



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

SPECIAL INQUIRY

Alleged Misuse of FutureGen 2.0 Project Funds

OAS-L-15-10

August 2015



Department of Energy
Washington, DC 20585

August 10, 2015

MEMORANDUM FOR THE ASSISTANT SECRETARY, OFFICE OF FOSSIL ENERGY

April Stephenson

FROM: April G. Stephenson
Assistant Inspector General
for Inspections
Office of Inspector General

SUBJECT: INFORMATION: Special Inquiry: "Alleged Misuse of FutureGen 2.0 Project Funds"

BACKGROUND

Under the *American Recovery and Reinvestment Act of 2009* (Recovery Act), the Department of Energy (Department) awarded a \$1 billion cooperative agreement to the FutureGen Industrial Alliance (Alliance) for the FutureGen 2.0 Project (Project). The Project was intended to create the world's first near-zero emissions, commercial-scale, coal-fueled power plant. The Project included retrofitting an existing coal plant with clean coal technology and building infrastructure to capture, transport, and permanently store at least 90 percent of its CO₂ emissions. After successful completion of the Project's first phase, the Department, in February 2013, approved the start of Phase 2, which included final permitting and design activities. As of March 2015, the Department had expended more than \$180 million for the Project.

We received a complaint alleging that a Project subrecipient had misused funds in excess of \$10 million. Specifically, the complainant alleged the subrecipient (1) directed employees to mischarge labor to the Project without producing work, (2) spent funds during a period when it was known that there could be no beneficial work performed, (3) improperly billed for labor expenses, and (4) inflated overhead expenditures. We initiated a special inquiry to review the facts and circumstances surrounding the allegations.

RESULTS OF SPECIAL INQUIRY

We were unable to substantiate the first two allegations. During the course of our inquiry, we interviewed a number of the subrecipient's current and former employees, including contractor personnel, regarding these allegations. We received conflicting testimony in regard to management's direction to employees on charging to the Project. Although the conflicting testimony was troubling, the evidence was insufficient to support a conclusion that employees had actually charged time to the Project when they were not working on it. Additionally, we

were informed that during the time the mischarging allegedly occurred, significant front-end design work was underway. This appeared to contradict the complainant's assertion that beneficial work could not be performed.

We initiated, but did not complete, work associated with the remaining allegations. During the course of our work, we became aware that the Defense Contract Audit Agency (DCAA) had agreed to conduct an audit of costs incurred for fiscal years 2010, 2011, and 2012. We were informed by DCAA that the audit would include a review of the subrecipient's internal controls and address whether the subrecipient appropriately billed for labor and overhead expenses, the subjects of the remaining allegations. As such, we suspended our inquiries into these areas to avoid a duplication of effort. The information we gathered during our assessment has been discussed with the DCAA and the Contracting Officer for their consideration in assessing the subrecipient's costs reimbursed under the Project. We will continue to coordinate with DCAA during the course of its audit and, depending on the results, may reopen our inquiry at a later date.

In January 2015, after our inquiry had begun, the Department made a decision to discontinue funding for the Project citing insufficient time to complete it before the expiration of Recovery Act funds on September 30, 2015. We were informed that the Alliance was unable to complete the Project within established timeframes due to factors including legal challenges and its inability to secure necessary financing. During the course of our inquiry, the Contracting Officer began working with the Alliance to develop a closeout plan for the Project. However, Department officials expressed concerns regarding the potential for the Alliance, which was formed specifically to oversee this Project, to disband prior to award closeout. Given the amount of funding already expended and the issues outlined in the allegation, we believe continued vigilance during the closeout process is necessary to ensure that expenditures were reasonable, allowable, and allocable in accordance with the terms and conditions of the cooperative agreement.

RECOMMENDATIONS

Given the issues highlighted in the complaint and the subsequent decision to terminate the Project, we recommend that the Assistant Secretary for Fossil Energy direct the Contracting Officer to take the following actions:

1. Ensure that an incurred cost audit of the subrecipient's expenditures for fiscal years 2010 through 2015 is conducted and any questioned costs resolved before closeout of Alliance's cooperative agreement for the Project; and
2. Verify that entities are assigned legal and financial responsibility for their unresolved issues and closeout audits, in the event that the Alliance is dissolved before the Project is closed out.

MANAGEMENT RESPONSE

Management concurred with the report's recommendations and indicated that corrective actions were planned to address the issues in this report. Specifically, the Office of Fossil Energy will schedule an incurred cost audit of the subrecipient's expenditures for fiscal years 2010 through 2015. Additionally, the Office of Fossil Energy will coordinate with the Office of General Counsel to request identification of legal and contractual actions necessary for assigning legal and financial responsibility should the Alliance dissolve before the Project is closed out. Furthermore, if the Alliance should dissolve, the Department will assign legal and financial responsibility for any unresolved issues and closeout audits to a primary entity.

AUDITOR COMMENTS

The Department's comments and planned corrective actions were responsive to our recommendations. Management's comments are included in Attachment 1.

An exit conference was conducted with management on July 27, 2015.

Attachment

cc: Deputy Secretary
Under Secretary for Science and Energy
Chief of Staff

MANAGEMENT COMMENTS



Department of Energy
Washington, DC 20585

July 10, 2015

MEMORANDUM FOR APRIL G. STEPHENSON
 ASSISTANT INSPECTOR GENERAL FOR AUDITS
 OFFICE OF INSPECTOR GENERAL

FROM: ROBERT PAFF *Robert Paff*
 DIRECTOR
 OFFICE OF BUDGET AND FINANCIAL
 MANAGEMENT

SUBJECT: Response to Inspector General’s Draft Special Inquiry,
 “Alleged Misuse of FutureGen 2.0 Project Funds”

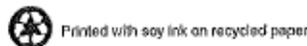
Thank you for the opportunity to review the Inspector General (IG) Draft Special Inquiry entitled “Alleged Misuse of FutureGen 2.0 Project Funds”. The following responses to your recommendations have been appropriately staffed with personnel from the Office of Advanced Technology Systems. The Office of Fossil Energy (FE) responses to recommendation 1 and 2 follow:

Recommendation 1: Ensure that an incurred cost audit of the subrecipient’s expenditures for fiscal years 2010 through 2015 is conducted and any questioned costs resolved before closeout of Alliance’s cooperative agreement for the Project.

Response: Concur. By October 31, 2015 FE will schedule an incurred cost audit for Fiscal Years 2010 through 2015 for the subrecipient. The auditor will be requested to provide a schedule for their audit by December 31, 2015. Once the timing of the audit is established, management will establish a decision date for resolution of any questioned costs.

Recommendation 2: Verify that entities are assigned legal and financial responsibility for their unresolved issues and closeout audits, in the event that the Alliance is dissolved before the Project is closed out.

Response: Concur. FE will contact the DOE Office of General Counsel (GC) by August 31, 2015 to request the identification of the legal and contractual actions that would be necessary for DOE to assign legal and financial responsibility to one or more entities other than the Alliance, if the Alliance is dissolved. To the extent that DOE is permitted and in the event that the Alliance is dissolved before the Project is closed out, DOE will assign legal and financial responsibility for any unresolved issues and closeout audits to a primary entity.



Please direct any questions regarding FE's responses to Darren Mollot, Director, Office of Advanced Technology Systems at 202-586-6837

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Office of Inspector General (IG-12)
Department of Energy
Washington, DC 20585

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