

U.S. DEPARTMENT OF ENERGY
OFFICE OF INSPECTOR GENERAL

AUDIT OF THE DEPARTMENT OF ENERGY'S
CONTRACTS WITH ENVIROCARE OF UTAH, INC.

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Report No.: ER-B-98-05
Date of Issue: December 10, 1997

Eastern Regional Audit Office
Oak Ridge, TN 37830

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PART I

APPROACH AND OVERVIEW

INTRODUCTION

The Department of Energy (Department) is responsible for the treatment, storage, and disposal of contaminated waste at Departmental sites across the nation. The Department disposes of some of its contaminated waste at Envirocare of Utah, Inc., (Envirocare) a commercial treatment and disposal facility in Clive, Utah. The audit objective was to determine whether the Department and its contractors were using the most favorable rates available for the disposal of waste at Envirocare.

SCOPE AND METHODOLOGY

The audit was performed from February 10, 1997, to August 22, 1997, at selected Department sites; the U.S. Army Corps of Engineers (Corps) in Kansas City, Missouri; and Envirocare facilities in Salt Lake City and Clive, Utah. The audit included a review of the Department's contracts, subcontracts, and interagency agreements for the treatment and disposal of waste at Envirocare between January 1, 1993, and August 22, 1997. The audit also included proposals for the treatment and disposal of waste at Envirocare under consideration as of August 22, 1997.

To accomplish the audit objective, we:

- Reviewed contracts for the treatment and disposal of waste at Envirocare;
- Analyzed the cost and volume of Departmental waste disposed of at Envirocare;
- Evaluated the time spent establishing contracts with Envirocare; and
- Held discussions with Departmental and contractor personnel regarding past, current, and future contracts with Envirocare.

The audit was performed 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. Accordingly, we assessed significant internal controls related to the Department's use of contracts with Envirocare. 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 did not rely on computer-generated data to satisfy the audit objective.

In our opinion, the matters discussed in this report identified a material internal control weakness within the Department that should be considered when preparing the yearend assurance memorandum on internal controls. The internal control weakness identified in this report is discussed in Part II.

We discussed the audit results with the Acting Director, Office of Eastern Area Programs of the Office for Environmental Restoration during an exit conference on November 25, 1997.

BACKGROUND

Envirocare operates a 540-acre commercial treatment and disposal facility located in Clive, Utah. Envirocare is licensed by the Nuclear Regulatory Commission and the Utah Divisions of Radiation Control and Solid and Hazardous Waste and has the ability to treat and permanently dispose of 12.2 million cubic meters of waste. This waste includes mixed and low-level waste, uranium and thorium mill tailings, and naturally occurring radioactive material. The Environmental Protection Agency, Department of Energy, Department of Defense, and many waste generators in the private sector have shipped waste to Envirocare for treatment and disposal.

In 1992, the Department began shipping waste to Envirocare for disposal. Since then, 37 Departmental sites have used Envirocare for waste treatment and disposal. The Department had shipped approximately 157,000 cubic meters of waste for disposal as of June 1997. These shipments consisted of 79,000 cubic meters of uranium and thorium mill tailings, 59,000 cubic meters of low-level waste, and 19,000 cubic meters of mixed waste.

During our audit, several legal issues arose involving the owner of Envirocare and a former state official in the Utah Department of Environmental Quality, Division of Radiation Control. In response to these issues, the Department and Envirocare signed a consent agreement whereby the owner of Envirocare resigned and will have no role in the management and control of the company until the legal issues are resolved. Further, the Department provided guidance to each Field Office establishing a prerequisite of contacting the Department's Office of General Counsel or the Office of Management Systems prior to issuing a request for proposal or awarding a new contract for waste disposal.

PRIOR REPORTS

The Office of Inspector General (OIG) has issued three reports dealing with shipments of contaminated waste to disposal facilities. In April 1992, the OIG issued

Report DOE/IG-0308, *Packaging, Transporting, and Burying Low-Level Waste*. The audit concluded that the Department's contractors were not using the most cost-effective methods for disposing of low-level waste, and that the disposal rate charged by Envirocare was significantly lower than the rates charged by Departmental sites. In February 1993, the OIG issued Report DOE/IG-0320, *Disposal of Excess Capital Equipment at the Fernald Environmental Management Project, Fernald, Ohio*. The audit disclosed that Westinghouse Environmental Management Company of Ohio mixed contaminated equipment with uncontaminated equipment, destroyed the equipment without Departmental approval, and shipped the equipment to the Nevada Test Site for burial as contaminated waste. In June 1994, the OIG issued Report ER-B-94-07, *Audit of Shipment of Low-Level Waste from Fernald to the Nevada Test Site*. The audit concluded that Fluor Daniel Fernald shipped usable materials to the Nevada Test Site as contaminated waste, and that the contents of the shipments were not compacted to maximize the use of burial space.

PART II

FINDING AND RECOMMENDATION

Use of Most Favorable Rates

FINDING

Volume discounts were available under Departmentwide contracts with Envirocare. However, two of the Department's contractors awarded subcontracts to Envirocare with disposal rates that were higher than the Departmentwide rates. This occurred because the Department did not require contractors to use the most favorable rates available. As a result, the Department incurred unnecessary costs to dispose of waste at Envirocare.

RECOMMENDATION

We recommend that the Assistant Secretary for Environmental Management distribute a list of available Departmentwide contracts and rates and direct field activities to require all contractors to use the most favorable rates available to the Department for the treatment and disposal of waste.

MANAGEMENT REACTION

Management concurred with the finding and recommendation and agreed to take corrective action. Part III of the report provides detailed management and auditor comments.

DETAILS OF FINDING

CONTRACTS WITH ENVIROCARE OF UTAH, INC.

Since April 1993, the Department and its contractors established ten contracts with varying rates for the treatment and disposal of mixed and low-level waste at Envirocare. The Oak Ridge Operations Office (Oak Ridge) awarded a Departmentwide contract to Envirocare for the disposal of mixed waste from all sites. Contractors awarded three subcontracts for waste treatment, three subcontracts for waste disposal, and three subcontracts for waste treatment and disposal at specific sites.

Besides its own contracts, the Department also had access to the Corps' contract with Envirocare. The Corps' contract provided for the disposal of mixed and low-level waste by Federal agencies at volume-discounted prices. The Department had interagency agreements with the Corps which allowed the Department to use the Corps' contract with Envirocare.

Both Oak Ridge and the Corps obtained volume discounts in their contracts with Envirocare because they anticipated that large volumes of waste would be shipped to Utah for disposal. Oak Ridge's contract established a three-tiered pricing approach for mixed waste. As the volume of waste shipped to Utah increased, the disposal cost per cubic meter decreased. As of August 1997, all shipments under the Oak Ridge contract were at the third tier with the least cost per cubic meter.

DEPARTMENTWIDE CONTRACTS NOT USED

Although contracts with discounted prices were available, two of the Department's contractors—Kaiser-Hill at the Rocky Flats Plant and Fluor Daniel Fernald at the Fernald Environmental Management Project—established separate subcontracts with Envirocare which included higher rates, thereby increasing the Department's costs unnecessarily.

At the start of our audit, Kaiser-Hill was in the process of awarding a subcontract for the transportation, treatment, and disposal of 13,200 cubic meters of mixed waste (soil and debris). Under its proposal, the average disposal rate would have been \$1,592 per cubic meter including Kaiser-Hill's overhead, for a cost of \$21 million. The average rate using the Oak Ridge contract and including Kaiser-Hill's overhead would have been only \$987 per cubic meter, for a cost of \$13 million. We held discussions with personnel from Rocky Flats Field Office and Kaiser-Hill, and recommended that they reopen negotiations with Envirocare to obtain the Oak Ridge rate. Kaiser-Hill reopened negotiations with Envirocare and obtained a lower rate—\$1,349 per cubic meter including Kaiser-Hill's overhead—for a cost of \$17.8 million. As a result, the Department could realize savings of \$3.2 million over the next 3 years.

We identified a similar situation at the Fernald Environmental Management Project, where Fluor Daniel Fernald disposed of 88 cubic meters of debris containing mixed waste at a rate of \$3,004 per cubic meter, for a cost of \$264,000. However, the Department could have disposed of the waste through an interagency agreement with the Corps at \$2,573 per cubic meter, for a cost of \$226,000. (The Oak Ridge contract was not available at the time Fluor Daniel awarded its subcontract to Envirocare.) Thus, the Department incurred \$38,000 of unnecessary subcontract costs.

NO REQUIREMENT TO USE MOST FAVORABLE RATES

The Department incurred excess disposal costs because it did not require contractors to use the most favorable, volume-discounted rates available. Kaiser-Hill was aware that Oak Ridge had a contract with Envirocare, but it did not know the specific rates available. Also, Fluor Daniel Fernald was aware that the Corps had a contract with Envirocare; however, contractor representatives could not determine why the Corps' contract was not used.

UNNECESSARY COSTS

As a result, the Department incurred unnecessary costs to dispose of contaminated waste. At the Fernald Environmental Management Project, the Department could have avoided at least \$38,000 by using an interagency agreement with the Corps instead of allowing Fluor Daniel Fernald to establish a subcontract with Envirocare. Also, at the Rocky Flats Plant, the Department could save \$3.2 million over the next 3 years based on the new disposal rate negotiated by Kaiser-Hill.

PART III

MANAGEMENT AND AUDITOR COMMENTS

The Office for Environmental Management concurred with the finding and recommendation and agreed to take corrective action. Management also agreed with the estimated monetary impact of the report. Management's specific comments follow.

Recommendation. We recommended that the Assistant Secretary for Environmental Management distribute a list of available Departmentwide contracts and rates and direct field activities to require all contractors to use the most favorable rates available to the Department for the treatment and disposal of waste.

Management Comments. Management concurred. The Assistant Secretary issued a memorandum directing field offices to consult with the Center of Excellence for Low-Level and Mixed Low-Level Waste prior to entering into future contracts. The Center of Excellence for Low-Level and Mixed Low-Level Waste, targeted to be fully established in January 1998, will function as a "clearinghouse" for information and provide a single point of contact for field offices. Management also stated that an existing bi-monthly report, the Commercial Waste Disposal Report, issued by the Office of Environmental Restoration would be supplemented to include Office of Waste Management information. This revised report will provide the necessary information and points of contact for all existing and pending waste treatment and disposal contracts. Further, management stated that field offices involved in the procurement of waste management services will establish the appropriate policy, procedures, or administrative controls necessary to assure that contractors consider existing contracts prior to initiating site specific contracts. Finally, a complex-wide solicitation is currently being developed for commercial disposal of low-level waste, mixed low-level waste, naturally occurring radioactive materials, and mill tailings which will "centralize" procurement services.

Auditor Comments. Management's comments are responsive to the recommendation.

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