

December 23, 1997

MEMORANDUM FOR THE SECRETARY

FROM: John C. Layton
Inspector General

SUBJECT: INFORMATION: "Audit of Support Services Subcontracts at Argonne National Laboratory"

BACKGROUND:

Departmental policy prohibits the use of subcontracts awarded by management and operating contractors to provide direct support to Headquarters program offices. When support is necessary, program offices are required to use the Headquarters procurement organization, not the management and operating contractors.

DISCUSSION:

Four major program offices did not follow Departmental policy during Fiscal Year 1996 when they acquired support services through subcontracts awarded by Argonne National Laboratory (Argonne). The offices of Environment, Safety and Health; Environmental Management; Energy Research; and Nuclear Energy, Science and Technology acquired their subcontractor services through Argonne because they believed that Argonne's procurement organization could provide the services faster than the Headquarters procurement organization. As a result, the Department may have paid more than necessary for the services, while many of the safeguards against noncompliance with laws and regulations that are normally provided by the Department's procurement process were lost. We recommended that the program offices (1) direct their program managers to discontinue the practice of acquiring support services from subcontractors hired by Argonne, and (2) establish management controls to ensure that program managers acquire support services through the Department's normal procurement process, and not through management and operating contractors.

The program offices agreed with our finding and recommendations.

Attachment

cc: Deputy Secretary
Under Secretary

U.S. DEPARTMENT OF ENERGY
OFFICE OF INSPECTOR GENERAL

AUDIT OF SUPPORT SERVICES SUBCONTRACTS

AT ARGONNE NATIONAL LABORATORY

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Eastern Regional Audit Office
Oak Ridge, TN 37830

AUDIT OF SUPPORT SERVICES SUBCONTRACTS
AT ARGONNE NATIONAL LABORATORY

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

AUDIT OF SUPPORT SERVICES SUBCONTRACTS
AT ARGONNE NATIONAL LABORATORY

Audit Report Number: DOE/IG-0416

SUMMARY

Department of Energy (Department) policy prohibits the use of subcontracts awarded by management and operating contractors to provide direct support to Headquarters program offices. When support is necessary, program offices are required to use the Headquarters procurement organization, not the management and operating contractors. The objective of this audit was to determine whether the program offices were obtaining direct support for their programs through subcontracts awarded by Argonne National Laboratory (Argonne).

Despite the Department's policy, program offices in four major Departmental divisions used 24 subcontracts awarded by Argonne to provide direct support for their programs in Fiscal Year 1996. The program offices acquired the subcontractor services through Argonne because they believed that Argonne's procurement organization could provide the services faster than the Headquarters procurement organization. As a result, the Department may have paid more than necessary for the services, while many of the safeguards against noncompliance with laws and regulations that are normally provided by the Department's procurement process were lost.

We recommended that the Assistant Secretary for Environment, Safety and Health; the Assistant Secretary for Environmental Management; the Director, Office of Energy Research; and the Director, Office of Nuclear Energy, Science and Technology (1) direct program managers to discontinue the practice of acquiring support services from subcontractors hired by Argonne; and (2) establish management controls to ensure that program managers acquire support services through the Department's normal procurement process, and not through management and operating contractors.

Management concurred with the audit finding and recommendations and initiated corrective action.

_____/s/
Office of Inspector General

PART I

APPROACH AND OVERVIEW

INTRODUCTION

Department of Energy (Department) policy requires Headquarters program offices to use the Department's procurement procedures and staff to obtain direct contract support for their programs. The objective of this audit was to determine whether the Headquarters program offices were complying with the Department's policy at Argonne National Laboratory (Argonne). Specifically, the audit objective was to determine whether Headquarters program offices were obtaining direct support for their programs through subcontracts awarded by Argonne.

SCOPE AND METHODOLOGY

The audit was performed from February through August 1997 at Argonne's offices in Argonne, Illinois and Gaithersburg, Maryland; the Chicago Operations Office in Argonne, Illinois; and Headquarters program offices in Germantown, Maryland and Washington, D.C. To accomplish the audit objective, we interviewed key Department, contractor and subcontractor personnel and reviewed:

- Federal and Departmental regulations, Departmental memoranda, and Argonne's policies and procedures for subcontracting;
- Prior audit reports concerning management and operating contractors' subcontracting practices and procedures;
- Subcontract files regarding the scope of work, period of performance, dollar amount, extent of competition, sole-source justification, modification to the original scope of work, location of subcontractors, and past work history; and,
- Technical representatives' files to determine the extent and nature of guidance provided to the subcontractors.

The audit universe included 49 support service subcontracts initiated by the Special Projects Office and awarded by Argonne, which incurred costs of \$3.0 million during Fiscal Year (FY) 1996. A judgmental sample of 24 subcontracts which incurred \$2.9 million during FY 1996 was selected for the audit.

The audit was conducted in accordance with generally accepted Government auditing standards for performance audits and included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. Accordingly, we assessed the significant internal controls with respect to the subcontracting process which included the identification and assessment of internal controls over the selection and administration of subcontractors. We performed limited tests of computer generated data and relied upon this information to provide the universe of subcontracts. 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.

An exit conference was waived by the program office representatives of Environment, Safety and Health; Environmental Management; Energy Research; and Nuclear Energy, Science and Technology.

BACKGROUND

Argonne is a multiprogram laboratory established by the Atomic Energy Act of 1946. Argonne is operated by the University of Chicago under a cost reimbursement contract with the Department. Argonne received funding of \$505 million for FY 1996 operations.

Argonne's Special Projects Office (Special Projects) provided a variety of support services to Headquarters program offices. These services included activities such as training Departmental employees, performing cost evaluations and environmental assessments, and providing advice on public policy. As part of this service, Special Projects initiated the award of subcontracts through Argonne's procurement office for work assignments requested by the program offices. Special Projects maintained offices in Argonne, Illinois and Gaithersburg, Maryland, and employed 34 employees in FY 1996.

PART II

FINDING AND RECOMMENDATIONS

Headquarters' Use of Subcontractors Hired by Argonne National Laboratory

FINDING

Departmental policy states that it is inappropriate for Headquarters program offices to use support service subcontractors hired by management and operating contractors to directly support Headquarters programs. Despite the Department's policy, program offices used 24 support service subcontracts awarded by Argonne to provide direct support to their Headquarters programs. The program offices acquired the services through Argonne because they believed Argonne could provide the services faster than the Department's Headquarters procurement organization. As a result, the Department may be paying more than necessary for the services, while many of the safeguards against noncompliance with Federal laws and regulations that are normally provided by the Department's procurement process were lost.

RECOMMENDATIONS

We recommend that the Assistant Secretary for Environment, Safety and Health; the Assistant Secretary for Environmental Management; the Director, Office of Energy Research; and the Director, Office of Nuclear Energy, Science and Technology:

1. Direct program managers to discontinue the practice of acquiring support services for their programs from subcontractors hired by Argonne; and
2. Establish management controls to ensure that program managers acquire support services through the Department's normal procurement process, and not through management and operating contractors.

MANAGEMENT REACTION

The Assistant Secretary for Environment, Safety and Health; the Assistant Secretary for Environmental Management; the Director, Office of Energy Research; and the Director, Office of Nuclear Energy, Science and Technology concurred with the finding and recommendations. Management's comments are summarized and addressed in Part III of this report.

DETAILS OF FINDING

DEPARTMENTAL POLICY

Departmental policy prohibits the use of support service subcontractors hired by management and operating contractors to directly support Headquarters or field office employees. This policy has been communicated in several memoranda beginning in August 1981 when the Assistant Secretary for Management and Administration instructed Headquarters organizations that they were not to use contractors to award subcontracts which directly support program office needs. In June 1993, the Acting Assistant Secretary for Human Resources and Administration reemphasized the Department's policy, stating that the use of contractors to acquire support services for program offices places the contractor in the role of a mere procurement office and avoids the safeguards provided by the Department's normal procurement process. Additionally, in January 1996, the Deputy Assistant Secretary for Procurement and Assistance Management emphasized the need for Headquarters organizations to comply with the Department's policy, stating that the program offices' procurement needs are to be accomplished by the Headquarters procurement organization—not by management and operating contractors.

In recent years the Office of Inspector General (OIG) has reported several instances of noncompliance with the Department's policy. In August 1993, the OIG issued Audit Report ER-B-93-06, *Report on Audit of Subcontract Administration at Argonne National Laboratory*. The audit identified that Headquarters program officials had improperly directed the award of sole-source subcontracts through Argonne. In June 1995, we issued Audit Report WR-B-95-07, *Consultant Subcontracting at the Idaho National Engineering Laboratory*. The audit showed that Headquarters program offices acquired consultant services from subcontractors hired by Idaho National Engineering Laboratory. Also, in May 1996, we issued Audit Report WR-B-96-07, *Subcontracting Practices at the Nevada Operations Office and its Management and Operating Contractors*, with similar findings.

In addition to reports on the use of subcontractor employees in the field by Headquarters program offices, the OIG issued two reports regarding extensive use in the Washington, D.C. area of field contractor and subcontractor employees by the program offices. In July 1996, we issued Audit Report DOE/IG-0392, *Audit of the Department of Energy Program Offices' Use of Management and Operating Contractor Employees*. Subsequently, in December 1997, we issued Audit Report DOE/IG-0414, *Audit of the Department of Energy's Management of Field Contractor Employees Assigned to Headquarters and Other Federal Agencies*.

The House Appropriations Committee cited OIG report DOE/IG-0392 during hearings on the Department's FY 1998 budget, and directed that the Department "eliminate the use of all support service contractors or subcontractors hired by M&O contractors to support Headquarters program or field office Federal employees." The Committee stated

"When direct contract support is necessary, program offices are required to use the Department's—not the M&O contractor's—procurement procedures and personnel."

USE OF ARGONNE NATIONAL LABORATORY'S SUBCONTRACTOR EMPLOYEES

Despite the Department's policy, which is now supplemented by congressional direction, several Headquarters program offices continued to use subcontractors hired by Argonne to provide direct support to their programs. We identified 24 support service subcontracts that incurred costs during FY 1996 which were awarded by Argonne to provide direct support to Headquarters program offices. Of the 24 subcontracts awarded, 14 supported the Office of Environmental Management (EM); 5 supported the Office of Environment, Safety and Health (EH); 4 supported the Office of Nuclear Energy (NE); and 1 supported the Office of Energy Research (ER). The Department reimbursed Argonne about \$2.9 million for the 24 subcontractors' services during FY 1996. Several examples follow:

- Two subcontracts costing \$1.3 million were awarded by Argonne for the preparation of environmental impact statements and environmental assessments, as required by the National Environmental Policy Act, and to determine the disposition of low-level waste throughout the Department complex. The subcontracts were awarded to support an EM program office.
- Argonne awarded a subcontract to a specific consultant to provide assistance to the Department's Environmental Management Program. The consultant was preselected for the subcontract on the purchase requisition. The scope of work included presenting the Department's planning documents to the public and monitoring public policy concerning waste operations. The same consultant was used by the program office for similar tasks on three consecutive subcontracts, beginning in FY 1991. The subcontractor received over \$390,000 for consultant services between FYs 1991 and 1996.
- Argonne awarded a subcontract for cost reviews of environmental restoration projects at another management and operating contractor's site. An EM program manager requested the reviews because the cost estimates submitted by the contractor were suspect and EM required additional assurance that the cost estimates were reasonable. The subcontractor charged over \$129,000 for the reviews in FY 1996.
- Argonne awarded a subcontract costing about \$65,000 in FY 1996 for the services of a specific subcontractor employee to obtain a report on the future of the Department's Fusion Energy Development Program. The purchase requisition which initiated the procurement identified the individual who was subsequently awarded the subcontract in support of the ER program.
- Argonne awarded a subcontract to provide training in activity based cost estimating for Departmental employees at Chicago, Richland, Idaho Falls, and Washington, D.C.

An EM program office requested the subcontract, and the work performed in FY 1996 cost about \$57,000. The training was provided to Government employees in direct support of the EM program office.

Argonne's technical representatives and Headquarters employees responsible for the procurement actions stated that guidance to the subcontractors was a "collaborative effort" between the Argonne staff and the Department. However, Argonne could not provide any substantive written direction or guidance to the subcontractors indicating that the quality, scope, or performance of the work was being monitored, directed, or evaluated by the Argonne staff. Argonne's files showed that the subcontractors were being directed by the Department's program offices to perform specific work assignments at various locations and times. The assignments were formalized by Argonne's technical representatives as new subcontracts or as modifications to ongoing subcontracts. The technical representatives' files included documentation of an administrative nature, such as Argonne's approval of subcontractor travel requests and invoices, but they did not include evidence of direction or guidance by the Argonne staff.

TIMELINESS OF HEADQUARTERS PROCUREMENT OPERATIONS

The program managers stated that they acquired support services through Argonne instead of the Department's Headquarters Procurement Operations (Procurement Operations) because they believed Argonne could provide the services faster than Procurement Operations. Program office employees stated that Procurement Operations required up to 12 months to award contracts. Since 12 months was considered to be unacceptable in most situations, the program offices sought other means of procuring support services. Argonne and other management and operating contractors were considered convenient procurement sources because they could acquire services quickly and easily.

Procurement Operations did not agree with the program managers' position, stating that it could award support service contracts as quickly as Argonne could award subcontracts. Argonne averaged about 41 days between the date of the requisition and the date of subcontract award. In comparison, Procurement Operations stated that it could award support services contracts within 45 to 60 days. In addition, Procurement Operations has an expedited process which can be used to award a contract within seven days under emergency conditions.

INCREASED COSTS AND RISKS TO THE DEPARTMENT

As a result of using Argonne's subcontractors, Headquarters program offices may be paying more than necessary to acquire support for their programs. The cost of acquiring subcontracts from Argonne appeared to be significantly higher than acquiring contracts with the same consultants or firms through Procurement Operations. Argonne charged the Department about \$267,000 in FY 1996 for overhead and administrative support as add-ons

for the 24 subcontracts reviewed. Procurement Operations would have incurred additional costs if they had administered the 24 procurements that were administered by Argonne during FY 1996. However, we believe the costs would have been significantly less than \$267,000.

In addition to increasing overall costs, the practice of using management and operating contractors to acquire support services for program offices results in the loss of important safeguards that are normally provided by the Department's procurement process. For example, Procurement Operations has established internal management controls to ensure compliance with Federal laws and regulations requiring agencies to (1) obtain full and open competition when available, (2) negotiate fair and reasonable prices where competition is not available, (3) avoid acquisitions which result in private sector employees performing "inherently Governmental functions," and (4) avoid conflicts of interest for Government and contractor employees.

We are especially concerned with the lack of competition in the source-selection process. Seventeen of the 24 purchase requisitions which initiated Argonne's procurement actions requested that the work be accomplished by a specific contractor. Twelve of the 24 requisitions identified specific individuals who were needed to perform the work. The sole-source justifications typically advocated the unique qualifications of the individual or company as evidenced by prior work done for the Department, or the urgency of the work to be performed, as the reason for the sole-source determination.

PART III

MANAGEMENT AND AUDITOR COMMENTS

The Assistant Secretary for Environment, Safety and Health; the Assistant Secretary for Environmental Management; the Director, Office of Energy Research; and the Director, Office of Nuclear Energy, Science and Technology concurred with the audit finding and recommendations and initiated corrective action. A summary of the comments received from management and our replies follow.

Recommendation 1.

Recommendation. Direct program managers to discontinue the practice of acquiring support services for their programs from subcontractors hired by Argonne.

Management Comments. Management concurred with the recommendation. The Office of the Assistant Secretary for Environment, Safety and Health stated that the program managers were directed to immediately halt the practice of acquiring support services from Argonne subcontractors. The Office of Environmental Management stated that all Environmental Management deputy assistant secretaries have been directed to discontinue the practice of acquiring services for support at Headquarters through Argonne and other management and operating contractors. The Director, Office of Energy Research stated that once the final report is issued, all associate and office directors will be reminded of the Department's policy and will be required to reiterate the policy to their respective staffs. The Office of Nuclear Energy, Science and Technology stated that its program managers will be notified of the need to comply with current Departmental procurement policy prohibiting the use of the management and operating contractors for awarding support service contracts for the Department.

Auditor Comments. Management's actions are responsive to the audit recommendation.

Recommendation 2.

Recommendation. Establish management controls to ensure that program managers acquire support services through the Department's normal procurement process, and not through management and operating contractors.

Management Comments. Management concurred with the recommendation. The Office of the Assistant Secretary for Environment, Safety and Health (EH) stated that management controls have been implemented to ensure that those responsible for obtaining support services use the normal procurement channels rather than rely on management and operating contractors as a source for such services. These management controls include the use of the Office of Budget and Administration as a control point for EH contractor support to ensure that Departmental policies are followed. The Office of Environmental Management stated that supplemental guidelines to reinforce Departmental initiatives have been drafted and are expected to be issued, following internal review, by March 1, 1998. The Director, Office of Energy Research stated that during September 1997, the associate and office directors were briefed on the Department's policy and instructed that no support services will be provided to any Energy Research Headquarters program office by management and operating contractors or their subcontractors. The Office of Nuclear Energy, Science and Technology stated that management controls will be instituted to safeguard against future procurement awards by management and operating contractors for support services.

Auditor Comments. Management's comments are responsive to the audit recommendation. However, the Director, Office of Energy Research did not state that management controls would be established. Also the Office of Nuclear Energy, Science and Technology did not provide a target date for implementation of management controls. We applaud management's response. However, more needs to be done to ensure compliance with the Department's policy, including the identification of the management controls and an action plan for their implementation.

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