

memorandum

DATE: March 31, 2005

Audit Report No.: OAS-L-05-04

REPLY TO

ATTN OF: IG-30 (A04NE044)

SUBJECT: Review of the Department's Controls over Services Acquired through Memoranda of Agreement with Other Federal Agencies and Blanket Purchase Agreements

TO: Chief Financial Officer, Office of Management, Budget and Evaluation

INTRODUCTION AND OBJECTIVE

To meet the requirements of the *Energy Employees Occupational Illness Compensation Program Act*, the Department of Energy's Office of Headquarters Procurement Services (Procurement) entered into a Memorandum of Agreement (MOA) with the Navy in November 2001 to develop a case processing system. This MOA allowed the Department to acquire systems development services through the Navy's contract with SEA/Apogen using a General Services Administration (GSA) Blanket Purchase Agreement (BPA). Under this arrangement, an official at GSA served as the Contracting Officer and Navy, as the servicing agency, prepared the task orders. As a consequence, Departmental contracting officials lacked authority to ensure that tasks were consistent with the original contract. After the initial tasks for system development were completed, SEA/Apogen was tasked to perform additional work that was beyond the scope of the MOA. After Congressional inquiries, Procurement officials reviewed the additional tasks and determined that much of the requested work was outside the scope of the Department's MOA with the Navy.

The Government Accountability Office has reported that management of interagency contracts is a high risk activity because accountability is not always clearly established. Based on an inquiry by the GSA Office of Inspector General, Senator Charles E. Grassley also expressed concern regarding the Department's contractual relationship with SEA/Apogen. Because of these concerns, we initiated this review to determine whether the Department had other contractual arrangements similar to the SEA/Apogen tasking. In addition, we assessed the Department's controls for ensuring that services acquired through such instruments were consistent with the underlying contracts and existing Federal regulations such as the *Economy Act*. We reviewed 30 MOA/Interagency Agreements with other Federal agencies and 24 BPAs that were active during Fiscal Years 2003 and 2004.

CONCLUSIONS AND OBSERVATIONS

We determined that the arrangement between the Department and SEA/Apogen was not typical of the Department's MOAs with other Federal agencies. For each of the MOAs

reviewed, there were either no amendments made to the original statements of work or, when amendments were made, they did not call for work to migrate beyond that specified in the original statement of work. Our examination of the agreements revealed that:

- DOE contracting officers approved the original statement of work for each of the 30 agreements;
- While 29 of the agreements were modified over their lifecycle, each of the changes was approved by a DOE contracting officer. Of those 29 modifications, 27 related to changes in funding or period of performance and 2 involved actual modifications to the statement of work;
- Agreed upon tasks were performed by the servicing agency in 21 of the agreements, while 9 tasks were satisfied by utilizing a contractor obtained by the servicing agency; and,
- For one of the 30 agreements, program officials inappropriately authorized tasks. Even though the taskings were within the scope of the original agreement, program officials authorized the work without consulting a DOE contracting officer. This inappropriate tasking was brought to the attention of Headquarters procurement officials for resolution.

We found nothing that would indicate that the 24 BPAs we reviewed were inconsistent with the underlying agreement. None of the modifications to these agreements that we examined called for work that was outside the scope of the original agreement. Even though listed as being active in the Department's records, we noted that 19 of the 24 agreements were for the purpose of obtaining supplies and services and had little or no activity. The remaining 5 of the 24 BPAs were used only to acquire services and all of the original statements of work or subsequent modifications were within scope and approved by DOE contracting officers.

We also noted that the Department had controls in place to ensure that *Economy Act* requirements were met and had recently taken action to strengthen oversight of its interagency agreements. In a January 19, 2005, letter to Senator Grassley regarding the SEA/Apogen issue, the Department outlined remedial action that it stated had been taken to ensure that non-Departmental acquisitions are properly handled in the future. The Department referred to Acquisition Letter No. 2005-05 issued on December 8, 2004, which required Contracting Officers to monitor tasks provided to the servicing agency to ensure that they are consistent with the scope of the underlying contract. The Acquisition Letter also stated that there should be a review of deliverables and invoices by the Contracting Officer or their designated representative to ensure that services remain within the scope of work.

As noted in the review conducted by the GSA's Office of Inspector General and as confirmed by our work, the tasks assigned to SEA/Apogen clearly migrated beyond the scope of work specified in the original agreement. This incident is especially troubling given the continuing emphasis on competitive procurements. Nonetheless, we concluded

that the control weaknesses that led to the problems associated with the SEA/Apogen contract were atypical, and had not significantly impacted the majority of interagency agreements administered by the Department. The action taken by the Department to strengthen the management of interagency contracts, if properly and completely implemented, should also help prevent or detect problems with such actions in the future. We appreciate the cooperation of your staff throughout the audit.



William S. Maharay
Deputy Inspector General
for Audit Services
Office of Inspector General

Attachment

cc: Audit Liaison, Office of Management, Budget and Evaluation, ME-1.1
Audit Liaison, Office of Environmental Management, EM-33
Audit Liaison, Office of Energy Efficiency and Renewable Energy, EE-30
Audit Liaison, Office of Fossil Energy, FE-3
Audit Liaison, Office of Environment, Safety and Health, EH-71
Audit Liaison, Office of Science, SC-67
Director, Policy and Internal Controls Management, NA-66
Team Leader, Audit Liaison, ME-100

OBJECTIVE

To determine whether the Department of Energy adequately controls the services it receives under Memoranda of Agreement with other Federal agencies and Blanket Purchase Agreements.

SCOPE AND METHODOLOGY

We conducted our review at Department Headquarters from August 2004 to February 2005. The universe of our test work included all Memoranda of Agreement (MOA) / Interagency Agreements with other Federal agencies and all Blanket Purchase Agreements (BPA) active during Fiscal Years 2003 and 2004 and administered by the Office of Headquarters Procurement Services. To accomplish our objective, we:

- Reviewed applicable laws, regulations and Departmental policies /guidelines;
- Conducted a review of the MOA/Interagency Agreement with the Navy and met with Department officials in the Offices of Headquarters Procurement Services and Environment, Safety and Health to discuss the issues associated with that agreement;
- Obtained listings from the Procurement and Assistance Data System of all active BPAs and MOA/Interagency Agreements in Fiscal Years 2003 and 2004;
- Judgmentally selected and reviewed a sample of 30 MOA/Interagency Agreements for services that were active during Fiscal Years 2003 and 2004 and valued at over \$2 million;
- Reviewed all 24 BPAs for services that were active during Fiscal Years 2003 and 2004;
- Obtained and reviewed supporting documents for MOA/IAs and BPAs from the Department's Office of Headquarters Procurement Services; and,
- Interviewed selected individuals in the Accounting Branch, Finance Division, and Oversight and Evaluation Division, Office of Management, Budget and Evaluation, with regard to costs incurred for specific agreements.

The audit was conducted 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. We relied on computer-processed data to accomplish our audit objective. We performed limited test work of data reliability during our audit and determined that we could rely on the computer-processed data. We also conducted a limited review the Department's implementation of the *Government Performance and Results Act of 1993* and found that there were no performance measures for interagency agreements.