



U.S. Department of Energy
Office of Inspector General
Office of Audit Services

Audit Report

Management Controls over Small Business Opportunities at Oak Ridge National Laboratory

OAS-M-08-08

July 2008



Department of Energy

Washington, DC 20585

July 2, 2008

MEMORANDUM FOR THE MANAGER, OAK RIDGE OFFICE

FROM:


George W. Collard

Assistant Inspector General for NNSA and Energy Audits
Office of Inspector General

SUBJECT:

INFORMATION: Audit Report on "Management Controls
over Small Business Opportunities at Oak Ridge National
Laboratory"

BACKGROUND

In 2002, the President stated in his Small Business Agenda that the Federal government should break out functions to contract with small businesses wherever practicable. In the Small Business Act, Congress also declared its support of small businesses. In support of the President's small business agenda and congressional direction, the Department of Energy (Department) established a policy for small businesses to receive the maximum practicable opportunity to participate as subcontractors.

UT-Battelle, LLC, a limited liability company consisting of the University of Tennessee and Battelle, manages and operates the Oak Ridge National Laboratory (Laboratory) for the Department. In its contract with the Department, UT-Battelle agreed to award small business subcontracts to the fullest extent consistent with efficient contract performance. The contract also includes a Federal Acquisition Regulation requirement that small business concerns have the maximum practicable opportunity to participate in performing contracts led by any Federal agency.

The Laboratory met or exceeded nearly all of its small business goals established by the Department for Fiscal Year (FY) 2007. Additionally, the Laboratory's support for small business was recognized by the Small Business Administration's Francis Perkins Vanguard Award for excellence in utilization of women-owned small businesses, as well as the Department's Federal Management Contractors Small Business Innovation Award in FY 2007.

While the Department met or exceeded nearly all of its 2007 goals, we initiated this audit to determine whether there were additional opportunities in the Laboratory's internally performed functions for small business subcontracting.

RESULTS OF AUDIT

Although the Laboratory had contracted about 58 percent of its procurements to small businesses, we determined that there remained many internally performed functions that could be practicably and cost effectively subcontracted to small businesses. Specifically, the Laboratory was performing functions such as custodian services, landscaping, and industrial hygiene, when small businesses were available to provide these services. For



example, 60 percent of the Laboratory's landscaping work was performed by its employees, although there were nine landscaping small businesses within the Laboratory's labor market. Additionally, other Federal facilities with similar labor markets and/or requirements were using small businesses to perform these functions at equal to or reduced cost.

The Oak Ridge Office did not require that the Laboratory consider further small business outsourcing opportunities because the Laboratory had achieved most of the goals set by the Department. Additionally, Oak Ridge Office managers stated that outsourcing to small business requires considerable effort and can be difficult. They stated that challenges such as negotiating with bargaining units can delay efforts to provide opportunities to small business. However, we noted that another Federal entity in the same geographic area has successfully provided opportunities to a small business that also has bargaining unit employees. We also noted that the Laboratory's procedures do not require program managers to consult with the Small Business Programs Manager until after they decide to outsource internally performed functions. As a result, Laboratory managers may not have all available knowledge about addressing the challenges to small business contracting including information about local small business capabilities and opportunities.

By giving small business concerns the maximum opportunity to contract at the Laboratory, the Department has the opportunity to reduce costs, and ensure that the President's Small Business Agenda is fully implemented. We estimated expanding small business opportunities at the Laboratory could potentially save about \$2 million per year for custodial, landscaping, and industrial hygiene services. We made recommendations to expand the Laboratory's small business opportunities.

MANAGEMENT REACTION AND AUDITOR COMMENTS

Management concurred in principle with the recommendations. Management stated that it has a continuous review process to identify small business outsourcing opportunities. Management stated that our review provided only a limited view of the work currently performed in house in that outsourcing decisions must consider factors, other than financial implications, such as labor relations and safeguards and security. Management agreed to perform further analyses of the three areas mentioned in the report for potential outsourcing. In addition, the Laboratory will include the Small Business Programs Manager in the planning and decision making of contracting actions.

Management's comments were responsive to our recommendations. We recognize that outsourcing decisions must consider factors other than the financial implications. Accordingly, we used benchmarks in our analysis that considered labor relations and safeguards and security. Additional analyses and reviews of internally performed functions will also benefit from management's inclusion of the Small Business Programs Manager in future contracting decisions. In our opinion, the Small Business Manager will ensure that the best small business knowledge is available to address functional manager's concerns regarding small business capabilities. Management's comments are included in Appendix 4.

Attachment

cc: Acting Deputy Secretary
Under Secretary of Energy
Under Secretary for Science
Chief of Staff
Director, Office of Economic Impact and Diversity
Team Leader, Audit Liaison Team, CF-1.2

REPORT ON MANAGEMENT CONTROLS OVER SMALL BUSINESS OPPORTUNITIES AT OAK RIDGE NATIONAL LABORATORY

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SMALL BUSINESS OPPORTUNITIES

Laboratory Small Business Practices

Although Oak Ridge National Laboratory (Laboratory) identified functions from its procurement base that could be subcontracted to small businesses, we found additional opportunities in Laboratory performed functions for small business contracting. Specifically, Laboratory employees were performing functions that are commonly performed by small businesses even though there were local small businesses available to perform them. Additionally, other Federal facilities with similar labor markets and/or requirements were using small businesses to perform these functions at equal or reduced cost, further supporting that contracting with small businesses was practicable and cost effective.

Laboratory Functions

We compiled a list of 82 commonly outsourced functions at the Department of Energy's (Department) laboratories and evaluated the Laboratory's usage of small business in performing these functions. We found that the Laboratory had subcontracted out 30 of these functions to small businesses and that the Department's Oak Ridge Office had directly subcontracted another three of these functions as prime contracts. However, we found that the Laboratory had not contracted with small businesses but was using internal personnel for the remaining 49 functions. These 49 functions represent the potential for up to \$101 million annually in small business contracting opportunities.

We determined that utilizing small business at Oak Ridge is practicable because there were local small businesses to perform many functions currently being performed internally by the Laboratory. We judgmentally selected 14 functions including custodial, landscaping, and industrial hygiene services for further review (See Appendix 1 for a list of the functions). Based on a review of the Federal Central Contractor Registration Database, which lists qualified small businesses by function, we identified small businesses locally available to the Laboratory for all 14 of the functions. For example, there were seven custodial small business concerns within 30 miles of the Laboratory.

We also found that other Federal facilities in the same labor market with similar requirements as the Laboratory had successfully contracted the functions to small business concerns.

We benchmarked three of the functions with other local Federal entities to determine whether subcontracting them to small businesses was cost effective. As discussed below, the Department's East Tennessee Technology Park (ETTP), and the National Aeronautics and Space Administration's (NASA) George C. Marshall Space Flight Center (both within the Tennessee Valley), successfully subcontracted work to small businesses in the areas of custodial, landscaping, and industrial hygiene at labor rates less than currently paid by the Laboratory.

Custodial

Although the Laboratory performed custodial services at a cost of \$6 million each year, another Federal facility included in our review subcontracted this function to a small business at reduced costs. Specifically, NASA's Marshall Space Flight Center relied on a small business for its custodial services. Custodial services at this facility are provided by a small business with custodians who are represented by a collective bargaining unit. The custodial labor rates paid under the NASA small business contract were approximately 37 percent less than the labor rates for Laboratory employees. A potential savings of about \$1.3 million per year could result if the Laboratory were to award a similar contract.

Laboratory management expressed concern over the difficulty of subcontracting out functions that are performed by bargaining unit employees. Although we recognize that subcontracting such work requires significant effort, it would result in significant long term savings. Our NASA benchmark organization also utilized union employees.

Landscaping

Laboratory employees provided 60 percent of the landscaping services at a budgeted cost of about \$700,000 per year. In contrast, the NASA Marshall Space Flight Center used a small business for its grounds maintenance and landscaping services at a significantly lower cost. The landscaping labor rate paid under the NASA small business contract was approximately 51 percent less than the labor rate for Laboratory employees. Had a similar landscaping small business contract been in place at the Laboratory, the Department could saved about \$178,000 annually.

Industrial Hygiene

Industrial hygiene functions performed by the Laboratory also offer an opportunity to obtain small business services at reduced costs. Currently, all of the industrial hygiene functions are performed by 34 Laboratory employees, including services such as work area hazard identification and sampling, occupational hazard training and personal protective equipment training. In contrast, ETTP, which is also located in Oak Ridge, requires the same industrial hygiene services and has successfully used small business professionals and technicians to perform this function. Based on a comparison of the labor rates and fringe benefits, we calculated that the Laboratory could potentially save \$527,000 per year using a similar small business contracting method.

Although Laboratory managers expressed concerns about potential turnover, loss of legacy knowledge, and loss of training investment, ETTP avoided these problems by transitioning its existing work force directly over to the small business. The ETTP Subcontracting Manager stated that employee turnover was not a problem over the last ten years of the small business subcontract.

Outsourcing Analysis Procedures

Although the Laboratory's contract states that it is to award small business subcontracts to the fullest extent consistent with efficient contract performance, the Oak Ridge Office had not required the Laboratory to explore further opportunities for small business contracting. Specifically, the Oak Ridge Office believed that the Laboratory had met its contract requirements because it had achieved most of the goals set by the Department. We noted, however, that the Office of Small and Disadvantage Business Utilization recommended in 2004 that Department entities study internally performed functions such as maintenance and occupational safety and health as opportunities for expanded small business contracting.

Oak Ridge Office management also stated that outsourcing to small business requires considerable effort and can be difficult. They stated that challenges such as negotiating with unions, identifying and qualifying small businesses, and performing national defense impact assessments can delay efforts to provide opportunities to small business. They cited one example where it took the Oak Ridge Office over four years to outsource an information technology function previously performed by a Laboratory large business subcontractor. The Oak Ridge Office also stated that outsourcing decisions must consider management controls, safeguards and security, and continuity of operations.

Neither the Oak Ridge Office nor the Laboratory could provide documentation showing how such factors and options for dealing with them were addressed in making decisions about outsourcing internally performed functions. Further, we noted that Laboratory procedures do not require program managers to consult with the Laboratory's Small Business Programs Manager until after they decide to outsource internally performed functions. As a result, Laboratory managers may not have all available knowledge about addressing the challenges to small business contracting including information about local small business capabilities and opportunities.

Finally, while outsourcing to small businesses can take significant up-front effort, the Laboratory has demonstrated previous success in this area. For example, we noted that the Laboratory initiated a \$20 million cost reduction process in Fiscal Year 2001 that resulted in the outsourcing of three functions that significantly contributed toward the cost reduction effort. These functions included secretarial support, animal care, and cafeteria operations.

Small Business Outsourcing

Although Oak Ridge Office management emphasized that cost savings is not the primary purpose for outsourcing to small businesses, the Laboratory could save millions of dollars that could be directed to mission-related activities. In addition, it would provide small businesses with up to \$101 million per year in additional small business contracts. For custodial, landscaping, and industrial hygiene services discussed previously, we found that the Laboratory could save about \$2 million per year if it offered small business contracting opportunities to the maximum extent practicable. Unless additional small business contracts that are both practical and cost effective are realized, the Department may miss opportunities to ensure that the President's Small Business Agenda is implemented.

RECOMMENDATIONS

We recommend that the Manager, Oak Ridge Office:

1. Ensure that the Laboratory review internally performed functions, including those discussed in this report, to determine whether they offer additional small business contracting opportunities; and,

-
2. Direct the Laboratory to establish a policy to include the Small Business Programs Manager during the resource planning and outsource decision process.

**MANAGEMENT
REACTION**

Management concurred in principle with the recommendations and agreed that it is important that small businesses be considered for areas to be contracted out. However, management expressed the view that outsourcing decisions must consider not only financial implications, but must also consider mission or other critical functions such as labor relations and safeguards and security. With reference to the specific recommendations included in the audit report, management agreed to perform further analyses to reconfirm whether its current labor efficiency rates exceed industry averages for the three areas mentioned in the report for potential outsourcing. In addition, management stated that the Laboratory will include the Small Business Programs Manager in the planning and decision making of contracting actions.

**AUDITOR
COMMENTS**

Management's planned actions are responsive to our recommendations. Further, we recognize that outsourcing decisions must consider factors other than the financial implications. As such, we used benchmarks in our analysis that considered labor relations and safeguards and security. Management's comments are included in Appendix 4.

COMMON SMALL BUSINESS FUNCTIONS

Listed below are the 14 Laboratory functions that we judgmentally selected from a multi-site list of 82 commonly performed functions. In each of these functions, Laboratory employees were performing the work, in full or a substantial portion of the workload, even though local small businesses were available.

- Internal and External Mail Sorting/Delivery
- Printing and Copying Services
- Creative Arts
- Media Services
- Custodial Services
- Landscaping Services
- Building Maintenance
- Vehicle Acquisition and Maintenance
- Payroll
- Industrial Hygiene (which also covers Laboratory functions such as Instrument and Respiratory Services, Chemical Analysis of Radioactive and Waste Samples, and, Dosimetry Function).
- Fire Protection Engineering Services
- Medical Services
- Physical Therapy
- Low-Level Software Development

PRIOR REPORTS

Office of Inspector General Reports

- *Management Controls over Small Business Opportunities at Lawrence Livermore National Laboratory* (OAS-M-06-08, August 2006). This audit found that although Lawrence Livermore National Laboratory (Laboratory) contracted many existing large subcontracts to small businesses, it had not identified internally performed functions that could be subcontracted to small business even though it was practicable and cost effective to do so. Specifically, the Laboratory was performing functions, such as custodian services, landscaping and occupational medical services, despite the availability of local small businesses to provide these services. Additionally, other Federal facilities with similar labor markets and/or requirements were using small businesses to perform these functions at equal to or reduced cost.
- *The Department's Management and Operating Contractor Make-or Buy Program* (DOE/IG-0460, February 2000). This audit found that three of four contractors reviewed had either not included all functions in their make-or-buy plans or had not scheduled cost-benefit analysis for many outsourcing candidates. A cost savings of \$5.3 million was estimated if cost benefit analyses were conducted. The report recommended that the Department of Energy (Department) develop guidance for evaluating and monitoring contractor functions and make-or-buy efforts.

Government Accountability Office Report

- *DOE Contracting: Improved Program Management Could Help Achieve Small Business Goal*, (GAO-06-501) – Issued April 7, 2006. The Government Accountability Office found that the Department had some success in redirecting to small business portions of contracts to manage large Departmental facilities, as well as in securing additional small business prime contracting opportunities. However, the Department was unable to meet its small business prime contracting goal in four of the past five years because it had not defined the necessary concrete steps nor collected sufficient small business program information to achieve its prime contracting goal. The report also stated that other Federal agencies with missions similar to the Department periodically evaluated their programs and made changes intended to improve performance.

Appendix 3

OBJECTIVE	To determine whether there were opportunities in Oak Ridge National Laboratory's internally performed functions for small business subcontracting.
SCOPE	The audit was performed between July 30, 2007 and March 6, 2008. Audit work was primarily performed at the Department of Energy's Headquarters in Washington, D.C., and Oak Ridge National Laboratory in Oak Ridge, Tennessee. Work was also performed at the East Tennessee Technology Park, in Oak Ridge, Tennessee; and NASA Marshall Space Flight Center, in Huntsville, Alabama.
METHODOLOGY	<p>To accomplish the audit objective, we:</p> <ul style="list-style-type: none">• Identified and selected 82 common small business functions for review;• Benchmarked laboratory functions performed by Laboratory employees against other Federal facilities' practices;• Analyzed key documents related to small business utilization at the Laboratory and various Federal and Departmental sites;• Interviewed key Departmental Headquarters, Oak Ridge Site Office, and Laboratory personnel;• Examined prior Office of Inspector General and Government Accountability Office reports; and,• Reviewed applicable Public Laws, other Departmental guidance, related correspondence, and contracts. <p>We conducted this performance audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. The audit included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. Also, we evaluated the Department's implementation of the Government Performance and Results Act of 1993 as they related to the audit objective. Our review found that the Department had established performance measures for utilizing</p>

Appendix 3 (Continued)

small business. Finally, since we did not rely upon automated data processing information to accomplish our audit objective, we did not conduct an assessment of the reliability of computer processed data. Management waived an exit conference.

memorandum

DATE: May 20, 2008

REPLY TO
ATTN: FM-733:Miller

SUBJECT: **RESPONSE TO DRAFT REPORT, "MANAGEMENT CONTROLS OVER SMALL
BUSINESS OPPORTUNITIES AT OAK RIDGE NATIONAL LABORATORY"**

TO: George W. Collard, Assistant Inspector General for National Nuclear Security Administration and
Energy Audits, Office of Inspector General, IG-32, FORS

This is in response to your April 29, 2008, memorandum, with attached draft report, subject as above. Your memorandum requested that the Oak Ridge Office (ORO) review the information in the draft report and provide written comments within 15 working days on the facts presented and conclusions reached, as well as any alternative recommendations in solving the problems discussed in the report.

ORO's comments are attached. For further clarification or if you would like to arrange a meeting to discuss our response, please contact Johnny Moore at 865-576-3536 or me at 865-576-4446.


for Judith M. Penry
Chief Financial Officer

Attachments

cc w/attachments:
George J. Malosh, SC-3, FORS
Gerald G. Boyd, M-1, ORO
Robert J. Brown, M-2, ORO
Johnny O. Moore, SC-10, ORO
Freda H. Hopper, AD-42, ORO
Merley L. Lewis, CF-1.2, FORS

OAK RIDGE OFFICE COMMENTS
ON DRAFT INSPECTOR GENERAL REPORT ENTITLED,
“MANAGEMENT CONTROLS OVER SMALL BUSINESS OPPORTUNITIES AT
OAK RIDGE NATIONAL LABORATORY”

GENERAL COMMENTS

The Oak Ridge Office (ORO) agrees that it is important that small businesses be considered for areas to be contracted out and that the President’s Small Business Agenda be fully supported. ORO agrees in principle with the recommendations as evidenced by our documented results and performance. The Oak Ridge National Laboratory (ORNL) consistently leads the Office of Science laboratories in performance in outsourcing initiatives and it has subcontracted more than \$1.5 billion to small business concerns over the last 10 years.

The generality of the findings and recommendations of the draft report provide a limited view of the work currently performed in house by ORNL. This work cannot easily be outsourced to small businesses. In order to ensure the Oak Ridge mission and functions are properly executed, the outsourcing decisions must consider not only financial implications, which appears to be the main basis of the draft report, but must also consider management controls, safeguards and security, labor relations, and continuity of operations.

The UT-Battelle, LLC Subcontracting Plan is a Department of Energy (DOE) contract requirement which must be negotiated with and approved by DOE. Specific goals are renegotiated annually based on both past performance and anticipated opportunities. The annual goals are documented in the ORNL Performance Evaluation Management Plan, by which ORNL’s annual performance is evaluated. Ongoing oversight and continuous planning and collaboration on small business contracting opportunities occur on a monthly basis during a joint meeting between DOE and ORNL. We take very seriously the responsibility of ensuring there are opportunities for small businesses to perform work with DOE.

ORO provided a detailed response entitled, “Office of Inspector General Predecisional Draft Report, Management Controls Over Small Business Opportunities at Oak Ridge National Laboratory” to these issues on February 12, 2008.

SPECIFIC COMMENTS

The following are corrections that need to be made to the draft report and also additional comments that we would like for you to consider in the final report.

Page 1, cover memorandum, Background Section, 2nd paragraph, 1st sentence (correction also needed in report, page 1-2, Laboratory Functions Section, 3rd paragraph, last sentence), UT-Battelle is a limited liability company not a partnership:

~~UT-Battelle, LLP~~ UT-Battelle, LLC, a limited liability partnership company....

RESPONSE TO RECOMMENDATIONS

That the Manager, Oak Ridge Office:

- 1. Ensure that the Laboratory review internally performed functions, including those discussed in this report, to determine whether they offer additional small business contracting opportunities; and**

Response:

CONCUR. ORNL continuously emphasizes outsourcing. Awarding contracts to small businesses is a performance evaluation metric in both the DOE Balanced Scorecard Plan and the UT-Battelle Performance Evaluation Management Plan. Further oversight and continuous planning and collaboration on small business contracting opportunities occur on a monthly basis during a joint meeting that is attended by representatives from DOE's Procurement and Contracts Division, the ORNL Site Office, and UT-Battelle's Acquisition and Small Business Management Team. One of the agenda items each month is to discuss specifically small business contracting opportunities. Therefore, we have implemented a continuous review process for additional outsourcing opportunities.

For the three areas mentioned in the report to be considered for outsourcing, we will perform further analyses to reconfirm whether the current FTE efficiency rates exceed industry averages. The target date for completing this analysis is December 31, 2008.

- 2. Direct the Laboratory to establish a policy to include the Small Business Manager during the resource planning and outsource decision process.**

Response:

CONCUR IN PRINCIPLE. UT-Battelle, LLC is a Management and Operating (M&O) contractor that manages the Oak Ridge National Laboratory (ORNL). It is not appropriate for the Oak Ridge Office (ORO) to "direct" what internal policies, processes, and organization that the M&O will put into place. ORNL has involved the Small Business Manager during discussions related to contracting actions. The Small Business Manager has had the opportunity to be involved in meetings where make-or-buy or other actions are being contemplated. Additionally, the Small Business Manager meets on a monthly basis with the ORO counterpart to discuss contracting with small businesses. However, we have discussed this with ORNL and they agree that they will promptly include the Small Business Manager in the planning and decision making of contracting actions at the Laboratory. We consider this recommendation closed.

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3. What format, stylistic, or organizational changes might have made this report's overall message more clear to the reader?
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5. Please include your name and telephone number so that we may contact you should we have any questions about your comments.

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