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

Inspection Report

Severance Repayments at the Savannah River Site

INS-O-10-02

July 2010

Department of Energy
Washington, DC 20585

July 29, 2010

MEMORANDUM FOR THE ASSISTANT SECRETARY FOR ENVIRONMENTAL MANAGEMENT

FROM: Sandra D. Bruce
Assistant Inspector General for Inspections and Special Inquiries

SUBJECT: INFORMATION: Inspection Report on "Severance Repayment at the Savannah River Site"

BACKGROUND

The Department of Energy's (Department) mission has evolved in recent years, which necessitated changes in the contractor workforce requirements. In 1993, Congress approved Section 3161 of the National Defense Authorization Act (Act), which mandates that if a change in the workforce is necessary, the Department must develop a plan for workforce restructuring that will minimize the impact on the affected employees and the surrounding communities. Since the passage of the Act, the Department has managed numerous contractor workforce restructurings that resulted in a reduction in the Department's contractor workforce. For example, workforce restructuring efforts in Fiscal Years 2005, 2007 and 2009 at the Savannah River Site (Site) reduced the contractor workforce by 1,184 employees.

The Office of Inspector General (OIG) received a hotline allegation that employees of the Washington Savannah River Company (WSRC), a former management and operating contractor, had inappropriately received severance payments under the 2007 Savannah River workforce restructuring. It was alleged that these employees were subsequently rehired to perform in the same or similar functional job areas but were not required to repay severance money. The contractual agreement between the Department and WSRC prohibited employees from receiving severance pay if they were offered employment at the Site, performing the same or substantially the same type of work with comparable pay and benefits, by any WSRC contractor or subcontractor. At the same time, the OIG's Office of Investigations was in the process of reviewing a similar allegation received from Savannah River Operations Office (SRO) officials. The OIG's Office of Inspections initiated an inspection to consolidate the information and review the facts and circumstances regarding both allegations. Our efforts focused on the Fiscal Year 2007 workforce restructuring which cost $9.7 million and resulted in the reduction of 312 contractor employees.

RESULTS OF INSPECTION

We found that 37 former WSRC employees who participated in the 2007 workforce restructuring inappropriately received about $1.1 million in severance payments. We believe that these costs, which were reimbursed by the Department, were unallowable and that they should be recovered by the Department. Specifically, we found that contrary to the WSRC contract with the Department, 21 former WSRC employees who participated in the 2007 workforce restructuring were subsequently rehired and not required to repay approximately $300,000 in severance payments. These employees were rehired to perform the same or substantially the same job functions in various positions including WSRC consultants, WSRC staff augmentation positions, or as WSRC subcontractors**.** They were also rehired within a timeframe that would have required them to repay $300,000 of the severance money. However, none of the former employees were required to return any portion of the $300,000 in severance payments.

We further determined that an additional 16 WSRC employees who participated in the 2007 workforce restructuring received $780,000 in severance payments. The employees were allowed to participate in the program despite the Site's established need for retaining employees in critical positions -- science, engineering and information technology fields.

To address these matters, we made two recommendations to the Acting Manager, Savannah River Operations Office.

MANAGEMENT REACTION

In comments on a draft of this report, SRO officials concurred with the report recommendations and identified corrective actions that will be taken to address our recommendations. Management's comments are included in their entirety at Appendix C.

Attachment

cc: Deputy Secretary
Under Secretary of Energy
Chief of Staff
Acting Manager, Savannah River Operations Office
Director, Office of Risk Management, CF-80
Team Leader, Office of Risk Management, CF-80
Audit Resolution Specialist, Office of Risk Management, CF-80

TABLE OF CONTENTS

INTRODUCTION AND OBJECTIVE

The Department of Energy's (Department) Savannah River Site (Site), located in Aiken, South Carolina, is dedicated to environmental management and cleanup; nuclear weapons stockpile stewardship; and, nuclear materials disposition in support of the U.S. nuclear non-proliferation efforts. The current management and operating contractor for the Site is Savannah River Nuclear Solutions, LLC. One of the former management and operating contractors was Washington Savannah River Company, LLC (WSRC).

With the end of the Cold War, the Department shifted its efforts from weapons programs to other areas, which necessitated a change in the contractor workforce requirements. In 1993, Congress approved Section 3161 of the National Defense Authorization Act (Act), which mandates that if a change in the workforce is necessary, the Department must develop a plan for workforce restructuring that will minimize the impact on the affected employees and the surrounding communities. Since the passage of the Act, the Department has managed numerous contractor workforce restructurings throughout its nuclear weapons production facilities. For example, three recent workforce restructurings occurred at the Site in Fiscal Years 2005, 2007 and 2009. The workforce restructurings at the Site cost the Department $35 million in severance pay and reduced the contractor workforce by 1,184 employees. Specifically, the 2007 workforce restructuring at the Site cost $9.7 million and resulted in the reduction of 312 contractor employees. WSRC was the Site's management and operating contractor at the time.

The contractual agreement between the Department and WSRC prohibited WSRC employees who were offered employment at comparable pay and benefits by any contractor or subcontractor performing the same or substantially the same type of work from receiving severance pay. The contract further stipulates that former WSRC employees, who had received severance pay and were subsequently rehired within a specified interval, were required to repay an appropriate portion of the severance payment.

The Office of Inspector General (OIG) received a hotline allegation that former WSRC employees had inappropriately received severance payments under the 2007 Savannah River workforce restructuring. It was alleged that these employees were subsequently rehired to perform in the same or similar functional job areas but were not required to repay appropriate severance money. At the time the hotline allegation was received, the OIG's Office of Investigations was in the process of reviewing a similar allegation received from Savannah River Operations Office (SRO) officials. The OIG's Office of Inspections initiated an inspection to consolidate the information and review the facts and circumstances regarding both allegations.

The OIG has previously conducted several reviews that identified concerns with contractor workforce restructuring programs and severance payments at the Idaho National Laboratory and Department-wide. The related prior reports are identified in Appendix B.

SUMMARY

We found that 37 former WSRC employees who participated in the 2007 workforce restructuring inappropriately received approximately $1.1 million in severance payments. We believe that these costs, which were reimbursed by the Department, may be unallowable and should be recovered by the Department. Specifically, we found that:

- Contrary to the WSRC contract with the Department, 21 former WSRC employees who participated in the 2007 workforce restructuring were subsequently rehired and not required to repay approximately $300,000 in severance payments. These employees were rehired to perform the same or substantially the same job functions including WSRC consultants, staff augmentation under WSRC contracts, or WSRC subcontractors**.** The employees were also rehired within a timeframe that required them to repay $300,000 of the severance money. However, none of the former employees were required to return any portion of the severance money. The $300,000 estimate was based on a formula which relied upon the relationship between the duration of severance pay and the actual separation time. For example, if an employee received 26 weeks of severance pay and was rehired after being separated for 20 weeks, the contract required that the employee return the equivalent of 6 weeks in severance pay.

- An additional 16 employees who participated in the 2007 workforce restructuring received $780,000 in severance payments. These employees were allowed to participate in the program despite the Site's established need for retaining employees in critical positions.

In response to these findings, SRO officials indicated that they anticipate conducting a full review of this matter to include making a determination on the $1.1 million in questioned costs.

FORMER EMPLOYEES DID NOT REPAY SEVERANCE PAYMENTS

We found that 21 former WSRC employees who participated in the 2007 workforce restructuring were subsequently rehired, but they were not required to repay approximately $300,000 in severance payments. These employees were rehired to perform the same or substantially the same job functions, including WSRC consultants, staff augmentation under WSRC contracts, or WSRC subcontractors. As such, these employees were rehired within a timeframe that would have required them to repay $300,000 in severance payments.

We identified the 21 individuals by accessing the badge office database to determine the number of 2007 workforce restructuring participants who were re-issued Site access badges. Since we limited our review to those rehires who were issued Site access badges, our review does not include those individuals, if any, who returned as consultants, in staff augmentation positions or as subcontractors in off-site locations.

The Department's management and operating contract with WSRC prohibited employees who transferred to another facility, subsidiary or affiliate of the contractor from receiving severance payment. The contract further prohibited employees from receiving severance payment who were offered employment at comparable pay and benefits by any contractor or subcontractor performing the same or substantially the same statement of work contained in the contract. Moreover, the contract required former Site contractor employees who had received federally-funded severance pay and were subsequently rehired within a specified interval to repay an appropriate portion of the severance. Contrary to the contract, our review revealed that the 21 former employees performing the same or similar type work as they previously performed for WSRC prior to the workforce restructuring returned to the Site.

Our review of the "Savannah River Site Workforce Management Strategy FY 2007 Plan" (2007 Plan) determined that the Plan was inconsistent with the contract. Specifically, the Plan did not include any provisions on the repayment of severance pay if a former employee returned in a consultant, augmentation or subcontractor position other than under a parent company or an affiliate nor did it address comparable pay and benefits. Further, the 2007 Plan's section on "*Questions & Answers (Q&A)"* indicated that the severance pay would only be impacted if the employee were to accept a job with WSRC's parent company or an affiliate. The Q&A listed the following five parent companies -- Washington Group International, Bechtel, BNG America, BWXT, or CH2MHILL -- but did not identify the affiliates. In addition, the 2007 Plan did not address the repayment of severance pay for employees rehired under other Department contractors or subcontractors.

When interviewed regarding recouping the severance funds, senior WSRC officials indicated that under the 2007 Plan, former employees would only be required to repay severance money if they were a "direct-hire" to WSRC or an affiliate. The officials also stated that the 2007 Plan did not prohibit employees from returning in other positions including consultants or staff augmentation. Therefore, WSRC officials made no effort to recoup severance money when the 21 employees were rehired in the various consultant, staff augmentation and subcontractor positions. We noted that the 2007 Plan and WSRC officials' position was inconsistent with the contract.

Senior SRO officials indicated they were not aware of the extent to which former WSRC employees who participated in the 2007 workforce restructuring were returning to the site to work for WSRC or its contractors. These officials further stated that WSRC may not have been in compliance with the terms of the management and operating contract with the Department by rehiring former WSRC employees who received severance payments to conduct the same type or similar type of work as they previously conducted. Specifically, senior SRO officials stated that the contract addressed the contractor's responsibility regarding reduction or recoupment of severance payments if the employee was hired to perform the same type of work.

Senior SRO officials further stated that the 2007 Plan was intended to assist in reducing the "footprint" at the Site. The officials also stated that they considered the individuals hired in consultant, staff augmentation and subcontractor positions as working for the contractor and subsequently not reducing the footprint. The officials also indicated that it was not the intent of the workforce restructuring to reduce the number and costs of direct hire employees while increasing the numbers and costs associated with hiring personnel to fill consulting and staff augmentation positions. These officials stated that they were not involved in the execution of the 2007 workforce restructuring.

Senior SRO officials indicated that, upon receipt of our report, they would assess whether the $300,000 would be considered a disallowed cost. Additionally, senior officials indicated that the 2009 Plan eliminated the ambiguity in the 2007 Plan as it relates to reemployment. Specifically, the 2009 Plan included a one-year restriction on employees returning to work for the Department, Savannah River Nuclear Solutions, Washington Savannah River Company, Bechtel Savannah River, Incorporated, or any other contractor or subcontractor that performed work under a contract with the Department. The 2009 Plan further states that if employees were hired in any of the aforementioned capacities, they would be required to repay a pro rata portion of all the severance money they received.

RESTRICTED EMPLOYEES PAID SEVERANCE

In addition to the 21 rehired employees, we identified 16 restricted position employees who were allowed to participate in the workforce restructuring and received approximately $780,000 in severance payments. These employees were allowed to participate in the program despite the Site's established need for retaining critical employees in engineering positions.

Specifically, the "*M&O* [Management and Operating] *Engineering Assessment and Improvements Report*," (March 28, 2007) highlighted serious organizational concerns surrounding the contractor's engineering program. The Assessment Report indicated that the engineering attrition had reduced the relative capability to support mission needs, and that hiring, training and development programs had not kept up with the engineering attrition. In responding to the Assessment Report, WSRC acknowledged these concerns and asserted recruitment, retention and training programs were being implemented to address the problems and build engineering capability. Yet, within 4 months of issuing this Assessment Report, WSRC allowed 10 engineers to participate in the 2007 workforce restructuring. These 10 engineers were a part of the 16 restricted employee positions. The remaining six restricted employees were in the science fields.

Our review of the 2007 Plan revealed that elements of the Plan were inconsistent regarding exempting critical skills, functions and/or individuals from the workforce restructuring. In general, the 2007 Plan indicated that there was a need to retain the highly skilled workers (specifically engineers and scientists) because their skills were critical to nuclear material stabilization. It further indicated that the restrictions, in part, were based on WSRC's continuing demand for technical and scientific talent and their ability to retain these individuals in a competitive market. In addition, the 2007 Plan stated that it was crucial to retain experienced personnel and it would be "counter-productive to make these segments of the employee population eligible" for the workforce restructuring. Yet, the 2007 Plan included provisions that ultimately allowed the highest grade level employees in these critical mission fields to participate in the 2007 workforce restructuring, but restricted mid-level employees from participating. When interviewed by the OIG about the 16 restricted employees, a senior WSRC official stated that the prohibitions applied to certain grade levels within critical positions. Therefore, only persons occupying the specified grade levels were restricted from participating in the workforce restructuring. The official maintained that the 16 employees identified during our inspection were allowed to participate because these employees were not in the restricted grade levels and were, therefore, entitled to severance payments. Although the engineers were not in the restricted grade levels, they were, however, in the highest grade levels and therefore the most experienced. Paying these senior engineers severance appeared to be counterproductive to WSRC's efforts to recruit and train employees in this critical category. In addition, WSRC would have been required to subsequently recruit, train or pay retention bonuses to the same category of employees (engineers) to ensure mission accomplishment.

In our discussions with senior Department officials, they stated that they were unaware that any employees in restricted positions participated in the 2007 workforce restructuring. They agreed that this issue warranted further review, and if determined that employees in critical positions received $780,000 in severance pay, this payment could possibly be viewed as disallowed cost.

RECOMMENDATIONS

We recommend the Acting Manager at the Savannah River Operations Office:

1. Conduct a review to determine the full extent of consulting, subcontract and staff augmentation positions occupied by WSRC employees who left during the FY 2007 workforce restructuring and determine if severance money of $300,000 paid to these employees should be deemed a disallowed cost.

2. Conduct a review of the circumstances under which the employees in critical positions were approved to participate in the FY 2007 workforce restructuring and determine if severance money of $780,000 paid to these employees should be deemed a disallowed cost.

MANAGEMENT AND INSPECTOR COMMENTS

In comments on a draft of this report, Savannah River Operations Office officials concurred with the report recommendations. SRO management identified corrective actions that will be taken to address our recommendations. These officials also suggested that the OIG delay issuance of the report in order to include the completed corrective actions with the exact determination of unallowable costs and any subsequent off set costs against the contractor.

Management's comments are included in their entirety at Appendix C.

We consider SRO's comments responsive to our report recommendations. The OIG advised SRO management that we will not delay issuance of the final report but we will monitor the corrective actions in the Departmental Audit Tracking System until they are deemed complete.

SCOPE AND METHODOLOGY

As part of this inspection, we interviewed Federal and contractor officials and reviewed Federal laws governing workforce restructuring and employee benefits. The inspection fieldwork was conducted from April 2009 through March 2010.

To accomplish the inspection objective, we reviewed:

- Applicable Federal and Departmental policies and regulations related to workforce restructuring and severance payments;
- Contract procedures pertaining to workforce restructuring and severance payments;
- Prior OIG and Government Accountability Office reports on workforce restructuring and severance payments; and,
- The FY 2007 WSRC workforce restructuring participants list.

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

PRIOR REPORTS

The following are prior Department of Energy Office of Inspector General reports:

- Letter Report on "*Contractor Severance Plans at the Department of Energy*," (OAS-L-09-04, February 2009). The audit was conducted to determine whether the Department had a consistent approach to reimbursing contractor employee involuntary separation severance benefit costs. The audit concluded that based on an evaluation of 23 contractor plans, that the Department did not have a consistent approach to workforce restructuring to ensure reasonable and equitable treatment of separated employees.

- Audit Report on "*Voluntary Separation Program at the Idaho Cleanup Project*," (DOE/IG-0765, May 2007). The audit was conducted to determine whether the cost and benefits associated with Idaho National Laboratory's voluntary separation program were consistent with similar efforts conducted at other Department facilities and whether the project retained the necessary skill mix to accomplish the mission objectives. The audit concluded that the program was exceptionally costly and, in certain respects, inefficient. Specifically, the Idaho program had: 1) significantly higher incentives than comparable Department programs; 2) costly incentives did not have analytical support to justify the additional benefits paid; and, 3) critical skills were not retained to accomplish the mission.

We did not identify any reports issued by the Government Accountability Office within the past five years that had similar findings.

DOE F 1325.8

United States Government | Department of Energy (DOE)

memorandum

Savannah River Operations Office (SR)

DATE: APR 0 1 2010

REPLY TO
ATTN OF: FET (Paul Lovick, (803) 952-6195)

SUBJECT: Draft Inspection Report on "Severance Repayments at Savannah River Site (SRS)" (S09IS016), (Your Memorandum. 03/11/10)

TO: Sandra D. Bruce, Assistant Inspector General for Inspections (IG-40), HQ

Thank you for giving DOE-SR the opportunity to comment on the subject report. In this draft inspection, the Office of Inspector General (OIG) evaluated an allegation that former Washington Savannah River Company (WSRC) employees, who had received severance payments under the 2007 Savannah River workforce-restructuring program and were subsequently rehired to perform in the same or similar functional job areas, were not required to repay appropriate severance money when rehired. This inspection concluded that 37 former WSRC employees who participated on the 2007 workforce restructuring program were not required to repay approximately $1.1 Million severance payments resulting in potential disallowed costs that may be recovered by the Department.

GENERAL COMMENTS

Since this inspection (originally discussed with OIG Investigations at SRS) was initiated in response to a request for OIG assistance by the Contracting Officer (CO) and the Director, Office of Acquisition Management, DOE-SR requests that the OIG continue to assist by providing further consultation so that the CO can determine exact amounts of unallowable costs and make an appropriate set-off against funds due this contractor by the Government. It is also recommended that the OIG delay issuance of this report until such set-offs have been completed so that the report can state the exact action taken with due credit given to the OIG for assisting the CO with this contractual remedy.

MONETARY IMPACT

DOE-SR requests the two recommendations be combined to eliminate the requirement for additional reviews following the OIG Inspection. A CO determination is what should follow the final identification of the amount due DOE that is based on the information gathered by the OIG. The entire costs associated with any severance pay for rehires, regardless of their protected status or not, would be unallowable by the Government in accordance with contract provisions.

RECOMMENDATIONS

RECOMMENDATION 1

The Manager, SR conduct a review to determine the full extent of consulting, subcontract and staff augmentation positions occupied by WSRC employees who left during the 2007 workforce restructuring and determine if severance money of $300,000 paid to these employees should be deemed a disallowed cost.

Ms. Bruce 2 APR 0 1 2010

Management Response:

DOE-SR concurs.

Action Plan: The Acquisition Operations Division, Contractor Industrial Relations Team and a Contract Specialist from the Contracts Management Division will coordinate with the OIG and review the OIG records used to compile these findings and recommend to the CO whether the severance money of $300,000 should be a disallowed cost.

Estimated Completion Date: September 30, 2010.

RECOMMENDATION 2

The Manager, SR conduct a review of the circumstances under which the employees on the restricted list were approved to participate in the 2007 Workforce Restructuring Plan and determine if severance money of $780,000 paid to these employees should be deemed a disallowed cost.

Management Response:

DOE-SR concurs.

Action Plan: The Acquisition Operations Division, Contractor Industrial Relations Team and a Contract Specialist from the Contracts Management Division will coordinate with the OIG and review the OIG records used to compile these findings and recommend to the CO whether the severance money of $780,000 should be a disallowed cost.

Estimated Completion Date: September 30, 2010.

If you have any questions, please contact me, or have your staff contact Renee R. Alvis at (803) 952-9349, or Paul Lovick at (803) 952-6195.

Jack R. Craig
Acting Manager

FET:PL:rsh

FET-10-0007

Attachment:
Comments on OIG Draft Report

**OFFICE OF ENVIRONMENTAL MANAGEMENT
COMMENTS ON OFFICE OF INSPECTOR GENERAL (OIG) DRAFT REPORT
SEVERANCE REPAYMENTS AT THE SAVANNAH RIVER SITE (S09IS016)**

SEVERENCE PAY (Section J, Appendix A)

Washington Savannah River Company (WSRC) contract requirements, as written in sub-Section E, paragraph 2, "separation pay benefits are not payable when:

(1) the employee accepts employment at comparable pay and benefits for same scope of work"

WSRC contract requirements. Subsection E. paragraph 3, provides further guidance in no employee

(1) who accepts transfer to another facility. subsidiary or affiliate of the contractor,
(2) who is offered employment at comparable pay and benefits by any contractor or subcontractor performing the same or substantially the same statement of work contained in this contact in whole or part, ...Shall be eligible for severance pay under this contract.

As a consequence, the severance payments made by WSRC to employees contrary to the above are unallowable. Department of Energy Savannah River Operations Office (DOE-SR) agrees with the reviewers on this issue.

MISSION CRITICAL POSITIONS (WSRC-WORKFORCE RESTRUCTURING (WFR) PLAN PAGES 3 & 4)

The contractor identified the need to retain of certain technically skilled and most experienced employees. These individuals were provided additional salary to keep them on site. In the WFR plan, the contractor identified specific groups of employees that "will not be able to participate in the Self Select Program".

As a consequence, the severance payments made by WSRC to employees contrary to the above are unallowable. DOE-SR agrees with the reviewers on this issue.

IG Report No. INS-O-10-02

CUSTOMER RESPONSE FORM

The Office of Inspector General has a continuing interest in improving the usefulness of its products. We wish to make our reports as responsive as possible to our customers' requirements, and, therefore, ask that you consider sharing your thoughts with us. On the back of this form, you may suggest improvements to enhance the effectiveness of future reports. Please include answers to the following questions if they are applicable to you:

1. What additional background information about the selection, scheduling, scope, or procedures of the inspection would have been helpful to the reader in understanding this report?

2. What additional information related to findings and recommendations could have been included in the report to assist management in implementing corrective actions?

3. What format, stylistic, or organizational changes might have made this report's overall message clearer to the reader?

4. What additional actions could the Office of Inspector General have taken on the issues discussed in this report which would have been helpful?

5. Please include your name and telephone number so that we may contact you should we have any questions about your comments.

Name ______________________________ Date ________________________________

Telephone __________________________ Organization __________________________

When you have completed this form, you may telefax it to the Office of Inspector General at (202) 586-0948, or you may mail it to:

Office of Inspector General (IG-1)
Department of Energy
Washington, DC 20585

ATTN: Customer Relations

If you wish to discuss this report or your comments with a staff member of the Office of Inspector General, please contact Felicia Jones at (202) 586-7828.

This page intentionally left blank.