



U.S. Department of Energy
Office of Inspector General
Office of Inspections and Special Inquiries

Inspection Report

The Department of Energy's Review of
Export License Applications for China

DOE/IG-0723

April 2006



Department of Energy
Washington, DC 20585

April 5, 2006

MEMORANDUM FOR THE SECRETARY

FROM:

Greg Friedman
Gregory H. Friedman
Inspector General

SUBJECT:

INFORMATION: Inspection Report on "The Department of Energy's Review of Export License Applications for China"

BACKGROUND

The Fiscal Year 2000 National Defense Authorization Act provides that beginning in the year 2000, the President shall annually submit to Congress a report by the Inspectors General of the Departments of Energy (Energy), Commerce, State, and Defense on their policies and procedures with respect to the export of technologies and technical information with potential military application to countries and entities of concern. The People's Republic of China is one of the world's largest trading nations, whose trade includes the substantial import and export of technologies. For 2006, an interagency working group comprised of the Inspectors General of the previously identified agencies chose to review the export of sensitive United States technologies and technical information to China. The Inspectors General of the Department of Homeland Security and the Central Intelligence Agency also participated in the effort.

The objective of our portion of this multi-agency effort was to determine if Energy appropriately participated in the export license review process to control the export of critical technologies to China. Additionally, we reviewed the status of recommendations set forth in our previous reports on the general subject of Energy's export control program.

RESULTS OF INSPECTION

We concluded that Energy's participation in the export license review process to control the export of critical technologies to China was appropriate and consistent with existing procedures. We found that Energy's export control office: (1) conducted reviews of all escalated export license applications relevant to China referred to that office in Fiscal Year 2004; and, (2) coordinated effectively with the formal interagency entities mandated by Executive Order 12981 for the conduct of export license reviews. We observed that access by Energy officials conducting license reviews to end-user review information maintained by the Lawrence Livermore National Laboratory could be improved and we have included a recommendation to address this concern. Also, we observed that access by these officials to intelligence information within Energy's Office of Intelligence and Counterintelligence had recently been enhanced.



Regarding the status of recommendations set forth in previous Office of Inspector General reports on Energy's annual export control reviews, we determined that 12 of the 15 recommendations have been closed. Details regarding all recommendations can be found in Appendix B.

We made two recommendations to management designed to enhance Energy's export control review process.

MANAGEMENT REACTION

In responding to our draft report, management agreed with our recommendations and indicated that it will implement corrective actions. Management's comments, which are provided in their entirety in Appendix D, were responsive to our recommendations.

Attachment

cc: Deputy Secretary
Administrator, National Nuclear Security Administration
Under Secretary for Energy, Science, and Environment
Chief of Staff
Director, Office of Intelligence and Counterintelligence
Director, Office of Internal Review (CF-1.2)
Director, Policy and Internal Controls Management (NA-66)

THE DEPARTMENT OF ENERGY'S REVIEW OF EXPORT LICENSE APPLICATIONS FOR CHINA

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Overview

INTRODUCTION AND OBJECTIVES

The National Defense Authorization Act (NDAA) for Fiscal Year 2000 provides that beginning in the year 2000 and ending in the year 2007, the President shall annually submit to Congress a report by the Inspectors General of, at a minimum, the Departments of Energy (Energy), Commerce (Commerce), Defense (Defense), and State (State) of the policies and procedures of the United States Government with respect to the export of technologies and technical information with potential military application to countries and entities of concern. The NDAA for Fiscal Year 2001 also requires the Inspectors General to include in each annual report the status of the implementation or disposition of recommendations that were set forth in previous annual reports.

The People's Republic of China (China), which since 1997 has included Hong Kong, is one of the world's largest trading nations. China's trade includes the substantial import and export of technologies. An interagency working group comprised of representatives from the Offices of Inspector General (OIGs) for Energy, Commerce, Defense, State, the Department of Homeland Security, and the Central Intelligence Agency (CIA) selected the export of sensitive U.S. technologies and technical information to China as the topic for its 2006 review.

The objective of our inspection was to determine if Energy appropriately participated in the export license review process to control the export of critical technologies to China. Within Energy, the Office of International Regimes and Agreements (OIRA), which is part of the National Nuclear Security Administration's, Office of Defense Nuclear Nonproliferation, is the primary entity responsible for export control issues and is the focus of our review. To accomplish this objective, we examined:

- Energy's roles and responsibilities relevant to the review of escalated export license applications regarding China. Escalated export license applications are those applications that were appealed to higher levels of agency review when the reviewing agencies could not come to agreement after their initial reviews; and
- Coordination by Energy officials with other Federal agencies regarding cases escalated to the dispute resolution process.

Additionally, we reviewed the status of recommendations set forth in previous Energy OIG reports on annual export control reviews conducted pursuant to the NDAA for Fiscal Year 2000.

OBSERVATIONS AND CONCLUSIONS

We concluded that Energy appropriately participated in the export license review process to control the export of critical technologies to China. Specifically, we found that:

- OIRA conducted reviews of all escalated export license applications referred to them during Fiscal Year 2004 that were relevant to China; and
- OIRA effectively coordinated with the formal interagency entities mandated by Executive Order 12981 for the conduct of its license reviews.

We observed that access by Energy officials conducting license reviews to end-user review information maintained by the Lawrence Livermore National Laboratory (Livermore) could be improved. We also observed that access by OIRA to intelligence information within the Energy Office of Intelligence and Counterintelligence (IN) has recently been enhanced.

Regarding the status of recommendations set forth in previous Energy OIG reports on annual export control reviews conducted pursuant to the NDAA for Fiscal Year 2000, we determined that 12 of the 15 recommendations have been closed. Details regarding the recommendations can be found in Appendix B.

The Energy OIG has conducted numerous reviews related to the topic of export controls. A listing of these reports is contained in Appendix C.

Details of Findings

BACKGROUND

The principal legislative authorities governing the export control of nuclear-related, dual-use¹ items are the Export Administration Act of 1979 and the Nuclear Non-Proliferation Act of 1978. The provisions of the Export Administration Act have been updated by Executive Order, most recently by Executive Order 12981, which grants the Secretary of Commerce the authority to refer export license applications to other agencies for review and gives agencies such as Energy the authority to look at any export license application submitted to Commerce. This Executive Order also establishes the Operating Committee (OC) and the Advisory Committee on Export Policy (ACEP). This Executive Order stipulates that the OC examines all license applications in which the reviewing departments are not in agreement and that if a department disagrees with an OC decision, they may appeal to the ACEP for resolution.

Energy's export control efforts, as coordinated by OIRA, includes the review of licenses for nuclear, chemical, biological, and missile-related commodities. OIRA utilizes the expertise of Energy officials at headquarters and the Department's field sites to conduct end-user reviews (analysis of intelligence information relevant to the final user of an item) and technical reviews (analysis of a specific item by a subject matter expert). In addition to reviewing licenses, OIRA participates in working level groups for licensing and nonproliferation activities that include China-related issues; represents Energy at meetings of the Nuclear Suppliers Group, an informal international regime that works to prevent the misuse of nuclear materials for military reasons; and leads an outreach effort that trains Federal officials at the nation's borders on how to recognize proliferation items and potential weapons of mass destruction.

ENERGY REVIEW OF LICENSES

We found that Energy conducted reviews of all escalated export license applications relevant to China referred to them during Fiscal Year 2004.

We and the OIG interagency group examined 102 cases relevant to China and Hong Kong that were addressed by the OC and/or ACEP during Fiscal Year 2004². We determined that Energy officials conducted required end-user reviews for each case. However, we found that the end-user review for one case was not

¹ Some controlled commodities are designated as "dual-use," that is, goods and technologies that have both civilian and military uses. The U.S. Government designates some dual-use commodities as "nuclear dual-use" items, which are controlled for nuclear nonproliferation purposes.

² 104 separate China cases were examined by either the OC and/or the ACEP in Fiscal Year 2004. Two of these 104 cases were withdrawn by the applicant, resulting in a total of 102 cases analyzed by the OIG. Of these 102 cases, three were reviewed by both the OC and ACEP in Fiscal Year 2004.

completed in time for the relevant OC meeting. Although the review was not timely, the results of that review did not alter the position already established by Energy and the other reviewing agencies or effect the processing of that application.

INTERAGENCY COORDINATION

Energy effectively coordinated with the formal interagency entities mandated by Executive Order 12981 for the conduct of its license reviews. Energy has participated in the OC and the ACEP since 1965. The OC and the ACEP include senior officials from Energy, Commerce, Defense, and State, which are voting members, and the CIA, which is a non-voting member. We determined that Energy officials participated in the review of all 102 cases relevant to China and Hong Kong addressed by the OC and the ACEP in Fiscal Year 2004. Export control officials with Commerce, Defense, State, and the CIA advised that Energy coordinated with them on all export license applications, including those for China, and that Energy provided them with analysis relevant to the export license review process.

OBSERVATIONS

We observed that access by Energy officials conducting license reviews to end-user review information maintained by Livermore could be improved. Currently, technical reviewers must wait until an end-user review is completed by Livermore before being able to access this end-user information. Several field officials who perform technical reviews indicated that it would be an improvement if they could access end-user information at any time instead of waiting until the end-user review is completed. Livermore officials said that they are developing a new database that will allow any technical reviewers at Energy to have real-time access to end-user information. An OIRA official indicated that had this database been in place for the one late end-user review addressed above, that review would have likely been completed in time for the OC meeting. We believe that the implementation of this new Livermore database will help expedite Energy's export license reviews.

We also observed that access by OIRA to intelligence information within IN has recently been enhanced. Specifically, IN controls the access for Energy officials to Sensitive Compartmented Information (SCI), which includes intelligence information that can be used by OIRA to conduct their license reviews. During our review, OIRA officials advised that they could not access IN's SCI computers or hand-carry SCI documents and relied upon: an IN employee who dedicated part of his time to OIRA efforts; field officials at IN's Field Intelligence Elements; or other Federal agencies.

An IN official informed us that based on established Energy policy on the use of and access to SCI, only Federal Energy employees that are part of IN can have direct access to SCI computers and be able to hand-carry SCI documents. The official added, however, that his office could arrange for OIRA-affiliated management and operating contractor officials who are members of a Field Intelligence Element, to access SCI at IN headquarters because Field Intelligence Element members are managed by IN for intelligence purposes.

We learned that IN had previously sponsored direct SCI access by one OIRA-affiliated management and operating contractor stationed at Energy headquarters, but that the relevant contract ended in July 2005. In recognition of this problem and concurrent with our review, in February 2006, IN management granted three OIRA-affiliated management and operating contractors access to IN and is processing them to have SCI computer and hand-carrying access. We believe that this improved access should enhance OIRA's analysis of export control issues, including those relevant to China. Because this type of arrangement between IN and OIRA had lapsed before, we believe that actions need to be taken to ensure that OIRA representatives continue to have access to SCI computers and be able to hand-carry SCI documents.

RECOMMENDATIONS

We recommend that the Deputy Administrator, Defense Nuclear Nonproliferation;

1. Expedite the development and implementation of the new Lawrence Livermore National Laboratory database for processing end-user reviews; and
2. Coordinate with the Director, Office of Intelligence and Counterintelligence, to ensure personnel affiliated with the Office of Defense Nuclear Nonproliferation who conduct export license reviews have continual access to Sensitive Compartmented Information computers and be able to hand-carry Sensitive Compartmented Information documents.

**MANAGEMENT
COMMENTS**

In comments on our draft report, management agreed with our report recommendations and will implement corrective actions. These comments are included in their entirety at Appendix D.

**INSPECTOR
COMMENTS**

We found management's comments to be responsive to our report recommendations.

Appendix A

SCOPE AND METHODOLOGY

We interviewed Federal and contractor Energy officials at headquarters and field facilities, including personnel who perform end-user reviews and technical reviews. We reviewed Energy and Commerce documentation for 102 export license applications to China and Hong Kong that were addressed by the Operating Committee and the Advisory Committee on Export Policy in Fiscal Year 2004. We also reviewed relevant export control regulations.

As part of our review, we evaluated Energy's implementation of the "Government Performance Results Act of 1993." We did not identify any performance measure issues regarding the review of export license applications for China and Hong Kong.

This inspection was conducted in accordance with the "Quality Standards for Inspections" issued by the President's Council on Integrity and Efficiency.

Appendix B

STATUS OF RECOMMENDATIONS FROM PRIOR NATIONAL DEFENSE AUTHORIZATION ACT REPORTS

Section 1204 of the NDAA for Fiscal Year 2001 amended Section 1402(b) of the NDAA for Fiscal Year 2000 to require the specified Offices of Inspectors General (OIGs) to include in each annual report the status of the implementation or other disposition of recommendations that have been set forth in previous annual reports under Section 1402(b). To date, six reports have been completed by the Energy OIG under this requirement. Two reports: “Inspection of Status of Recommendations from the Office of Inspector General’s March 2000 and December 2001 Export Control Reviews,” INS-L-03-07, May 2003, and “Inspection of the Department of Energy’s Role in the Commerce Control List and the U.S. Munitions List,” INS-O-01-03, March 2001, did not contain recommendations. The following is the status of the recommendations from the other reports. Of 15 total recommendations, 12 have been closed.

“The Department of Energy’s Review of Chemical and Biological Export License Applications,” DOE/IG-0682, March 2005:

Recommendation 1. We recommended that the Deputy Administrator, Defense Nuclear Nonproliferation, take appropriate action to ensure that Energy licensing officers have access to the Department of Commerce’s Export Control Automated Support System (ECASS).

Energy management reported that Commerce promised to provide support to the office as needed. Currently, new National Nuclear Security Administration (NNSA) staff are completing new registration forms to receive their passwords. Energy management is awaiting response from Commerce on the NNSA letter requesting training on accessing ECASS.

The Energy OIG determined that this recommendation should remain open until all corrective actions are completed.

Recommendation 2. We recommended that the Deputy Administrator, Defense Nuclear Nonproliferation, take appropriate action to ensure that Energy licensing officers are properly trained in the use of this system.

Energy management reported that Commerce promised to provide support to the office as needed. Currently, new NNSA staff are completing new registration forms to receive their passwords. Energy management is awaiting response from Commerce on the NNSA letter requesting training on accessing ECASS.

The Energy OIG determined that this recommendation should remain open until all corrective actions are completed.

“Contractor Compliance with Deemed Export Controls,” DOE/IG-0645, April 2004:

Recommendation 1. We recommended that the Director, Office of Security and Safety Performance Assurance, expedite issuance of a draft unclassified foreign visits and assignments

Appendix B (continued)

Order 142.X that addresses training requirements and responsibilities for hosts of foreign nationals.

Energy management reported that the Office of Security has incorporated all required changes into DOE Order 142.3, “Unclassified Foreign Visits and Assignments Program,” which was approved on June 18, 2004. This Order includes the principal roles and responsibilities for hosts of foreign national visitors and assignees. The Energy OIG determined that DOE Order 142.3 includes training requirements and responsibilities for hosts of foreign nationals.

The Energy OIG agreed to close this recommendation.

Recommendation 2. We recommended that the Deputy Administrator, Defense Nuclear Nonproliferation, ensure that export control guidance, including deemed export guidance, is disseminated and is being consistently implemented throughout the Energy complex.

Energy management reported that the updated DOE “Guidelines on Export Control and Nonproliferation” were undergoing review at Energy headquarters through August. In September they were transmitted to the Department’s Executive Secretary for final review and signature. Subsequently, DOE General Counsel (GC) performed a second review and presented their comments in November, and the DOE Office of Nuclear Energy, Science, and Environment (NE) also sent a comment. NNSA management is reviewing and coordinating comments with GC and NE to finalize the Guidelines in January 2006. In the First Quarter of Fiscal Year 2006, Energy management began developing elements of a training module to help strengthen contractor compliance with deemed export controls. The goal of the training is to specifically address the needs of employees serving as foreign national hosts who are actively initiating visits. Energy management tasked a national laboratory with drafting a training program, which was subsequently briefed in September 2005 to export compliance representatives from five sites for comment. Comment incorporation was being finalized in the First Quarter of Fiscal Year 2006, with pilot implementation at a national laboratory planned for Second Quarter of Fiscal Year 2006. In the Second Quarter of Fiscal Year 2006 work will commence on designing a survey to gain insight of the export control programs at laboratories/sites with the goal of making preliminary assessments in the Third Quarter of Fiscal Year 2006. Assuming the satisfactory resolution of any management and operating contractual issues that may arise, on-site surveys may begin as early as the Fourth Quarter of Fiscal Year 2006.

The Energy OIG determined that this recommendation should remain open until all corrective actions are completed.

“Inspection of the Department of Energy’s Automated Export Control System,” DOE/IG-0533, December 2001:

Recommendation 1. We recommended that the Assistant Deputy Administrator for Arms Control and Nonproliferation coordinate with Commerce and Treasury to ensure access by Energy to information within the Automated Export System regarding the purchase and/or

Appendix B (continued)

shipment of commodities under an approved export license, and develop guidelines for Energy's access to the information.

Energy management reported that NNSA has taken actions as far as its cognizant authority allows. All remaining actions are contingent on other Government agencies. NNSA recommended that the interagency OIG group involved with export controls make specific recommendations to individual agencies in order to effect change. While actions are not completed, NNSA can no longer report meaningful status.

The Energy OIG agreed to close this recommendation. The Energy OIG will continue to follow up on these issues through the interagency OIG group.

Recommendation 2a. We recommended that the Assistant Deputy Administrator for Arms Control and Nonproliferation coordinate with State to improve communications regarding review of export license applications for munitions commodities.

Energy management reported that NNSA has taken actions as far as its cognizant authority allows. All remaining actions are contingent on other Government agencies. NNSA recommended that the interagency OIG group involved with export controls make specific recommendations to individual agencies in order to effect change. While actions are not completed, NNSA can no longer report meaningful status.

The Energy OIG agreed to close this recommendation. The Energy OIG will continue to follow up on these issues through the interagency OIG group.

Recommendation 2b. We recommended that the Assistant Deputy Administrator for Arms Control and Nonproliferation coordinate with State to ensure access by Energy to information maintained by State regarding final disposition (i.e., approval/denial of license applications and the purchase and/or shipment of commodities) of export license applications and develop guidelines for Energy's access to the information.

Energy management reported that NNSA has taken actions as far as its cognizant authority allows. All remaining actions are contingent on other Government agencies. NNSA recommended that the interagency OIG group involved with export controls make specific recommendations to individual agencies in order to effect change. While actions are not completed, NNSA can no longer report meaningful status.

The Energy OIG agreed to close this recommendation. The Energy OIG will continue to follow up on these issues through the interagency OIG group.

“Inspection of the Department of Energy’s Export License Process for Foreign National Visits and Assignments,” DOE/IG-0465, March 2000:

Recommendation 1. We recommended that the Acting Deputy Administrator for Defense Nuclear Nonproliferation ensure that senior Energy officials work with senior Commerce

Appendix B (continued)

officials to assure clear, concise, and reliable guidance is obtained in a timely manner from Commerce regarding the circumstances under which a foreign national's visit or assignment to an Energy site would require an export license.

Energy management was advised by the Commerce Assistant Secretary for Export Administration that extensive guidance regarding compliance with the deemed export rule was available on the Commerce Web site and that Commerce would continue to strengthen its outreach training programs for Energy's National Laboratories.

The Energy OIG agreed to close this recommendation.

Recommendation 2. We recommended that the Director, Office of Security and Emergency Operations, ensure that a proposed revision of the Energy Notice concerning unclassified foreign visits and assignments includes the principal roles and responsibilities for hosts of foreign national visitors and assignees.

Energy management reported that the Office of Security has incorporated all required changes into DOE Order 142.3, "Unclassified Foreign Visits and Assignments Program," which was approved on June 18, 2004. This Order includes the principal roles and responsibilities for hosts of foreign national visitors and assignees.

The Energy OIG agreed to close this recommendation.

Recommendation 3. We recommended that the Director, Office of Security and Emergency Operations, include a requirement for Energy and Energy contractor officials to enter required foreign national visit and assignment information in the Foreign Access Records Management System, or a designated central data base, in a complete and timely manner.

Energy management reported that a new Energy-wide information system, the Foreign Access Centralized Tracking System (FACTS), was developed and implemented. Energy further advised that Draft Order 142.X includes a requirement for Energy sites to enter required foreign national visit and assignment information into FACTS in a complete and timely manner.

Because Energy management's corrective action addressed usage of FACTS by all Energy Federal and contractor employees, the Energy OIG previously agreed to close this recommendation and track this issue under recommendation 8.

Recommendation 4. We recommended that the Manager of Energy's Oak Ridge Operations Office ensure that requests for foreign national visits and assignments at the Oak Ridge site are reviewed by the Y-12 National Security Program Office to assist in identifying those foreign nationals who may require an export license in conjunction with the visit or assignment.

Energy management reported that to ensure requests for foreign national visits and assignments at the Oak Ridge National Laboratory receive appropriate export license consideration, Oak Ridge National Laboratory initiated a system of reviews. Under the system, requests are

Appendix B (continued)

reviewed by five separate disciplines (Cyber Security, Export Control, Classification, Counterintelligence, and Security). In addition, requests associated with concerns are referred for resolution to the Non-citizen Access Review Committee. Energy management further reported that while each of the reviews can involve the National Security Program Office, the Oak Ridge National Laboratory Export Control Officer is responsible for referring requests to the National Security Program Office as necessary.

The Energy OIG agreed to close this recommendation.

Recommendation 5. We recommended that the Director, Office of Security and Emergency Operations, ensure that the requirements in the revised Energy Notice for unclassified foreign national visits and assignments are clearly identified and assigned to responsible officials or organizations.

Energy management reported that the Office of Security has incorporated all required changes into DOE Order 142.3, "Unclassified Foreign Visits and Assignments Program," which was approved on June 18, 2004. This Order includes clear identification of requirements for foreign national visits and assignments, and identifies responsible officials and organizations.

The Energy OIG agreed to close this recommendation.

Recommendation 6. We recommended that the Acting Deputy Administrator for Defense Nuclear Nonproliferation ensure that guidance issued by the Office of Nuclear Transfer and Supplier Policy to advise hosts of their responsibilities regarding foreign nationals includes the appropriate level of oversight to be provided by the host during the period of the visit or assignment.

Energy management reported that the Office of Security has incorporated all required changes into DOE Order 142.3, "Unclassified Foreign Visits and Assignments Program," which was approved on June 18, 2004. This Order includes the principal roles and responsibilities for hosts of foreign national visitors and assignees.

The Energy OIG agreed to close this recommendation.

Recommendation 7. We recommended that the Director, Office of Security and Emergency Operations, revise the Energy policy regarding foreign national visits and assignments to ensure that Energy sites are maintaining consistent information about foreign nationals visiting or assigned to work at the site.

Energy management reported that the Office of Security has incorporated all required changes into DOE Order 142.3, "Unclassified Foreign Visits and Assignments Program," which was approved on June 18, 2004. This Order includes the requirement for documentation in FACTS for all visit and assignment requests in a timely manner.

The Energy OIG agreed to close this recommendation.

Appendix B (continued)

Recommendation 8. We recommended that the Director, Office of Security and Emergency Operations, require that all Energy sites with foreign national visitors or assignees enter information regarding the visits or assignments into Foreign Access Records Management System, or a designated central Energy database.

Energy management reported that the Office of Security has incorporated all required changes into DOE Order 142.3, "Unclassified Foreign Visits and Assignments Program," which was approved on June 18, 2004. This Order includes the requirement that all sites having foreign national visitors or assignees are required to enter information regarding the visits and assignments into FACTS.

The Energy OIG agreed to close this recommendation.

Appendix C

PRIOR EXPORT CONTROL RELATED REPORTS

- “The Department of Energy’s Review of Chemical and Biological Export License Applications,” DOE/IG-0682, March 2005;
- “Contractor Compliance with Deemed Export Controls,” DOE/IG-0645, April 2004;
- “Safeguards Over Sensitive Technology,” DOE/IG-0635, January 2004;
- “Inspection of Status of Recommendations from the Office of Inspector General’s March 2000 and December 2001 Export Control Reviews,” INS-L-03-07, May 2003;
- “The Department’s Unclassified Foreign Visits and Assignments Program,” DOE/IG-0579, December 2002;
- “Follow-up Inspection of the Department of Energy’s Export Licensing Process for Foreign National Visits and Assignments,” INS-L-02-06, June 2002;
- “Inspection of the Department of Energy’s Automated Export Control System,” DOE/IG-0533, December 2001;
- “Inspection of the Department of Energy’s Role in the Commerce Control List and the U.S. Munitions List,” INS-O-01-03, March 2001;
- “Inspection of the Department of Energy’s Export License Process for Foreign National Visits and Assignments,” DOE/IG-0465, March 2000;
- “The Department of Energy’s Export Licensing Process for Dual-Use and Munitions Commodities,” DOE/IG-0445, May 1999; and
- “Report on Inspection of the Department’s Export Licensing Process for Dual-Use and Munitions Commodities,” DOE/IG-0331, August 1993.

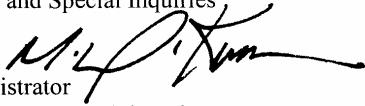


Department of Energy
National Nuclear Security Administration
Washington, DC 20585



March 30, 2006

MEMORANDUM FOR Alfred K. Walter
 Assistant Inspector
 for Inspections and Special Inquiries

FROM: Michael C. Kane 
 Associate Administrator
 for Management and Administration

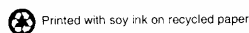
SUBJECT: Comments to Draft Report on China Export License
 Applications Review; S05IS034/2005-21199

The National Nuclear Security Administration (NNSA) appreciates the opportunity to have reviewed the Inspector General's (IG) draft inspection report, "The Department of Energy's Review of Export License Applications for China." We understand that this inspection was conducted in accordance with the Defense Authorization Act of 2000 which directed the IG to conduct annual reviews of policies and procedures with respect to the export of militarily sensitive technologies and information to countries of concern.

NNSA appreciates the IG acknowledging the positive aspects of the program. In regards to the recommendations, we agree with those recommendations and will address them appropriately. We specifically want to note that, as part of the "Interagency Coordination" section of the report, we, through the Department and its predecessor organizations, have been a member of the Operating Committee and the Advisory Committee on Export Policy since 1965 as part of the Limited Test Ban Treaty. The report mentions 1977 as the start of that participation. Additionally, we want to point out that, while members of the Office Of International Regimes and Agreements have hand carry authorizations for Special Compartmented Information to meetings, we will work with the Office of Intelligence to extend that hand carry authorization into the work spaces.

Programmatic comments to the various reports contained in Appendix B are updated on a quarterly basis through the Department's Audit Reports Tracking System. Should you have any questions related to this response, please contact Richard Speidel, Director, Policy and Internal Controls Management.

cc: Jerald Paul, Principal Deputy Administrator





Department of Energy
Washington, DC 20585

MAR 22 2006

MEMORANDUM FOR ALFRED K. WALTER
ASSISTANT INSPECTION GENERAL FOR INSPECTIONS
AND SPECIAL INQUIRIES

FROM: ROLF MOWATT-LARSEN
R. Mowatt-Larsen
DIRECTOR
OFFICE OF INTELLIGENCE AND
COUNTERINTELLIGENCE

SUBJECT: Draft Report on "The Department of Energy's Review of
Export License Applications for China"

The Office of Intelligence and Counterintelligence (formerly Office of Intelligence) agrees with Recommendation 2 that the Director ensure that personnel affiliated with the Office of Defense Nuclear Nonproliferation who conduct export license reviews have access to Sensitive Compartmented Information (SCI), and the ability for cleared staff personnel to courier necessary documents to meetings.

Members of the Office of International Regimes and Agreements (OIRA) hold Top Secret/Sensitive Compartmented Information (TS/SCI) clearances, and are listed on a cleared visitors list to enter the Office of Intelligence. They may request briefings and coordinate with Office Intelligence Research Specialists regarding emerging issues and items of specific interest. Additionally, to assist with the flow of required information, in February 2006 the Office of Intelligence and Counterintelligence instituted a program to address OIRA requests for improved intelligence support. With mutual concurrence, the Office of Intelligence provides access for 3 management and operating M&O support contractors assigned to the OIRA to have staff-like access to the Office of Intelligence and Counterintelligence to include computer access and the ability to courier classified materials. This process appears to have resolved many issues regarding access, and should remain in place as long as the OIRA desires this degree of access, and the Senior Intelligence Officer is comfortable that an appropriate level of oversight is maintained.



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2. What additional information related to findings and recommendations could have been included in the report to assist management in implementing corrective actions?
3. What format, stylistic, or organizational changes might have made this report's overall message more clear to the reader?
4. What additional actions could the Office of Inspector General have taken on the issues discussed in this report which would have been helpful?
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