



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

# Inspection Report

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## Procurement Internal Controls at Los Alamos National Laboratory

DOE/IG-0903

March 2014



**Department of Energy**  
Washington, DC 20585

March 26, 2014

MEMORANDUM FOR THE MANAGER, LOS ALAMOS FIELD OFFICE, NATIONAL  
NUCLEAR SECURITY ADMINISTRATION

*Gregory H. Friedman*

FROM: Gregory H. Friedman  
Inspector General

SUBJECT: INFORMATION: Inspection Report on "Procurement Internal  
Controls at Los Alamos National Laboratory"

BACKGROUND

Los Alamos National Laboratory (LANL), a Department of Energy multidisciplinary research institution focusing on national security, is operated by Los Alamos National Security, LLC (LANS). LANL enhances national security by ensuring the safety and reliability of the U.S. nuclear stockpile, developing technologies to reduce threats from weapons of mass destruction, and solving problems related to energy, environment, health and global security concerns. The Los Alamos Field Office provides Federal oversight of LANL.

LANL employs over 10,000 personnel that include staff, support contractors and consultants, craft workers, researchers, students and others. Consultants are experts who render services on a short-term or intermittent basis. Department of Energy contractors frequently use consultants that are deemed to possess unique capabilities to assist in advancing their various missions. Throughout the life of consultant agreements, Department contractors are required to monitor performance and ensure that consulting services have been received prior to payment.

The Office of Inspector General received an allegation from the Los Alamos Field Office concerning a possible conflict of interest in a consultant agreement awarded to an individual who was the spouse of a senior manager at LANL. It was alleged that neither the consultant nor the senior manager disclosed their spousal relationship to LANL. Further, it was alleged that work was performed before the consultant agreement was signed and also that hours were charged by the consultant for work that was not performed. We initiated this inspection to determine the facts and circumstances surrounding the allegations.

RESULTS OF INSPECTION

The allegations were substantiated. We found that LANL inappropriately awarded a sole source consultant agreement to an individual who was the spouse of a senior LANL manager. We also discovered that the consultant did not disclose his spousal relationship with the senior LANL manager at the time of award. In addition, the senior manager did not notify LANL ethics officials or her superior of a potential conflict of interest involving her spouse's consulting agreement until 5 months after the consultant agreement was awarded.

Further:

- Work was performed before the consultant agreement was signed. Specifically, we found that the consultant was paid \$4,700 for services performed prior to the award of the consultant agreement; and
- The consultant charged for work that was not performed. Specifically, the consultant charged 2 hours for a discussion on environmental matters that never took place.

These two events were included in the initial \$13,800 invoice submitted to LANL by the consultant.

Prior to referring these issues to the Office of Inspector General, the Los Alamos Field Office brought its concerns to the attention of LANS. Subsequently, LANS determined that the consultant agreement did not conform to prescribed LANL procedures and processes. As a result, LANS reimbursed the Federal government \$23,100, the total amount paid to the consultant. LANS officials also indicated that they had initiated corrective actions intended to prevent similar situations from occurring in the future.

#### Consultant Agreement

In July 2012, LANL prepared a *Consultant Agreement Request Form*, which included a Statement of Work, Procurement Description and a limited Sole Source Justification statement. The Form was signed by a LANL official in July 2012 and a consultant agreement was awarded to the consultant on September 11, 2012. The Form established that the consultant would serve as the LANL Technology Transfer Point of Contact for Regional Technology Infrastructure.

#### Conflict of Interest

While we found that the consultant's relationship with the senior LANL manager was well known by certain LANL officials, the consultant did not formally disclose his covered relationship. Notably, the consultant was introduced by LANL officials as the spouse of a senior LANL manager during a tour of the Technology Transfer Group in November 2011. The consultant, however, did not ensure that the relationship was properly reflected in the *Representations and Certifications* document completed at the time the consultant agreement was completed. That document contained a *Personal Conflicts of Interest Certification* section, which provided that:

An affirmative response in the following certification will require LANS to evaluate your offer to determine whether a conflict of interest exists. A determination that a conflict of interest does exist may necessitate rejection of your offer. The fact that a LANS' employee, former employee, or near relative of an employee owns, controls, or has a significant financial interest in your organization will not, in and of itself, necessarily be cause for rejection of an offer.

The consultant had the option to mark one of two certification boxes. The first certification box stated "An Employee or a Near Relative does own, control, or have Significant Financial Interest in the Offeror's organization." The second certification box stated "An employee or a Near Relative does not own, control, or have a Significant Financial Interest in the Offeror's organization." If the first box was marked, the employee or near relative was required to be identified together with the LANS entity that employed the individual. However, the consultant marked the second box, thereby failing to disclose his spousal relationship.

Despite his demonstrated knowledge of the consultant's spousal relationship, a LANL official present during the November 2011 tour of the Technology Transfer Group failed to ensure that apparent conflict of interest issues were adequately addressed. In fact, that LANL official completed and signed the *Conflict of Interest and Organizational Conflict of Interest (COI and OCI) Determination for Consultant Contracts* section of the *Consultant Agreement Request* sent to LANL procurement personnel for the initiation of a contract. In completing this section of the *Consultant Agreement Request*, the LANL official had the opportunity to provide supplemental information in response to a series of questions regarding the consultant's activities, including questions on preferential treatment and influence. Specifically, if the official answered "yes" to any of the 15 questions included on the form, an explanation was to be provided on a supplemental sheet. In response to the question, "Will the individual be isolated from influence on the scope of work or other changes to the contract after award," the LANL official responded "yes." However, no explanation was provided on the supplemental sheet, which could have alerted LANL procurement personnel to the fact that the consultant was the spouse of a senior manager.

### Senior Manager Notification

Compounding problems with the failure to address conflict of interest issues at the time of the award, we found that the senior manager, who was the spouse of the consultant, did not notify LANL ethics officials or her superior of a potential conflict of interest until 5 months after the consultant agreement was awarded. Title 48, Code of Federal Regulations, Part 970.0371-6, *Incompatibility between regular and private interests*, states that employees of a management and operating contractor are expected to disclose any incompatibilities between duties performed for the contractor and their private interests. Consistent with the terms of its contract and the provisions of Title 48, LANL developed Procedure P723, *Conflicts of Interest*. This Procedure defined Laboratory-wide processes to assist employees in identifying, disclosing, and avoiding conflicts of interest. This Procedure stated that a personal conflict of interest arises when an employee's outside financial, business or personal relationships are inconsistent with the interests of LANS or the government, and as a result, his or her independent judgment related to Laboratory matters may become compromised. This Procedure required that employees who find themselves in a personal conflict of interest situation notify their manager or the Ethics and Audits Group and refrain from making or attempting to influence any Laboratory decisions that may materially affect their financial, business, or personal interests.

In February 2013, the senior manager was required to update Los Alamos Form 1991, *Conflict of Interest (COI) Disclosure for Senior Managers and Advisors*. This form states:

Do you, any immediate family member, or any member of your household have any personal interest in the outcome of any procurement action, license transaction, litigation, or enforcement action in which LANS/LANL is a party or otherwise is involved?

The senior manager requested a determination on the reporting requirement from a LANL official and was advised to report the personal conflict of interest. Then, nearly 5 months after her spouse's consultant agreement was awarded, the senior manager reported that a personal conflict of interest existed by responding with a yes on Form 1991 and stating that "My husband [name of spouse] has a small consultant agreement with the lab."

### Invoice Submission

We found that the consultant submitted an invoice that included services performed prior to the start of the consultant agreement, including 2 hours for a discussion on environmental matters that never took place. Specifically, the consultant submitted two invoices for services performed, including meetings with various Government officials. The total amount of these two invoices was \$23,100. The first invoice totaled \$13,800 and was dated December 10, 2012. The second invoice totaled \$9,300 and was dated March 1, 2013. Of the \$13,800 included in the first invoice, \$4,700 was for services performed prior to the September 11, 2012, award of the consultant agreement. The \$4,700 included 12 charges covering 4.7 days of work effort from August 8, 2012 to September 10, 2012.

In addition, we found that these services included a charge for a 2-hour meeting on August 24, 2012, with a Federal official in Espanola, New Mexico. However, the Federal official told us that he was not in Espanola, New Mexico, on August 24, 2012. We were told that he and his wife attended the Santa Fe Opera with the consultant and the consultant's spouse on that date. The Federal official also said that while at the Opera, he did not realize that the consultant had an agreement with LANL. It should be noted that when questioned about the hours charged on August 24, 2012, the consultant agreed that the hours charged probably should not have been billed.

### Corrective Actions

LANL completed an internal audit of consultant agreements on May 10, 2013. The purpose of the audit was to determine if controls over the execution and administration of LANS consultant agreements were adequate to ensure compliance with terms and conditions of the consultant agreements, fair and reasonable pricing, and compliance with Federal and Department regulations, prime contract requirements and LANS' policies and procedures. To address the issues relating to spousal relationships, the audit identified the following corrective actions:

- Formation of a Review Team in May 2013 to pre-screen all requests for service contracts to be awarded to named individuals; and

- Preparation of a communication to management by the Ethics and Audits Group concerning the requirements of LANL Procedure P723 to disclose interim changes in Forms 1990, *Conflict of Interest (COI) Certificate* and 1991, *Conflict of Interest (COI) Disclosure for Senior Managers and Advisors*, and the requirement to obtain the Ethics and Audits Group approval to enter into subcontracts with spouses of LANL employees.

In addition, on May 22, 2013, the LANL Director issued a Laboratory-wide e-mail stating that when circumstances dictate, contracting for a named specialist, whether through consultant agreements, task order agreements, staff augmentation, or otherwise, will be examined by a Review Team to prescreen those requests prior to awarding a subcontract. The Review Team was to be comprised of employees in oversight roles in Acquisition Services Management, LANL Counsel, and the Ethics and Audits Group.

### CONTRIBUTING FACTORS AND IMPACT

The issues identified in this report occurred, in part, because a LANL official who sponsored the consultant agreement failed to recognize and address apparent conflict of interest issues. Notably, that same LANL official who completed and signed the *COI and OCI Determination for Consultant Contracts* section of the *Consultant Agreement Request* failed to follow existing guidance and did not provide required supplemental information. As a result, an opportunity to alert procurement personnel to the fact that the consultant was the spouse of a senior LANL manager was missed, and LANS did not evaluate the consultant's offer to determine if a conflict of interest existed. Therefore, an ethics review was not initiated. Ultimately, the consultant agreement was awarded without consideration of the spousal relationship.

Also, both the consultant and the senior LANL manager did not fully understand the requirements related to conflicts of interest. In particular, during the LANL internal audit, the consultant indicated that he thought the issue of conflict of interest only applied to organizations such as corporations, not individuals. In addition, the senior manager explained that she did not know that she had to report the personal conflict of interest related to her spousal relationship until she was required to update her LANL Form 1991.

As to the charging issues we observed, the consultant told a LANL official that he believed that he could charge LANL for services performed after the *Consultant Agreement Request Form* was signed, but before the consultant agreement was actually awarded. However, both LANL and Los Alamos Field Office officials acknowledged that invoicing for services prior to award was inappropriate. LANS acknowledged that no reimbursable work should have been performed prior to the effective date of the consultant agreement. Subsequently, LANS determined that the consultant agreement did not conform to prescribed LANL policies and procedures, and the consultant agreement was terminated. A check for \$23,100 was then drafted by LANS to reimburse the Federal Government the total cost of the consulting agreement and corrective actions were identified.

## RECOMMENDATIONS

To address the issues identified in our report and to help prevent recurrence, we recommend that the Manager, Los Alamos Field Office, ensures that LANL implements the proposed corrective actions relating to: (1) the acquisition of service contracts awarded to individuals having near-relatives or spouses working at LANL; and (2) the disclosure of potential conflicts of interest.

## MANAGEMENT COMMENTS

Management agreed with the findings and recommendations noted in the report. Management indicated that the Los Alamos Field Office has supervised the implementation of the recommended corrective actions and will engage in ongoing oversight to evaluate the sustained effectiveness of these actions. Management also indicated that it will ensure that lessons learned from this incident are shared across the Nuclear Security Enterprise. Management's comments are included in Attachment 2.

## INSPECTOR COMMENTS

We found management's comments and planned corrective actions to be responsive to our report findings and recommendations.

Attachments

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

## **OBJECTIVE, SCOPE AND METHODOLOGY**

### **OBJECTIVE**

The objective of this inspection was to determine the facts and circumstances surrounding allegations concerning a conflict of interest in a consulting agreement awarded to a consultant who was the spouse of a senior manager at Los Alamos National Laboratory (LANL). The Office of Inspector General received the allegations from the Los Alamos Field Office on March 14, 2013.

### **SCOPE**

This inspection was conducted from March 2013 to January 2014 at LANL in Los Alamos, New Mexico and at the National Nuclear Security Administration's Albuquerque Complex in Albuquerque, New Mexico. The Inspection was conducted under Office of Inspector General Project Number S13IS009. To accomplish the inspection objective, we:

- Reviewed and analyzed the consultant agreement for the LANL Technology Transfer Point of Contact for Regional Technology Infrastructure, including applicable invoices;
- Reviewed relevant criteria including documents, procedures and prior reports; and
- Received briefings and conducted interviews with contractor and Federal officials.

### **METHODOLOGY**

This inspection was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*, January 2012. Those standards require that we plan and perform the inspection to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions and observations based on our inspection objective. We believe the evidence obtained provides a reasonable basis for our conclusions and observations based on our inspection objective. Accordingly, the inspection included tests of controls and compliance with laws and regulations to the extent necessary to satisfy the inspection objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our inspection. Finally, we relied on computer processed data, to some extent, to satisfy our objective. We confirmed the validity of such data, when appropriate, by reviewing source documents and conducting physical observations.

An exit conference was waived by NNSA management on January 9, 2014.



**MANAGEMENT COMMENTS**



**Department of Energy**  
**National Nuclear Security Administration**  
Washington DC 20585

March 12, 2014

OFFICE OF THE ADMINISTRATOR

MEMORANDUM FOR SANDRA D. BRUCE  
ASSISTANT INSPECTOR GENERAL  
FOR INSPECTIONS

FROM: EDWARD BRUCE HELD   
ACTING ADMINISTRATOR

SUBJECT: Inspector General Draft Inspection Report Titled, *Procurement Internal Controls at Los Alamos National Laboratory* (S13IS009/2013-03370)

Thank you for the opportunity to review and comment on the subject draft report. The National Nuclear Security Administration (NNSA) appreciates the Inspector General's willingness to independently review the issues referred by the Los Alamos Field Office, and agrees with the findings and recommendations noted in the report.

In May 2013 Los Alamos National Laboratory (LANL) formed a review team to pre-screen all requests for service contracts to be awarded to individuals having near-relatives or spouses working at LANL. In addition, LANL's Ethics and Audits Group issued a communication to Laboratory management re-emphasizing the conflict of interest disclosure procedures, and the requirement to obtain prior approval to enter into subcontracts with spouses of LANL employees. Also, as noted in the report, the Laboratory has reimbursed the Government all amounts paid to the consultant. Finally, we note that the employee recognized their lapse in judgment and voluntarily resigned.

The Los Alamos Field Office has supervised the implementation of the recommended corrective actions and will engage in ongoing oversight to evaluate the sustained effectiveness of these corrective actions. Further, findings identified in this report were considered in developing the Laboratory's fiscal year 2013 Performance Evaluation Report, and we are evaluating whether any additional management action may be necessary given the results of the Inspectors' review.

We take seriously our responsibility to ensure our federal and contractor staff adheres to the highest standards for ethical conduct and will ensure that lessons learned from this incident are shared across the Nuclear Security Enterprise. If you have any questions, please contact Dean Childs, Director, Audit Coordination and Internal Affairs at 301-903-1341



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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.

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