur with the finding and have implemented the suggested corrective action to require both ERRS contractors to provide average purchase price information in the Removal Cost Management System (RCMS) within sixty (60) working days after the initial award and on each anniversary date of the contract.

Recommendation 2-3: Develop a system or process to identify and prevent overcharges for contractor owned equipment for START and emergency logistics contracts. If RCMS is not used, provide policies and procedures for how to track equipment costs.

OSWER Response: Although we concur with the findings, the current Superfund Technical Assessment and Response Team (START) and National Logistics contracts do not contain contractor owned equipment. The contractors either rent or lease equipment from commercial vendors to support emergency efforts. We agree that either a system needs to be developed, a process indentified or RCMS utilized to prevent overcharging of rented equipment. Determining which system or process will be utilized will require coordination with all regional stakeholders and will be a focus for Headquarters and START contracts in FY10. We anticipate this effort being completed by December 2010. In the interim, the regions will continue to perform invoice reviews to ensure the Government is not overcharged for equipment.

Recommendation 2-4: Modify RCMS so that it tracks equipment charges by contract rather than just task order.

OSWER Response: The RCMS system has a data mining feature that enables users to query the system and capture individual equipment cost. While we do not concur with this finding, we will provide training on how to query the system at the On-Scene Coordinator Readiness Conference in February 2010 and the Superfund Project Officer/Contracting Officer Conference in July 2010.

Recommendation 3-1: Expand the Emergency Contracting Procedures to describe when EPA should convene a Control Review Board, what offices should participate in board meetings, and how long the board should remain active.

OAM Response: We concur with the finding and will modify the Acquisition Handbook, Chapter 18, "Emergency Contracting Procedures", to address the requirements to convene a Control Review Board; who will participate; and how long the board will remain active. Draft procedures will be completed for internal review by November 2009 and the final revision will be completed by October 2010.

Recommendation 3-1 [sic]: Notify the OIG when planned milestones for corrective actions are going to be delayed more than 6 months.

OAM Response: We concur with the finding and will update and utilize the audit tracking system that is currently in place to ensure compliance with the Agency's Management Audit Tracking System (MATS) and EPA Manual 2750 which requires the Agency to notify the OIG of anticipated delays of more than 6 months in implementing corrective actions.

OSWER Response: We concur with the finding and will continue working with respective Audit Coordinators to ensure compliance with MATS and EPA Manual 2750 requirements for changing corrective action plans. We will also check the status of milestones on a quarterly basis and have the Audit Coordinators notify the OIG of any changes that are going to be delayed more than 6 months.

We look forward to receiving the final report. Should you have any questions or comments, please contact John Gherardini, Acting Director, Office of Acquisition Management, at 564-4310.

Appendix E

Distribution

Office of the Administrator
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Assistant Administrator, Office of Solid Waste and Emergency Response
Chief Financial Officer
Regional Administrator, Region 6
Agency Follow-up Official (the CFO)
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