



U.S. Department of Energy
Office of Inspector General
Office of Audits and Inspections

Inspection Report

Property Accountability and Protection
of Federal Sensitive Unclassified
Information Under the Cooperative
Agreement with the Incorporated
County of Los Alamos



Department of Energy
Washington, DC 20585

February 17, 2012

MEMORANDUM FOR THE SECRETARY

FROM: 
Gregory H. Friedman
Inspector General

SUBJECT: INFORMATION: Inspection Report on "Property Accountability and Protection of Federal Sensitive Unclassified Information Under the Cooperative Agreement with the Incorporated County of Los Alamos"

BACKGROUND

On September 30, 2008, the National Nuclear Security Administration entered into a 5-year Cooperative Agreement with the County of Los Alamos, New Mexico. The general intent of the Cooperative Agreement, with a cost per year to the Federal government averaging approximately \$16 million, was to provide financial support, equipment, services and the use of fire station facilities to the County in return for Los Alamos County Fire Department services. Under the Cooperative Agreement, the Fire Department was to provide an enhanced level of services to support the Department of Energy's Los Alamos National Laboratory. These services include advanced nuclear grade industrial fire suppression, advanced emergency medical services, rescue services and hazardous materials first responder operational services. The Cooperative Agreement contains provisions for the management of Federally-owned personal property provided to the Fire Department by NNSA. The Business Services Division of the NNSA Albuquerque Complex in Albuquerque, New Mexico, has contracting oversight of the Cooperative Agreement, while the Los Alamos Site Office is responsible for day-to-day administration.

In December 2010, the Office of Inspector General received a complaint alleging that Federal government property, including computers, was missing from the Fire Department. During our initial evaluation of this complaint, we also became aware that Sensitive Unclassified Information provided to the Fire Department by Los Alamos may not have been adequately protected. Therefore, we initiated this inspection to determine if Federally-owned personal property under the Cooperative Agreement was adequately managed.

RESULTS OF INSPECTION

We substantiated the allegation that property, including computers, was missing. Despite Department of Energy requirements, effective processes and procedures were not in place to ensure the proper control and accountability of Federally-owned personal property in possession of the Fire Department. Specifically, the Fire Department had not:

- Reported lost or stolen items to Los Alamos, as required. A 2010 inventory revealed that, among other property, 9 computers, 4 cameras, a video projector and 40 radios were

missing. However, the items missing were never reported nor were the losses ever investigated. Also, actions were not taken to determine financial responsibility for the missing property;

- Maintained an up-to-date listing of all Federally-owned personal property in the custody of the County; and,
- Always properly identified Federally-owned personal property at the time of acquisition or ensured the proper disposal of excess property.

These problems occurred, in part, because the Los Alamos Site Office did not ensure that the property management provisions, which were part of the Cooperative Agreement, had been effectively implemented. In addition, the County did not manage its Federally-owned personal property in a manner consistent with the requirements of the Cooperative Agreement. Notably, the Fire Department did not always implement County directives designed to ensure the proper control and accountability of Federally-owned personal property in its possession. As a consequence of this environment, Federally-owned personal property was not adequately safeguarded against misuse, theft or misappropriation.

During the course of our inspection, concerns were raised that Sensitive Unclassified Information provided to the Fire Department by the Site Office may not have been adequately protected. We added this issue to the scope of our review. We found that the Fire Department may not have adequately protected Sensitive Unclassified Information in its possession. Federal officials were aware of cyber security weaknesses related to the protection of Sensitive Unclassified Information provided to the County. However, in spite of specific suggestions to do so, the Site Office did not require the Fire Department to strengthen protective measures.

This issue notwithstanding, we could not reach a definitive conclusion regarding the overall level of protection for Sensitive Unclassified Information which was in the hands of the Fire Department. We did note, however, that NNSA had not ensured that all requisite provisions for cyber security were incorporated into the Cooperative Agreement. As a consequence, these problems created an environment where Sensitive Unclassified Information provided to the County may be subject to loss or compromise.

To address these issues, we made recommendations designed to: 1) help improve the control and accountability of Federally-owned personal property in possession of the County; and, 2) establish requirements in the Cooperative Agreement to address the protection of Sensitive Unclassified Information.

Also, during this inspection, we identified other matters (see Appendix 1) relating to the misuse of Federally-owned personal property and the resolution of questioned costs. To address these issues, we made suggestions to assure the proper use of Federally-owned personal property and the timely resolution of questioned costs.

MANAGEMENT REACTION

Management generally agreed with the intent of the report findings and recommendations. Management stated that NNSA will start negotiations to amend the Cooperative Agreement to ensure that the recommendations are implemented. However, management asserted that NNSA did not have the specific authority to direct or enforce compliance with the provisions in the Cooperative Agreement and requested that we delete or rewrite certain recommendations to reflect the potentially limited authorities inherent in this type of agreement.

Contrary to management's assertion, Title 2, Code of Federal Regulations, *Grants and Agreements*, provides the authority for NNSA to enforce this type of agreement with specific remedies for noncompliance. Nevertheless, where appropriate, we modified several recommendations to address management's comments. Management's comments and our response are summarized and more fully discussed in the body of the report. Management's formal comments are included in their entirety in Appendix 3.

Attachment

cc: Deputy Secretary
Associate Deputy Secretary
Administrator, National Nuclear Security Administration
Chief of Staff

REPORT ON PROPERTY ACCOUNTABILITY AND PROTECTION OF FEDERAL SENSITIVE UNCLASSIFIED INFORMATION UNDER THE COOPERATIVE AGREEMENT WITH THE INCORPORATED COUNTY OF LOS ALAMOS

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PROPERTY ACCOUNTABILITY AND PROTECTION OF FEDERAL SENSITIVE UNCLASSIFIED INFORMATION UNDER THE COOPERATIVE AGREEMENT WITH THE INCORPORATED COUNTY OF LOS ALAMOS

MANAGEMENT OF FEDERALLY-OWNED PERSONAL PROPERTY

We substantiated the allegation that property, including computers, was missing. Despite Department of Energy (Department or DOE) requirements, effective processes and procedures were not in place to ensure the proper control and accountability of Federally-owned personal property in possession of the County of Los Alamos Fire Department (Fire Department). The Cooperative Agreement stated that Federally-owned personal property shall be managed in accordance with Title 10, Code of Federal Regulations (CFR). Part 600.232 of the CFR, *Financial Assistance Rules, Equipment*, requires that, in the event a grantee is provided Federally-owned equipment, the grantee is to manage the equipment in accordance with Federal agency rules and procedures. In this case, the applicable Federal agency rules and procedures are found in DOE Order 580.1, *Department of Energy Personal Property Management Program*. Specifically, the Fire Department had not:

- Reported lost or stolen items to Los Alamos National Laboratory (Los Alamos), as required. A 2010 inventory revealed that, among other property, 9 computers, 4 cameras, a video projector and 40 radios were missing. However, the items missing were never reported nor were the losses ever investigated. Also, actions were not taken to determine financial responsibility for the missing property;
- Maintained an up-to-date listing of all Federally-owned personal property in the custody of the Incorporated County of Los Alamos (County); and,
- Always properly identified Federally-owned personal property at the time of acquisition or ensured the proper disposal of excess property.

Reporting Lost or Stolen Items

The Fire Department had not reported lost or stolen items to Los Alamos, as required. During the 2010 inventory of Federally-owned personal property in its possession, the Fire Department could not account for 60 of the 566 items inventoried, including 9 computers, 4 cameras, a video projector and 40 radios. As outlined in the terms and conditions of the Cooperative Agreement through Title 10, CFR, Part 600.232, the County is required to follow DOE Order 580.1. DOE Order 580.1 requires, among other things: establishing responsibility for determining possible

financial liability; and reporting, documenting and investigating all instances of lost, damaged and destroyed personal property. Under the Cooperative Agreement, the Fire Department is required to coordinate with the Los Alamos Property Administrator within 48 hours after discovering that Federally-owned personal property is lost, stolen or damaged.

Consistent with DOE Order 580.1 and the Cooperative Agreement, the County developed a Fire Chief Directive on *Lost, Stolen, or Damaged Personal Government Owned Property*. This Directive required that the property user, as soon as possible, but no later than 24 hours after discovering a loss, theft or damage to property, prepare a *Lost, Stolen, or Damaged Property (LSDP)* form. This form was intended to report the date and circumstances surrounding an incident of lost, stolen or damaged property, and provide a summary of the supervisor's investigation and recommendation for appropriate action. However, when we requested copies of LSDP forms, a Fire Department official told us that no forms had been prepared. As a result, the Fire Department could not substantiate, and we could not independently determine, that the required investigation was conducted or documented to determine the disposition of the "unaccounted for" items, or that liability was established.

Our finding was consistent with a National Nuclear Security Administration (NNSA) validation review of the 2010 inventory of Federally-owned personal property maintained by the Fire Department. In the validation report, NNSA stated that the Fire Department should comply with the provisions of Appendix D to the Cooperative Agreement, *Personal Property Management Plan for Federally-Owned Personal Property*, in reporting "unlocated" items. NNSA further stated that the Fire Department's Property Management Plan (Plan) warrants revision as it does not discuss several aspects of a valid Plan. Also, the validation report concluded that the Fire Department's property accountability rate (by value) is 94.1 percent, and was "far below acceptable Federal government standards."

Listing of Federally-Owned Personal Property

The Fire Department had not maintained a complete and up-to-date listing of all Federally-owned personal property in the custody of the County. DOE Order 580.1 requires that entities with property management responsibilities establish and maintain individual property control records. Under the Cooperative Agreement, the Fire Department was required to provide information to Los Alamos on its Federally-owned personal property and Los Alamos was required to establish and maintain inventory records

using the Los Alamos property management database. However, the intent of DOE Order 580.1 for establishing and maintaining property control records was not met. Also, we were not able to obtain a complete and up-to-date listing of all Federally-owned personal property in the custody of the County.

Specifically, the Cooperative Agreement defines Federally-owned personal property as Federally-owned vehicles and equipment identified in Appendix B, *Listing of Federally-Owned Vehicles and Equipment*. However, we determined that a large number of items were missing from Appendix B. The initial Appendix included in the September 2008 Cooperative Agreement identified 92 property items. In November 2009, the Appendix was updated for the only time to include 459 property items. Conversely, the 2010 inventory of the Fire Department contained 566 property items based on information identified in a Los Alamos property database. A comparison of the information contained in the property database with the information contained in Appendix B revealed 138 items that were not listed in the Appendix and 31 items listed in the Appendix that were not listed in the property database.

Identification and Disposal of Excess Federally-Owned Personal Property

Contrary to the Cooperative Agreement, we found that the Fire Department had not always properly identified Federally-owned personal property at the time of acquisition and had not ensured the proper disposal of excess property. The Cooperative Agreement required the Fire Department to notify NNSA through the Los Alamos Property Administrator when Federally-owned personal property was received and excessed.

Identification of Federally-Owned Personal Property

The Fire Department had not implemented processes to ensure that all personal property acquired using Federal funds was properly identified. The Cooperative Agreement required the Fire Department to notify NNSA through the Los Alamos Property Administrator when Federally-owned personal property was received. It also required the Fire Department to ensure that Federally-owned personal property was properly accounted for from the point of acquisition through disposal. In this regard, the Fire Department was required to bar code Federally-owned personal property listed in Appendix B of the Cooperative Agreement. However, we found examples of Federally-owned personal property that did not have bar code labels and were not listed in Appendix B. Specifically, the Appendix listed six ambulances. Each ambulance should have been equipped with a gurney, a breathing machine and a defibrillator that were

appropriately marked as Federally-owned personal property. However, the Appendix only listed three gurneys, three breathing machines and five defibrillators.

In addition, when notifying NNSA about the acquisition of Federally-owned personal property, the Fire Department Property Administrator was required to provide Los Alamos the following information: acquisition document number and date; asset type; bar code number (identifier); description; manufacturer; model number; serial number; acquisition value; organization code; and, location. The Fire Department has a *Property Data Worksheet* that captures the required information that was to be provided to Los Alamos.

However, we were unable to independently verify the effectiveness of this process. Specifically, the Cooperative Agreement requires the Fire Department to attach "appropriate supporting documentation" with monthly invoices submitted to NNSA for reimbursement of direct costs for items such as equipment, including personal property. These invoices did not always contain appropriate supporting documentation on the purchase of newly acquired Federally-owned personal property. For example, manufacturer, model and serial numbers were sometimes missing from the invoices. Also, the Fire Department used credit cards to acquire property items, but the documentation only identified "VISA" and the dollar amount of the purchase.

Disposal of Excess Federally-Owned Personal Property

The Fire Department had not ensured the proper disposal of excess property. Under the Cooperative Agreement, employees with Federally-owned personal property that needed to be salvaged or destroyed were required to notify the Fire Department Property Administrator. The Fire Department was then required to dispose of excess Federally-owned personal property through Los Alamos excess, disposition, recycle or hazardous waste streams. In addition, the Fire Department Property Administrator was required to complete an *Excess/Salvage Equipment Request* form to initiate the disposal.

However, the Fire Department did not provide a comprehensive and accurate record for the disposition of excessed Federally-owned personal property. For example, as previously stated, the nine computers that were "unaccounted for" from the 2010 inventory were not reported as lost or stolen within 48 hours as required by the Cooperative Agreement, thereby indicating that this equipment had been excessed. When we requested copies of the Fire

Department's *Excess/Salvage Equipment Request* forms, the Fire Department could not provide the forms for the nine computers.

In addition, there were inconsistencies between the Fire Department and Los Alamos concerning the documentation for the disposal of Federally-owned computers. We requested documentation on all excessed Federally-owned personal property since the beginning of the Cooperative Agreement. The combined records of both the Fire Department and Los Alamos showed a total of 76 Federally-owned computers excessed. Fire Department records did not account for 35 of the 76 excessed computers, and Los Alamos records did not account for 7 of the 76 excessed computers.

**PROTECTION OF
FEDERAL SENSITIVE
UNCLASSIFIED
INFORMATION**

During the course of our inspection, concerns were raised that Sensitive Unclassified Information provided to the Fire Department by Los Alamos may not have been adequately protected. We added this issue to the scope of our review. We found that the Fire Department may not have been adequately protecting Sensitive Unclassified Information in its possession. Federal officials were aware of cyber security weaknesses related to the protection of Sensitive Unclassified Information provided to the County. However, in spite of specific suggestions to do so, the Los Alamos Site Office (Site Office) did not require the Fire Department to strengthen protective measures.

The Fire Department was provided Sensitive Unclassified Information, to include *Hazards Analyses* and *Los Alamos Complex Response Guides*. This information was provided to assist the Fire Department in protecting Los Alamos in the event of a fire. The documents provided to the Fire Department were in the form of electronic media and were marked as either *Official Use Only* or *Unclassified Controlled Nuclear Information*. We were told that this Sensitive Unclassified Information was also stored on County servers and that the Fire Department maintained a wireless network which was used to update information on Federally-owned laptop computers located in Fire Department vehicles.

The County has security measures in place such as log-on authentication and password protection for computers in its possession. We were told that the County encrypted data located on its servers, as well as data transmitted over data lines and a wireless network. While we did not test the effectiveness of these security measures, we did find that there were existing concerns about whether Sensitive Unclassified Information in possession

of the Fire Department was adequately protected. Specifically, concerns over the protection of Sensitive Unclassified Information by the County surfaced in a 2009 review conducted by a Los Alamos Security Inquiry Team. This review was initiated after a Site Office official conducted a walk-through at a County fire station and found *Unclassified Controlled Nuclear Information* unprotected in an open area.

In a December 2009 report titled *Providing Sensitive Unclassified Information (SUI) to Los Alamos Fire Department (LAFD)*, the Inquiry Team reported that the County's Wireless Encrypted Protection system was the common standard at the time the routers were purchased more than 5 years prior to the review. The Inquiry Team reported that this was an old technology and that the encryption algorithm had made its compromise possible for a knowledgeable adversary "for some time." The Inquiry Team also reported that there was a desire on the part of County Administration to dispense with the County's policy for encrypting laptops on emergency vehicles which contained Sensitive Unclassified Information. The Inquiry Team cautioned that using unencrypted laptops would not assure Los Alamos' sensitive information is properly protected.

While the Inquiry Team found that it was unlikely there had been an unauthorized release of Sensitive Unclassified Information, a number of suggestions were made to the Site Office for actions that the Fire Department could take to preclude the unauthorized release of sensitive information. These suggestions included updating encryption protocol for wireless routers and additional cyber security training for Fire Department employees. However, through interviews with Site Office and Fire Department officials, we determined that the Site Office had not required the Fire Department to implement the suggested changes.

We also found that the Cooperative Agreement was silent on the protection of Sensitive Unclassified Information. NNSA has developed policy to address the protection of this type of information. NNSA Policy Letter 14.1-C (NAP 14.1-C), *Baseline Cyber Security Program*, dated May 2, 2008, required that responsibilities be assigned for protecting information on information systems for the purpose of maintaining National Security and ensuring the continuity of NNSA operations. This NAP 14.1-C addressed areas such as: cyber security plans; incident and vulnerability management; password generation and protection; wireless technologies; and, remote accessing. In conjunction with NAP 14.1-C, NNSA also developed NAP 14.2-C, *NNSA Certification and Accreditation (C&A) Process for*

Information Systems, which further detailed NNSA's cyber security requirements. However, none of the provisions of these policies were incorporated into the Cooperative Agreement.

Given the issues reported by the Inquiry Team and the lack of cyber security provisions in the Cooperative Agreement, appropriate cyber security requirements should be incorporated into the Cooperative Agreement so that NNSA's requirements for the protection of Sensitive Unclassified Information are clear and that County security measures are consistent with those requirements.

CONTRIBUTING FACTORS AND IMPACT

The problems discussed in this report occurred, in part, because NNSA did not ensure that the property management provisions, which were part of the Cooperative Agreement, had been effectively implemented. Although DOE Order 580.1 applied to the Fire Department's management of Federally-owned personal property, NNSA did not include specific reference to DOE Order 580.1 in the Cooperative Agreement. Instead, NNSA incorporated Appendix D, *Personal Property Management Plan for Federally-Owned Personal Property*, into the Cooperative Agreement. The Plan, as written, did not rise to the level of the requirements contained in DOE Order 580.1. According to the author of the Plan, the language in Appendix D was meant to be a "guide." Unfortunately, the intention that the County was to expand on the "guide" was never realized. In addition, there was no specific requirement to update Appendix B of the Cooperative Agreement on a routine basis as new Federally-owned personal property was acquired and as property was excessed, further resulting in a lack of proper accountability.

In addition, the County did not manage its Federally-owned personal property in a manner consistent with the requirements of the Cooperative Agreement. Further, the Fire Department did not always implement County directives to ensure the proper control and accountability of Federally-owned personal property in its possession. As discussed in this report, there was no evidence that the provisions of the County Fire Chief Directive on *Lost, Stolen, or Damaged Personal Government Owned Property* had ever been implemented, even though the results of the 2010 inventory showed that more than 10 percent of the inventoried items could not be located. In addition, we could not independently verify the effectiveness of the Fire Department's process for notifying NNSA about the acquisition of Federally-owned personal property, to include the use of the *Property Data Worksheet*. Also, there was no evidence that the Fire Department's use of the *Excess/Salvage Equipment Request* form

provided a comprehensive and accurate record for the disposition of all excessed Federally-owned personal property.

Finally, NNSA did not ensure that all requisite provisions for cyber security were incorporated into the Cooperative Agreement. Specifically, the Business Services Division, NNSA Albuquerque Complex, did not incorporate most of the NNSA Policy Letter provisions into the Cooperative Agreement or require the Fire Department to adhere to any of NNSA's cyber security requirements. Instead, existing County security measures were relied upon, even though concerns about the ability of those measures to preclude the potential for unauthorized release of Sensitive Unclassified Information had been identified.

As a consequence, these problems created an environment where Federally-owned personal property could be subject to misuse, theft or misappropriation. Specifically, we could not determine, with any certainty, that all Federally-owned personal property was identified, marked, inventoried and disposed of in a manner consistent with DOE Order 580.1. In addition, these problems created an environment where Sensitive Unclassified Information provided to the County could potentially be subject to loss or compromise. Specifically, we could not reach a definitive conclusion regarding the overall level of protection provided to the Sensitive Unclassified Information which was in the hands of the Fire Department.

RECOMMENDATIONS

We recommend that the Contracting Officer, Business Services Division:

1. Incorporate appropriate provisions of DOE Order 580.1, *Department of Energy Personal Property Management Program*, into the Cooperative Agreement;
2. Ensure that the Fire Department's Property Management Plan is revised as necessary, consistent with the conclusions of NNSA's 2010 inventory validation review;
3. Ensure that Appendix B of the Cooperative Agreement is updated on a routine basis as Federally-owned personal property is acquired and excessed; and,
4. Incorporate appropriate cyber security requirements into the Cooperative Agreement so that NNSA requirements for the protection of Sensitive Unclassified Information are clear and that County security measures are consistent with those requirements.

We also recommend that the Manager, Los Alamos Site Office, ensure that:

5. The Fire Department reports lost or stolen items as required by DOE Order 580.1 and the Cooperative Agreement;
6. All personal property acquired by the County using Federal funds is accounted for in a manner consistent with the Cooperative Agreement; and,
7. All excess Federally-owned personal property in possession of the County is disposed of in a manner consistent with the Cooperative Agreement.

MANAGEMENT COMMENTS

NNSA management agreed with the intent of the report findings and recommendations directed to the Contracting Officer, Business Services Division. Management stated that NNSA will start negotiations to amend the Cooperative Agreement to ensure that the actions under Recommendations 1 through 4 are implemented.

However, management said that Recommendations 5 through 8 directed to the Manager, Los Alamos Site Office, were not consistent with the Site Office's administrative authorities under the Cooperative Agreement. Management further stated that, while the County has agreed to the inclusion of several operational and administrative provisions in the Cooperative Agreement, NNSA does not have any specific authority to direct or enforce compliance with those provisions. Management stated that it remains in the Government's best interest to try to resolve or mitigate these issues. Therefore, the Site Office is actively seeking appropriate modifications to the Cooperative Agreement to establish appropriate compliance with Department requirements. In addition, management stated that, in the interim, NNSA will continue working with County leadership to encourage voluntary compliance.

Management cited a "just executed key modification" to the Cooperative Agreement on December 16, 2011, that addressed several of the issues raised in the report. Management stated that it anticipated that NNSA and the Site Office will complete several additional Cooperative Agreement modifications in the coming months that will fully address the identified concerns.

Management requested that we delete or rewrite Recommendations 5 through 8 to reflect the potentially limited authorities inherent in this type of agreement.

Management comments have been provided in their entirety in Appendix 3.

**INSPECTOR
COMMENTS**

Management comments are generally responsive to our report findings and recommendations. However, we do note that Title 2, Code of Federal Regulations, *Grants and Agreements*, provides the authority to enforce this type of agreement with specific remedies for noncompliance. In addition, the modification to the Cooperative Agreement on December 16, 2011, did not address the issues raised in the report. In order to clarify management's position, we discussed these issues with NNSA subsequent to receiving comments on the report. We were told that management plans on issuing five modifications in the near future that will include the necessary language to provide NNSA with the authority to enforce the provisions of the Cooperative Agreement. We believe these actions will meet the intent of our recommendations if the modifications are issued with additional language to strengthen NNSA's authority to enforce compliance; and if, in the interim, NNSA works with County leadership to encourage voluntary compliance.

With regard to NNSA's request to delete or rewrite Recommendations 5 through 8, we deleted former Recommendation 5 because Recommendation 1, if properly implemented, should address the Recommendation's intent. We also modified former Recommendations 7 and 8 to address NNSA's comment. Recommendation 6 remains intact.

OTHER MATTERS

Sexually Oriented Images

During the examination of three hard drives that were turned in by the Los Alamos County Fire Department (Fire Department) for disposal, we found a number of sexually oriented images. Under Department of Energy (DOE) Order 203.1, *Limited Personal Use of Government Office Equipment Including Information Technology*, examples of misuse of Government resources include "creating, downloading, viewing, storing, copying or transmitting sexually explicit or sexually oriented materials." However, the Cooperative Agreement only required Fire Department employees to "ensure the safe and appropriate use and safeguarding of Federally-owned personal property," and stated that Federally-owned personal property could only be used when performing official Government work or for incidental personal, professional or community use. The Cooperative Agreement did not identify the creating, downloading, viewing, storing, copying or transmitting of sexually explicit or sexually oriented materials as a specific misuse of the Federally-owned personal property provided to the Fire Department.

Questioned Costs

The Cooperative Agreement provides for sharing costs between the National Nuclear Security Administration (NNSA) and the Incorporated County of Los Alamos (County). NNSA's share of the costs is approximately \$80.1 million and the County's share is approximately \$19.8 million. The Business Services Division, NNSA Albuquerque Complex, questioned certain costs incurred by the County for the first two years of the Cooperative Agreement (October 2008 through September 2010). Specifically, the County reported \$35.9 million of total costs incurred by the Fire Department, of which \$28.8 million was billed to NNSA for reimbursement under the Cooperative Agreement. The Business Services Division reviewed the monthly invoices to determine whether the costs were allowable, reasonable and allocable to the Cooperative Agreement. The Business Services Division questioned costs totaling \$621,613, as shown in the Table below:

Total Questioned Costs

<u>Fiscal Year</u>	<u>Total Costs</u>	<u>Invoiced Amount</u>	<u>Questioned Costs</u>
2009	\$17,514,961	\$13,978,318	\$82,890
2010	\$18,343,933	\$14,853,241	\$538,723
Total	<u>\$35,858,894</u>	<u>\$28,831,559</u>	<u>\$621,613</u>

The bulk of the costs questioned by the Business Services Division in Fiscal Year (FY) 2009 related to the September 2009 invoice in which the County billed NNSA for \$1,312,186 (of the \$13,978,318 for the year). The Business Services Division questioned \$60,762 (of the \$82,890 in questioned costs) for the purchase of radios. The County's explanation to NNSA was that the purchase of 19 two-way radios was necessary for the Fire Department's communication systems. These radios were provided to new cadets and purchased to replace old radios. Each year the Fire Department seeks to replace approximately one-third of its radios, as each radio has a useful life of approximately 3 years.

The bulk of questioned costs identified by the Business Services Division in FY 2010 related to the October 2009 invoice in which the County billed NNSA for \$1,542,825 (of the \$14,853,240 for the year). With regard to this invoice, the Business Services Division questioned \$378,116 (of the \$538,723 in total questioned costs for FY 2010). For example, the Business Services Division questioned about \$180,000 related to medical equipment and about \$78,000 related to emergency dispatch communications equipment. We determined that the Business Services Division questioned the equipment purchases because the amount did not appear reasonable. The County subsequently provided detailed information regarding the use of the equipment by the Fire Department. The Business Services Division also questioned \$45,631 related to payroll for firefighters whose badges had been suspended, and, therefore, were unable to fight fires within restricted areas of the Los Alamos National Laboratory as required by the Cooperative Agreement. At the time of our inspection, NNSA and the County had not resolved the \$621,613 in questioned costs.

It should be noted that, in addition to the \$621,613 in questioned costs discussed above, NNSA also withheld 20 percent of costs claimed on monthly billings during FY 2010, making the total amount of unresolved questioned costs \$2.3 million.

SUGGESTED ACTIONS

With regard to the issue of sexually oriented images on Federally-owned computers, we suggest that the Contracting Officer, Business Services Division:

1. Ensure that the provisions of DOE Order 203.1 are incorporated into the Cooperative Agreement to provide specific information on the misuse of Government resources.

Appendix 1 (continued)

In addition, given the fact that questioned costs had not been resolved at the time of our review, we suggest that the Contracting Officer, Business Services Division:

2. Resolve questioned costs with the County in a more expeditious manner.

Appendix 2

OBJECTIVE

We initiated this inspection to determine if Federally-owned personal property under the Cooperative Agreement was adequately managed. During the course of our inspection, concerns were raised that Sensitive Unclassified Information provided to the Los Alamos County Fire Department by Los Alamos National Laboratory may not have been adequately protected. We added this issue to the scope of our review.

SCOPE

We conducted this inspection from January 2011 through January 2012 at the Los Alamos National Laboratory (Los Alamos), Incorporated County of Los Alamos (County) and Los Alamos County Fire Department (Fire Department) in Los Alamos, New Mexico; and the National Nuclear Security Administration (NNSA) Albuquerque Complex in Albuquerque New Mexico.

METHODOLOGY

To accomplish the inspection objectives, we interviewed officials from Los Alamos, the County, the Department of Energy (Department or DOE) and NNSA. In addition, we reviewed and analyzed the Cooperative Agreement, including modifications, and the following regulations and policies:

- Title 10, Code of Federal Regulations, Part 600.232, *Department of Energy Financial Assistance Rules, Equipment*;
- Title 2, Code of Federal Regulations, *Grants and Agreements*;
- DOE Order 203.1, *Limited Personal Use of Government Office Equipment Including Information Technology*;
- DOE Order 580.1, *Department of Energy Personal Property Management Program*; and,
- NNSA Policy Letter 14.1-C, *NNSA Baseline Cyber Security Program*.

We also reviewed:

- Fire Department *Excess/Salvage Equipment Request* forms;
- Relevant Los Alamos and NNSA Memoranda, and the Department, NNSA, Los Alamos and Fire Department electronic mail;

- Los Alamos Fire Chief Directives on: *Government Owned Property Held by Los Alamos County; Lost, Stolen, or Damaged Personal Government Owned Property; and, Acknowledgement of Receipt of Goods;* and,
- Three Federally-owned hard drives utilized by the Fire Department.

This was a joint audit and inspection effort. The audit of incurred costs was conducted in accordance with generally accepted Government auditing standards. Also, the inspection on property management and protection of Sensitive Unclassified Information was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Inspection and Evaluation*, January 2011. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our inspection objectives. The review included tests of controls and compliance with laws and regulations to the extent necessary to satisfy the objectives. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our inspection. In addition, we relied on computer-processed data to some extent to satisfy our objective related to property management. We confirmed the validity of such data, as appropriate, by conducting interviews and reviewing source documents.

The Exit Conference was waived by NNSA.

MANAGEMENT COMMENTS



Department of Energy
National Nuclear Security Administration
Washington, DC 20585



December 21, 2011

MEMORANDUM FOR GREGORY H. FRIEDMAN
INSPECTOR GENERAL

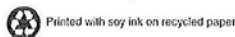
FROM:  KENNETH W. POWERS
ASSOCIATE ADMINISTRATOR
FOR MANAGEMENT AND BUDGET

SUBJECT: NNSA's Comments on the IG's Draft Report *Protection of Federal Sensitive Unclassified Information and Property Accountability Under the Cooperative Agreement with the Incorporated County of Los Alamos*, Project No. S11IS004/IDRMS No. 2010-02905

The National Nuclear Security Administration (NNSA) appreciates the opportunity to review the Inspector General's (IG) draft report on *Protection of Federal Sensitive Unclassified Information and Property Accountability Under the Cooperative Agreement with the Incorporated County of Los Alamos*.

NNSA agrees with the intent of report findings and the recommendations directed to the Contracting Officer, Business Services Division. Consequently, NNSA will start negotiations to amend the Los Alamos Fire Department Cooperative agreement to ensure that: (1) appropriate cyber security requirements are incorporated into the Cooperative Agreement so that NNSA requirements for the protection of Sensitive Unclassified Information are clear and that County security measures are consistent with those requirements; (2) appropriate provisions of DOE Order 580.1, *Department of Energy Personal Property Management Program*, are incorporated into the Cooperative Agreement; (3) the Fire Department is encouraged to revise its Property Management Plan to be consistent with the conclusions of NNSA's 2010 inventory validation review; and (4) Appendix B of the Cooperative Agreement is updated on a routine basis as Federally-owned personal property is acquired and disposed.

However, the proposed recommendations to the Manager, Los Alamos Site Office, are not consistent with the office's administrative authorities under the agreement. Specifically, we want to clarify that this is a Cooperative Agreement and not a contract and, under such agreement, the Los Alamos County (County) and NNSA contribute to mutually beneficial fire protection services. The County is a governmental entity acting as a partner with the federal government, not a contractor subject to contractual requirements and associated sanctions. While in the spirit of reasonableness and cooperation, Los Alamos County has agreed to the inclusion of several operational and administrative provisions in the cooperative agreement, NNSA does not have any specific authority to direct or enforce compliance with those provisions. As a result, we request that those recommendations be deleted or re-written to reflect the potentially limited authorities inherent in this type of agreement.



Appendix 3 (continued)

It is also important to note that the well-tested fire protection services enjoyed by NNSA under this agreement have consistently been very good to excellent, and that they represent a reasonable value. Due to the quality of the services provided, we believe that it remains in the Government's best interest to try to resolve or mitigate these issues, albeit with limited authorities. With that said, LASO is actively seeking appropriate modifications to the contract to establish appropriate compliance with DOE requirements and will continue working with County leadership to encourage interim voluntary compliance. With that objective, NNSA and Los Alamos County just executed a key modification to the Cooperative Agreement on December 16, 2011 that addresses several of the issues raised in the report. We anticipate that NNSA and LASO will complete several additional Cooperative Agreement modifications in the coming months that will fully address the identified IG concerns.

If you have any questions concerning this response, please contact Dean Childs, Director, Management Control and Assurance.

PRIOR REPORTS

- Audit Report on [*The Federal Energy Regulatory Commission's Unclassified Cyber Security Program – 2011*](#) (OAS-M-12-01, November 2011). *The Federal Information Security Management Act of 2002 (FISMA)* established requirements for Federal agencies related to the management and oversight of information security risks and to ensure that information technology resources were adequately protected. As directed by FISMA, the Office of Inspector General (OIG) conducted an independent evaluation of the Federal Energy Regulatory Commission's (Commission) unclassified cyber security program to determine whether it adequately protected data and information systems. The Commission had taken actions to improve its cyber security posture and mitigate risks associated with certain issues identified during our Fiscal Year (FY) 2010 evaluation. While these measures are noteworthy, our current evaluation disclosed that additional action is needed to further protect information systems and data. Specifically, we continued to identify weaknesses related to the Commission's timely remediation of software vulnerabilities. The problems we identified were due, in part, to less than fully effective implementation of cyber security policies and procedures. In particular, Commission officials informed us that they did not follow their existing Vulnerability Management Program policies due to budget and resource constraints. Although the Commission continued to make progress in improving its cyber security posture, additional actions are needed to further reduce the risk to the agency's information systems and data.
- Audit Report on [*The Department's Unclassified Cyber Security Program – 2011*](#) (DOE/IG-0856, October 2011). FISMA provides direction on the development, implementation and management of an agency-wide information security program to provide protection commensurate with risk for Federal information and systems, including those managed by another agency or contractors. In accordance with FISMA, the OIG conducted its annual independent evaluation to determine whether the Department of Energy's (Department) unclassified cyber security program adequately protected its information and systems. Our evaluation disclosed that the Department had taken steps to enhance its unclassified cyber security program, including resolving 11 of 35 cyber security weaknesses identified during our FY 2010 evaluation. However, additional action is needed to further strengthen the Department's unclassified cyber security program and help address threats to its information and systems. Our evaluation disclosed numerous weaknesses in the areas of access controls, vulnerability management web application integrity, contingency planning, change control management and cyber security training. The weaknesses identified occurred, in part, because Departmental elements had not ensured that cyber security requirements included all necessary elements and were properly implemented. Program elements also did not always utilize effective performance monitoring activities to ensure that appropriate security controls were in place.

Appendix 4 (continued)

- Inspection Report on [*Fire Suppression and Related Services at Los Alamos National Laboratory*](#) (DOE/IG-821, September 2009). The Department's Los Alamos National Laboratory (Los Alamos) is a multidisciplinary research institution engaged in strategic science on behalf of national security. Los Alamos operates in "unique" hazard environments, to include special nuclear materials, explosives, and hazardous chemicals, that create special fire suppression and emergency management challenges. To address these challenges, Los Alamos must have a comprehensive approach to the protection of personnel, facilities, physical assets and programmatic activities from fire and related dangers. Information was provided to the OIG that problems existed with regard to fire suppression and related services at Los Alamos. As a result, we initiated an inspection to determine if fire suppression and related services at Los Alamos are assured through contractual arrangements with the Incorporated County of Los Alamos (County). On September 30, 2008, subsequent to the initiation of our inspection, the National Nuclear Security Administration (NNSA) entered into a Cooperative Agreement with the County to provide Los Alamos County Fire Department (Fire Department) and related services to Los Alamos. We concluded that fire suppression and related services had not been assured through contractual arrangements with the County. Specifically, we found that: fire fighters had not been properly trained; required pre-incident plans developed by the Fire Department lacked necessary information; fire fighters did not have necessary knowledge of Los Alamos facilities; and, the Fire Department's fire fighting capabilities have not been sufficiently demonstrated through exercises. We concluded that the above conditions were caused by significant problems with the administration of the contracting arrangements by the Department, NNSA, Los Alamos, and the County. We did not find evidence that anyone actively managed the fire suppression services contract for a number of years.

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