

December 4, 1997

MEMORANDUM FOR THE SECRETARY

FROM: John C. Layton
Inspector General

SUBJECT: INFORMATION: "Audit of Departmental Receipt of Final Deliverables for Grant Awards"

BACKGROUND:

The Department, as of July 15, 1996, administered 7,452 grants. The Government's share or contribution for these grants was about \$8 billion. Grants are used in those situations where the award is intended to serve a public purpose and where limited Federal involvement is anticipated. Departmental personnel have a responsibility to monitor the activities of a grantee to ensure that the intended programmatic goal is achieved and that funds are expended in accordance with the terms of the grant award. This is accomplished, in part, through the review and analysis of technical and financial reports prepared by the grant recipient. The objective of this audit was to determine whether the Department received final deliverables, detailing grantee accomplishments and expenditure of funds, in accordance with Federal and Departmental policies and procedures.

DISCUSSION:

Many grantees did not provide final technical and financial reports. For example, at five procurement offices audited, we projected that the Department had not received a final deliverable on 718 inactive grants valued at about \$232 million. In other cases, officials waived reporting requirements in order to facilitate the close-out process or extended performance periods inappropriately. Many of these deliverables were not received because the Department did not effectively implement existing procedures or establish other mechanisms to ensure that grantees fulfilled their obligations. Without final deliverables, the Department could not demonstrate that the public benefit specified in the grant instrument was achieved.

We recommended that the Deputy Assistant Secretary for Procurement and Assistance Management enhance the Departmental administration of grants by directing contracting officers to: (1) retain a portion of the grant funding until a grantee meets the terms and conditions of the award; (2) discontinue the practice of waiving grant reporting requirements to accommodate the award close-out process; (3) require grantees to have met the terms and conditions of prior awards, except in extenuating circumstances, before awarding new grants; and (4) extend grant performance periods only in accordance with Departmental policy. The Office of Procurement and Assistance Management generally did not concur with the audit recommendation.

Attachment

cc: Deputy Secretary
Under Secretary

U.S. DEPARTMENT OF ENERGY
OFFICE OF INSPECTOR GENERAL

AUDIT OF DEPARTMENTAL RECEIPT
OF FINAL DELIVERABLES FOR GRANT AWARDS

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Date of Issue: December 4, 1997

Germantown, Maryland 20874

AUDIT OF DEPARTMENTAL RECEIPT
OF FINAL DELIVERABLES FOR GRANT AWARDS

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U.S. DEPARTMENT OF ENERGY
OFFICE OF INSPECTOR GENERAL
OFFICE OF AUDIT SERVICES

AUDIT OF DEPARTMENTAL RECEIPT
OF FINAL DELIVERABLES FOR GRANT AWARDS

Audit Report Number: DOE/IG-0415

SUMMARY

To help meet legislatively mandated and programmatic mission requirements, the Department of Energy awards grants to colleges and universities, state and local governments, individuals, small businesses, and non-profit corporations. As of July 15, 1996, the Department was responsible for administering over 7,400 grants with purposes ranging from basic research to weatherizing homes. The Government's share of these grants was about \$8 billion. The objective of this audit was to determine whether the Department received final deliverables, detailing grantee accomplishments and expenditure of funds, in accordance with Federal and Departmental policies and procedures.

The Code of Federal Regulations requires that grants benefit the general public. This is demonstrated through technical and/or financial reports that each grantee is usually required to deliver. These reports describe the final results of the grant effort. In spite of this requirement, many grantees did not provide final technical and/or financial reports. For example, at the five procurement offices audited, we projected that the Department had not received final deliverables on 718 inactive grants valued at about \$232 million. In other cases, officials inappropriately extended performance periods so that the grant instrument would continue to be classified as active.

This non-reporting occurred because the Department did not effectively implement existing procedures or establish other monitoring procedures that ensured grantees fulfilled their grant obligations. Specifically, the Department did not establish procedures to withhold payment if a grantee failed to comply with grant terms and conditions. In addition, the Department did not defer additional awards to grantees that had not met the terms and conditions of prior grants and inappropriately extended grant performance periods for excessive periods of time. Further, Departmental personnel waived reporting requirements in order to close out grant awards.

PART I

APPROACH AND OVERVIEW

INTRODUCTION

The U.S. Department of Energy, as of July 15, 1996, administered 7,452 grants. The Government's share or contribution for these grants was about \$8 billion. The Department has traditionally utilized grants for activities such as facilitating scientific research, state and local energy assistance programs, and educational pursuits.

Grants are issued in those situations where the award is intended to serve a public purpose and where limited Federal involvement is anticipated. Departmental personnel have a responsibility to monitor the activities of a grantee to ensure that the intended programmatic goal is achieved and that funds are expended in accordance with the terms of the grant award. This is accomplished, in part, through the review and analysis of technical and financial reports prepared by the grant recipient.

The objective of this audit was to determine whether the Department received final deliverables, detailing grantee accomplishments and expenditure of funds, in accordance with Federal and Departmental policies and procedures.

SCOPE AND METHODOLOGY

To accomplish the audit objective, applicable Public Law, and Code of Federal Regulations (CFR) requirements were reviewed. In addition, Office of Management and Budget circulars and Department of Energy Orders and guidance were analyzed to determine Departmental responsibilities. Meetings were also held with representatives from the Office of Procurement and Assistance Management at Headquarters and with grants administrators in field organizations to understand applicable policies and procedures. A discussion was also held with officials from the U.S. Department of Health and Human Services on their grants administration policies and procedures.

Detailed audit fieldwork was performed at Headquarters, Chicago and Oak Ridge Operations Offices, the Federal Energy Technology Center-Pittsburgh Site, and the Chicago Regional Support Office. These five offices administered 3,757 grants with a Government share of about \$4 billion dollars. Of these grants, 2,189 with a value of about \$3.2 billion were classified as active, meaning that their performance period had not expired. The remaining 1,568 grants, valued at \$893 million, were categorized as inactive.

As part of the audit, three statistical samples were drawn and analyzed. The first sample examined grants, as of July 15, 1996, that had been inactive 9 months or longer. A second sample examined grants that had been closed between February 1, 1996, and July 15, 1996. The final sample examined 92 awards that had no-cost-time extensions processed between February 1, 1996, and July 15, 1996. For each statistical analysis, a follow-up

interview was conducted with procurement and programmatic personnel, as required, to obtain additional information.

In conducting the examination, the audit utilized computer-generated data from the Department's Procurement and Assistance Data System (PADS). As discussed later in the report, the system has certain limitations. The data in the system, however, was determined to be adequate to satisfy the objective of the audit.

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. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed. Fieldwork was performed from March to December 1996. An exit conference was waived by representatives from the Office of Procurement and Assistance Management on November 3, 1997.

BACKGROUND

A grant is a financial assistance instrument used by the Federal Government to transfer money or property to a recipient to accomplish a public purpose. The Department administers two types of grants: formula and project grants. Formula grants are used to provide aid for weatherization of homes or for improving the energy efficiency of buildings and equipment. Project grants are used for research, training, and construction. These grants are usually made to institutions of higher learning.

The Department is generally not involved in the day-to-day administration of a grant. That responsibility is left to the grant recipient. The Department does, however, have a responsibility to provide stewardship over the prudent expenditure of taxpayer-provided funds. This is accomplished through technical and financial monitoring. Technical monitoring addresses the grant recipient's compliance with the programmatic aspects of an individual instrument, while financial monitoring provides the Department with assurance that funds are spent in accordance with the terms of the grant award.

Programmatic elements within the Department such as the Offices of Energy Research, Economic Impact and Diversity, and Assistant Secretary for Energy Efficiency and Renewable Energy are primarily responsible for soliciting and selecting grant recipients as well as providing technical monitoring of awards. Departmental procurement offices such as the Chicago Operations Office, Headquarters Procurement Operations, and the Chicago Regional Support Office are responsible for the award of grants, financial monitoring, and the grant close-out process.

PART II

FINDING AND RECOMMENDATION

Receipt of Final Deliverables

FINDING

The Code of Federal Regulations requires that grants benefit the general public. The Department is able to demonstrate public benefit through the receipt of required technical and/or financial reports from each grantee that describe the results of the grant effort. In spite of this requirement, many grantees did not provide final technical and financial reports. For example, at the 5 procurement offices audited, we projected that the Department had not received a final deliverable on 718 inactive grants with a Government share value of about \$232 million. In other cases, officials waived reporting requirements in order to facilitate the close-out process, or extended performance periods inappropriately. Many of these deliverables were not received because the Department did not effectively implement existing procedures or establish other mechanisms to ensure that grantees fulfilled their obligations. Without final deliverables, the Department of Energy could not demonstrate that the public benefit specified in the grant instrument was achieved.

RECOMMENDATION

We recommend that the Deputy Assistant Secretary for Procurement and Assistance Management enhance Departmental administration of grants by directing contracting officers to:

1. Retain a portion of the grant funding until a grantee meets the terms and conditions of the award.
2. Discontinue the practice of waiving grant reporting requirements to accommodate the award close-out process.
3. Require grantees to have met the terms and conditions of prior awards, except in extenuating circumstances, before awarding new grants.
4. Extend grant performance periods only in accordance with Departmental policy.

MANAGEMENT REACTION

Departmental management generally did not agree with the recommendation. Procurement's comments are summarized in Part III and are included verbatim in the Appendix to the report.

DETAILS OF FINDING

REQUIREMENTS FOR REPORTING RESULTS OF WORK PERFORMED

The Code of Federal Regulations (Title 10, Part 600, Section 5) requires that grants be awarded when the principal purpose of the relationship between the Department and the recipient is to transfer money or property to accomplish a public purpose. In these circumstances, the Department is usually not involved in the day-to-day operations of the activity being funded.

Although substantial involvement is not expected, the Department is required to monitor grantee performance through the receipt and analysis of technical and financial reports. The Department incorporates these reporting requirements into the terms and conditions of each award. Generally, technical and financial reports are required at least annually and often quarterly.

Receipt and analysis of periodic reports by programmatic and contract personnel provides the Department with a basis for evaluating grantee performance. Financial reports summarize the use of Government funds, while technical reports delineate program accomplishments (e.g. homes weatherized, research equipment purchased, or scientific journal articles published).

TECHNICAL AND FINANCIAL DELIVERABLES

Although grant recipients are required to provide reports summarizing the grantee's technical and financial performance, many grantees did not provide final deliverables in accordance with the terms and conditions of their original grant award. At the 5 procurement offices audited, it was projected that the Department had not received final deliverables on 718 grants valued at \$232 million. In other cases, final deliverable requirements were waived or the performance periods were extended when the grantee did not submit a final deliverable in accordance with the terms and conditions of the grant instrument.

We were not able to definitively quantify the extent of non-reporting because the Department's procurement database did not keep a complete historical record of grant activity. For example, completion dates were periodically changed in the database to reflect the latest procurement action. Also, once a grant was closed, information on the award was no longer readily available from the PADS. Therefore, we were not able to track the grant awards made in any one year to completion to ensure that final deliverables were received. To compensate for the limitations of the database, we statistically analyzed samples of grants: (1) inactive for 9 months or more as of July 15, 1996; (2) closed between February 1, 1996, and July 15, 1996; and (3) processed for no-cost-time extensions between February 1, 1996, and July 15, 1996. The results of these analyses follow.

Deliverables Not Received

According to the Code of Federal Regulations (600.171), "Recipients shall submit, within 90 calendar days after the date of completion of the award, all financial, performance, and other reports as required by the terms and conditions of the award." The Department's Guide To Financial Assistance further states that "Close out of awards should occur within a reasonable period of time after the completion date of the award or date of termination. This should normally be accomplished within nine months."

Despite the above requirements, grantees and procurement officials were not fully meeting the criteria for submission of final deliverables and the close out of grant instruments. As of July 15, 1996, the 5 procurement offices had 1,096 grants, valued at \$531 million, that had been inactive for over 9 months. We statistically analyzed this population through an examination of 127 grants to determine whether grantees were providing final deliverables. Our analysis indicated that grantees had not provided final deliverables on 70 of the 127 grants examined. All of the awards with delinquent deliverables had remained open anywhere from 9 months to 7 years past the completion date period established in the grant instrument. Based on the above statistical analysis, it was projected that for the 5 field offices there were 718 grants valued at \$232 million for which the final deliverable was not provided.

The following two cases illustrate the difficulty the Department has had in obtaining final deliverables.

- A grant was awarded to a university by the Oak Ridge Operations Office on August 16, 1988, for \$271,719 to conduct a Mathematical and Numerical Study of Non-Linear Waves Arising in a One-Dimensional Model of a Fluidized Bed. Although the grant's completion date was August 14, 1991, a no-cost-time extension modified the completion date to May 14, 1992. As of July 15, 1996, the grant remained inactive for about 4 years, and the required final technical report had not been delivered. The administration official for this grant stated that closing grant instruments was not a priority and the award office has historically had problems closing grant instruments.
- Another grant valued at approximately \$1.1 million was awarded to a university research foundation by the Oak Ridge Operations Office on May 30, 1985, for a project entitled "Continental Shelf Processes Affecting the Oceanography of the South Atlantic Bight." Although the grant's completion date was December 30, 1991, two no-cost-time extensions changed the completion date to September 30, 1992. As of July 15, 1996, the grant had remained inactive for over 3 years, and the required final financial report had not been delivered. The administration official for this grant stated that he had never seen the grant file.

Deliverables Waived

At the initiation of every award, the Department and the grant recipient agree to certain deliverable requirements. These requirements are incorporated into the grant instrument. The deliverables (particularly the final deliverables) provide the Government with key data on programmatic accomplishments and the cost of the grant activity.

Despite specific grant provisions, the Department's contracting officers were waiving final reporting requirements. To verify that the Department was obtaining final deliverables, a sample of grants closed between February 1, 1996, and July 15, 1996, was analyzed. In total, 110 grants from the 5 procurement offices were reviewed. This analysis indicated that 11 of the 110 grants had been closed without a final technical deliverable. In addition, a final deliverable for five other grants in our inactive sample described under deliverables not received had been waived by Department officials.

The following two research and development grants were among the cases examined where the Department had not been provided a final technical deliverable as required by the original terms of the grant award.

- A grant was awarded to a center for \$165,000 on September 24, 1990, to create Energy Sector Studies, Oil Policy and Natural Gas Outlook, and Natural Gas Export Prospects reports on foreign countries. Although the grant's completion date was March 23, 1993, two no-cost-time extensions modified the completion date to March 23, 1995. The required final technical report was later waived by the field office in December 1995.
- Another grant was awarded to a university for \$30,000 on September 25, 1992, for an Energy Profile and Petroleum Series that would introduce companies to potentially lucrative energy development opportunities. Although the grant's completion date was September 29, 1993, a no-cost-time extension changed the completion date to March 29, 1994. The grant was subsequently closed in March 1996 without the final technical report detailing the work performed.

Additional deliverables were not received under the Department's University Research Instrumentation Grant Program. This program provides funding to universities to purchase research related equipment. Under the terms of the grant award, the universities were required to report on how the grant moneys were spent. Many grant recipients, however, did not fulfill this requirement despite attempts by some program and procurement officials to obtain final deliverables.

In one of the cases examined, the contract specialist wrote in April 1996:

As you can see, the dates of the awards for these grants are from 1987 to 1990. Each of these universities has been sent at least three letters requesting a final report and has received at least one personal telephone call. We have not received a final report. My suggestion is that we waive a report for these grants so we can

close them out. I believe further attempts to obtain a report will be unsuccessful also.

Based on this recommendation, the final reporting requirements were waived on eight grants valued at \$1.4 million.

Deliverables Requirements Extended

We also reviewed active grants administered by the five procurement offices to determine whether deliverable requirements were being extended beyond the time period specified in the Code of Federal Regulations. According to 10 CFR 600.26 (d), a single extension, not to exceed 12 months, may be granted on an active award "if additional time beyond the established expiration date is needed to assure adequate completion of the original scope of work within the funds already made available."

In many cases, the Department was inappropriately extending the performance periods. We statistically sampled 92 active awards that had "no-cost-time extensions." Based on this analysis, it was determined that 20 grants had been inappropriately modified by the field offices administering the grant instruments. As indicated in the following table, many of the grants were modified more than once; and, in one case, a grant was modified seven times for a period of 84 months.

<u>Grants Given Inappropriate Extensions</u>			
<u>Grant Number</u>	<u>Government Funding</u>	<u>Number of Extensions</u>	<u>Time of Extensions (in months)</u>
1	\$199,982	3	24
2	337,450	3	31
3	549,266	2	25
4	45,500	2	25
5	721,968	4	22
6	399,810	2	15
7	328,688	6	44
8	803,788	1	36
9	60,509	5	34
10	146,859	3	30
11	23,067	7	84
12	60,000	1	36
13	50,226	2	24
14	45,891	2	18
15	332,126	2	14
16	178,375	3	42
17	101,025	2	24
18	258,500	3	19
19	51,134	5	50
20		1	13

Similar extensions were disclosed in our analysis of inactive grants. Eleven of the 127 inactive grants sampled were inappropriately extended beyond the 12-month time period specified in the Code of Federal Regulations.

GRANT MONITORING

Final technical and financial deliverables were not received in many cases because the Department did not effectively implement existing procedures or establish other procedures that ensured grantees fulfilled their obligation under the terms of grant awards.

Existing Monitoring Procedures Not Implemented

Contracting officials were not fully implementing existing procedures. The Department has attempted to implement procedures to obtain the timely delivery of technical and financial reports. One such procedure was Departmental followup with individual grantees once a deliverable was identified as late. This procedure, as the previous examples illustrate, was not always successful, and the Department did not avail itself of other procedures at its disposal to ensure that grantees delivered products in a timely fashion. Specifically, the Department continued to award grants to grantees who had not met the terms and conditions of prior awards, although the Code of Federal Regulations (10 CFR 600) states that procurement offices may withhold further awards to recipients if they fail to fulfill their obligations. In other cases, the Department inappropriately extended grant performance timeframes because officials were not familiar with applicable CFR requirements.

Multiple Grants

The audit identified 73 grantees who had not provided final technical or financial reports. Twenty-eight of these grant recipients had received an award after they failed to provide required deliverables on a previous grant. The following table provides information on these 28 grantees and the dollar value of the awards received after they had failed to meet the terms and conditions of a prior grant.

<u>Grants Issued After Noncompliance</u>		
<u>Number of Grantees</u>	<u>Number of Grants Issued After Noncompliance</u>	<u>Total Government Share of Grants Issued</u>
6	1	\$ 2,869,724
9	2 - 5	6,887,328
8	6 - 10	31,881,348
3	11 - 15	21,585,280
1	35	45,693,212
<u>1</u>	66	
28		<u>\$129,939,807.00</u>

The problem of grant recipients not providing final deliverables could be addressed if the Department exercised its authority not to award subsequent grants until the recipient meets the terms and conditions of an existing award. The Code of Federal Regulations prescribes that: "If a recipient materially fails to comply with the terms and conditions of an award . . . DOE may . . . [w]ithhold further awards for the project or program."

To assess the propriety of making future awards to a grant recipient, the Department's Procurement and Assistance Data System could be used to determine the status of existing awards. PADS contains selected data on active and inactive grants administered by the Department of Energy. Despite this capability, program and procurement officials were not using, at the time of our review, the PADS to identify grant recipients that had a poor record of performance.

Inappropriate Performance Period Extensions

We also noted that contracting officials were processing no-cost-time extensions for excessive periods because they were unfamiliar with the criteria specified in the Code of Federal Regulations. An official in one field office informed the audit team that they interpreted the regulations to say any number of no-cost-time extensions could be issued if a single extension did not exceed 12 months. An official in another field office felt that the CFR requirements were not applicable to state and local government grants. Further, a

representative of the Department's Office of Policy stated that the audit team needed to consider the CFR requirements as a "guide." When presented with some examples of grants extended for excessive periods, the official simply responded that the situations described were "not good."

Monitoring Procedures Need Strengthening

In other cases, the Department did not employ available procedures to assist in obtaining required final technical and financial reports or waived reporting requirements simply to facilitate the close-out process. For instance, Departmental grant monitoring guidance did not include steps to withhold a portion of the grant funds until the terms and conditions of the award had been met. As a consequence, grantees, in some cases, were permitted to draw down all funds prior to the completion of the grant. Additionally, Departmental personnel were not provided any direction on waiving final deliverables. Therefore, contracting and program personnel adopted different strategies in attempting to obtain final deliverables.

Grantee Drawdowns

Officials at the field offices visited stated that the grantees generally were allowed to draw down a majority of grant funds during the performance period. This was demonstrated by the fact that grantees had drawn down all funds on 62 percent of grants for which the final deliverables were not received. With the grant money fully disbursed, there was no financial incentive for the grantee to submit required technical and financial reports.

Departmental policy and precedent indicate that withholding a portion of the grant funds is permissible and can be an effective tool in obtaining deliverables. For example, according to Department regulations, cash advances to a grant recipient shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization. Withholding a portion of the funding until completion of the award is a customary practice with Federal contracts. Further, a 1986 Office of Inspector General report observed that one of the Department's procurement offices generally achieved on-time reporting by withholding reimbursements to grantees that did not submit reports in a timely manner. During this audit, this practice was being used by the Federal Energy Technology Center-Pittsburgh Site. According to a procurement official at that site, the practice of withholding 1 percent of the grant funds until all products are received helps motivate grantees to deliver timely technical and financial products.

Close-out Process

Many deliverables were waived to facilitate the grant close-out process. For example, a grant was awarded to a state university by the Oak Ridge Operations Office for \$283,340 on September 24, 1990. The grant's completion date was September 23, 1993. The university did not submit a final technical report, and the Operations Office subsequently waived this reporting requirement. The grant file indicated that Departmental personnel thought that the report was unobtainable.

Departmental guidance for procurement officials does not specifically address the propriety of waiving final reporting requirements. In our discussions with field personnel, we found that the procurement offices adopted different practices in this regard. Officials in the Oak Ridge and Chicago Operations Offices stated that authority to waive reports rests solely with the office's head of procurement, and waivers are infrequently issued because technical information is sacrificed when reporting requirements are waived. Officials in Headquarters Procurement Operations stated that authority to waive requirements rests with individual contracting officers, and based on our sample results, Headquarters Procurement waives reporting requirements more frequently than any of the other offices reviewed.

BENEFIT NOT DEMONSTRATED

The purpose of a grant is to serve the public. A grant may be used to conduct research, provide funding to purchase research equipment for education institutions, provide weatherization assistance for low-income persons, or upgrade hospital and school energy systems. In awarding grants, the Department of Energy has a responsibility to ensure that the programmatic objective of the grant is achieved and that funds are appropriately spent. Submission of final technical and financial reports by grantees and their review of those reports by Departmental personnel helps ensure that the goals set by the program and stipulated in the grant instrument are met.

Unfortunately, the Department has not been fully successful in obtaining final technical and financial deliverables. For the 5 procurement activities reviewed, the audit projected that grantees had not provided final deliverables on 718 inactive grants valued at \$232 million. Other grants were closed out without deliverables or inappropriately extended. Without deliverables, the Department cannot demonstrate to the American taxpayer, on these and other grants, that a benefit was derived from the funds provided.

PART III

MANAGEMENT AND AUDITOR COMMENTS

On October 14, 1997, the Office of Procurement and Assistance Policy provided comments on the Official Draft Report dated August 14, 1997. Management generally did not agree with the recommendation. A summary of management and auditor comments follow, and Appendix I contains verbatim management comments on the report.

Management stated that it recognized that grants administration could be strengthened and indicated that it had developed a corrective action plan. The plan, which was included as a part of its response to the draft report, proposed an incremental approach to obtaining final reports. A Financial Assistance Letter will be issued to provide additional guidance for contracting officers, clarify waiver of final report requirements and responsibilities, and remind contracting and program staff about the intended purpose of extensions. Additionally, management proposed identifying best practices from field offices and sharing the information via the Financial Assistance Handbook. Oversight will be provided through the results of individual contracting activity self assessments.

The Office of Inspector General agrees that the proposed actions are good initial steps to enhance grants administration, but they may not be sufficient to ensure problems identified during the audit are corrected. For example, reemphasizing existing policy without more prescriptive measures to strengthen grants administration may not ensure that grantees comply with the terms and conditions of financial assistance awards. Further, the Office of Inspector General does not agree that self assessments by the contracting activities will be sufficient to determine success in addressing reported weaknesses without validation of these assessments by management.

In their comments, management stated that financial assistance awards represent less than 10 percent of DOE's budget. Management further stated that it did "not consider some problems in obtaining final reports under financial assistance awards as identified in the audit to warrant a high prioritization in light of other demands on procurement resources such as those resulting from contract reform and the administration of the Department's major management and operating contracts." The Office of Inspector General, in contrast, believes that not receiving deliverables for an estimated 718 grants valued at \$232 million is a significant problem that warrants Departmental attention.

Procurement's response addressed each component of the audit recommendation. A summary of the management and auditor comments follows.

Recommendation: Retain a portion of the grant funding until a grantee meets the terms and conditions of award.

Management Comments. Management disagreed with the audit conclusion that Departmental regulations permit retainage of funds. Management cited provisions of the DOE Financial Assistance Rules that require payment on an advance or reimbursement basis, depending on a grantee's ability to maintain written procedures that minimize the time between receipt of

funds and disbursement. Management asserted that the Office of Inspector General did not cite a specific authority for its proposed action. Procurement did not feel that authority existed to retain grant funding in anticipation of problems with compliance, and indicated that changes to payment provisions would require the approval of Office of Management and Budget.

Auditor Comments. The Office of Inspector General's analysis indicated that the regulations do not prohibit retention of grant funding. Based on the successful demonstration of the benefits of retention at one DOE site, the auditors were of the opinion that it could become an effective measure in administering grants Departmentwide. Further, we do not agree that changes to the payment provision would need the approval of Office of Management and Budget because of the pay provisions found in 10 CFR 600, which states that in order to be eligible for advance funding, a grantee must demonstrate that "cash advances . . . shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization in carrying out the purpose of the approved program or project."

As indicated in the report, grantees were generally allowed to draw down funds during the grant's performance period. In many cases, grantees had drawn down all funds several years before meeting the terms and conditions of the award, indicating that cash advances were neither limited to minimum amounts nor appropriately timed.

Recommendation. Discontinue the practice of waiving grant reporting requirements to accommodate the award close-out process.

Management Comments. Management did not concur. It stated that flexibility must remain in the system or else the current backlog of inactive financial assistance awards would only increase. Management indicated that its corrective action plan would clarify approval requirements and circumstances for individual waivers of final reports and elevate approval from contracting officer level to Procurement Director level.

Auditor Comments. Clarifying waiver approval requirements and circumstances may not be sufficient to reduce the number of reports that are waived to accommodate the award process. Our audit showed that 11 of 110 grants (10 percent) were closed without the submission of final deliverables after repeated attempts were made by the Department to obtain the missing documents. Adoption of monitoring procedures (particularly with reference to subsequent increases or decreases in the backlog of inactive grants) may be an excellent vehicle for measuring grantee performance. It would enable the Department to determine if the practice of closing grants for convenience is continuing or has ceased to be a problem.

Recommendation. Require grantees to have met the terms and conditions of prior awards, except in extenuating circumstances, before awarding new grants.

Management Comments. Management felt that delaying or refusing to make an award because of failure to submit the final report on an old project appeared to be an extreme measure to solve a paperwork issue. The fact that final reports were not issued does not necessarily mean that the work was not completed. In management's corrective action plan, it proposed using PADS to identify problem grantees, pursuing reports or threatening future funding, and withholding future awards or initiating debarment procedures in extreme cases.

Auditor Comments. As detailed in the report, the purpose of a grant is to serve the public. In awarding a grant instrument, the Department of Energy has a responsibility to ensure that the programmatic objective of the grant is achieved and that funds are appropriately spent. Submission of final technical and financial reports by grantees and the review of those reports by Departmental personnel helps ensure that the goals set by the program and stipulated in the grant instrument are met. Frequently, the only visible results of a grant are contained in technical reports and publications, while other reports deal with financial management aspects. Additionally, the Department has a responsibility to make technical reports available to the public. To term the receipt of final reports a "paperwork issue" is to ignore the responsibility entrusted to the Department by the public and the law.

Management's solution does not mention any effort to determine whether any of these actions would be effective. A Departmental decision not to award new grants when the terms and conditions of previous awards have not been met could prove to be an effective tool needed to motivate grantees to ensure that principal investigators meet grant terms and conditions and demonstrate that grant funds indeed served the public. However, the policy must be developed and tracked for effectiveness. Additionally, awarding offices should coordinate and review individual grantees not only in relation to their own awarding offices, but on a Departmentwide basis.

Recommendation. Extend grant performance periods only in accordance with Departmental policy.

Management Comments. Management agreed that some guidance is appropriate and pointed out that extensions are for accomplishing grant objectives, not to complete reports. Management's corrective action plan suggests reminding contracting and program staff of the purpose for issuing extensions.

Auditor Comments. Simply reminding staff of the purpose for extensions may or may not prove effective. Management's proposal did not include any definitive policy to track against. The Department's policy at the time of audit did not address the propriety of extensions beyond the one year limit. This policy was revised in March 1996. Prior to that date, the Department could extend the period of a grant at its discretion, but extensions to the final budget period were limited to 18 months. Included in the 18 months were any unilateral extensions initiated by the grantee. As indicated on Page 9 of the report, inappropriate extensions were not rare. Of 92 grants with extensions reviewed, 20 grants were extended beyond 12 months--many for 24 or more months. It has been standard for the Department to award grants with a project period of 3 years. A question of reasonableness presents itself when a presumably well-planned project that is supposed to take 3 years turns into a project that will take 4 years, then 5 years, etc. Twelve months appears to be a reasonable maximum for the extension of grant instruments based on the Department's prior policy.

Additionally, management did not detail procedures it would use to determine the effectiveness of its reemphasis of existing policy. Without established mechanisms to determine contracting and program staff compliance with policy, there will be no assurance that extensions are granted for a reasonable time period--12 months. The Office of Inspector General suggests

that management conduct a comparative analysis of PADS information to determine which grants are extended and obtain written documentation for reasons for the extensions. Another option would be to create PADS data fields that would identify original completion dates and the number and length of no-cost-time extensions.

United States Government
Department of Energy

memorandum

DATE:

REPLY TO

ATTN OF: HR-51

SUBJECT: Official Draft Report on "Audit of Departmental Receipt of Final Deliverables for Grant Awards"

to: Manager, Capital Regional Audit Office,
Office of the Inspector General

Based on the September 9, 1997, telecon and subsequent meetings with Bill Maharay and Darryl Wittenburg, and Matt Pollock, the following comments are provided in response to the Official Draft Report dated August 14, 1997.

General Comment

The recommendation set forth in the report resulted in four sub-recommendations and stated that the Deputy Assistant Secretary should "direct contracting officers." We agree that "administration" can be enhanced or strengthened, but would suggest that "across-the-board" compliance with the measures listed in the report may not be feasible in some cases, or appropriate as discussed in our specific comments. We suggest the recommendation be worded to describe the performance objective that is desired, rather than listing prescriptive solutions, e.g. "We recommend that the Deputy Assistant Secretary for Procurement and Assistance Management strengthen Departmental administration of grants to ensure the receipt of financial and technical reports so that awards are closed in a timely manner." The solutions to fix the problem have been identified by the Deputy Assistant Secretary and included in the corrective action plan. Policy guidance will be issued. Management of closeout activities is the responsibility of the contracting activity. Oversight will be accomplished through a contracting activity's self assessment. The

results of such assessments will be reported to Headquarters.

As you know, closeout activities are not always a priority at a contracting activity and, with declining resources, followup actions are frequently not as timely as desired. Like other offices within the Department, procurement faces many worthwhile competing demands for our limited resources. We would not consider some problems in obtaining final reports under financial assistance awards as identified in the audit to warrant a high prioritization in light of other demands on procurement resources such as those resulting from contract reform and the administration of the Department's major management and operating contracts. Financial assistance comprises less than ten percent of the Department's procurement and assistance budget.

Problems in obtaining final reports as well as other grant administration issues will be addressed by an interagency task force which is being established to update OMB Circulars A-102 and A-110. These circulars provide the government wide administrative requirements for grants and cooperative agreements. In light of this, we do not believe DOE should move out unilaterally on this issue.

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With respect to the subrecommendations identified in the official draft as modified by fax from Bill Maharay dated October 2, 1997, we offer the following comments:

Recommendation 1: Retain a portion of the grant funding until a grantee meets the terms and conditions of the award.

Nonconcur. We disagree with the IG conclusion that Departmental "regulations" permit this. The regulations pertaining to payment are contained in the DOE Financial Assistance Rules at 10 CFR 600.122 and 600.221. These requirements stem from the OMB Circulars A-102 and A-110 which establish

the uniform administrative requirements for grants and cooperative agreements. In accordance with these requirements, a financial assistance recipient shall be paid on an advance or reimbursable basis. They shall be paid on an advance basis provided they maintain written procedures to minimize the time between receipt of funds and disbursement and have adequate financial management systems. If the recipient cannot meet these requirements or if there are demonstrated problems, then they are put on a reimbursable payment method. The rules do not permit a Federal agency to establish a different payment provision applicable to all grantees which would withhold a portion of funds under an advance payment method to ensure compliance with reporting requirements.

The audit report states that Departmental policy and precedent indicate that withholding a portion of the grant funds is permissible. It never cites specific authorities, but relies upon the cash management requirements. Per the report, "cash advances to a grant recipient shall be limited to the minimum amounts needed and be timed to be in accordance with the actual, immediate cash requirements of the recipient organization". This means that we will *advance* funds to a recipient based on their needs. It does not provide authority to *withhold a certain percentage of funds* from all grantees in anticipation of problems with compliance.

To change the Payment provisions at 600.122 and 600.221 would require the approval of OMB As mentioned earlier, a recently formed interagency task force will be considering changes to the OMB Circulars and based on discussions with the Department of Health and Human Services who will be chairing this task force the problem with obtaining final reports and how to correct it will be discussed and appropriate changes made.

Recommendation 2: Discontinue the practice of waiving grant deliverable requirements to accommodate the award close-out process.

We do not concur with this recommendation. Instructing grant administrators to not close grant instruments without the receipt of the final

reports would only serve to increase the current backlog of inactive financial assistance awards. We believe that some flexibility must remain in the system to ensure that awards do not remain open forever. We also believe that the practice of waiving grant deliverables will naturally decline if we provide grant administrators guidance and tools for obtaining final grant reports. We also will require more consistency among the field offices regarding approval of waivers.

Recommendation 3: Require grantees to have met the terms and conditions of prior awards, except in extenuating circumstances, before awarding new grants.

Although we agree with this recommendation in principal (i.e. terms and conditions should be complied with), its practical application may be more difficult. Delaying the award of a new

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project, or refusing to make an award because of a failure to submit the final report on an old project appears to be an extreme measure to solve a paperwork issue. The fact that final reports were not issued, does not necessarily mean that the work was not completed. However, it may be appropriate in those instances where we have repeated problems with a particular recipient.

Recommendation 4: Extend grant performance period only in accordance with Departmental policy.

We agree that some guidance is appropriate regarding the appropriateness of extensions because of the instances of improper use cited in the report. Extensions in the period of performance are for the purpose of accomplishing the grant objectives and not to complete reports. The recipient has 90 days after completion of the project in which to submit the required reports. There currently are no absolute guidelines for reasonable extensions, however, we will explore with the program project officials the feasibility of establishing such guidelines.

We plan to take the following actions to correct the problems:

1. Issue a Financial Assistance Letter that does the following:

A. Provides additional guidance to contracting officers concerning the closeout process and offer suggestions on how to obtain delinquent reports based on an incremental approach such as:

✎ At the outset, review reporting/information needs. Ensure grant award does not require more reports than are necessary which would unduly burden recipient and DOE staff.

✎ Use PADS data to identify problem grantees by overage closeout actions and then follow-up to determine if grantee failure to submit required reports is a systemic problem. Take action thru telecons, face-to-face meetings, etc., to discuss problems, obtain corrective action plans, advise of consequences (impact future funding, disallowance of costs, debarment, etc.)

✎ Issue follow-up letters over the Procurement Director's signature to the head of the recipient organization rather than to the chief administrative/grants official.

✎ Advise the head of a recipient organization that has an ongoing relationship with DOE that future funding may be affected if delinquent reports are not submitted.

✎ Use the latest financial status report for determining costs under a grant. If a grantee fails to file a final financial status report, total grant costs would be based upon latest quarterly report submitted.

✎ In those extreme cases in which a recipient fails to respond to repeated requests to submit reports and comply with grant terms and conditions, contracting officers may withhold future awards or initiate debarment procedures. Prior to taking these actions,

the contracting officer should coordinate with the Headquarter's Office of Policy and legal counsel.

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- B. Clarify approval requirements and circumstances for individual waivers of final reports and elevate approval from contracting officer level to Procurement Director level.
- C. Remind contracting and program staff that extensions to grant budget periods are for the purpose of continuing project activities and not to provide additional time to submit final reports.

2. Identify best practices by soliciting input from field offices through meetings, conferences (depending upon resources), telecons, and written responses concerning their processes and success stories. This information we would share with the field probably via the Financial Assistance Guidebook.

We plan to issue the Financial Assistance Letter in the first quarter FY 1998 and the best practices information by end of second quarter FY 1998.

(Signed)

Gwendolyn S. Cowan, Acting Director
Office of Procurement and Assistance Policy
Office of Procurement and Assistance
Management

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