

DOE/IG-0421

AUDIT REPORT

THE DEPARTMENT OF ENERGY'S
INTERAGENCY AGREEMENT WITH
THE NATIONAL INSTITUTE OF
ENVIRONMENTAL HEALTH
SCIENCES



JULY 1998

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

July 21, 1998

MEMORANDUM FOR THE ACTING SECRETARY

FROM: Gregory H. Friedman
Acting Inspector General

SUBJECT: INFORMATION: Audit Report on "The Department of Energy's Interagency Agreement with the National Institute of Environmental Health Sciences"

BACKGROUND

The Department of Energy (Department) and the National Institute of Environmental Health Sciences (NIEHS) entered into an interagency agreement in September 1992 to develop model safety and health training programs for workers involved in waste cleanup activities at Departmental facilities. Under the terms of the agreement, recipients of NIEHS training grants were to provide Hazardous Waste Operations and Emergency Response (HAZWOPER) training to Departmental sites. By June 1997, the Department had obligated over \$40 million to the agreement. The objective of this audit was to determine whether the interagency agreement with NIEHS was the most cost-effective method of acquiring the training.

RESULTS OF AUDIT

The agreement with NIEHS was not the most cost-effective method of acquiring HAZWOPER training. The rates charged by NIEHS grantees were higher than the rates available from other nonprofit organizations that were capable of providing the training. The Department entered into the agreement without first determining whether the training could be acquired more economically by awarding grants directly to nonprofit organizations. Also, the Department paid NIEHS through an automated withdrawal system without verifying the reasonableness of the payments. As a result, the Department incurred \$6 million more than necessary for training in Fiscal Year (FY) 1996. We recommend that the Deputy Assistant Secretary for Site Operations, Office of Environmental Management either terminate the interagency agreement with NIEHS and award grants directly to nonprofit organizations, or modify the terms of the agreement to require that training costs closely resemble prices available from competitive nonprofit organizations.

MANAGEMENT REACTION

Management did not concur with the finding or recommendation, stating that insufficient justification existed to challenge what it perceived to be Congressional direction and preference. We found, however, that the Congressional direction referred to did not preclude the use of cost-effective alternatives to provide the required hazardous waste training. Management also stated that the finding was not

supported by the record. Based on these comments, we performed additional analysis and reconfirmed the accuracy of the cost data included in this report. Finally, management's comments indicated that the Department is working with NIEHS to improve reporting requirements and to require NIEHS to make cost a criterion for award evaluations. We believe this is a positive step.

Attachment

cc: Deputy Secretary
Under Secretary

**THE DEPARTMENT OF ENERGY'S INTERAGENCY
AGREEMENT WITH THE NATIONAL INSTITUTE OF
ENVIRONMENTAL HEALTH SCIENCES**

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Overview

INTRODUCTION AND OBJECTIVE

The Department entered into an interagency agreement with NIEHS in September 1992 to develop and provide model safety and health training programs for workers involved in waste cleanup at Departmental facilities. Congress established the training programs in Section 3131 of the National Defense Authorization Act for FYs 1992 and 1993. Section 3131 authorized the Department to award grants to nonprofit organizations to provide training and education for workers who are or may be engaged in the cleanup of hazardous substances or emergencies at nuclear weapon facilities. Section 3131 stated that the Department should give preference to worker organizations and joint labor management training programs that were grant recipients under Section 126 of the Superfund Amendments and Reauthorization Act of 1986 (Superfund Act). Congress gave NIEHS the responsibility for initiating a training grants program under Section 126 of the Superfund Act.

The interagency agreement was established for a 5-year period which ended September 9, 1997. Under the terms of the agreement, recipients of NIEHS training grants were to provide HAZWOPER training to workers at Departmental sites. The Department obligated over \$40 million to the agreement.

In September 1997, the Department entered into a new 5-year agreement with NIEHS, continuing the performance period through September 30, 2002. The basic award was for \$8 million; however, management stated that the new agreement could eventually cost \$40 million.

The audit objective was to determine whether the interagency agreement with NIEHS was the most cost-effective method of acquiring HAZWOPER training.

OBSERVATIONS AND CONCLUSIONS

The agreement with NIEHS was not the most cost-effective method of acquiring HAZWOPER training. The rates charged by NIEHS grantees were higher than the rates available from other nonprofit organizations that were capable of providing similar training. The Department entered into the agreement without first determining whether the training could be acquired more economically by awarding grants directly to nonprofit organizations. Also, the Department paid NIEHS through an automated withdrawal system without verifying the reasonableness of payments. As a result, the Department incurred \$6 million more than necessary for training in FY 1996. The audit identified material internal control weaknesses that management should consider when preparing the yearend assurance memorandum on internal controls.

INTERAGENCY AGREEMENT NOT COST-EFFECTIVE

Local Nonprofit Organization Could Have Provided Similar Training for About One-Third the Cost

The rates charged by NIEHS grantees were significantly higher than the rates charged by other nonprofit organizations for similar training. The grantees charged an average of \$32.67 per hour for training provided Departmentwide in FY 1996. However, we determined that local nonprofit organizations could have provided similar training for an average of about \$11.25 per hour at Savannah River, Richland, and Oak Ridge.

The nine grantees that provided the training charged between \$19.69 and \$70.85 per hour Departmentwide. Six of the grantees were labor unions, two were college consortiums, and one was an occupational health center. However, nonprofit colleges near Savannah River, Richland, and Oak Ridge charged between \$9.48 and \$13.29 per hour for similar or identical courses. The colleges provided HAZWOPER training to Savannah River, Richland, and Oak Ridge in prior years and were providing similar training to other customers at the time of our audit.

Federal Regulations Require That Interagency Agreements be in the Government's Best Interest

Subpart 17.5 of the Federal Acquisition Regulation prescribes policies and procedures applicable to interagency acquisitions. At the time the Department entered into its first agreement with NIEHS, the regulation required that interagency acquisitions be supported by written determinations that the agreements were in the best interest of the Government. The regulation was revised in October 1995 to add a requirement for a written determination that the supplies or services being acquired could not be obtained as conveniently or economically by contracting directly with non-Government sources. This requirement was established almost 2 years before the Department entered into its follow-on agreement with NIEHS.

Department Did Not Ensure the Agreement Was in the Government's Best Interest

The Department made a written determination that the interagency agreement with NIEHS was in the Government's best interest. However, the Department did not perform sufficient analysis to ensure that the training was, in fact, in the Government's best interest. The Department did not compare the cost of training provided by the grantees to the cost of training available from nonprofit organizations near the sites. Instead of soliciting bids and comparing prices for specific courses or training programs, the Department elected to acquire all HAZWOPER training through the NIEHS agreement. The Department did not perform cost analyses in September 1992, when the original agreement was awarded, nor in September 1997, when the follow-on agreement was awarded.

Department Reimbursed NIEHS Without Verifying the Reasonableness of Payments

The Department reimbursed NIEHS through an automatic withdrawal system without verifying the reasonableness of the payments. Requests for payment under the interagency agreement are not subject to audit or certification before the payments are made. The Department's Program Official is responsible for alerting the Controller's Office to make adjustments for inappropriate payments in the event errors are detected after payment. Under the terms of the agreement, NIEHS was required to provide annual reports to the Program Official showing the amounts billed by individual grantees during the year. The Project Manager, when interviewed, did not have a copy of the annual reports for FY 1996 or prior years. Also, when the FY 1996 report was obtained, the report did not include the amounts billed by individual grantees during the year.

Training Costs Were Excessive

As a result of this condition, the Department incurred \$6 million more than necessary for training in FY 1996. The grantees charged \$9.1 million for training that could have been obtained for \$3.1 million from local nonprofit organizations. At Savannah River, Richland, and Oak Ridge, the Department incurred \$4.4 million for training that could have been provided by other nonprofit organizations for \$1.4 million, for a savings of \$3 million. We compared the cost of training reported by the NIEHS grantees to the cost of training using the average hourly rates available from local non-profit organizations. The other Departmental sites incurred \$4.7 million for training that could have been provided for \$1.7 million, for a savings of \$3 million. We compared the cost of training available from NIEHS grantees at the other sites to the estimated cost of training using the average hourly rate of \$11.25 available from nonprofit organizations at Savannah River, Richland, and Oak Ridge.

RECOMMENDATION

We recommend that the Deputy Assistant Secretary for Site Operations, Office of Environmental Management either terminate the interagency agreement with NIEHS and award grants directly to nonprofit organizations, or modify the terms of the agreement to require that training costs closely resemble prices available from competitive nonprofit organizations.

MANAGEMENT REACTION

The Office of Environmental Management did not concur with the finding or recommendation, stating that the finding was not supported by the record, and that insufficient justification existed to challenge Congressional direction and preference.

Management did not agree that local colleges could provide similar training for less cost than NIEHS. Management stated that the rates proposed by the local colleges were unrealistically low. Management believed that the colleges' instructors would be paid near minimum wages and insufficient funds would be available to pay for indirect costs. Additionally, management stated NIEHS did not charge a fee for the administration of the grants, and the Department would have to absorb such costs if it were to administer the grants directly. Further, management stated that the Department recently awarded a performance-based contract with a training rate that was eight times more expensive than the average NIEHS rate, thus demonstrating the cost-effectiveness of the NIEHS agreement.

Also, management stated that the NIEHS agreement was in the Government's best interest. Management stated that 14 months before the agreement was executed, the Department evaluated the suitability of the NIEHS training program and concluded that the program's technical quality was suitable to meet the Department's needs. Further, management believed that NIEHS fully complied with Federal competition requirements in awarding the grants.

Finally, management stated that the Department has made significant improvements to the agreement with NIEHS. The Department will assist NIEHS to evaluate grantees' proposals and will accompany NIEHS on training review visits. Also, the Department is working with NIEHS to improve reporting requirements and to require NIEHS to make cost a criterion for award evaluations.

AUDITOR COMMENTS

Section 3131 required the Department to give preference to worker organizations and joint labor management training programs administered by NIEHS. However, it did not preclude the use of cost-effective alternatives, such as awarding grants directly to qualified nonprofit organizations.

The local colleges' rates were calculated based on the actual cost of

HAZWOPER training per student hour—not the average wage rate for instructors. Also, NIEHS did, in fact, charge the Department an administrative fee of about \$260,000 for administering the grants under the first interagency agreement. Further, we reviewed the performance-based contract referenced by management and found that management's calculation of the training rate was in error. The rate in the new contract was actually \$19.70 per student hour, which was substantially less than the average NIEHS rate of \$32.67 per hour and not 8 times higher.

We agree that the Department performed a technical analysis of the NIEHS training program before the initial agreement was established. However, the Department did not perform a cost analysis to determine if the NIEHS agreement was the most cost-effective alternative for meeting HAZWOPER training requirements. Therefore, we concluded that the Department did not perform adequate analysis to fully determine whether the interagency agreement was in the Government's best interest.

Finally, we are concerned that the actions taken by management in recent months may not be enough to cause NIEHS grantees' rates to be comparable to the rates available from competitive nonprofit organizations. Additionally, we are concerned that the Department's vulnerability to unnecessary training costs may have increased after September 1997 because the new NIEHS agreement expanded the scope of work to permit training in areas other than HAZWOPER subjects.

Appendix 1

SCOPE

The audit was performed from June 3, 1997, to February 27, 1998, at the following locations: Departmental Headquarters in Washington, D.C., and Germantown, Maryland; Savannah River Operations Office in Aiken, South Carolina; Richland Operations Office in Richland, Washington; Oak Ridge Operations Office in Oak Ridge, Tennessee; NIEHS in Raleigh, North Carolina; Laborers/Associated General Contractors in Pomfret Center, Connecticut; and International Union of Operating Engineers in Washington, D.C. We tested grantees' training records for September 1, 1995, through August 31, 1996, at the Savannah River, Richland, and Oak Ridge Operations Offices.

METHODOLOGY

To accomplish the audit objective, we:

- Reviewed Federal regulations governing interagency agreements;
- Examined Federal and Departmental training requirements and training curriculum guidelines for hazardous waste training;
- Evaluated the terms of the Department's interagency agreement with NIEHS;
- Analyzed grant files at NIEHS related to the Department's interagency agreement;
- Visited two grantees to verify the training hours reported and billed to NIEHS for the Department's training program; and
- Compared the training hours on the grantees' training rosters with training hours reported in the contractors' training management systems at the individual sites.

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, the assessment included reviews of Departmental policies, procedures, and responsibilities for establishing interagency agreements and monitoring training received and billed under the NIEHS interagency agreement. Because our review was limited, it would not necessarily have disclosed

training received and billed under the NIEHS interagency agreement. 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 conduct a reliability assessment of computer-processed data because only a very limited amount of computer-processed data was used during the audit.

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