

memorandum

DATE: August 13, 2007

Audit Report Number: OAS-L-07-17

REPLY TO
ATTN OF: IG-32 (A07PR060)

SUBJECT: Audit of Executive Compensation at Argonne National Laboratory

TO: Manager, Argonne Site Office

INTRODUCTION AND OBJECTIVE

As part of a Department of Energy-wide audit of executive compensation, we reviewed executive compensation at the Office of Science's Argonne National Laboratory (Argonne). Our audit covered executive compensation costs incurred and claimed for Fiscal Years 2003, 2004, and 2005. For the period covered by our audit, the University of Chicago operated Argonne under Department of Energy (Department) contract number W-31-109-ENG-38.

The amount of executive compensation that can be reimbursed to Department contractors is limited by legislation, regulations, and contract terms. For example, reimbursable compensation is limited to the annual cap determined by the Administrator, Office of Federal Procurement Policy (OFPP). In addition, Department of Energy Acquisition Regulations, Federal Acquisition Regulations (FAR), Department policies and guidance, as well as contract provisions establish limitations and guidelines for determining whether executive compensation is reasonable and allowable. Generally, executive compensation includes salaries, bonuses, incentive compensation, pension contributions, health benefits, and other fringe benefits.

The objective of our Department-wide audit was to determine whether executive compensation reimbursed to contractors was allowable, consistent with contract terms, and conformed with applicable Federal requirements and guidance.

CONCLUSIONS AND OBSERVATIONS

We found that Argonne executive compensation costs reimbursed to the University of Chicago did not exceed the annual cap determined by the Administrator, OFPP, and compensation generally complied with applicable provisions of procurement regulations, Department policies and guidance, and the Argonne contract. However, we identified questioned costs related to Argonne's executive compensation. Specifically, we questioned \$414,867 consisting of \$60,346 for chauffeurs, \$253,632 for fringe benefit costs associated with unallowable salary costs, and \$100,889 for the salary and fringe benefits of an Argonne executive. Details of our questioned costs are as follows:

Chauffeurs

Argonne employees served as chauffeurs to transport an Argonne executive using contractor-owned vehicles. We reviewed chauffeur log books and found that the chauffeurs transported the executive for personal activities and for commuting to and from work. The FAR identifies personal trips and commuting as unallowable expenses that are not reimbursable under Government contracts. Therefore, we questioned \$60,346 for chauffeur salary costs for the executive's commuting and personal activities. The University of Chicago agreed that these chauffeur salary costs should not have been charged to the contract.

Fringe Benefits for Unallowable Salaries

We questioned \$233,160 charged to the Argonne contract for fringe benefit costs associated with unallowable salary costs. For some of its executives, Argonne paid salaries that exceeded salary ceilings approved by the contracting officer. Appropriately, the contractor did not charge the contract for salary costs in excess of approved ceilings and, prior to May 2005, did not charge the contract for fringe benefit costs associated with unallowable salary. However, in May 2005, the contractor started charging the contract for fringe benefit costs associated with unallowable salaries. Furthermore, in May 2005, the contractor charged the contract retroactively for fringe benefit costs associated with unallowable salary for the period Fiscal Year 2001 to April 2005. For salaries in excess of salary ceilings, we questioned associated fringe benefit costs of \$14,927 charged for the period May 2005 through September 2005 and \$218,233 retroactively charged for the period Fiscal Year 2001 to April 2005.

In addition to the \$233,160, we also questioned fringe benefit costs of \$20,472 associated with the chauffeur salaries questioned above.

The University of Chicago's representative did not concur with our questioned costs and advised us that in May 2005 the University had concluded that Acquisition Letter 2000-12, *2000 Executive Compensation*, dated December 15, 2000, allowed fringe benefit costs irrespective of any salary ceilings. However, we do not agree with the University's interpretation of Acquisition Letter 2000-12 because the section cited by the University's representative does not address fringe benefit costs associated with unallowable salary. Fringe benefit costs associated with unallowable salary are unallowable because the FAR stipulates that unallowable costs should normally include all directly associated costs, and Argonne's Cost Accounting Standards Disclosure Statement, which describes Argonne's cost accounting practices, states that Argonne's full fringe benefit rate is to be applied to all salaries, which would include unallowable salaries. Therefore, the fringe benefit costs directly associated with the unallowable salary costs were also unallowable.

Salary and Fringe Benefits for Argonne Executive

We questioned \$100,889 consisting of salary costs of \$58,470 and fringe benefit costs of \$42,419 for an Argonne executive. This individual was on the faculty of the University of Chicago and was compensated through the University's payroll. The University charged the Department contract for part of this individual's salary and

fringe benefit costs. For the 2-year period March 2003 to February 2005, the University charged salary costs that exceeded, by \$58,470, the salary ceilings approved for this individual by the contracting officer. We questioned this excess salary cost plus associated fringe benefits of \$13,600. For the period April 2005 to September 2005, the University also charged fringe benefit costs that were based on a higher portion of the individual's salary than the portion charged to the contract. We questioned this overcharge to the contract of \$15,147. Furthermore, for the 3-year period ending September 30, 2005, the University charged fringe benefit costs for the executive at rates higher than rates approved for the University by the Department of Health and Human Services (HHS). HHS has been designated as the "cognizant agency" for the University of Chicago, and in that capacity, HHS entered into annual rate agreements with the University. These agreements included fixed fringe benefit rates for University employees who were on the University's payroll and were charged to Government-funded grants and contracts. We questioned this overcharge to the contract of \$13,672.

RECOMMENDATIONS

We recommend that the Manager, Argonne Site Office direct the contracting officer to:

- 1) Determine the allowability of our questioned costs and recover costs determined to be unallowable; and
- 2) Determine whether costs, similar to those identified in our audit, were claimed after September 30, 2005, and recover costs determined to be unallowable.

SCOPE AND METHODOLOGY

The Department-wide audit was conducted from July 2006 to July 2007 at the Office of Management, Department support offices and site offices, and 13 contractor sites, including Argonne National Laboratory, in Argonne, Illinois. The scope of the Department-wide audit covered executive compensation costs incurred and claimed for Fiscal Years 2003, 2004, and 2005 and included the compensation of about 200 executives including facility directors, deputy directors, key personnel, and other senior management employees. Compensation included salaries, bonuses, incentive compensation, pension contributions, health benefits, other fringe benefits, travel and relocation reimbursements, and any other payments made to the executive or on behalf of the executive.


To accomplish the audit objective, we identified executives and their compensation; verified compensation to accounting records and supporting documentation; and, tested compliance with legislation, regulations, Department policies and guidance, and the contract.

We conducted the audit in accordance with generally accepted Government auditing standards for performance audits and included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. Also, we

considered the establishment of performance measures in accordance with the *Government Performance and Results Act of 1993*, as they related to the audit objective and found that the Department had not established performance measures specifically addressing executive compensation. We relied on computer-processed data to accomplish the audit objective. When appropriate, we performed limited test work of data reliability during our audit and determined that we could rely on the computer-processed data.

We discussed our questioned costs with the contracting officer.

We appreciate the cooperation of your staff during our review. Please advise us within 15 work days of any action you plan to take with respect to our recommendations.


Fredrick G. Pieper, Director
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