



THE DRUG ENFORCEMENT ADMINISTRATION'S CLANDESTINE DRUG LABORATORY CLEANUP PROGRAM

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THE DRUG ENFORCEMENT ADMINISTRATION'S CLANDESTINE DRUG LABORATORY CLEANUP PROGRAM

EXECUTIVE SUMMARY

Each year large quantities of illegal drugs are manufactured in the United States in clandestine drug laboratories.¹ Methamphetamine is the synthetic drug most frequently produced in these clandestine laboratories. According to the Drug Enforcement Administration (DEA), there were 6,783 clandestine drug laboratory incidents during calendar year 2008.²

Due to the chemicals used to make the drugs and the wastes generated during the "cooking," clandestine laboratories present significant safety and health risks to law enforcement and to the public. Clandestine drug laboratories also present serious environmental concerns, such as soil and ground water contamination. Many of these wastes are flammable, corrosive, reactive, toxic, or explosive and can harm individuals if inhaled or absorbed through the skin. In addition, drug manufacturers commonly dump the hazardous waste chemicals into bathtubs, sinks, and toilets, as well as on the ground, roads, and creeks surrounding the clandestine drug laboratories. In some cases, surface and groundwater drinking supplies can be contaminated from the waste.

The DEA's Clandestine Drug Laboratory Cleanup Program (Cleanup Program) was established in 1989.³ The Cleanup Program focuses on the removal and disposal of the chemicals, contaminated apparatus, and equipment that can be used to manufacture illegal drugs. The DEA contracts with vendors who have specialized training and equipment to remove the waste from the clandestine drug laboratory sites seized by the DEA or by state and local law enforcement agencies, and to transport the waste to an EPA-regulated transportation, storage, and disposal facility (disposal facility). Based on the quantities of hazardous waste produced, the majority of DEA funded clandestine drug laboratory cleanups are exempt from EPA

¹ Clandestine drugs such as stimulants, depressants, hallucinogens, and narcotics are manufactured in these laboratories in violation of the *Controlled Substance Act*, 21 U.S.C. § 802 (1970).

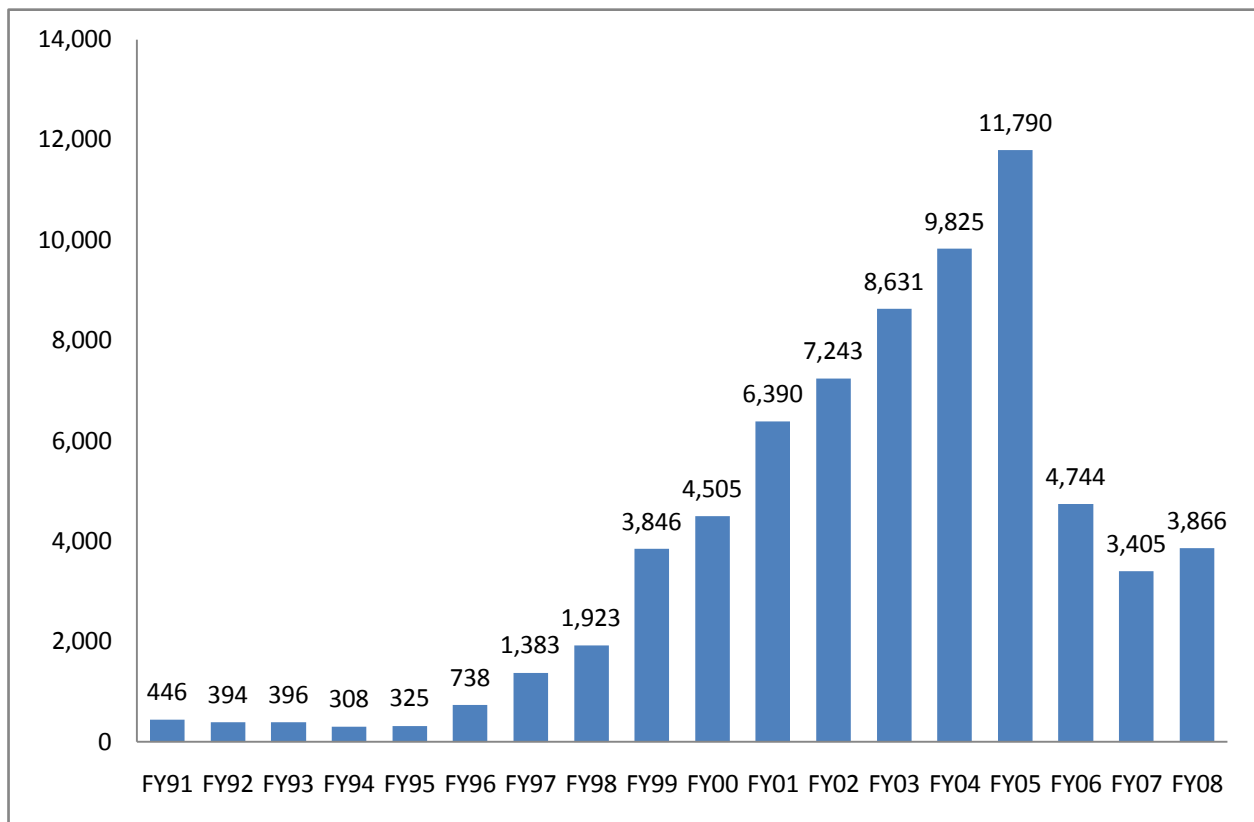
² Clandestine drug laboratory incidents include both clandestine drug laboratories seized by law enforcement agencies as well as dumpsites discovered from past laboratories.

³ Prior to 1989 the DEA conducted clandestine drug laboratory cleanups under a less structured process.

regulations.⁴ However, the DEA's policy is to manage the hazardous waste from all clandestine drug laboratories as if they were large enough in volume to be subject to EPA regulations.

Since the initiation of the Cleanup Program, the DEA has funded more than 70,000 clandestine drug laboratory cleanups. As show in Chart 1, the number of DEA funded cleanups increased from 446 laboratories in fiscal year (FY) 1991 to 11,790 in FY 2005. However, the number of cleanups has decreased significantly beginning in FY 2006.

**CHART 1
DEA FUNDED CLANDESTINE DRUG LABORATORY CLEANUPS
FYs 1991 – 2008**



Source: Drug Enforcement Administration

DEA officials attribute the decrease in recent years to the passage of the *Combat Methamphetamine Epidemic Act of 2005*, which restricted the availability of pseudoephedrine to methamphetamine manufacturers by

⁴ Clandestine drug laboratory sites that produce less than 100 kilograms of hazardous waste, or less than 1 kilogram of acutely hazardous waste, are exempt from most EPA regulations. 40 C.F.R. § 261.5 (1980).

moving products containing pseudoephedrine behind pharmacy counters and limiting the amount that could be purchased.⁵

Prior Reports

In August 1999, the Office of the Inspector General (OIG) issued an audit report on the DEA's hazardous waste cleanup and disposal, which included an evaluation of the DEA's use of the Assets Forfeiture Fund to pay for clandestine drug laboratory cleanups.⁶ This audit found that the DEA was not adequately managing its cleanup program. Specifically, the audit found 72 percent of the manifests were not signed by the vendor and Certificates of Disposal were missing in 53 percent of the files reviewed. As a result, the audit concluded that the DEA had no assurance that the hazardous waste materials were removed from the cleanup site or disposed of properly.

OIG Audit Approach

The objectives of the audit were to: (1) determine whether the DEA ensures that clandestine drug laboratory cleanups performed by its vendors comply with applicable laws, regulations, guidelines, and contract requirements; and (2) evaluate the DEA's overall effectiveness in administering and managing the Clandestine Drug Laboratory Cleanup Program funding. The scope of the audit was generally from FYs 2006 through 2008. However, we considered information outside this period if it was relevant to the audit, and the instances in which we considered such information are noted in the report.

Our audit work was primarily conducted at DEA Headquarters, within the Office of Forensic Sciences.⁷ Our auditors interviewed the officials responsible for the Cleanup Program, including those responsible for overall administration, those within the Financial and Investigations Units, and a Clandestine Laboratory Coordinator assigned to the field. The auditors also reviewed all of the DEA's prior inspections reports related to the Cleanup

⁵ 21 U.S.C. § 830 (2006).

⁶ U.S. Department of Justice Office of the Inspector General, *Drug Enforcement Administration Hazardous Waste Cleanup and Disposal*, Audit Report 99-24 (August 1999), 38.

⁷ The Office of Forensic Sciences manages the DEA's Clandestine Drug Laboratory Cleanup Program, as well as the DEA Laboratory System and the Digital Evidence Laboratory. It also publishes the *Microgram Bulletin*, a monthly newsletter primarily intended to assist and serve forensic scientists concerned with the detection and analyses of suspected controlled substances for forensic and law enforcement purposes.

Program from FYs 2004 through 2009, as well as all previous complaint and inquiry reports from FYs 2006 through 2008.

We selected a sample of 606 cleanups from FYs 2006 through 2008, and reviewed all related documentation to determine whether the DEA's Cleanup Program activities were conducted in accordance with applicable laws, regulations, guidelines, and contract requirements. We also reviewed the DEA's management of its Cleanup Program funding. Appendix I contains a more detailed description of our audit objectives, scope, and methodology.

Results in Brief

We found that the DEA had significant problems in its Clandestine Drug Laboratory Cleanup Program. However, the DEA implemented additional controls during FY 2008 to seek to ensure that the hazardous materials are accounted for and disposed properly. For example, the DEA added a contract stipulation beginning with its FY 2008 contracts that invoices will not be paid unless the vendor submits a Certificate of Disposal with the final invoice. Additionally, the DEA issued a memorandum to all cleanup vendors on December 31, 2007, stating that it will not pay the labor costs associated with any personnel who performed cleanups who do not have a proper Sensitive Access Level adjudication or who are not in the process of obtaining one. However, we believe the DEA could further strengthen its oversight of the Clandestine Drug Laboratory Cleanup Program.

As noted above, the DEA generally required vendors to obtain Certificates of Disposal from an EPA-regulated disposal facility as verification that hazardous waste materials were disposed of properly. In addition, the EPA requires manifests that detail the quantity and types of hazardous materials removed from clandestine drug laboratory sites and that document the chain of custody of the hazardous materials from the time the waste is removed from the site until it is delivered to an EPA-regulated disposal facility.

Yet, we found that for 28 cleanups in our sample (5 percent), the DEA had not received Certificates of Disposal from the vendor. The DEA was able to obtain 14 of the Certificates of Disposal from either the vendor or directly from the EPA-regulated disposal facility used by the vendor. For 11 of the remaining 14 cleanups, the vendor provided a final manifest documenting that the waste was transported to an EPA-regulated disposal facility. We did not identify any cleanups for which the vendor failed to provide Certificates of Disposal for FYs 2007 or 2008.

In addition, we found that for 52 cleanups in our sample (9 percent), the final manifests were not provided. For 49 of the 52 cleanups (94 percent) for which a final manifest was not provided, a Certificate of Disposal prepared by an EPA-regulated disposal facility was obtained by the DEA. However, we found that for three cleanups the DEA had not obtained a Certificate of Disposal or a final manifest.

Without a final manifest signed by an EPA-regulated disposal facility, the DEA has no assurance that the hazardous materials were transported to the disposal facility to be disposed of properly. Further, without a Certificate of Disposal, the DEA has no assurance that the hazardous materials were disposed of properly, rather than being diverted for use in the manufacture of illegal drugs or contaminating the environment.

The DEA requires that all vendor personnel performing clandestine drug laboratory cleanups have a Sensitive Access Level adjudication to decrease the potential for the diversion of hazardous waste materials for the manufacture of illegal drugs.⁸ We identified 25 vendor personnel who performed cleanups who did not have a proper Sensitive Access Level adjudication.

The DEA has implemented several cost saving measures to reduce cleanup costs. One such ongoing cost saving measure is that the DEA has refined its cleanup vendor contracts and contract areas to allow more businesses to compete for coverage of the contract area. The increased competition among businesses has resulted in price reductions during the contract bidding process. Additionally, the DEA's Authorized Central Storage Container Program has resulted in a cost savings of over \$4.2 million during FYs 2006 through 2008. The Authorized Central Storage Container Program allows law enforcement officers to remove the hazardous materials from small laboratories and temporarily store the chemicals in a safe and secure location pending the final removal by a DEA vendor. By allowing the vendor to pickup and remove the hazardous waste recovered from multiple sites at one centralized location, the vendor's labor costs for multiple cleanup sites is reduced. This cost reduction has decreased the average cost per cleanup for small laboratories in this program to less than \$500.

In our report, we make six recommendations to ensure that clandestine drug laboratory cleanups performed by vendors comply with applicable laws, regulations, guidelines, and contract requirements and to

⁸ Sensitive Access Level adjudication allows the individual access to DEA Sensitive information, facilities, and systems only. It is not a security clearance.

strengthen the DEA's oversight of the Clandestine Drug Laboratory Cleanup Program funding.

Our report contains detailed information on the full results of our review of the DEA's Clandestine Drug Laboratory Cleanup Program. The remaining sections of this Executive Summary discuss our audit findings in more detail.

Review of Vendor Cleanups

The DEA's policy is to manage the hazardous waste materials from all clandestine drug laboratories as if they were large enough in volume to be subject to EPA regulations.⁹ In doing so, the DEA attempts to minimize the potential for the diversion of hazardous materials for the manufacture of illegal drugs, as well as the health and environmental dangers associated with this type of waste by ensuring that the waste is disposed of in accordance with EPA and other federal, state, and local regulations. To determine whether the DEA was meeting these requirements, we selected a sample of 606 DEA cleanups performed from FYs 2006 through 2008 and reviewed all relevant documentation relating to those cleanups.

DEA's Perspective

DEA officials attribute most of the concerns noted in our report to the fact that during the majority of the period covered by our audit (FYs 2006 through 2007) the two major cleanup contracts that covered most of the United States were not renewed. In FY 2005, the DEA did not exercise the option year for the hazardous waste disposal vendor responsible for most of the cleanups in the western half of the United States due to poor performance. According to DEA officials, the DEA became concerned about the vendor's performance after serious disclosures about the company's president were revealed during a routine background investigation. The DEA referred the matter to the OIG for investigation. The OIG is working with a United States Attorney's Office to pursue civil remedies in this case.

In FY 2006, another major hazardous waste cleanup vendor responsible for most of the cleanups in the eastern half of the United States could no longer perform the cleanup services for the rates awarded in its contract because of financial difficulties. Therefore, the DEA had to rely on emergency blanket purchase agreements and purchase orders to continue

⁹ Pursuant to 40 C.F.R. § 261.5 (1980), clandestine drug laboratory sites that produce less than 100 kilograms of hazardous waste, or less than 1 kilogram of acutely hazardous waste, are classified as a Conditionally Exempt Small Quantity Generator and are exempt from most EPA regulations.

necessary cleanup services until new contracts were solicited and awarded in FY 2008. According to DEA officials, the blanket purchase agreements and purchase orders that were awarded on an emergency basis did not allow for the same level of oversight by the DEA as was provided for in the contracts awarded in FY 2008. For example, the DEA did not require Certificates of Disposal and final manifests with the signature of the EPA-regulated disposal facility for most of the cleanups performed under the emergency blanket purchase agreements and purchase orders. We discuss this issue in more detail in Finding I.

Certificates of Disposal Not Provided

The DEA generally requires its cleanup vendors to submit Certificates of Disposal issued by an EPA-regulated disposal facility as verification that the hazardous waste was disposed of properly. At the initiation of our audit, the DEA provided a list of 1,747 cleanups between 2004 and 2008 for which Certificates of Disposal had not been provided by the vendor. The vendor currently under investigation by the OIG was responsible for 1,132 (65 percent) of the 1,747 Certificates of Disposal that were not provided to the DEA. To resolve this issue, the DEA has been contacting the EPA-regulated disposal facilities directly to obtain Certificates of Disposal that were not provided by the cleanup vendors. The DEA has also worked with the vendors in an effort to get other legal assurance that the hazardous waste was disposed of properly and not diverted for the manufacture of illegal drugs or illegally dumped in a manner harmful to the environment. Since March 2009, the DEA has obtained 555 (32 percent) of the 1,747 Certificates of Disposal. Of the remaining 1,192 Certificates of Disposal 1,132 (95 percent) were related to cleanups performed by the vendor currently under investigation by the OIG.

During our review, we also identified 28 cleanups in our sample (5 percent) for which the DEA had not received Certificates of Disposal from the vendor. Subsequent to our review, the DEA was able to obtain one of the Certificates of Disposal from the cleanup vendor. The DEA was able to obtain another 13 Certificates of Disposal directly from the EPA-regulated disposal facility related to cleanups performed by the vendor whose contract was not renewed in FY 2006 because of its financial difficulties. As a result, we found that Certificates of Disposal were not obtained for a total of 14 cleanups in our sample. Without Certificates of Disposal, the DEA has no assurance the hazardous waste materials were disposed of properly.

For 11 of the 14 cleanups, Certificates of Disposal were not required by the DEA in the blanket purchase agreements or purchase orders, which contradicts the DEA's Cleanup Program policy of treating the waste from all

cleanups as if it were subject to EPA regulations. DEA officials stated that vendor requirements were reduced in order to obtain emergency blanket purchase agreements and purchase orders after the loss of its two major vendors in FYs 2005 and 2006.

For the remaining 3 of the 14 cleanups, Certificates of Disposal were required by the contract with the vendor but were not provided. The vendor currently under investigation by the OIG was responsible for all three of these cleanups.

To ensure Certificates of Disposal are submitted for current and future hazardous waste cleanups, the DEA added a requirement in its clandestine drug laboratory cleanup contracts in FY 2008 that the vendor's invoice will not be paid until a Certificate of Disposal is submitted by the vendor. We did not identify any cleanups for which the vendor failed to provide Certificates of Disposal for FYs 2007 or 2008.

Manifests Not Provided

EPA Regulation 40 C.F.R. § 262 (1980) requires a final manifest signed by the EPA-regulated disposal facility for regulated waste that details the quantity and types of hazardous materials removed from the clandestine drug laboratory site. An initial manifest is signed by the law enforcement agency that seized the clandestine drug laboratory (generating agency), verifying that the vendor removed all the hazardous waste listed. The final manifest is signed by an EPA-regulated disposal facility, verifying the hazardous materials seized at the site were received for disposal.

During our review, we identified one cleanup in our sample (0.2 percent) for which the vendor currently under investigation by the OIG did not provide either the initial or final manifest. A Certificate of Disposal was also not provided for this cleanup. As a result, there is no documentation supporting the quantity and types of hazardous materials removed from the clandestine drug laboratory site or that the waste was disposed of properly.

We also identified 51 cleanups in our sample (8 percent) for which the vendor provided an initial manifest but did not provide a final manifest signed by the EPA-regulated disposal facility. Specifically, we found the following:

- For 35 of the 51 cleanups (69 percent) a Certificate of Disposal was provided. As a result, for these cleanups the DEA has assurance that waste removed from the cleanup site was transported to an

EPA-regulated disposal facility and that the waste was disposed of properly. According to DEA officials, prior to the FY 2008 generation of contracts, vendors were only required to provide the initial manifest because Certificates of Disposal were generally required for all cleanups. The DEA did not believe that the final manifest was necessary because the initial manifest documented the types and quantities of waste removed from the cleanup site and the Certificate of Disposal documented that the waste was disposed of properly by an EPA-regulated disposal facility.

- For 14 of the 51 cleanups (27 percent) the DEA was able to obtain the final manifests directly from the EPA-regulated disposal facility. Certificates of Disposal were also obtained directly from the EPA-regulated disposal facility for these cleanups. As a result, the DEA now has assurance that the waste was received by an EPA-regulated disposal facility and disposed of properly.
- For the remaining 2 of the 51 cleanups (4 percent) a Certificate of Disposal was also not provided by the vendor. As a result, for these cleanups, there is no evidence that the vendor transported the waste to an EPA-regulated disposal facility or that the waste was disposed of properly. It should be noted that the vendor currently under investigation by the OIG was responsible for both cleanups for which the final manifest and Certificate of Disposal were not provided.

Missing or Undocumented Sensitive Access Level Adjudication

To reduce the risk of diversion of the hazardous waste materials to unauthorized locations or personnel, the DEA requires that all vendor personnel who perform clandestine drug laboratory cleanups obtain a proper Sensitive Access Level adjudication. The DEA issued a memorandum to all cleanup vendors on December 31, 2007, stating that it will not pay the labor costs associated with any personnel who performed cleanups without having a proper Sensitive Access Level adjudication, or were not in the process of obtaining one. We examined the Sensitive Access Level adjudications for a sample of 161 vendor personnel who performed cleanups. We identified 25 vendor personnel (16 percent) who did not have a proper Sensitive Access Level adjudication. Allowing vendor personnel without a proper Sensitive Access Level adjudication to perform clandestine drug laboratory cleanups increases the potential for diversion of the hazardous waste materials for the manufacture of illegal drugs. The DEA paid the labor costs for 23 of the 25 vendor personnel who did not have a proper Sensitive Access Level adjudication. However, the cleanups for these 23 individuals

occurred prior to December 31, 2007. As a result, there are no questioned costs associated with this finding.

Conflicting Time Requirements

We also noted a separate issue related to Certificates of Disposal resulting from conflicting EPA regulations and DEA requirements. Current EPA regulations require that disposal facilities dispose of the hazardous waste materials received from vendors within 1 year. However, starting with the FY 2008 hazardous waste removal and disposal contracts, the DEA requires vendors to submit all final paperwork and the final invoice within 6 months of the cleanup. Vendors often cannot obtain Certificates of Disposal to submit within the DEA's 6 month contract deadline. Accordingly, the final invoice cannot be submitted timely. DEA officials stated that DEA specifically required its vendors to provide Certificates of Disposal within 6 months rather than the 1-year period allotted to the EPA-regulated disposal facilities to ensure that its vendors use disposal facilities that are willing to commit to dispose of the waste quickly. Contracting separately with the EPA-regulated disposal facilities would provide an additional incentive for the disposal facilities to provide the Certificate of Disposal to the DEA timely, as it would not receive payment until the Certificate of Disposal was submitted. Currently the DEA contracts only with the hazardous waste removal companies, and not the EPA-regulated disposal facilities. We recommend that the DEA consider contracting separately with the EPA-regulated disposal facilities to ensure that the disposal vendors are using EPA-regulated disposal facilities and that the waste is disposed of timely.

Other Matters Related to Vendor Cleanups

We also identified the following instances of non-compliance.

Certificates of Disposal and Manifests Did Not Match

During our review, we compared the types and quantities of the hazardous waste materials listed on the manifests to the Certificates of Disposal, to ensure that all hazardous waste materials removed from the site were accounted for and disposed of by the disposal facility. We identified two cleanups (0.3 percent) for which the quantity of hazardous materials seized from the laboratories listed on the manifest did not match the Certificates of Disposal provided by the EPA-regulated disposal facility.¹⁰

¹⁰ Neither of these two cleanups occurred during FY 2008.

Adequate Number of Personnel in Cleanup Crew

Only vendor personnel who have received Occupational Safety and Health Administration (OSHA), *Resource Conservation and Recovery Act*, and U.S. Department of Transportation (DOT) training are permitted to perform cleanup services. The DEA's contracts and blanket purchase agreements generally require each team that performs cleanups to include at least two properly trained individuals to perform the hazardous waste removal services. However, we identified seven cleanups (1 percent) for which the cleanup was performed by only one individual, in violation of the contract and blanket purchase agreement.

Incorrect Generator

When a state or local law enforcement agency seizes a clandestine drug laboratory, the state or local agency becomes, according to EPA regulations, the "generator" of the hazardous waste, even if the seizing agency requests the DEA's assistance in removing the hazardous waste from the clandestine drug laboratory site.¹¹ The generator is responsible for ensuring compliance with applicable federal laws and regulations.¹² It is important that the manifest lists the correct generator of the hazardous waste because the generator is ultimately legally responsible for ensuring that the hazardous waste materials are disposed of properly.

We noted 27 cleanups (4 percent) in which the manifests incorrectly listed the DEA as the generator of the hazardous waste rather than the state or local law enforcement agency that made the seizure.¹³ We also noted three cleanups (0.5 percent) in which the manifests did not list a generator, three cleanups (0.5 percent) in which the manifests incorrectly listed the generator as an unknown drug laboratory, and two cleanups (0.3 percent) in which the manifests incorrectly listed the generator of the hazardous waste as the vendor.

¹¹ The EPA Regulation 40 C.F.R. § 260.10 (1980), defines the generator of a site's hazardous waste as the agency that "first caused the waste to be subject to regulation." As a result, the act of a law enforcement agency seizing a clandestine drug laboratory causes any hazardous chemical to be subject to regulation, and therefore, the law enforcement agency becomes the generator of the chemicals seized at the site.

¹² Applicable federal laws and regulations include the: (1) Resource Conservation and Recovery Act; (2) Comprehensive Environmental Response, Compensation and Liability Act; (3) Hazardous Materials Transportation Act; and (4) Occupational Safety and Health Act.

¹³ We also noted two cleanups for which the generator listed was illegible.

Cleanups Costs

We also examined the average cost per cleanup since the inception of the Cleanup Program. The average cost per cleanup has been reduced over the past 2 years, from \$3,600 in FY 2007 to \$2,200 in FY 2009. The decrease in cost per cleanup appears to have resulted from the various contract modifications and improvements implemented by the DEA. One such cost saving measure is that the DEA continuously refines the geographic areas covered by its contracts. Smaller contract areas allow more businesses to compete for coverage of the contract area. The increased competition among businesses to win contracts has resulted in price reductions during the contract bidding process.

In addition, the DEA initiated the Authorized Central Storage Container Program, implemented in FY 2004, which allows state and local law enforcement officers to perform the removal of chemicals from small laboratories, and to temporarily store the chemicals in a safe and secure location pending final removal by a DEA vendor. By allowing the vendor to pickup and remove the hazardous waste recovered from multiple sites at one centralized location, the vendor's labor costs for multiple cleanup sites is reduced. This cost reduction has decreased the average cost per cleanup for small laboratories in this program to less than \$500, compared to average costs per cleanup of \$3,000 to \$3,600 for FYs 2006 through 2008. This has resulted in cost savings of over \$4.2 million, which is in addition to the savings from the decreasing average cost per cleanup.

Recommendations

In this report, we make six recommendations to strengthen the DEA's oversight of the Clandestine Drug Laboratory Cleanup Program. We recommend that the DEA:

- ensure that final manifests are submitted with vendor invoices and that invoices are not paid until a final manifest is received;
- ensure that all final manifests are compared with Certificates of Disposal to determine if all hazardous waste materials were disposed of properly;
- ensure that vendor cleanup personnel have the required Sensitive Access Level adjudication or are in the process of obtaining one before being allowed to perform the hazardous waste cleanup services and that the labor costs are not paid for personnel performing cleanups without required Sensitive Access Level adjudications;

- ensure that cleanups are performed by a minimum of two properly trained vendor personnel;
- ensure that vendors list the correct generators on the manifests; and
- analyze the option of contracting separately with the EPA-regulated disposal facilities in order to resolve the conflicting time requirements for vendor submission of final invoices and disposal facility submission of Certificates of Disposal.

THE DRUG ENFORCEMENT ADMINISTRATION'S CLANDESTINE DRUG LABORATORY CLEANUP PROGRAM

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INTRODUCTION

Each year, large quantities of illegal drugs, such as stimulants, depressants, hallucinogens, and narcotics, are manufactured in clandestine laboratories in violation of the *Controlled Substance Act*.¹ Methamphetamine is the synthetic drug most frequently produced in these clandestine laboratories.

According to the Drug Enforcement Administration (DEA), there were 6,783 clandestine drug laboratory incidents during calendar year 2008.² Due to the chemicals used to make the drugs and the wastes generated during the "cooking," clandestine laboratories pose significant safety and health risks to law enforcement and to the public. The production of illegal drugs in clandestine drug laboratories creates dangerous waste, a minimum of six times the amount of the finished product produced. Many of these wastes are flammable, corrosive, reactive, toxic, or explosive. The chemicals and wastes left behind can harm unsuspecting or careless individuals if inhaled or absorbed through the skin. Health effects can be either acute (short term) or chronic (long term). Burns, rashes, and irritation can result from contact while headaches, nausea, and dizziness are common following inhalation. During a clandestine drug laboratory seizure, law enforcement personnel may also be exposed to irritants, corrosives, and chemicals that are explosive or flammable. Law enforcement personnel, as well as the public, may also face exposure from chemicals stored at off-site locations, such as rental lockers. The lack of proper ventilation and temperature controls at these off-site locations adds to the potential for fire, explosion, and human exposure.

Clandestine drug laboratories also present serious environmental concerns, such as soil and ground water contamination. The raw materials and by-products of the illegal drug manufacturing process are often disposed of indiscriminately by the drug dealing manufacturer to avoid detection. Producers of illegal drugs commonly dump hazardous waste chemicals into bathtubs, sinks, and toilets, as well as on the ground, roads, and creeks surrounding the clandestine drug laboratories. In some cases, contamination spreads off-site. Surface and groundwater drinking supplies could be contaminated, potentially affecting the public.

¹ 21 U.S.C. § 802 (1970).

² Clandestine drug laboratory incidents include both clandestine drug laboratories seized by law enforcement agencies, as well as dumpsites discovered from past laboratories.

A list of chemicals typically found at clandestine drug laboratory sites, along with the specific hazards which could result from exposure, is outlined below in Table 1.

**TABLE 1
CHEMICALS COMMONLY FOUND AT
CLANDESTINE DRUG LABORATORY SITES**

CHEMICAL	HAZARDS FROM CHEMICAL
Acetic anhydride	Irritant, corrosive
Anhydrous ammonia	Rapid asphyxia
Benzene	Blood disorders, carcinogen
Chloroform	Disorientation, unconsciousness, carcinogen
Cyclohexane	Irritant
Hydrogen cyanide	Rapid asphyxia
Hydrochloric acid	Irritant, corrosive
Hydriodic acid	Irritant, corrosive
Hypophosphorus acid	Corrosive
Lead acetate	Blood disorders
Lithium aluminum hydride	Water reactive, explosive
Mercury chloride	Irritant, corrosive
Methylamine	Corrosive
Petroleum ether	Disorientation, unconsciousness
Phenylacetic acid	Irritant
Pierdine	Corrosive
Red phosphorus	Reactive, explosive
Safrole	Carcinogen
Sodium (metal)	Water reactive, corrosive
Sodium hydroxide	Corrosive
Thionyl chloride	Water reactive, corrosive

Source: Drug Enforcement Administration

Clandestine drug laboratories range from crude makeshift operations to highly sophisticated facilities, some of which are mobile. Clandestine drug

laboratories can be found anywhere, including in private residences, motel and hotel rooms, apartments, house trailers, mobile homes, campgrounds, and commercial establishments. Laboratories are often hidden in remote areas and may contain sophisticated surveillance equipment. The DEA reports that some laboratories have been rigged to prevent intruders and law enforcement from entering and to destroy any evidence in the event that the facility is discovered.

In 1980, the U.S. Environmental Protection Agency (EPA) published the Standards for Generators of Hazardous Waste as part of the regulations required by the *Resource Conservation and Recovery Act*.³ This regulation defines the generator of a site's hazardous waste as the agency that "first caused the waste to be subject to regulation." As a result, the act of a law enforcement agency seizing a clandestine drug laboratory causes any hazardous chemical to be subject to regulation, and therefore the law enforcement agency becomes the generator of the chemicals seized at the site. As a result, once a law enforcement agency seizes a clandestine drug laboratory, the law enforcement agency is required to ensure the hazardous waste is removed and disposed of safely and properly in accordance with EPA regulations.⁴ However, most clandestine drug laboratories generate smaller amounts of waste than the quantities that trigger most of the EPA's hazardous waste regulations.⁵

Significant events impacting the regulation of clandestine drug laboratory cleanups are outlined in Table 2.

³ The *Resource Conservation and Recovery Act* is found at CITE, while the Standards for Generators of Hazardous Waste is found at 40 C.F.R. § 260.10 (1980).

⁴ The seizing law enforcement agency is only responsible for removing and disposing of the hazardous waste. It is not responsible for ensuring that the property is safe or habitable.

⁵ 40 C.F.R. § 261.5 (1980) states that clandestine drug laboratory sites producing less than 100 kilograms of hazardous waste, or less than 1 kilogram of acutely hazardous waste, are classified as a Conditionally Exempt Small Quantity Generator and are exempt from most EPA regulations.

**TABLE 2
TIMELINE OF SIGNIFICANT CLANDESTINE
DRUG LABORATORY CLEANUP EVENTS**

YEAR	EVENT
1988	<ul style="list-style-type: none"> • <i>Anti-Drug Abuse Act</i> passed establishing the Joint Federal Task Force, which is comprised of the DEA, EPA, and the U.S. Coast Guard.⁶
1988	<ul style="list-style-type: none"> • Joint Federal Task Force directed to formulate a program for cleaning up and disposing of hazardous waste produced by clandestine drug laboratories.
1989	<ul style="list-style-type: none"> • Memorandum from Acting Associate Attorney General directed that only evidentiary samples, photographs, and videos should be maintained from seized clandestine drug laboratories. The remainder of the hazardous chemicals were required to be destroyed.
1989	<ul style="list-style-type: none"> • Joint DEA and EPA letter to the President established that law enforcement's clandestine drug laboratory cleanup responsibilities were complete upon: (1) removal of the evidence, chemicals, and contaminated apparatus; (2) posting of a notice at the site; and (3) written notification to the property owner, health department, and environmental agency.
1990	<ul style="list-style-type: none"> • The Joint Federal Task Force published the <i>Guidelines for the Cleanup of Clandestine Drug Laboratories</i> (Red Book) providing guidance and recommendations for agencies that are responsible for clandestine drug laboratory cleanups.
2005	<ul style="list-style-type: none"> • Red Book updated by the Joint Federal Task Force.

Source: Drug Enforcement Administration

DEA's Clandestine Drug Laboratory Cleanup Program

In 1988, the DEA established the Hazardous Waste Disposal Unit in the Office of Forensic Sciences to assist DEA Special Agents in the management of the chemicals, waste, and contaminated equipment seized at clandestine drug laboratories. The DEA's Clandestine Drug Laboratory Cleanup Program (Cleanup Program) was established in 1989 under the Hazardous Waste Disposal Unit.⁷ In fiscal year (FY) 1998, the DEA began funding cleanups of clandestine drug laboratories that were seized by state and local law enforcement agencies.

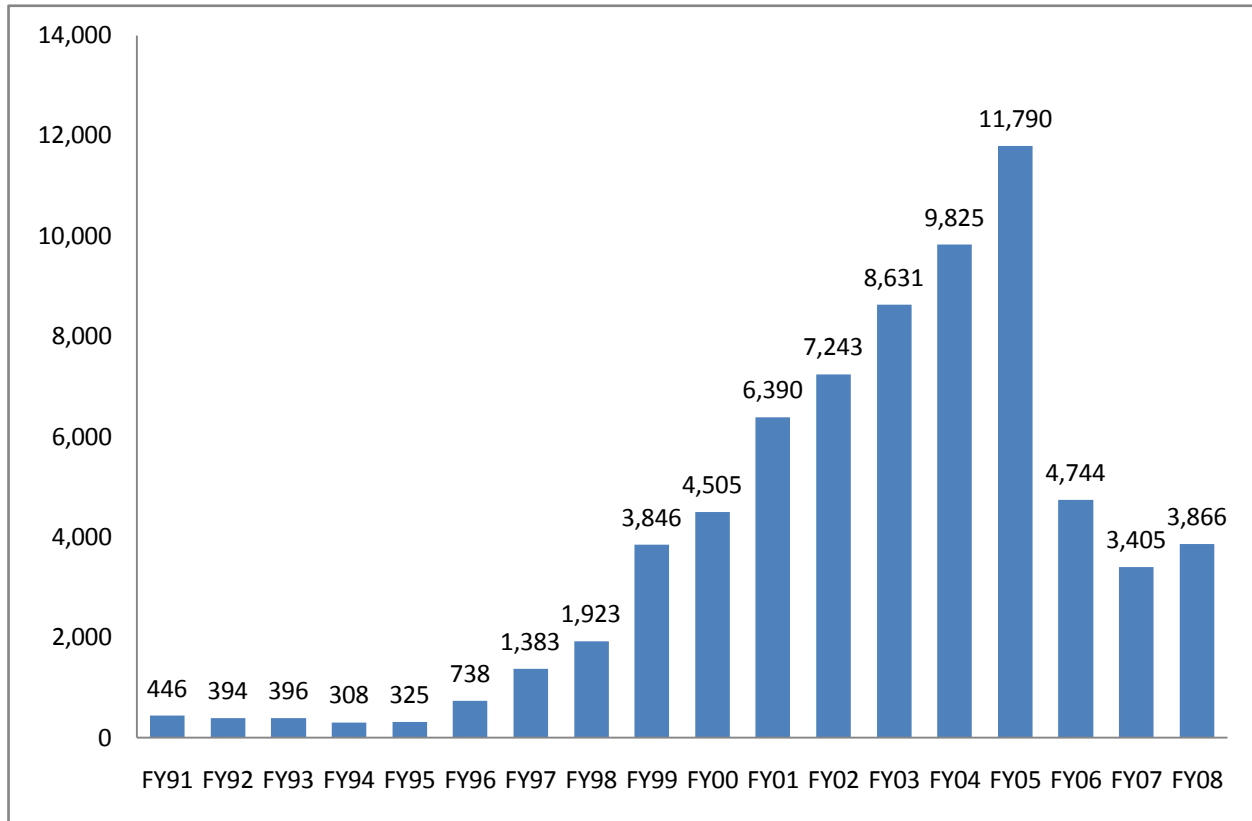
⁶ 21 U.S.C. § 862 (1988).

⁷ Prior to 1989 the DEA conducted clandestine drug laboratory cleanups under a less structured process.

The DEA's Cleanup Program focuses on the removal and disposal of the chemicals, contaminated apparatus, and equipment used to manufacture illegal drugs. The Cleanup Program also provides training for the DEA's field offices and for state and local law enforcement agencies. In the Cleanup Program, the DEA uses vendors with specialized training and equipment to provide waste removal and disposal services on behalf of the DEA and state and local law enforcement agencies. The DEA establishes agreements with vendors through contracts, blanket purchase agreements, and purchase orders.

Since the initiation of the Cleanup Program, the DEA has funded vendors to conduct more than 70,000 clandestine drug laboratory cleanups. As show in Chart 1, the number of DEA funded cleanups has increased from 446 laboratories in FY 1991 to 11,790 in FY 2005. However, the number of cleanups decreased significantly beginning in FY 2006. Since FY 2003, approximately 95 percent of the vendor cleanups funded by the DEA were for state and local seizures.

CHART 1
DEA FUNDED CLANDESTINE DRUG LABORATORY CLEANUPS
FYs 1991 – 2008



Source: Drug Enforcement Administration

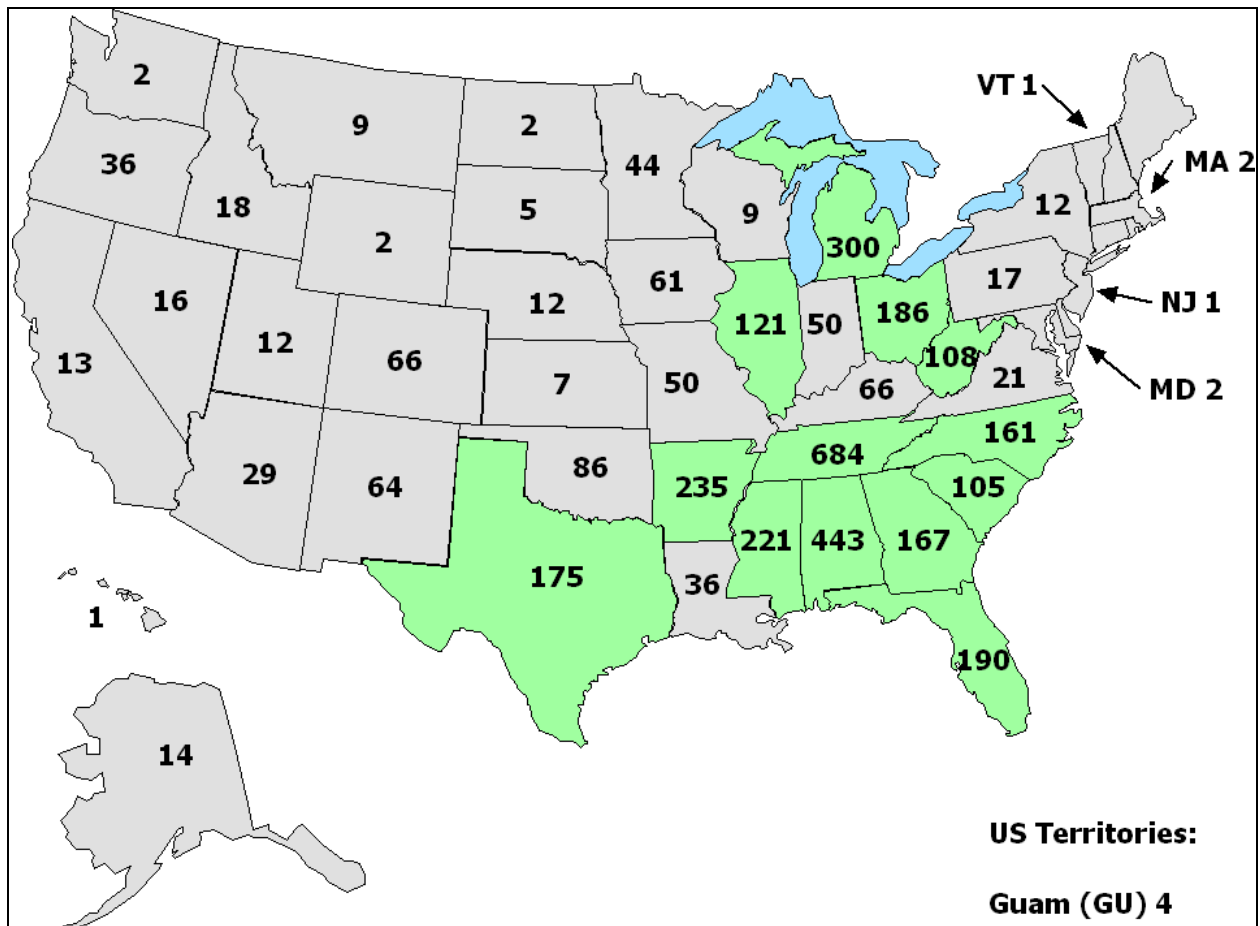
DEA officials attribute the decrease in cleanups since FY 2005 to the passage of the *Combat Methamphetamine Epidemic Act of 2005*, which imposed significant restrictions on the sale of pseudoephedrine to methamphetamine manufacturers.⁸ This act required that products containing pseudoephedrine be sold from behind pharmacy counters and limited the amount that could be purchased.

In FY 2008, DEA officials reported a 14 percent increase in clandestine drug laboratory cleanups, from 3,405 in FY 2007 to 3,866 in FY 2008. DEA officials attribute the increase to “smurfing,” which refers to purchasing small amounts of pseudoephedrine at multiple stores. In addition, the DEA attributes the increase to the poor economy because some states that previously funded most of their own laboratory cleanups are now turning to the DEA for assistance.

⁸ 21 U.S.C. § 830 (2006).

This increased number of DEA-funded cleanups, however, does not necessarily indicate that the number of clandestine drug laboratories in the United States is increasing. The distribution of the DEA-funded clandestine drug laboratory cleanups varies greatly throughout the United States, with 13 states accounting for 80 percent of the DEA-funded clandestine drug laboratory cleanups in FY 2008. The 13 states are shaded in green in Chart 2.

**CHART 2
DEA FUNDED CLANDESTINE DRUG LABORATORY CLEANUPS
FY 2008⁹**



Source: Drug Enforcement Administration

The number of cleanups shown in Chart 2 reflects only those cleanups funded by the DEA and does not include the cleanups funded through state and local agencies. Some of the states shaded in gray may have had a greater number of cleanups than those shaded in green. For example,

⁹ States without numbers indicate there were no DEA funded cleanups in FY 2008.

Missouri is one of several states that uses state funds for most of its drug laboratory cleanups and only requests the DEA's assistance for large cleanups. Thus, during calendar year 2008, Missouri accounted for 22 percent of all methamphetamine laboratories in the United States, but only 1 percent of the DEA-funded clandestine drug laboratory cleanups. Similarly, California accounted for 5 percent of all methamphetamine laboratories in the United States during calendar year 2008, but only 0.3 percent of the DEA-funded cleanups for FY 2008. Generally, the DEA had been able to fund all cleanup requests received from state and local law enforcement agencies. The only period of time the DEA was unable to fund state and local clandestine methamphetamine laboratory cleanups was from March through June 2000, because the DEA did not receive any funding from the Office of Community Oriented Policing Services (COPS) for FY 2000. In June of 2000 the DEA received additional Department of Justice (DOJ) funds for the Cleanup Program and resumed funding state and local cleanups.

As shown in Chart 2, the numbers of clandestine drug laboratory seizures and cleanups differ greatly among areas within the United States. The DEA has difficulties obtaining vendors to perform cleanups in areas that have little clandestine drug laboratory activity because the low cleanup volume is not worth the cost to vendors. As a result, the DEA utilizes blanket purchase agreements and purchase orders to cover these areas, ensuring the entire United States has coverage. The DEA uses contracts to provide long-term coverage of a contract area, giving one vendor the responsibility to perform clandestine drug laboratory cleanups for a specific contract area. Blanket purchase agreements are used to provide short-term coverage to a contract area, typically when a contractor is no longer able to perform its duties and the DEA needs another vendor to temporarily provide coverage until a new contract can be awarded, or when the number of cleanups in a contract area is so unprofitable that no contractor bids for the contract area.¹⁰ Blanket purchase agreements are generally awarded to multiple vendors within the contract area to ensure continuous coverage. The DEA is required to utilize the blanket purchase agreements in these areas on a rotating basis; as a result, the vendor may not have the lowest costs for a specific cleanup.

Cleanup Program Funding

From the inception of the Cleanup Program in 1989 through 1997, DEA clandestine drug laboratory cleanups were funded solely from the Assets

¹⁰ Contract areas are unprofitable for states with a relatively small number of cleanups. For example, during the last round of contract solicitations in FY 2008, no contractors bid to cover the states of Alaska, Hawaii, Idaho, Kansas, Montana, Nevada, North Dakota, and South Dakota.

Forfeiture Fund.¹¹ However, Assets Forfeiture Funds can only be used to fund cleanups of clandestine drug laboratories seized by the DEA.¹²

In 1998, under the authorization of the *Violent Crime Control and Law Enforcement Act of 1994*, Congress established the Methamphetamine Initiative within DOJ and assigned responsibility for administering the program to COPS.¹³ Table 3 below shows the amount of COPS funding provided to the DEA from FYs 1998 to 2009 to fund clandestine drug laboratory cleanups seized by state and local law enforcement.

¹¹ The Assets Forfeiture Fund receives the proceeds of the Assets Forfeiture Program, which removes the proceeds of crime and other assets relied upon by criminals and their associates to perpetuate their criminal activities.

¹² 28 U.S.C. § 524(c) (2002).

¹³ The primary purposes of the Methamphetamine Initiative are to combat the production, distribution, and use of methamphetamine by issuing grant funding to state and local law enforcement agencies for training and equipment, and to reimburse the DEA for the proper removal and disposal of hazardous materials from clandestine methamphetamine laboratories. The U.S. Department of Justice Office of the Inspector General, issued an audit report, *The Office of Community Oriented Policing Services Methamphetamine Initiative*, Audit Report 06-16 (March 2006), 52; addressing COPS methamphetamine grant funds, and not the funds provided to the DEA for clandestine methamphetamine laboratory cleanups.

**TABLE 3
TIMELINE OF COPS FUNDING EVENTS**

YEARS	EVENT
FY 2000	The DEA did not receive any COPS funding for clandestine drug laboratory cleanups. ¹⁴
June 2000	The DEA received additional DOJ funds for the Cleanup Program and resumed funding state and local cleanups.
FYs 2001 - 2008	The DEA received COPS funding of \$20 million each fiscal year to fund state and local cleanups. ¹⁵
FY 2009	The DEA received \$5 million in COPS funding for the Cleanup Program.

Source: Drug Enforcement Administration

In 1999 the DEA also began receiving appropriated funds from Congress to fund clandestine drug laboratory cleanups, in addition to the COPS funding it received for this purpose. The amount of appropriated funds the DEA received from 1999 to 2008 has varied, ranging from \$4 million in FY 1999 to \$1 million in FY 2003. The appropriated funds designated for clandestine drug laboratory cleanups provided the DEA some flexibility in what it could provide for support of state, local, and other DEA efforts, because Assets Forfeiture Funds can only be used for DEA initiated cleanups, and COPS funding can only be used for methamphetamine laboratory cleanups.

The amount the DEA spends annually on the Cleanup Program when all three funding sources are considered has fluctuated from year to year, as shown in Table 4. From FYs 2006 through 2008, the Cleanup Program received funding totaling \$51.4 million, as shown in Table 4.

¹⁴ From mid-March to mid-June 2000, the Cleanup Program was suspended and could not provide cleanups for state and local law enforcement agencies because the DEA did not receive any COPS funding in FY 2000.

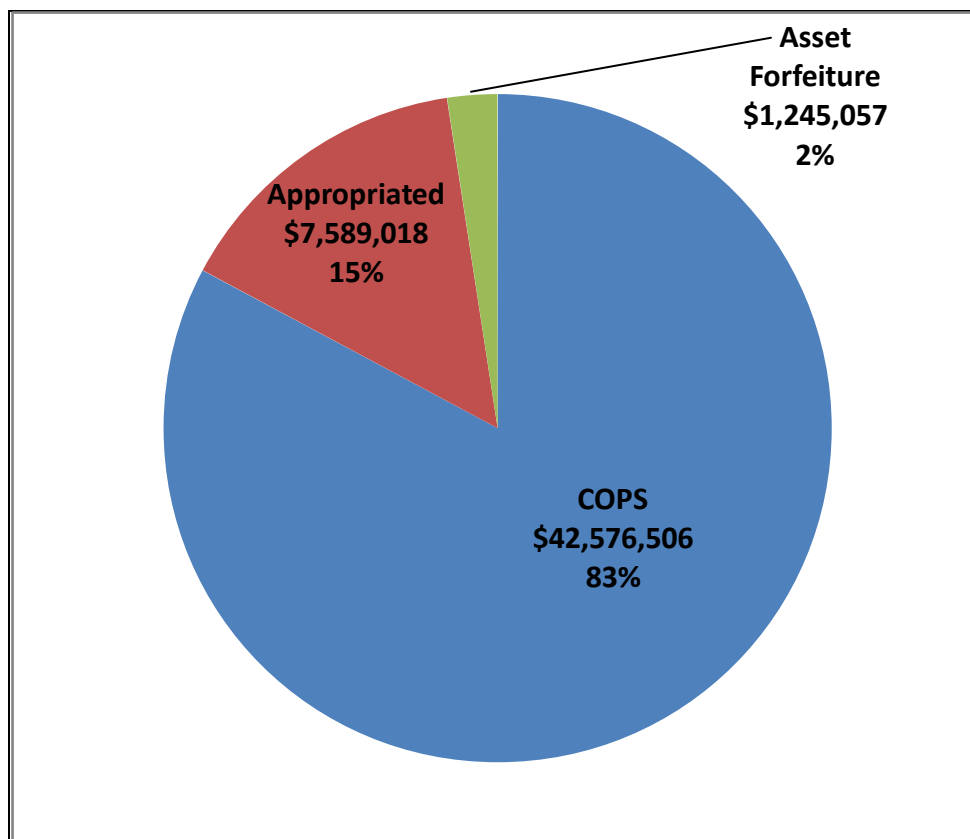
¹⁵ In FY 2008 the Cleanup Program carried an excess balance in COPS funding; as a result \$13.2 million was reprogrammed by DOJ. DEA officials attribute the excess balance of COPS funding to the decrease of the average cost of cleanups, as well as the decrease of clandestine drug laboratories due to the *Combat Methamphetamine Epidemic Act of 2005*, 21 U.S.C. § 830 (2006).

TABLE 4
CLANDESTINE DRUG LABORATORY CLEANUP EXPENDITURES
FYs 2006-2008 (DOLLARS IN MILLIONS)¹⁶

FUND SOURCES	FY 2006	FY 2007	FY 2008	TOTALS
COPS Funds	\$ 15.74	\$ 13.19	\$ 13.64	\$ 42.58
Appropriated Funds	2.93	2.07	2.59	7.59
Assets Forfeiture Funds	0.57	0.26	0.41	1.25
Totals	\$19.24	\$15.53	\$16.65	\$51.41

Source: Drug Enforcement Administration

CHART 3
SOURCE OF CLANDESTINE DRUG LABORATORY
CLEANUP FUNDING
FYs 2006 – 2008



Source: Drug Enforcement Administration

¹⁶ Throughout this report, differences in the total amounts are due to rounding.

Cleanup Program Requirements

Since FY 2003, approximately 95 percent of the vendor cleanups funded by the DEA have been for state and local seizures. The DEA has developed a specific protocol for utilizing vendors for cleanup services. For state and locally initiated cleanups, law enforcement personnel must contact the designated Clandestine Laboratory Coordinator (Coordinator) at the local DEA field office. The Coordinator gathers basic information about the clandestine drug laboratory including the address, size and scope of the cleanup, law enforcement officers on-site, and law enforcement agencies that initiated the seizure and cleanup. Based on the information provided by the state or local law enforcement agency, the Coordinator or the DEA-designated duty agent decides whether to seek funding authorization from DEA headquarters as a state or local cleanup or to adopt the case as a DEA case.¹⁷ In some instances the Coordinator may determine that a state or local seizure was not a clandestine drug laboratory, in which case the DEA will not fund the cleanup. Clandestine drug laboratory seizures initiated by the DEA are automatically classified as a DEA case.

Once the decision is made to seek funding as a state or local cleanup or to adopt the case as a DEA case, the Coordinator then contacts DEA headquarters to obtain funding authorization and a control number, as well as the information for the vendor handling cleanups for that region. For state and local cleanups, the Coordinator relays this information to the state or local law enforcement officers at the site. Once the information has been provided, the state or local law enforcement officers call the vendor for cleanup services.¹⁸

DEA Special Agents are required to report seizure data within 48 hours to the El Paso Intelligence Center (EPIC). State and local law enforcement agencies are required to complete the appropriate EPIC and National Clandestine Laboratory Cleanup Program forms to ensure that accurate seizure data is collected.¹⁹ The forms require specific information regarding

¹⁷ The decision to adopt a case is based on multiple factors, such as whether the seizure is part of an ongoing DEA investigation, the type and size of the laboratory, and the Special Agent workload.

¹⁸ State and local law enforcement officers provide security for the DEA vendor personnel for the entire period of time the vendor is on-site. The DEA has authorized vendors to leave a site and all the related waste behind if proper site security is not provided by the state or local law enforcement agency.

¹⁹ EPIC is a southwest border intelligence center, run jointly by the DEA and U.S. Customs and Border Protection.

the clandestine drug laboratory; suspects; affected persons, such as children who may have been exposed to the laboratory's hazardous waste; items that have been present at the site, such as weapons, drugs, and chemicals; cleanup vendor information; and other investigative information.

These forms help identify the scope, the national clandestine drug problem, and any changes in trends. The forms also help in assessing the quality of the work performed by the DEA's vendors. In addition, the forms are also useful in assessing the need for cleanup resources, and information from the EPIC database and the DEA are used in appropriation and policy decisions regarding the Cleanup Program.

The materials seized at a clandestine drug laboratory site become waste when law enforcement officials make the determination of what to keep as evidence. Those items not required as evidence or for analysis are considered hazardous waste and must be disposed of safely and appropriately. In the disposal process, waste may need to be stored under appropriate temporary conditions in order to allow time to arrange for proper disposal.

Most clandestine drug laboratories generate such sufficiently small amounts of waste that they are exempt from most of the EPA's hazardous waste regulations.²⁰ However, the DEA's policy is to require its vendors to follow EPA regulations related to the removal, storage, and disposal of the waste, even if the amount of waste is small enough to be exempt from the hazardous waste regulations.

The DEA has established contract provisions that require waste to be treated and disposed of in a manner that is consistent with the waste's characteristics and the most cost effective to the government. The three most common disposal methods are incineration, fuel blending, and neutralization. The majority of hazardous waste materials are disposed of through incineration. Fuel blending combines flammable materials with other fuel for use in the incinerator.²¹ Only materials that can be identified as safe to use in fuel blending are utilized. Neutralization is the mixing of an

²⁰ Pursuant to 40 C.F.R. § 261.5 (1980), clandestine drug laboratory sites that produce less than 100 kilograms of hazardous waste, or less than 1 kilogram of acutely hazardous waste, are classified as a Conditionally Exempt Small Quantity Generator and are exempt from most EPA regulations.

²¹ Flammable hazardous materials that are blended with the fuels used for incineration are only used by EPA-regulated disposal facilities for the purpose of incinerating other hazardous materials.

acidic or basic substance with water to bring the pH level closer to the neutral pH level of 7.²²

Cleanup Program Management

Initially, the Cleanup Program was managed by the DEA Hazardous Waste Disposal Unit. A hazardous waste specialist and environmental scientist were both employed within the Cleanup Program to ensure compliance with hazardous waste regulations and laws. However, as the number of cleanups increased over the years, Environmental Protection Specialists were used by the DEA to serve as inspectors in the field, and also as contract specialists to provide oversight for the various vendor cleanup companies working for the DEA across the United States. All of the Environmental Protection Specialists have backgrounds in environmental law, specializing in hazardous waste. As a result of the increasing number of cleanups, in FY 2000 the DEA Hazardous Waste Disposal Unit was reorganized into the DEA Hazardous Waste Section to ensure that the various hazardous waste disposal companies working for the DEA handle the toxic material from clandestine laboratory sites in a manner compliant with federal, state, and local environmental rules and regulations and in accordance with contract requirements.

The DEA's Financial Unit within Office of Forensic Sciences, Hazardous Waste Section, is responsible for monitoring all documentation related to the cleanups. This unit is also responsible for ensuring that the hazardous waste was disposed of by an EPA-regulated transportation, storage, and disposal facility (disposal facility), and for examining all invoices for accuracy before payment is made.

Since FY 1998, the Hazardous Waste Disposal Section has used an electronic database called HAZARDs to track clandestine drug laboratory cleanup information, manage invoice data, and track hazardous waste manifest data from the clandestine laboratory cleanups. Beginning in FY 2002, HAZARDs allowed invoices to be electronically submitted by vendors and paid by the DEA. This procedure was intended to help reduce the large number of hours that had previously been spent on data entry and to reduce the amount of data entry errors. However, due to the loss of two hazardous waste vendors in FYs 2005 and 2006, as discussed in Finding I, the electronic submission and processing of invoices reverted to hard copy submission of paperwork for blanket purchase agreements and purchase

²² Acidic substances have a pH of less than 7, basic substances have a pH of greater than 7, and a neutral substance has a pH level of exactly 7.

orders. With the new FY 2008 generation of contracts in place, the transition has been made back to electronic submissions.

DEA Inspections

The DEA Office of Inspections conducts internal compliance inspections of the DEA, including the Office of Forensic Sciences. These inspections have authority to review compliance with every aspect of the DEA's Office of Forensic Sciences. Previous inspections have included reviews of various areas, from physical security of personnel and equipment to financial management.

Additionally, the DEA's Hazardous Waste Disposal Section, Inspections Unit (Inspections Unit), has six Environmental Protection Specialist positions to conduct scheduled and unscheduled inspections and reviews of vendors.²³ According to DEA officials, each vendor with a blanket purchase agreement or contract must be inspected, at a minimum, once every 3 years. These inspections examine vendor sites to review whether:

- the vendors possess the proper equipment to perform hazardous waste cleanups;
- the facilities possess adequate physical security and storage measures to temporarily store the hazardous waste from cleanups before being taken to an EPA-regulated disposal facility;
- the vendors have the necessary equipment and personnel to handle multiple cleanups occurring at the same time;
- the vendors have a site safety plan in the event of a hazardous waste spill as required by the *Resource Conservation and Recovery Act*;²⁴ and

²³ The Environmental Protection Specialists have environmental law backgrounds and hazardous waste knowledge and expertise. They provide technical guidance to the contracting office, vendors in the field, the DEA field offices, and report to the DEA Internal Affairs chief counsel or the EPA as necessary. They draft solicitations and contracts, serve on technical evaluation panels for new vendors, monitor requirements to deter fraud, and train state and local officers at the DEA training facility at Quantico, Virginia.

²⁴ 42 U.S.C. § 6901 (1976).

- vendor personnel who perform cleanups possess all required training to perform hazardous waste cleanups.²⁵

The inspections team also participates in the post-award conference with the vendors.²⁶

Starting in 2006, the Inspections Unit began to maintain and monitor a complaint database for vendor misconduct and complaints against law enforcement personnel from the vendors. During FYs 2006 through 2008, the Inspections Unit received 15 complaints of vendor misconduct, which represents 0.1 percent of all cleanups. The Inspections Unit investigates all complaints and requires corrective actions when appropriate. The complaints included:

- vendor personnel who perform cleanups arriving at the clandestine drug laboratory without the necessary equipment to perform the cleanup, and
- lengthy response times for the vendor personnel who perform cleanups to arrive at the clandestine drug laboratory.

Common remedies for complaints include:

- disallowing the vendor to perform future hazardous waste cleanup for the DEA;
- employees responsible for the misconduct no longer being employed by the vendor;
- the Inspections Unit performing inspections of the vendors to verify their compliance with regulations; and
- vendors re-issuing policy to its employees to ensure the employees are aware of the requirements for hazardous waste site cleanups.

²⁵ The required training includes: (1) 40 hours of hazardous waste management training; (2) 40 hours of Occupational Health and Safety Administration (OSHA) training; (3) 8 hours of *Resource Conservation and Recovery Act* training; (4) 4 hours of U.S. Department of Transportation training; and (5) 4 hours of training in hazardous waste reporting under the *Comprehensive Environmental Response, Compensation and Liability Act* and on the DEA hazardous waste cleanup contract process.

²⁶ Post award conferences are standard contract meetings held following the award of a contract to discuss applicable information pertaining to the contract.

Prior Reports

In August 1999, the Office of the Inspector General (OIG) issued an audit report on the DEA's hazardous waste cleanup and disposal that included an evaluation of the DEA's use of the Assets Forfeiture Fund to pay for clandestine drug laboratory cleanups.²⁷ The audit found that the DEA was not adequately managing its Cleanup Program. Specifically, the audit found 72 percent of the manifests were not signed by the vendor and Certificates of Disposal were missing in 53 percent of the files reviewed. As a result, the DEA had no assurance that the hazardous waste materials were removed from the cleanup site or disposed of properly.

OIG Audit Approach

Based on the frequency and magnitude of prior findings related to contract administration and hazardous waste cleanups, we conducted an audit of the DEA's Clandestine Drug Laboratory Cleanup Program. The scope of the audit was generally from FYs 2006 through 2008. However, we considered information outside this period if it was relevant to the audit, and the instances in which we considered such information are noted in the report. The objectives of our audit were to:

- determine whether the DEA ensures that clandestine drug laboratory cleanups performed by its vendors comply with applicable laws, regulations, guidelines and contract requirements; and
- evaluate the DEA's overall effectiveness in administering and managing the Clandestine Drug Laboratory Cleanup Program funding.

²⁷ U.S. Department of Justice Office of the Inspector General, *Drug Enforcement Administration Hazardous Waste Cleanup and Disposal*, Audit Report 99-24 (August 1999), 38.

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FINDINGS AND RECOMMENDATIONS

I. DEA OVERSIGHT OF VENDOR PERFORMANCE

We found that the DEA had significant problems in its Clandestine Drug Laboratory Cleanup Program. The DEA implemented additional controls during FY 2008 to seek to ensure that the hazardous materials are accounted for and disposed properly. However, we believe the DEA could further strengthen its oversight of the Clandestine Drug Laboratory Cleanup Program.

In our review, we examined a sample of 606 Clandestine Laboratory cleanups and found that in 28 cleanups in our sample (5 percent), the vendor did not provide the DEA with Certificates of Disposal. In 52 cleanups in our sample (9 percent), the vendor did not provide the final manifest. For 49 of the 52 cleanups (94 percent) for which a final manifest was not provided, a Certificate of Disposal prepared by an EPA-regulated disposal facility was obtained by the DEA. However, we found that for three cleanups the DEA had not obtained a Certificate of Disposal or a final manifest. As a result, in these cases the DEA has no assurance that the waste was disposed of properly for these cleanups. We also identified 25 vendor personnel who performed cleanups and did not have a proper Sensitive Access Level adjudication at the time the cleanup services were provided. As a result, we make six recommendations to strengthen the DEA's oversight of the Clandestine Drug Laboratory Cleanup Program.

Vendor Duties

The DEA contracts with vendors who have specialized training and equipment to remove the waste from the clandestine drug laboratory sites seized by the DEA or by state and local law enforcement agencies, and to transport the waste to an EPA-regulated disposal facility. Clandestine drug laboratory sites that produce less than 100 kilograms of hazardous waste, or less than 1 kilogram of acutely hazardous waste, are exempt from most EPA regulations.²⁸ Based on this criteria, the majority of DEA funded clandestine drug laboratory cleanups are exempt from EPA regulations. However, the DEA's policy is to manage the hazardous waste from all clandestine drug

²⁸ 40 C.F.R. § 261.5 (1980).

laboratories as if they were large enough in volume to be subject to EPA regulations concerning disposal because it:

- allows for the tracking of the waste, thereby reducing the potential for diversion of the material to be used again in the manufacture of illegal drugs;
- ensures the health and safety of personnel on-site and those transporting the waste to an Authorized Central Storage site or to an authorized disposal facility;
- ensures safe disposal of unknown materials at the laboratories that cannot be readily identified;
- provides that wastes are identified as hazardous in case of an emergency during transport;
- ensures containers at the site that may be contaminated from the drug production process are managed properly;
- requires disposal facilities to provide Certificates of Disposal for all items removed from the site, which serves as the DEA's verification that the hazardous waste materials were disposed of properly; and
- minimizes the amount of exempt hazardous waste from being placed in landfills that do not have the degree of environmental protection required of a permitted hazardous waste facility.

Review of Vendor Performance

In FY 2005, the DEA chose not to renew the contract for one of its hazardous waste vendors due to poor performance of the vendor. This left most of the western half of the United States without a contractor to cover removal of hazardous waste. According to DEA officials, the DEA became concerned about the vendor's performance after disclosures about the company's president were revealed during a routine background investigation. As a result, the DEA referred its concerns about this vendor to the OIG. The OIG Investigations Division is currently working with a United States Attorney's Office to pursue civil remedies against the contractor.

Additionally, in FY 2006 another major hazardous waste cleanup vendor began having financial problems and could no longer perform the cleanup services for the rates awarded in its contract. The contractor's bid was based on the large volume of cleanups at the time the contract was

awarded. However, with the passage of the *Combat Methamphetamine Epidemic Act of 2005*, the number of clandestine drug laboratories decreased by 60 percent in FY 2006.²⁹ As a result, since the vendor's bid was dependent on a large number of clandestine drug laboratories cleanups, it could no longer profitably perform the cleanups and did not accept the DEA's offer to exercise the option year under the contract. This left most of the eastern half of the United States without contract coverage.

After the loss of its two major cleanup vendors, the DEA had to rely on emergency blanket purchase agreements and purchase orders to continue the needed cleanup services until new contracts were solicited and awarded in FY 2008. According to DEA officials, the blanket purchase agreements and purchase orders that were awarded on an emergency basis did not allow for the same level of oversight as the contracts awarded in FY 2008. For example, the DEA did not require Certificates of Disposal and final manifests with the signature of the EPA-regulated disposal facility for most of the cleanups performed under the emergency blanket purchase agreements and purchase orders. DEA officials attribute most of the deficiencies noted in our report to the fact that during the majority of the period covered by our audit (FYs 2006 through 2007) the cleanups were performed under emergency blanket purchase agreements and purchase orders.

During FYs 2006 through 2008, the DEA established agreements with 47 vendors using contracts, blanket purchase agreements, and purchase orders. We reviewed a sample of 606 DEA cleanups performed by vendors from FYs 2006 through 2008 to determine whether: (1) Certificates of Disposal were submitted timely to verify the hazardous materials were properly disposed, (2) manifests were submitted and signed to verify the quantity and types of hazardous materials removed from the clandestine drug laboratory site, (3) vendor personnel possessed a proper Sensitive Access Level adjudication as required by DEA regulations, (4) the quantity and types of hazardous waste materials listed on the manifest matched those listed on the Certificates of Disposal, (5) the teams of vendor personnel that performed cleanups were composed of at least two individuals, (6) the correct generator of the hazardous waste was properly listed on the manifest, (7) hazardous materials were transported in accordance with EPA regulations, (8) the hazardous waste materials were transported to an EPA-regulated disposal facility within 10 days, (9) invoices were fully supported, (10) cost estimates approximated the final invoices, and (11) Certificates of Disposal were received by the DEA within 1 year of the hazardous waste materials being taken to the EPA-regulated disposal facility.

²⁹ 21 U.S.C. § 830 (2006).

Certificates of Disposal Not Provided

After the hazardous waste materials have been disposed, the DEA generally requires vendors to obtain a Certificate of Disposal from an EPA-regulated disposal facility certifying that the hazardous materials were disposed of properly at the disposal facility.

During our review, we identified 28 cleanups in our sample (5 percent) for which the DEA had not received Certificates of Disposal from the vendor. These cleanups occurred in 2006 and accounted for 12 percent of all FY 2006 cleanups in our sample. The DEA had obtained Certificates of Disposal for all the cleanups in our sample occurring in FYs 2007 and 2008. We noted that after 2007, the DEA made more of an effort to obtain Certificates of Disposal. We found that the DEA added a contract stipulation beginning with its FY 2008 contracts that invoices will not be paid unless the vendor submits a Certificate of Disposal with the final invoice.³⁰

The following is an example of the types of waste removed from the sites for which the vendors did not provide Certificates of Disposal, the quantities of which were all small enough to be exempt from EPA regulations:

- butane, 600 milliliters;
- Coleman fuel, 13 gallons;
- acetone, 32 ounces;
- muriatic acid, 2 gallons;
- sodium hydroxide, 1 pint; and
- sodium hydroxide mixed with potassium hydroxide, 1 quart.

Subsequent to our review, the DEA was able to obtain one of the Certificates of Disposal from the cleanup vendor. In addition, the DEA was able to obtain an additional 13 Certificates of Disposal directly from the EPA-regulated disposal facility that was used by the vendor which did not renew its option year in FY 2006 due to financial difficulties. As a result, we found that Certificates of Disposal were not obtained for a total of 14 cleanups.

³⁰ Therefore, we are not making a recommendation related to this issue.

For 11 of the 14 cleanups, Certificates of Disposal were not required by the DEA in the emergency blanket purchase agreements or purchase orders, which contradicts the DEA's Cleanup Program policy of treating the waste from all cleanups as if it were subject to EPA regulations. DEA officials stated that it did not require the vendors performing cleanups under the emergency blanket purchase agreements and purchase orders to treat all waste as if it was subject to EPA regulations because they could only be awarded to small businesses, and small businesses are dependent on a steady cash flow. Therefore, the DEA reduced the vendor requirements to ensure that the vendors could be paid for cleanups without waiting up to 1 year for the EPA-regulated disposal facility to dispose of the waste and provide a Certificate of Disposal. The FY 2008 generation of contracts awarded by the DEA included requirements that a Certificate of Disposal and final manifest must be provided for all cleanups, which is consistent with the overall program objectives.

For the remaining 3 of the 14 cleanups, Certificates of Disposal were required by the contract with the vendor but were not provided. The vendor currently under investigation by the OIG was responsible for all three of these cleanups.

Additionally, at the initiation of our audit, the DEA provided a list of 1,747 cleanups between 2004 and 2008 for which Certificates of Disposal were not provided by vendors. The vendor currently under investigation by the OIG was responsible for 1,132 (65 percent) of the 1,747 Certificates of Disposal that were not provided. In these cases, the DEA has no assurance that the hazardous waste materials from these cleanups had been disposed of properly.

The DEA has made efforts to obtain the Certificates of Disposal that were not provided by the vendors. For example, for cleanups performed by the vendor that did not renew its option under the contract for FY 2006 due to financial difficulties, the DEA contacted the EPA-regulated disposal facility used by the vendor directly to obtain the Certificates of Disposal. Since March 2009, the DEA has obtained 555 (32 percent) of the 1,747 Certificates of Disposal that were not provided by the cleanup vendor. Of the remaining 1,192 Certificates of Disposal:

- 1,132 (95 percent) were related to cleanups performed by the vendor currently under investigation by the OIG;

- 42 (4 percent) were related to cleanups performed under the emergency blanket purchase agreements and purchase orders, for which Certificates of Disposal were generally not required; and
- 18 (1 percent) were related to cleanups performed by the vendor that did not renew its option under the contract for FY 2006 due to financial difficulties.³¹

Manifests Not Provided

EPA Regulation 40 C.F.R. § 262 (1980) requires a final manifest for regulated waste that details the quantity and types of hazardous materials removed from the clandestine drug laboratory site. The initial manifest is signed by the law enforcement agency that seized the clandestine drug laboratory (generating agency), verifying that the vendor removed all the hazardous waste listed. After the waste has been transported to an EPA-regulated disposal facility, the disposal facility signs the final manifest, verifying the hazardous materials seized at the site were received for disposal. The manifest serves as documentation of the chain of custody for the hazardous materials from the time the waste is removed from the site until it is delivered to an EPA-regulated disposal facility for disposal. In addition, the manifest can be used to verify that all hazardous materials were transported to an EPA-regulated disposal facility for disposal and that the types and quantities of waste listed on the invoice submitted to the DEA are correct.

During our review, we identified one cleanup in our sample (0.2 percent), for which the vendor did not provide either an initial manifest signed by the seizing law enforcement agency or a final manifest signed by an EPA-regulated disposal facility. In addition, the vendor did not provide a Certificate of Disposal for this cleanup. As a result, there is no documentation supporting the quantity and types of hazardous materials removed from this clandestine drug laboratory site. Further, there is no evidence that the vendor transported the waste to an EPA-regulated disposal facility or that the waste was disposed of properly. It should be noted that the vendor currently under investigation by the OIG Investigations Division was responsible for this one cleanup for which both the final manifest and Certificate of Disposal were not provided.

³¹ This vendor was originally missing 29 Certificates of Disposal as of March 2009, but the DEA has since obtained 11 directly from the EPA-regulated disposal facility.

We also identified 51 cleanups in our sample (8 percent) for which the vendor did provide an initial manifest signed by the seizing law enforcement agency documenting the types and quantities of waste removed from the site, but a final manifest signed by the EPA-regulated disposal facility was not provided. Of the 51 cleanups for which a final manifest was not provided by the cleanup vendor we found the following:

- For 35 of the 51 cleanups (69 percent) for which a final manifest was not provided, a Certificate of Disposal prepared by an EPA-regulated disposal facility was provided. As a result, for these cleanups the DEA has assurance that waste removed from the cleanup site was transported to a disposal facility and that the waste was disposed of properly. According to DEA officials, prior to the FY 2008 generation of contracts vendors were only required to provide the initial manifest signed by the generating law enforcement agency, and not the final manifest signed by the disposal facility. The DEA did not require the final manifest because a Certificate of Disposal was required for all cleanups. The DEA did not believe at that time that the final manifest was necessary because the initial manifest documented the types and quantities of waste removed from the cleanup site and the Certificate of Disposal documented that the waste was disposed of properly, and therefore received, by an EPA-regulated disposal facility.
- For 14 of the 51 cleanups (27 percent) for which a final manifest was not provided, the DEA was able to obtain the final manifests directly from the EPA-regulated disposal facility for the cleanups performed by the vendor that did not renew its option year in FY 2006 due to financial difficulties. In addition, Certificates of Disposal were also obtained from the EPA-regulated disposal facility for these 14 cleanups. As a result, for these cleanups the DEA now has assurance that the waste was received by an EPA-regulated disposal facility and disposed of properly.
- For the remaining 2 of the 51 cleanups (4 percent) for which a final manifest was not provided, a Certificate of Disposal was also not provided by the vendor. As a result, for these cleanups there is no evidence that the vendor transported the waste to an EPA-regulated disposal facility or that the waste was disposed of properly. The vendor currently under investigation by the OIG was responsible for both cleanups for which both the final manifest and Certificate of Disposal were not provided.

Missing or Undocumented Sensitive Access Level Adjudication

To reduce the risk of the diversion of the chemicals to unauthorized locations or personnel, the DEA requires all vendor personnel who work with the hazardous waste chemicals from clandestine laboratory sites to obtain a Sensitive Access Level adjudication.³² The hazardous waste disposal contracts also require vendors to have a minimum of four personnel on staff at all times with a proper Sensitive Access Level adjudication.

DEA requirements include a provision that the DEA will not pay for the labor costs associated with cleanup services performed by vendor personnel who did not have proper Sensitive Access Level adjudications at the time of the cleanup, or who were not in the process of obtaining one.

A Sensitive Access Level adjudication determination allows the applicant access to law enforcement sensitive information, facilities, and systems. Although the hazardous waste materials seized, packaged, and disposed of from clandestine laboratories are not classified as law enforcement sensitive, the DEA still requires this level of access, in addition to signing a nondisclosure statement. Three contract employees work for the DEA running preliminary background checks on all vendor personnel before a full Sensitive Access Level adjudication is approved.

To assess whether the vendor personnel who performed the cleanups had the proper Sensitive Access Level adjudication, we selected a sample of 161 individuals who were members of teams of vendor personnel who performed cleanups included in our sample. We compared the vendor personnel who performed these cleanups to the DEA's Background Investigation database to check whether they had the proper Sensitive Access Level adjudication.

In our sample of 161 individuals, we identified 25 (16 percent) who did not have a proper Sensitive Access Level adjudication at the time of the cleanup activity. Of the 25 individuals identified without proper Sensitive Access Level adjudication, we found the following:

³² Sensitive Access Level adjudication allows the individual access to DEA Sensitive information, facilities, and systems only. It is not a security clearance.

- The DEA's Background Investigation database contained no data related to 22 individuals.³³
- The names of three individuals were included in the DEA's Background Investigation database, but there was no information as to whether they had the required Sensitive Access Level adjudication.

The DEA's policy is to not pay labor costs for any vendor cleanup personnel without the proper Sensitive Access Level adjudications. The DEA issued a memorandum to all cleanup vendors on December 31, 2007, stating that it will not pay the labor costs associated with any personnel who performed cleanups who do not have a proper Sensitive Access Level adjudication or who are not in the process of obtaining one.

We found that for 2 of the 25 individuals noted in our review, the DEA had identified the individuals as lacking a proper Sensitive Access Level adjudication and the DEA correctly refused payment of the labor costs. For the remaining 23 individuals, the DEA did not withhold payment. However, the 23 cleanups for which the DEA paid the labor costs associated with vendor personnel who did not have a Sensitive Access Level adjudication occurred prior to December 31, 2007. As a result, there are no questioned costs associated with this finding.

Because the DEA is not the vendors' only customer, all vendor personnel are not required to obtain Sensitive Access Level adjudication. Only vendor personnel who perform cleanups on behalf of the DEA are required to obtain a proper Sensitive Access Level adjudication. The DEA's policy is to ensure that vendors have an adequate number of employees with proper Sensitive Access Level adjudications by stipulating in the vendor's contract that the vendor should have, at a minimum, four cleared employees on staff at all times. However, untimely granting of Sensitive Access Level adjudications and vendor employee turnover sometimes results in a vendor temporarily having an inadequate number of cleared staff to perform hazardous waste cleanups on behalf of the DEA.

³³ The DEA's Background Investigation database maintains the progress of vendor employees being granted Sensitive Access Level adjudications, from the initial request until an adjudication is received or denied. When the database contains no data related to an individual, there is no indication the individual ever began the process to receive a Sensitive Access Level adjudication, or that an adjudication was subsequently received or denied.

Conflicting Time Requirements

We also noted a separate issue related to Certificates of Disposal resulting from conflicting EPA regulations and DEA requirements. EPA regulations require that disposal facilities dispose of the hazardous waste materials received from vendors within 1 year. However, starting with the FY 2008 hazardous waste removal and disposal contracts, the DEA requires vendors to submit all final paperwork and the final invoice within 6 months of the cleanup to ensure proper budgeting and allocation of cleanup funding. Vendors cannot always obtain Certificates of Disposal from the facilities to submit within the DEA's 6-month contract deadline because the facilities are in compliance with EPA regulations so long as they dispose of the waste within 1 year. In some instances, therefore, the final invoices with full documentation cannot be submitted timely to DEA. For example, according to DEA officials, most of the DEA's cleanup vendors are small businesses, and disposal facilities often postpone disposing of hazardous waste materials from small businesses as long as possible, giving priority to their larger customers first.

Currently the DEA contracts only with the hazardous waste removal companies, and not with the EPA-regulated disposal facilities. However during our review, DEA officials informed us that the DEA is considering awarding separate contracts for the disposal of the waste. If this occurred, the DEA could contract directly with the EPA-regulated disposal facilities for disposal. The cleanup vendors would then be required to use one of the DEA contracted disposal facilities to dispose of the hazardous waste materials removed from the cleanup sites. Contracting with the EPA-regulated disposal facilities directly would allow the DEA additional controls over the amount of time allotted for disposal facilities to dispose of the hazardous waste materials. This, in turn, would allow the vendors performing the cleanup to submit final invoices timely, without having to wait up to 1 year for a Certificate of Disposal to be provided by the EPA-regulated disposal facility. The DEA specifically required its vendors to provide Certificates of Disposal within 6 months rather than the 1-year period allotted to the EPA-regulated disposal facilities, to ensure that its vendors use disposal facilities that are willing to dispose of the hazardous waste materials more quickly. Contracting separately with the EPA-regulated disposal facilities would provide an additional incentive for the disposal facilities to provide the Certificate of Disposal to the DEA timely, as it would not receive payment until the Certificate of Disposal was submitted.

DEA's Perspective

DEA officials attribute most of the deficiencies noted in our report to the fact that during the majority of the period covered by our audit (FYs 2006 through 2007) the cleanups were performed under emergency blanket purchase agreements and purchase orders. As stated previously, in FYs 2005 and 2006, the two major cleanup contracts that covered most of the United States were not renewed. As a result, the DEA had to rely on emergency blanket purchase agreements and purchase orders to continue the needed cleanup services until new contracts were solicited and awarded in FY 2008.

The DEA did not require the vendors performing cleanups under the emergency blanket purchase agreements and purchase orders to treat all hazardous waste materials as if it was subject to EPA regulations in contradiction to the Cleanup Program objectives. As a result, the emergency blanket purchase agreements and purchase orders that were awarded during this period did not allow for the same level of control as the prior contracts. For example, Certificates of Disposal and final manifests requiring the signature of the disposal facility were only required for cleanups that were subject to EPA regulations despite the fact that the majority of DEA funded clandestine drug laboratory cleanups are exempt from EPA regulations. DEA officials stated that it did not require the vendors performing cleanups under the emergency blanket purchase agreements and purchase orders to treat all waste as if it was subject to EPA regulations because blanket purchase agreements could only be awarded to small businesses, and small businesses are dependent on a steady cash flow. Therefore, the DEA reduced the vendor requirements to ensure that the vendors could be paid for cleanups without waiting up to 1 year for the disposal facility to dispose of the waste and provide a Certificate of Disposal.

In our judgment, the DEA at a minimum should have required these vendors to provide a final manifest signed by the disposal facility to document that the hazardous waste materials were delivered for proper disposal. This would have provided the DEA assurance that the hazardous waste materials were in fact transported to an EPA-regulated facility to be disposed of properly. The FY 2008 generation of contracts awarded by the DEA included requirements that a Certificate of Disposal and final manifest signed by the EPA-regulated disposal facility be provided to the DEA by the vendor prior to the payment of the cleanup, which is consistent with the overall program objectives.

Other Matters Related to Vendor Cleanups

We also identified the following instances of non-compliance.

Certificates of Disposal and Manifests Did Not Match

During our review, we compared the types and quantities of the hazardous waste materials listed on the manifests to the Certificates of Disposal, to ensure that all hazardous waste materials removed from the site were accounted for and disposed by the disposal facility. We identified two cleanups (0.3 percent) for which the quantity of hazardous materials seized from the laboratories listed on the manifest did not match the Certificates of Disposal provided by the EPA-regulated disposal facility.³⁴

Adequate Number of Personnel in Cleanup Crew

The DEA's vendors are responsible for ensuring that its personnel are properly trained and that they have proper equipment to perform the cleanup work. According to the *Guidelines for the Cleanup of Clandestine Drug Laboratories* (Red Book), only vendor personnel who have received OSHA, *Resource Conservation and Recovery Act*, and U.S. Department of Transportation (DOT) training to perform the services and have proper equipment to package, transport, and store the waste are permitted to be employed to perform the services. Proper training includes knowing whether a Generator EPA Identification Number is required before shipping can occur, what needs to be included on the manifest, whether land disposal restrictions apply, and how to package the waste and placard the vehicle for shipment.

The DEA's contracts and blanket purchase agreements generally require each team of vendor personnel who perform cleanups to include at least two properly trained individuals to perform the hazardous waste removal services. Generally, we found that the vendor provided adequately qualified and sufficient cleanup personnel. However, we identified seven cleanups (1 percent) for which the cleanup was performed by only one individual, in violation of the contract or blanket purchase agreement.³⁵

³⁴ Neither of these two cleanups occurred during FY 2008.

³⁵ We also identified one cleanup for which the vendor personnel who performed the cleanup were not listed.

Incorrect Generator

When a state or local law enforcement agency seizes a clandestine drug laboratory, the state or local agency becomes, according to EPA regulations, the “generator” of the hazardous waste, even if the seizing agency requests the DEA’s assistance in removing the hazardous waste from the clandestine drug laboratory site.³⁶ The generator is responsible for ensuring compliance with applicable federal laws and regulations.³⁷ It is important that the manifest lists the correct generator of the hazardous waste because the generator is ultimately legally responsible for ensuring that the hazardous waste materials are disposed of properly.

We noted 27 cleanups (4 percent) in which the manifests incorrectly listed the DEA as the generator of the hazardous waste rather than the state or local law enforcement agency that made the seizure.³⁸ We also noted three cleanups (0.5 percent) in which the manifests did not list a generator, three cleanups (0.5 percent) in which the manifests incorrectly listed the generator as an unknown drug laboratory, and two cleanups (0.3 percent) in which the manifests incorrectly listed the generator of the hazardous waste as the vendor.

Other Data Related to Vendor Performance

As discussed in prior sections, we noted some deficiencies related to the DEA’s oversight of the Clandestine Drug Laboratory Cleanup Program. However, as discussed below, based on our review of the 606 cleanups, we found other areas where the vendors complied with the program laws, regulations, and guidelines.

³⁶ The EPA Regulation 40 C.F.R. § 260.10 (1980), defines the generator of a site’s hazardous waste as the agency which “first caused the waste to be subject to regulation.” As a result, the act of a law enforcement agency seizing a clandestine drug laboratory causes any hazardous chemical to be subject to regulation, and therefore, the law enforcement agency becomes the generator of the chemicals seized at the site.

³⁷ Applicable federal laws and regulations include the: (1) Resource Conservation and Recovery Act; (2) Comprehensive Environmental Response, Compensation and Liability Act; (3) Hazardous Materials Transportation Act; and (4) Occupational Safety and Health Act.

³⁸ We also noted two cleanups for which the generator listed was illegible.

Waste Not Transported to the Disposal Facility Timely

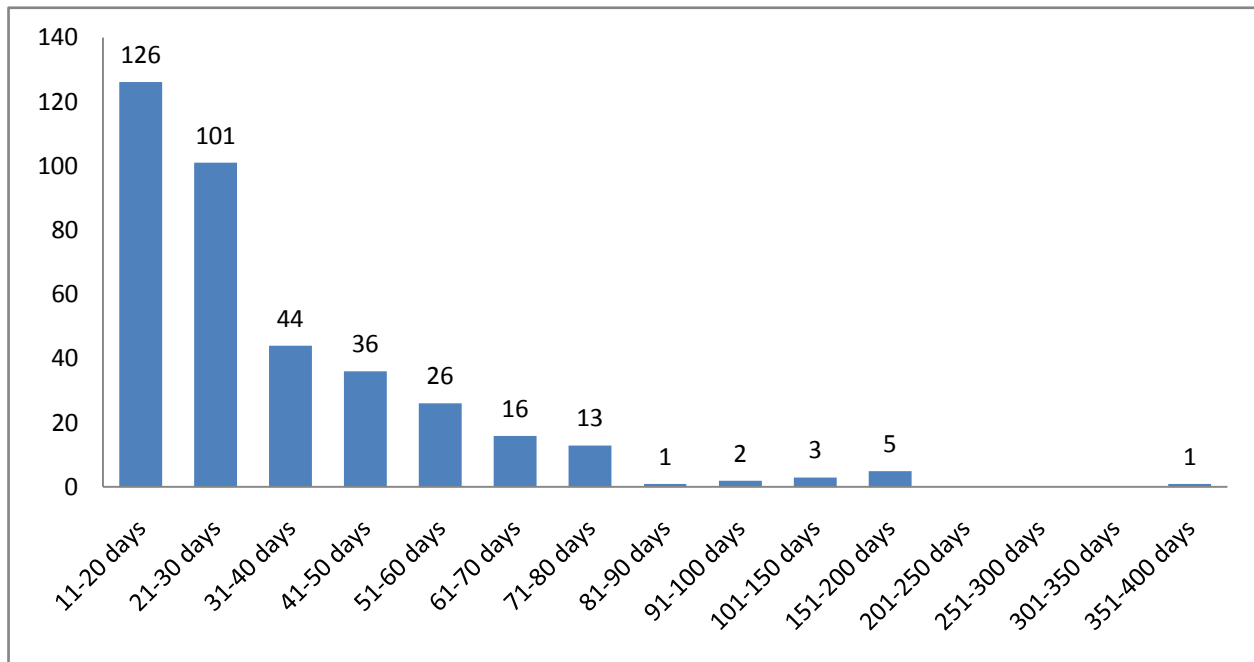
EPA regulations require hazardous waste transporters who operate a transfer facility to transport hazardous waste removed from clandestine drug laboratory cleanup sites to an EPA-regulated disposal facility within 10 days.³⁹ Hazardous waste generators must ensure the hazardous waste is received by a disposal facility within 45 or 60 days.⁴⁰ Vendors are required to use a disposal facility that has been authorized by the EPA and must identify the disposal facility before its contract can be signed. Vendors also must give a 30-day notice to the DEA prior to changing disposal facilities. The EPA regulations are intended to decrease the possibility for the diversion of the hazardous waste materials for manufacture of illegal drugs and environmental contamination by requiring that the materials are transported to an authorized disposal facility in a timely manner. Although most DEA funded clandestine drug laboratory cleanups are exempt from EPA regulations, the DEA has recently added requirements to its contracts and blanket purchase agreements that require vendors to transport the hazardous waste materials to the disposal facility within 10 days. The DEA stated that the purpose of this requirement was to ensure that the waste moves through the disposal process and is not being held up by the cleanup vendors, because the generator of the waste is responsible for the waste until it is disposed of properly.

Although the DEA's requirement was not in place during the period covered by our audit, we identified 374 cleanups in our sample (62 percent) that, according to the manifests, the vendor did not transport the hazardous material to an EPA-regulated disposal facility within 10 days. According to these certificates, the waste was not transported until between 11 and 368 days after the cleanup, with an average of 35 days, as shown in Chart 4.

³⁹ 40 C.F.R. § 263.12 (1980).

⁴⁰ 40 C.F.R. § 262.42 (1980).

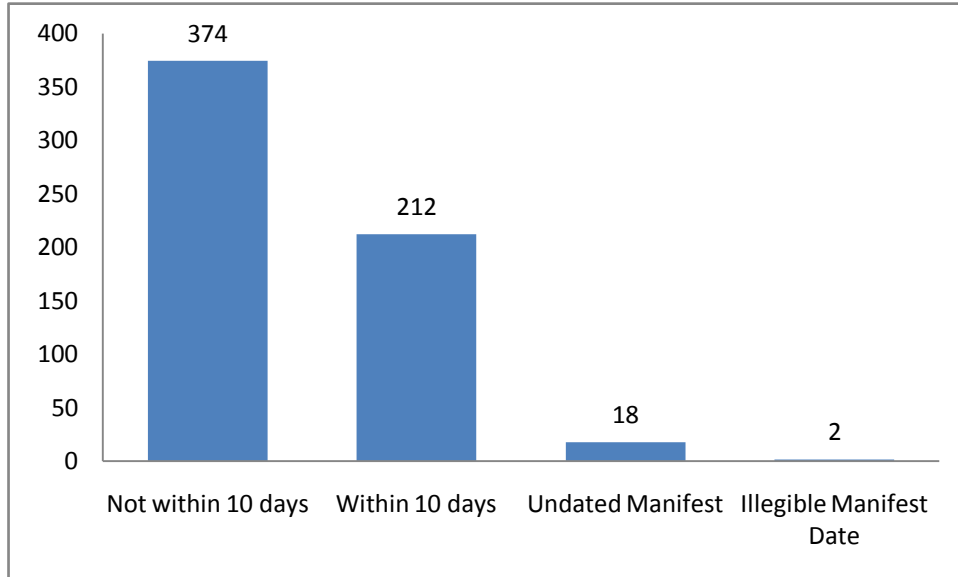
**CHART 4
TIME PERIODS FOR CLEANUP WASTE TO BE TRANSPORTED TO
DISPOSAL FACILITY**



Source: Drug Enforcement Administration

We also identified 18 cleanups for which the manifest was not dated and 2 cleanups for which the date on the manifest was illegible. As a result, we could not determine if the waste for those 20 cleanups was transported to an EPA-regulated disposal facility within 10 days as required by DEA policy. Chart 5 illustrates these related findings broken down as a percentage of the sample as a whole.

**CHART 5
BREAKDOWN OF CLEANUP WASTE TRANSPORTED
TO DISPOSAL FACILITY WITHIN 10 DAYS
FYs 2006 – 2008**



Source: Drug Enforcement Administration

Invoice Approvals

Prior to the payment of an invoice, the DEA requires the invoice to receive both a DEA Approval for Payment, and a DEA Approval for Receipt of Goods and Services. Such approvals help ensure invoices are not mistakenly paid before they have been fully reviewed for compliance with all contract requirements. During our review of the 606 cleanups and related invoices, we found no instances of non-compliance related to this requirement.

Cost Estimates Compared To Final Invoice Amounts

We reviewed the cost estimates and compared those amounts to the final invoiced amounts to determine if any major discrepancies existed between the dollar amounts. We did not find any major discrepancies between the cost estimates and the final invoiced amounts.

Final Certificate of Disposal Date within 1 Year

Disposal facilities are required to dispose of the hazardous waste materials within 1 year upon receipt of the materials from the DEA cleanup vendors. During our review of the 606 cleanups and related invoices, we did

not identify any instances where the disposal facility did not dispose of the materials within 1 year. However, our review was limited to only those cleanups in our sample of 606 that included a valid Certificate of Disposal, and a signed and dated manifest. As noted previously, we identified 57 cleanups where one of these documents was not provided, and we were therefore unable to test compliance for those cleanups.

Recommendations

As a result of the findings identified in this report, we make six recommendations to strengthen the DEA's oversight of the Clandestine Drug Laboratory Cleanup Program.

We recommend that the DEA:

1. Ensure that final manifests are submitted with vendor invoices and that invoices are not paid until a final manifest is received.
2. Ensure that all final manifests are compared with Certificates of Disposal to determine if all hazardous waste materials were disposed of properly.
3. Ensure that vendor cleanup personnel have the required Sensitive Access Level adjudication or are in the process of obtaining one before being allowed to perform the hazardous waste cleanup services and that labor costs are not paid for personnel performing cleanups without required Sensitive Access Level adjudications.
4. Ensure that cleanups are performed by a minimum of two properly trained vendor personnel.
5. Ensure that vendors list the correct generators on the manifests.
6. Analyze the option of contracting separately with the EPA-regulated disposal facilities in order to resolve the conflicting time requirements for vendor submission of final invoices and disposal facility submission of Certificates of Disposal.

II. PROGRAM MANAGEMENT FUNDING

The DEA has significantly reduced the average cost per cleanup of a clandestine drug laboratory site from \$3,600 in FY 2007 to \$2,200 in FY 2009. The DEA has also created the Authorized Central Storage Container Program, which allows trained state and local law enforcement staff to remove hazardous waste materials from small clandestine drug laboratories and store the waste until it is picked up and disposed of by a cleanup vendor. This initiative has resulted in a cost savings to the DEA of over \$4.2 million from FYs 2006 through 2008 because the vendor's labor costs for multiple cleanup sites is reduced by allowing the vendor to pickup and remove the hazardous waste from the multiple sites at the central storage location. This has resulted in cost savings of over \$4.2 million, which is in addition to the savings from the decreasing average cost per cleanup.

Hazardous Waste Cleanup and Disposal Contracts

The first DEA Hazardous Waste Cleanup and Disposal Contracts were awarded in FY 1991. The DEA established 10 geographic contract areas for the first award of contracts. The open contract competition resulted in the award of a 2-year contract to 1 company for all 10 contract areas.

In FY 1993, the second generation of contracts was awarded to eight emergency response companies for a 5-year period. Because contract revisions eliminated hazardous waste storage as a separate billable item, vendors could no longer increase billings by storing the hazardous waste rather than transporting it to an EPA-regulated disposal facility immediately. This resulted in a significant reduction in the average cost per cleanup. In addition, in FY 1993 the number of contract areas nearly tripled to 27 regions. This increase addressed the concern of Special Agents that the time periods for vendors to respond to cleanup sites and remove the waste (response times) were too long. The DEA's preferred response times range from 1 to 3 hours.⁴¹ However, certain geographic areas were reporting 16 to 30 hour response times, during which state and local law enforcement were required to stay on-site waiting for cleanup crews to arrive. Although vendor response times continued to be an issue, the average response times improved.

⁴¹ Generally, the contracts and blanket purchase agreements allow vendors 1 hour response time for every 50 miles of travel required. Contracts are typically awarded to vendors that can arrive at a clandestine drug laboratory within 1 to 3 hours.

The third generation of contracts, again in place for 5 years, was awarded to 10 emergency response vendors in FY 1998. They provided service in 29 contract areas, adding Puerto Rico and splitting Nevada into 2 contract areas. Average cleanup costs and response times continued to improve.

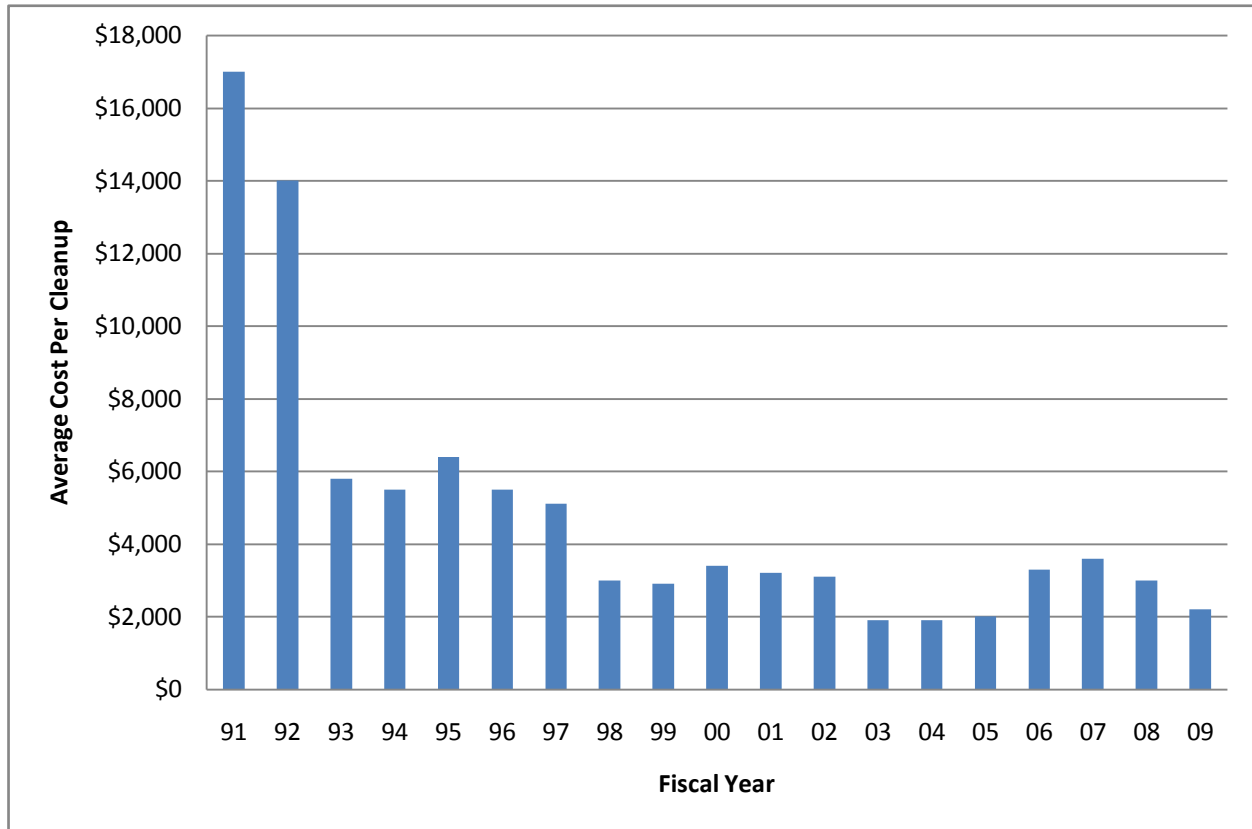
The fourth generation of contracts was also intended to last for a 5-year period beginning in FY 2003. There were several major changes to these contracts, including the expansion of the number of contract areas to 44 regions in an attempt to further reduce the response times and minimize the Special Agents' time on-site. Other cost savings measures were included, such as requiring vendors to have response facilities inside the contract areas and only allowing billing from the closest response facility, as well as the introduction of electronic invoicing that reduced the amount of data entry required. These measures resulted in another decrease in the average cost of cleanup.

In FY 2008, new contracts were awarded for most geographic areas. The new generation of contracts allowed the DEA to return to a normal state of operations, which has resulted in better overall program management and reduced cleanup costs as discussed in the following section.

Cleanup Costs

The DEA significantly reduced the average cost per cleanup of a clandestine drug laboratory site from \$3,600 in FY 2007 to \$2,200 in FY 2009. Between FY 2003 and FY 2008 the average cost per cleanup has varied between \$1,900 and \$3,600 as shown in Chart 6.

**CHART 6
AVERAGE COST PER LABORATORY CLEANUP
FYs 1991 – 2009**



Source: Drug Enforcement Administration

The various contract modifications and improvements implemented by the DEA resulted in significant cost savings. The number of cleanups for the first generation of contracts, awarded in FY 1991, was relatively small. As a result, the average cost per cleanup was about \$17,000. Charging for storage of the hazardous waste materials was allowed at the time, but was soon identified as a significant cause of elevated prices.

As stated previously, with the advent of the second generation contracts beginning in FY 1993, the DEA did not allow billings for storage of the hazardous waste. As a result, vendors could no longer increase billings by storing the hazardous waste rather than transporting it to an EPA-regulated disposal facility timely. Bids and billing under this contract required the vendor to build in storage costs that might occur into the disposal costs for any container of waste. The average cost per cleanup dropped to about \$5,500. Additional revisions in the third generation contracts, such as better geographic divisions in the contract areas, resulted

in a further decrease of the average cost per cleanup to less than \$3,500. The contract awarded in FY 2003 further reduced the costs to below \$2,000.

As shown in Chart 6, the average cost per cleanup increased from \$2,000 in FY 2005 to \$3,600 in FY 2007 due to the loss of the DEA's two major vendors and subsequent issuance of emergency blanket purchase agreements and purchase orders to ensure coverage across the United States. However, costs started to decrease again in FY 2008, to an average of \$3,000 per clean up with the award of new contracts.

Costs decreased even further in FY 2009, down to an average of \$2,200 per cleanup. According to DEA officials, the major factor related to the increased cleanup costs in FYs 2006 and 2007 was the loss of the two major vendors that provided coverage across most of the United States, and the DEA was forced into relying on emergency blanket purchase agreements and purchase orders to ensure continued coverage across the United States. As a result, there was no opportunity for competitive bids, as coverage was required immediately. Reverting back to contracts in FY 2008, as opposed to emergency purchase agreements, decreased the average cost per cleanup because the DEA was able to negotiate lower contract prices than the prices obtained under emergency blanket purchase agreements.

In addition, as discussed below, the Authorized Central Storage Container Program, implemented in FY 2004, has reduced the average cost for those types of cleanups to less than \$500.

Authorized Central Storage Container Program

The Authorized Central Storage Container Program allows state and local law enforcement officers to perform the removal of chemicals from small laboratories, and temporarily store the chemicals in a safe and secure location pending final removal by a DEA vendor and proper final disposal at the DEA's expense. The Authorized Central Storage Container Program is intended for smaller sites, such as a clandestine drug laboratory in the trunk of an automobile. The hazardous waste may be temporarily stored for no more than 1 week. The temporary storage facilities must have:

- a steel outer-shell with a corrosion resistant finish;
- a static grounding system, which consists of 1 exterior grounding connection with a 10 foot long copper coated steel grounding rod, copper strap, and grounding lugs;

- passive gravity air flow vents, consisting of 2-hour fire rated dampers with louvers and screens;
- 2-hour fire rated walls, door, and roof;
- a leak proof secondary containment sump with galvanized steel floor grating;
- one weatherproof single phase electrical load center on the exterior wall; and
- one explosion proof incandescent light fixture within the interior of the facility.

In FY 2004, Kentucky, Oklahoma, Nebraska, and Alabama became the first states to establish an agreement with the DEA to authorize use of an Authorized Central Storage Container Program. In FY 2007, the Authorized Central Storage Container Program was expanded to also include Illinois and Indiana.

Temporarily storing the waste allows officers to expedite the removal of seized chemicals by eliminating the wait time for vendors to arrive on-site. The Authorized Central Storage Container Program also reduces costs because the DEA vendors can pick up at one time the hazardous waste that law enforcement officers have collected from several sites.

The Authorized Central Storage Container Program has resulted in cost savings to the DEA of over \$4.2 million from FYs 2006 through 2008 when compared to what the costs would have been for removal of the waste from the cleanup site. The DEA is considering expanding the Authorized Central Storage Container Program beyond the six states in which it currently operates. We believe such an expansion is appropriate.

Conclusion

We found that the DEA has reduced the average cost per cleanup of a clandestine drug laboratory site. While the costs increases in FY 2006, this was due to the loss of the two major vendors which provided coverage across most of the United States, and the DEA was forced into relying on emergency blanket purchase agreements and purchase orders to ensure continued coverage across the United States. As a result, there was no opportunity for competitive bids, as coverage was required immediately. In FY 2008 the DEA again obtained competitive bids and ensure before awarding contracts that vendors were fully capable of performing the

services through pre-award inspections. The average cost per cleanup has decreased in both FY 2008 and 2009. The DEA has also created the new cost saving Authorized Central Storage Container Program, which has resulted in additional savings to the DEA of over \$4.2 million from FYs 2006 through 2008.

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STATEMENT ON INTERNAL CONTROLS

As required by the *Government Auditing Standards* we tested as appropriate, internal controls significant within the context of our audit objectives. A deficiency in an internal control exists when the design or operation of a control does not allow management or employees, in the normal course of performing their assigned functions, to timely prevent or detect: (1) impairments to the effectiveness and efficiency of operations, (2) misstatements in financial or performance information, or (3) violations of laws and regulations. Our evaluation of the DEA's internal controls was *not* made for the purpose of providing assurance on its internal control structure as a whole. The DEA's management is responsible for the establishment and maintenance of internal controls.

Through our audit testing, we did not identify any deficiencies in the DEA's internal controls that are significant within the context of the audit objectives and based upon the audit work performed that we believe would affect the DEA's ability to effectively and efficiently operate, to correctly state financial and performance information, and to ensure compliance with laws, regulations, and other applicable requirements.

Because we are not expressing an opinion on the DEA's internal control structure as a whole, this statement is intended solely for the information and use of the auditee. This restriction is not intended to limit the distribution of this report, which is a matter of public record.

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STATEMENT ON COMPLIANCE WITH LAWS AND REGULATIONS

As required by the *Government Auditing Standards* we tested, as appropriate given our audit scope and objectives, selected transactions, records, procedures, and practices, to obtain reasonable assurance that the DEA's management complied with federal laws and regulations, for which noncompliance, in our judgment, could have a material effect on the results of our audit. The DEA's management is responsible for ensuring compliance with federal laws and regulations applicable to the Cleanup Program. In planning our audit, we identified the following laws and regulations that concerned the operations of the auditee and that were significant within the context of the audit objectives:

- *The Occupational Safety and Health Act of 1970* – regulates safety conditions in the workplace. 29 U.S.C. § 15 (1970).
- *The Hazardous Materials Transportation Act of 1975* – Regulates packaging, marking, labeling, and transportation of hazardous materials, including hazardous wastes. 40 U.S.C. § 1811 (1975).
- *The Resource Conservation and Recovery Act of 1976* – Defining the Generator of Hazardous Waste as the agency who first caused the hazardous waste to be subject to regulation. 42 U.S.C. § 6901 (1976).
- *The Comprehensive Environmental Response, Compensation and Liability Act of 1980* – Governs emergency response for release of hazardous substances into the environment. 42 U.S.C. § 9601 (1980).

Our audit included examining, on a test basis, the DEA's compliance with the aforementioned laws and regulations that could have a material effect on the DEA's operations, through interviewing auditee personnel, analyzing data, assessing internal control procedures, and examining procedural practices.

Nothing came to our attention that caused us to believe that the DEA was not in compliance with the aforementioned laws and regulations.

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OBJECTIVES, SCOPE, AND METHODOLOGY

The objectives of the audit were to: (1) determine whether the DEA ensures that clandestine drug laboratory cleanups performed by its vendors comply with applicable laws, regulations, guidelines and contract requirements; and (2) evaluate the DEA's overall effectiveness in administering and managing the Clandestine Drug Laboratory Cleanup Program funding.

Scope and Methodology Section

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.

To determine whether the DEA ensures that clandestine drug laboratory cleanups performed by its vendors comply with applicable laws, regulations, guidelines, and contract requirements, as well as to ascertain the DEA's overall effectiveness in administering and managing the Cleanup Program funding, we reviewed the DEA's Cleanup Program to determine whether cleanup activities were in accordance with:

- the DEA's Red Book,
- the *Resource Conservation and Recovery Act*,⁴²
- EPA regulations,
- the Code of Federal Regulations involving contracts, and
- the OSHA and DOT regulations.

We reviewed all of the DEA's prior inspections reports related to the Cleanup Program from FYs 2004 through 2009, as well as all previous complaint and inquiry reports from FYs 2006 through 2008, to identify any

⁴² 42 U.S.C. § 6901 (1976).

areas where the DEA's effectiveness in administering the Cleanup Program would be suspect.

Additionally, we selected a random sample of 606 cleanups, which had invoices submitted for FYs 2006 through 2008. In order to obtain an effective sample, we have employed multistage stratified statistical sample design covering all 3 years, different levels of cleanup activities, and all vendors. The universe considered for sample selection consisted of 11,781 cleanups with a total invoiced amount of \$38,931,235. The 11,781 cleanups were arrived at after excluding 234 cleanups with no invoices. The cleanups spanned a 3-year period, FY 2006, FY 2007, FY 2008, and to 49 vendors, considering the purchase orders as one, and blanket purchase agreements as another.

The descriptive analysis of the data elicited that the number of cleanups per vendor, the total invoiced amount per vendor, and the average invoiced amount per cleanup varied widely. The tests employed on each selected item from the sample are all attribute in nature. The assumptions made for sample design include the confidence level at 95 percent, precision at 4 percent, and 0.5 p value. In order to obtain efficient estimators of the parameters, multistage stratified sample design was selected to reduce the variance from the factors such as the year, vendor, the level of activity, and invoiced amount. The stage one strata contained combination of the year and group of vendors and the stage two strata contained vendors within each of the stage one stratum. Proportional to size sample allocation method was employed in each stage. The selected stratified sample design, using the above assumptions, yielded a sample size of 606 cleanups from the universe of 11,781 cleanups. We have selected a random probability sample within each of the strata so that the resulting sample is statistically valid and efficient. However, the sample cannot be projected to the intended population.

We reviewed each sample invoice to determine whether:

- the invoice was fully supported;
- the DEA's acceptance of goods and services was properly documented;
- the DEA's approval for payment was properly documented;
- a cost estimate was submitted within 5 days;
- the final invoice was submitted within 180 days;

- any major differences between cost estimates and actual invoiced amounts were adequately explained;
- the invoiced amounts were allowable in accordance with the respective contract, blanket purchase agreement, or purchase order;
- a manifest was submitted documenting the chain of custody for the hazardous materials from the time the waste was removed until it was delivered to an EPA-regulated disposal facility;
- the vendor transported all hazardous materials to an EPA-regulated disposal facility within 10 days;
- a Certificate of Disposal was submitted to verify the hazardous materials were disposed of properly;
- the quantity of materials on the Certificate of Disposal matched the manifests and invoices;
- the Certificate of Disposal was submitted concurrent with, or prior to, the final invoice; and
- the final Certificate of Disposal date was within 1 year of the cleanup completed date.

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U. S. Department of Justice
Drug Enforcement Administration

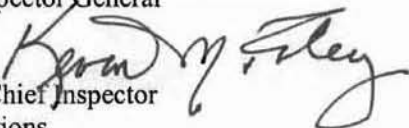
www.dea.gov

Washington, D.C. 20537

JUN 14 2010

MEMORANDUM

TO: David M. Sheeren
Regional Audit Manager
Denver Regional Audit Office
Office of the Inspector General

FROM: Kevin M. Foley 
Acting Deputy Chief Inspector
Office of Inspections

SUBJECT: DEA's Response to the OIG's Draft Report: *The Drug Enforcement Administration's Clandestine Drug Laboratory Cleanup Program*

The Drug Enforcement Administration (DEA) has reviewed the Department of Justice (DOJ), Office of the Inspector General's (OIG) draft audit report, entitled: *The Drug Enforcement Administration's Clandestine Drug Laboratory Cleanup Program*. DEA acknowledges OIG in conducting a review of DEA's efforts to focus on the removal and disposal of chemicals, contaminated apparatus, and equipment used to manufacture illegal drugs. DEA is committed to dismantling clandestine drug laboratories that present serious environmental concerns. DEA concurs with recommendations 1 – 6 and will take the necessary steps to implement.

DEA appreciates that the draft audit report indicates the DEA implemented additional controls during fiscal year (FY) 2008, to ensure that hazardous materials are accounted for and disposed properly. The OIG reports that DEA added to its contracts stipulations that invoices will not be paid unless the vendor provides the appropriate documentation. The OIG also mentions that DEA issued a memorandum to all cleanup vendors of the additional constraints to ensure that contracts are being adhered to. As a result of the additional internal controls put into place by DEA, OIG noted that during the scope of the review, there were no instances where vendors failed to provide the appropriate documentation for cleanups during FYs 2007 and 2008. OIG further noted that DEA implemented several cost saving measures to reduce cleanup costs.

While DEA remains committed to process improvements and will work to implement the recommendations made by the OIG, the DEA believes that improvements implemented in March 2008, through contracts managed by the Clandestine Drug Laboratory Cleanup Program, addressed the OIG's concerns.

DEA provides the following response to the OIG's recommendations:

Recommendation 1. Ensure that final manifests are submitted with vendor invoices and that invoices are not paid until a final manifest is received.

DEA concurs with the recommendation. The Office of Forensic Sciences, Hazardous Waste Disposal Section (SFH) has already taken steps by implementing this recommendation in the contracts that were awarded in FY 2008. The contracts, section G.2.2 specifically states, "*the following completed documents shall be submitted, together with Attachment J.10, as part of the invoice package: G2.2.5, a final manifest, signed by a permitted Treatment, Storage, and Disposal Facility (TSDF).*" The final manifest and vendor invoices are currently reconciled by the DEA Hazardous Waste Disposal Section, Financial Unit (SFHF), upon receipt of the invoice package. Detailed procedures to ensure compliance with the recommendation will be incorporated into the revised SFH Standard Operating Procedures.

Recommendation 2. Ensure that all final manifests are compared with Certificates of Disposal to determine if all hazardous waste materials were disposed of properly.

DEA concurs with the recommendation. SFH has already taken steps by implementing this recommendation in the contracts that were awarded in FY 2008. The contract, section C.6.14.1 states, "*The Certificate of Destruction (CD) shall include: ... (5) An absolute identification method for linking the applicable CD to the initial Uniform Hazardous Waste Manifest or Bill of Lading (i.e., manifest number and line item number).*" This information is currently reconciled by the SFHF unit, upon receipt of the invoice package. Detailed procedures to ensure compliance with the recommendation will be incorporated into the revised SFH Standard Operating Procedures.

Recommendation 3. Ensure that vendor cleanup personnel have the required Sensitive Access Level adjudication or are in the process of obtaining one before being allowed to perform the hazardous waste cleanup services and that the labor costs are not paid for personnel performing cleanups without required Sensitive Access Level adjudications.

DEA concurs with the recommendation. SFH has already taken steps by implementing this recommendation in the contracts that were awarded in FY 2008. In the contract, section I, it states that, "*The Contractor shall provide DEA with completed security applications for any personnel providing hazardous waste cleanup and disposal services including owners and officers of the company, no later than 30 days after receipt of the application and instructions from DEA. Personnel, whose background indicates unfavorable information, as determined by the DEA, shall not work on any DEA job. DEA may not be billed for the services of any employee who has been found ineligible or unsuitable to work on DEA jobs.*" Furthermore, Section I.B.6 states, "*A contractor's employee(s) shall not be assigned to perform services for DEA until the contractor has been notified in writing by the Contracting Officer's Technical Representative (COTR)/Task Monitor (TM) that the individual(s) has been approved by the DEA Office of Security Programs.*" This information is currently reconciled by the SFHF unit upon receipt of the invoice package. Detailed procedures to ensure compliance with the recommendation will be incorporated into the revised SFH Standard Operating Procedures.

Recommendation 4. Ensure that cleanups are performed by a minimum of two properly trained vendor personnel.

DEA concurs with this recommendation. SFH has already taken steps by implementing this recommendation in the contracts that were awarded in FY 2008. Section C.5, of the contract states *"Response Crew means For safety reasons, a response crew must consist of at least two personnel of which no more than one individual may be billed as a chemist, if necessary."* These individuals must be trained in accordance with the contract requirements in Section C.10, which states, *"The Contractor shall utilize only those employees who have had current training that meets the pertinent requirements of Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), Department of Transportation (DOT), and DEA and any other applicable federal, state, or local training requirements."* This information is currently reconciled by the SFHF unit upon receipt of the invoice package. Detailed procedures to ensure compliance with the recommendation will be incorporated into the revised SFH Standard Operating Procedures.

Recommendation 5. Ensure that vendors list the correct generators on the manifests.

DEA concurs with this recommendation. SFH has already taken steps by implementing this recommendation in the contracts that were awarded in FY 2008. Section C.8.1., of the contract states, *"Manifests prepared at an authorized removal site shall include: On the left side of box #5, Generator's Name and Mailing Address, the mailing address of the generator. For state or local removal actions for which an "S" Number has been issued, the Contractor shall use the name and address of the lead, state or local law enforcement agency. For DEA-only removal actions for which an "S" Number has not been issued, but for which a DEA Case Number has been issued, the Contractor shall indicate the following address: COTR: DEA (SFH); Washington, D.C. 20537."* The information is currently reconciled by the SFHF unit upon receipt of the invoice package. In addition, as per Section C.10 of the contracts, all vendors are provided training by DEA during the post-award training conference specifically in the area of Uniform Hazardous Waste Manifest requirements. Detailed procedures to ensure compliance with the recommendation will be incorporated into the revised SFH Standard Operating Procedures.

Recommendation 6. Analyze the option of contracting separately with the EPA-regulated disposal facilities in order to resolve the conflicting time requirements for vendor submission of final invoices and disposal facility submission of Certificates of Disposal.

DEA concurs with this recommendation. An analysis by SFH has begun on the current statement of work in the hazardous waste disposal contracts. SFH is analyzing the feasibility of awarding separate response and disposal contracts by conducting a comprehensive review of the entire cleanup process. As part of this evaluation, SFH will review and examine several different EPA-permitted TSDFs to determine the applicability, specific procedures and regulatory requirements of the clandestine laboratory cleanup program as it relates to their operations. DEA will draft a new statement of work and determine TSDF interest by posting a request for information (RFI) through the DEA contracting office. The results of the RFI, in conjunction with our analysis, will ultimately decide whether the option of contracting separately with EPA regulated disposal facilities is feasible.

Documentation detailing DEA's efforts to implement each of the recommendations noted in this report will be provided to the OIG on a quarterly basis, until all corrective actions have been completed. If you have any questions regarding DEA's response to the OIG's recommendations, please contact the Audit Liaison Team at (202) 307-8200.

**OFFICE OF THE INSPECTOR GENERAL
ANALYSIS AND SUMMARY OF ACTIONS
NECESSARY TO CLOSE THE REPORT**

The OIG provided a draft of this audit report to the DEA. The DEA response is incorporated in Appendix II of this final report.

The DEA states in its response that “while DEA remains committed to process improvements and will work to implement the recommendations made by the OIG, the DEA believes that improvements implemented in March 2008, through contracts managed by the Clandestine Drug Laboratory Cleanup Program, addressed the OIG’s concerns.” The OIG recognizes in its report that the DEA has implemented policy changes in 2008 which improved its Clandestine Drug Laboratory Cleanup Program. However, the OIG believes that the DEA still needs to take additional steps to improve its program and to address the OIG’s recommendations. For example, as the DEA acknowledges in its response to five of the six recommendations, it still needs to prepare detailed procedures to ensure compliance with the OIG’s recommendations and to incorporate those procedures into the revised DEA, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures. In addition, as explained in more detail below, in its response to the sixth recommendation the DEA states that it concurs with our recommendation to analyze the option of contracting separately with the EPA-regulated disposal facilities.

The following provides the OIG analysis of the DEA’s response to each recommendation and a summary of actions necessary to resolve the report.

Summary of Actions Necessary to Close Report

1. **Resolved.** The DEA concurred with our recommendation to ensure that final manifests are submitted with vendor invoices and that invoices are not paid until a final manifest is received. The DEA stated that it has already taken steps to address this concern in the contracts that it awarded in FY 2008. The FY 2008 contracts require that a final manifest, signed by a permitted transportation, storage, and disposal facility, shall be submitted with the final invoice. The DEA stated that it also reconciles the final manifest and vendor invoices. The DEA plans to prepare detailed written procedures to ensure compliance with this recommendation and incorporate those procedures into the

revised DEA, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures. This recommendation can be closed when we receive documentation showing that the DEA has prepared and incorporated the detailed procedures to ensure that final manifests are submitted with vendor invoices and that invoices are not paid until a final manifest is received into the revised DEA, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures.

2. **Resolved.** The DEA concurred with our recommendation to ensure that all final manifests are compared with Certificates of Disposal to determine if all hazardous waste materials were disposed of properly into the revised DEA. The DEA stated that it has already taken steps to address this concern in the contracts that it awarded in FY 2008. The FY 2008 contracts require that the Certificate of Disposal include an identification method for linking the Certificate of Disposal to the final manifest (that is, the manifest number and line item number). The DEA stated that it currently reconciles this information upon receipt of the invoice package, and that the DEA will prepare detailed written procedures to ensure compliance with this recommendation and incorporate those procedures into the revised DEA, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures. This recommendation can be closed when we receive documentation showing that the DEA has prepared and incorporated the detailed procedures to ensure that all final manifests are compared with Certificates of Disposal to determine if all hazardous waste materials were disposed of properly, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures.
3. **Resolved.** The DEA concurred with our recommendation to ensure that vendor cleanup personnel have the required Sensitive Access Level adjudication or are in the process of obtaining one before being allowed to perform the hazardous waste cleanup services and that labor costs are not paid for personnel performing cleanups without required Sensitive Access Level adjudications. The DEA stated that it has already taken steps to address this concern in the contracts that it awarded in FY 2008. According to the DEA, the FY 2008 contracts require that the contractor provide the DEA with completed security applications for any personnel providing hazardous waste cleanup and disposal services, including owners and officers of the company, no later than 30 days after receipt of the application and instructions from the DEA. Contractor personnel whose background indicates unfavorable information, as determined by the DEA, shall not work on

any DEA job. According to the contracts, the DEA may not be billed for the services of any employee who has been found ineligible or unsuitable to work on DEA jobs. Furthermore, a contractor's employee shall not be assigned to perform services for the DEA until the contractor has been notified in writing by the Contracting Officer's Technical Representative Task Monitor that the individual has been approved by the DEA Office of Security Programs. The DEA stated that it currently reconciles this information upon receipt of the invoice package, and that the DEA will prepare and incorporate the detailed procedures to ensure compliance with this recommendation into the revised DEA, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures. This recommendation can be closed when we receive documentation showing that the DEA has prepared and incorporated the detailed procedures to ensure that vendor cleanup personnel have the required Sensitive Access Level adjudication or are in the process of obtaining one before being allowed to perform the hazardous waste cleanup services and that labor costs are not paid for personnel performing cleanups without required Sensitive Access Level adjudications into the revised DEA, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures.

4. **Resolved.** The DEA concurred with our recommendation to ensure that cleanups are performed by a minimum of two properly trained vendor personnel. The DEA stated that it has already taken steps to address this concern in the contracts that it awarded in FY 2008. The FY 2008 contracts require that for safety reasons, a response crew must consist of at least two personnel. Further, the DEA stated that contracts require that the contractor shall utilize only those employees who have had current training that meets the pertinent requirements of Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA), Department of Transportation (DOT), the DEA and any other applicable federal, state, or local training requirements. The DEA stated that this information is currently reconciled by the DEA upon receipt of the invoice package, and that the DEA will prepare and incorporate the detailed procedures to ensure compliance with this recommendation into the revised DEA, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures. This recommendation can be closed when we receive documentation showing that the DEA has prepared and incorporated the detailed procedures to ensure that cleanups are performed by a minimum of two properly trained vendor personnel into the revised DEA, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures.

5. **Resolved.** The DEA concurred with our recommendation to ensure that vendors list the correct generators on the manifests. The DEA stated that it has already taken steps to address this concern in the contracts that it awarded in FY 2008. The FY 2008 contracts require that manifests prepared at an authorized removal site shall include the generator's name and mailing address. According to the contracts, for state or local cleanups, the contractor shall use the name and address of the lead state or local law enforcement agency. The DEA stated that this information is currently reconciled by the DEA upon receipt of the invoice package. In addition, according to the DEA, all vendors are provided training by the DEA during the post-award training conference specifically in the area of manifest requirements. The DEA stated that it will prepare and incorporate the detailed procedures to ensure compliance with this recommendation into the revised DEA, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures. This recommendation can be closed when we receive documentation showing that the DEA has prepared and incorporated the detailed procedures to ensure that vendors list the correct generators on the manifests into the revised DEA, Office of Forensic Sciences, Hazardous Waste Disposal Section Standard Operating Procedures.

6. **Resolved.** The DEA concurred with our recommendation to analyze the option of contracting separately with the EPA-regulated disposal facilities in order to resolve the conflicting time requirements for vendor submission of final invoices and disposal facility submission of Certificates of Disposal. The DEA stated that it has already begun an analysis of the feasibility of awarding separate response and disposal contracts by conducting a comprehensive review of the entire hazardous waste removal process. As part of this evaluation, the DEA stated that it will review and examine several different EPA-regulated disposal facilities to determine the applicability, specific procedures and regulatory requirements of the clandestine laboratory cleanup program as it relates to their operations. The DEA also will draft a new statement of work and determine disposal facility interest by posting a request for information through the DEA contracting office. The result of the request for information, in conjunction with the DEA's analysis, will determine whether the DEA considers the option of contracting separately with EPA-regulated Disposal Facilities feasible. This recommendation can be closed when we receive documentation showing that the DEA has analyzed the option of contracting separately with the EPA-regulated disposal facilities in order to resolve the conflicting time requirements for vendor submission of final invoices and disposal facility submission of Certificates of Disposal.