



OFFICE OF INSPECTOR GENERAL

U.S. Department of Energy

AUDIT REPORT

DOE-OIG-17-03

December 2016

BONNEVILLE POWER ADMINISTRATION'S CONTRACTOR WORKFORCE



Department of Energy
Washington, DC 20585

December 29, 2016

MEMORANDUM FOR THE ADMINISTRATOR, BONNEVILLE POWER
ADMINISTRATION

A handwritten signature in blue ink, appearing to read "Rickey R. Hass".

FROM: Rickey R. Hass
Acting Inspector General

SUBJECT: INFORMATION: Audit Report on "Bonneville Power
Administration's Contractor Workforce"

BACKGROUND

The Bonneville Power Administration (Bonneville) markets wholesale electrical power produced primarily from Federal hydro projects in the Pacific Northwest. In 2015, Bonneville's workforce consisted of approximately 3,000 Federal employees and approximately 3,100 contract workers. Bonneville acquires its contractor workforce through service contracts that directly engage the time and effort of a contractor whose primary purpose is to perform a task rather than furnish a product. Bonneville contracts for services in accordance with policies and procedures established in the Bonneville Purchasing Instructions under the authority of the *Bonneville Project Act*. As of June 2015, Bonneville's contract management system showed 1,921 active service contracts that totaled about \$2.6 billion.

In March 2015, the Office of Inspector General received a hotline complaint alleging contract, labor, and management irregularities at Bonneville, including the establishment of prohibited personal services contracts. Due to the significant number of contract workers, the amount spent on service contracts, and the seriousness of the allegations, we initiated this audit to determine whether Bonneville's contractor workforce is effectively and efficiently managed.

RESULTS OF AUDIT

We found that Bonneville had not always effectively and efficiently managed its contractor workforce. Specifically, based on the results of our judgmental sample of 20 of the 3,117 contract workers, review of documentation related to Bonneville's procurement of contract workers, and interviews with key personnel, we found that Bonneville had:

- Created prohibited personal services contracts by establishing improper employer/employee relationships with supplemental labor workers, one category of its contractor workforce. Contract terms and Bonneville's contract administration resulted

in the relatively continuous supervision and control of supplemental labor workers by Federal employees, key attributes of personal services contracts prohibited by the Purchasing Instructions.

- A risk that contract workers were inappropriately performing inherently governmental and critical work that should be reserved for Federal employees. While we did not identify specific examples where contractors were actually performing duties that should have been performed by Federal employees, we found multiple indicators suggesting that this risk existed.
- Weaknesses in its acquisition and administration of services contracts. Issues we noted included a lack of adherence to limitations on contract periods of performance, officials exceeding delegated authorities, a lack of contractor performance evaluations, inadequate financial monitoring, insufficient contract documentation, and poorly written statements of work.

In addition, our conclusions concerning personal services contracts substantiated one of the allegations included in the hotline complaint. However, we were not able or did not substantiate the other allegations included in the complaint.

The issues we identified occurred, in part, because of problems with the manner in which Bonneville managed and implemented its supplemental labor category of contract workers, lack of a strategic workforce plan, insufficient management and oversight of its contractor workforce, and an inadequate procurement control environment.

Creating personal services contracts instead of obtaining employees through direct hire or other procedures may violate civil service laws. Furthermore, the indicators that suggest contract workers may be performing inherently governmental and critical work that should be reserved for Federal employees places Bonneville at risk of not being able to maintain control of its mission and operations. Finally, Bonneville's weaknesses in the acquisition and administration of services contracts may affect its ability to obtain the best buy for each dollar spent.

Bonneville had completed or was in the process of implementing improvements related to its supplemental labor category of contract workers. For example, Bonneville had updated its Purchasing Instructions to clarify the prohibited use of personal services and contracting for inherently governmental functions. Bonneville also had ongoing improvements, such as developing mandatory annual training for Federal managers requesting supplemental labor workers and controls to prevent supplemental labor workers from performing functions designated as inherently governmental. Completing these improvements already identified by Bonneville's Office of Internal Audit along with the recommendations included in our report could reduce Bonneville's risk, enhance its operations, and optimize its workforce.

MANAGEMENT AND AUDITOR RESPONSES

Management concurred with the recommendations in the report and stated that some corrective actions had been completed and additional actions were planned. Management's comments were responsive to the recommendations.

Management's comments are included in Appendix 2.

cc: Deputy Secretary
Chief of Staff
General Counsel

BONNEVILLE POWER ADMINISTRATION’S CONTRACTOR WORKFORCE

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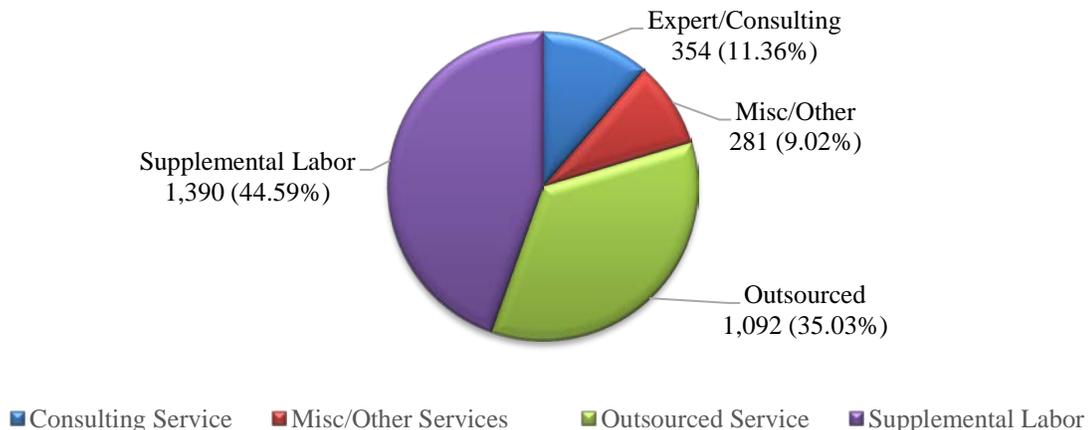
DETAILS OF FINDING

We found that Bonneville Power Administration (Bonneville) had not always effectively and efficiently managed its contractor workforce. Specifically, based on the results of our judgmental sample of 20 of the 3,117 contract workers, review of documentation related to Bonneville's procurement of contract workers, and interviews with key personnel, we found that Bonneville had:

- Created prohibited personal services contracts by establishing improper employer/employee relationships with contract workers.
- A risk that contract workers were inappropriately performing inherently governmental and critical work that should be reserved for Federal employees. While we did not identify specific examples where contract workers were clearly performing duties that should have been performed by Federal employees, we found multiple indicators suggesting that this risk existed.
- Weaknesses in its acquisition and administration of services contracts.

Bonneville is exempt from the requirements of the Federal Acquisition Regulation and is permitted to acquire goods and services using its own requirements published as the Bonneville Purchasing Instructions. As of June 2015, Bonneville identified approximately 3,100 contract workers, procured through service contracts, comprised of four distinct categories.¹

Contractor Workforce by Category
(as of June 2015)



¹Source was Bonneville's Human Resource Management Information System (HRMIS) that tracked non-Bonneville employees needing access to Bonneville's facilities or network. HRMIS data was used because it was the only source that included all categories of contract workers; however, Bonneville officials told us that the category of contract worker in HRMIS reflected the type of training required (hard copy or online) and would not necessarily reflect the contracted category of worker.

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- Supplemental labor – Contracted and billed on an hourly or daily basis to augment existing staff levels and/or fill gaps in the Federal workforce that typically performed work on Bonneville premises for long- or short-term duration. Examples of work included administrative and clerical, information technology, architecture and engineering, and other professional services.
 - Outsourced services – Contracted services where Bonneville did not manage or control the method of performance and transferred a significant degree of management responsibility to the external service provider. Examples of work included janitorial, cafeteria, security, and fitness center services.
 - Expert/consulting services – Acquired for professional expertise to perform discrete, well-defined projects of specific, limited, and normally short-term duration where Bonneville typically retained management responsibility. Examples of work included process improvement, specific information technology and architecture and engineering projects, legal matters, and annual financial audit services.
 - Miscellaneous/other services – Persons who provide other services, not necessarily under contract, that require access to Bonneville that is minimal, sporadic, and/or insignificant. Examples included delivery and garbage services, union and vendor representatives, and on-site and off-site supervisors.

Personal Services Contracts

We found that Bonneville had created prohibited personal services contracts by establishing improper employer/employee relationships with supplemental labor workers. Contract terms and Bonneville's contract administration resulted in the relatively continuous supervision and control of its supplemental labor workers by Federal employees, key attributes of personal services contracts prohibited by the Purchasing Instructions. Establishing such employer/employee relationships under personal services contracts may circumvent civil service laws, which require hiring Federal employees under competitive appointment or other allowable procedures.

Bonneville's level of involvement with the selection, retention, and compensation of its supplemental labor workers created relationships that typically occur between employers and employees. Specifically, Bonneville selected supplemental labor workers from a list of vendor-submitted candidates after reviewing résumés and conducting interviews, approved the replacement or reassignment of workers, released the services of workers without further obligation to the vendor, and was involved with determining increases to worker compensation. Bonneville's level of involvement with supplemental labor workers differed from outsourced services contracts where a vendor is typically responsible for the selection, retention, and compensation of its employees.

We found Bonneville's contract terms and administration of its supplemental labor workers met elements commonly used in the Federal Government to identify personal services contracts. In March 2016, Bonneville updated its Purchasing Instructions to include descriptive elements of actions that should be avoided and factors to determine whether a contract is personal in nature.

Based on the results of our judgmental sample of 20 of the 3,117 contract workers, review of documentation related to Bonneville's procurement of contract workers, and interviews with key personnel, we found that Bonneville's contract terms and administration of its supplemental labor workers met many of these descriptive elements. Specifically, supplemental labor workers typically:

- Performed work on-site unless a Bonneville manager specifically authorized performance of work off-site.
- Used Bonneville-furnished tools and equipment that included office furniture, supplies, and technology equipment (computers, smart phone, remote access, systems, and software).
- Performed services comparable to services performed by Bonneville's Federal workers and often worked together on many of the same projects.
- Filled needs that could reasonably be expected to last beyond 1 year. As of August 2015, 61 percent of supplemental labor workers had been in the same position for more than 1 year. Additionally, Bonneville allowed the extension of supplemental labor workers every 12 months for a total of 5 years and estimated that about 10 percent would remain in the exact same job for the full 5 years.
- Required supervision/direction and continuous contact from Bonneville Federal managers for day-to-day, job-related activities such as establishing work schedules, assigning daily duties, and communicating objectives, processes, and work-related expectations.

While the Purchasing Instructions stated that the sporadic, unauthorized supervision of only one of a large number of contractor employees might reasonably be considered not relevant, the relatively continuous Federal supervision of a substantial number of contractor employees would have to be taken strongly into account. We found Bonneville's contract terms and administration of its supplemental labor workers provided Federal managers relatively continuous supervision and control of its supplemental labor workers.

Bonneville's establishment of employer/employee relationships with contract workers had been previously identified. Specifically, in 2009, the Internal Revenue Service determined that some former employees who had been rehired as independent contractors were performing substantially equivalent duties as employees and were required to be treated as employees for Federal employment tax purposes. To address this concern, Bonneville updated the Purchasing Instructions in 2010 to require an analysis to determine whether proposed experts/consultants could be classified as independent contractors, and required contracts through third party supplemental labor contractors for any individuals that could not be classified as independent contractors. Although these actions may have satisfied income tax withholding requirements, we found that supplemental labor workers, including rehired former employees, were performing substantially equivalent duties as employees, a situation that could result in prohibited personal services contracts. As of August 2015, Bonneville's supplemental labor workforce included at least 100 former employees.

More recently, Bonneville's Office of Internal Audit (Internal Audit) released a June 2015 report on its review of the Supplemental Labor Management Office's compliance with procurement laws. In its report, Internal Audit noted that it appeared some of Bonneville's supplemental labor contractors had work characteristics that may not conform to procurement laws and had similarities to personal service contractors. Internal Audit recommended that Bonneville's Office of General Counsel issue a legal opinion regarding laws governing the acquisition of supplemental labor. In response to the report, the Office of General Counsel prepared legal advice reiterating that the Purchasing Instructions provide a legal framework for supplemental labor contracts, but contain restrictions that do not allow Bonneville to enter into personal services contracts.

Inherently Governmental and Critical Functions

We found that Bonneville was at risk for contract workers inappropriately performing inherently governmental and critical work that should be reserved for Federal employees. Comprising approximately one-half of Bonneville's overall workforce, contract workers are intimately involved in many operations critical to Bonneville's core mission. Bonneville's Talent Management Strategy stated that the majority of supplemental labor workers are in what have, in the past, been considered critical roles, such as information technology specialists in transmission operations. The Talent Management Strategy also stated that, in some cases, the organization manager considered supplemental labor workers to be single points of failure.

The Purchasing Instructions defined inherently governmental functions as those functions that are so intimately related to the public interest to require performance by Federal employees. Inherently governmental functions include activities that require either the exercise of discretion in applying Federal Government authority or value judgments in making decisions for the Federal Government. The Purchasing Instructions provided examples of inherently governmental functions that included determining Bonneville program priorities and budget requests, determining supplies or services to be acquired, administering contracts, and providing direction and control of Federal employees.

Although the Purchasing Instructions did not address critical functions, Office of Management and Budget's Policy Letter 11-01, *Performance of Inherently Governmental and Critical Functions*, provides a framework for addressing contractors' conduct of critical functions. Policy Letter 11-01 defined a critical function as one that is necessary for an agency to effectively perform and maintain control of its mission and operations. It required that agencies reserve certain work for performance by Federal employees to ensure that Federal employees have the technical skills and expertise needed to maintain control of the agency mission and operations.

While we did not identify specific examples where contract workers were clearly performing inherently governmental duties or other critical functions that should have been reserved for Federal Government employees, we found multiple indicators that such risk existed:

- In our judgmental sample of 20 contract workers, we identified several instances where contracts described duties that appeared to be critical functions or were potentially

inherently governmental in nature. For example, we found duties tasked to contract workers that related to determining program priorities and budget requests, determining supplies or services to be acquired, and administering contracts. In one case, a contractor was defined as an advocate of Bonneville's business objectives who acts as a representative for Bonneville.

- By creating personal services contracts, Bonneville blurred the relationship between Federal employees and contract workers. In some cases, Bonneville used Federal employees and supplemental labor workers to perform the same or similar duties.
- Several Bonneville officials told us they were concerned that contract workers were performing inherently governmental duties. One official told us contract workers are performing work that should be done by Federal employees such as project managers who are responsible for forecasting financial requirements for projects, reviewing project funding to determine if and where more funding is required, tracking contractual agreements for reimbursable work, and managing and directing the work of contract workers and Federal employees assigned to the project. Another official told us that managers often include inherently governmental work in requests for supplemental labor positions that must be removed before the position can be competed. In addition, officials expressed concern that contract workers were performing mission-critical duties, such as a control system monitor who could shut down the entire grid. According to an internal analysis performed by Bonneville, in many cases, managers do not know or understand the risks associated with inherently governmental work issues because managers tend to be focused intently on accomplishing their program goals.
- Internal Audit reported that Bonneville lacked controls to prevent supplemental labor contractors from performing inherently governmental work. Based on its anonymous survey of supplemental labor contractors, Internal Audit estimated that between 7 and 10 percent of supplemental labor contractors may be performing inherently governmental work. Additionally, Internal Audit reported that the Supplemental Labor Management Office had conducted an ad hoc survey of Bonneville managers in April 2014 that showed that 32 percent of the respondents believed supplemental labor contractors were performing inherently governmental duties in their organizations.
- Bonneville partially substantiated an internal ethics hotline complaint it received in 2014 that alleged contractors in Environmental Planning and Analysis were performing inherently governmental functions. Environmental Planning and Analysis made changes to its process to ensure that only Federal employees sign correspondence binding Bonneville to particular actions.

Acquisition and Contract Administration

In addition to the issues related to personal services contracts and inherently governmental and critical functions, we found other weaknesses in Bonneville's acquisition and administration of services contracts during our review of documentation associated with a judgmental selection of 20 contract workers. Specifically, we found the following:

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- Services contracts did not always adhere to the period of performance limitations specified in the Purchasing Instructions. We found four examples of services contracts that exceeded performance period limitations.
 - Contracting officers and contracting officer's technical representatives (COTRs) signed contract actions without appropriate delegated authority. We found one example of a contracting officer who signed contract actions without delegated authority, three examples where one COTR signed contract actions exceeding the delegated authority, and one example of a contract action that was signed by an individual acting as a COTR but did not have delegated authority for that contract.
 - Bonneville did not adequately evaluate contractor performance. Although duties delegated to COTRs included monitoring contractor activities and performance and regularly communicating contractor performance back to the contracting officer, we found very little evidence that this occurred. Additionally, several officials told us that contractor performance was either not being evaluated or that a formal documented process to evaluate contractor performance did not exist. Bonneville officials told us they rank supplemental labor vendors based on criteria such as the vendor's response to job postings, successful hire rates, and wage rate differentiation; however, the ranking does not include actual performance of contract workers.
 - Contracting officers did not always sufficiently monitor the financial aspects of services contracts that would provide a review of the contractor's progress and performance. We found one contract that was automatically closed when funding was depleted and required a modification to add funding to reopen the contract and pay for services already rendered. We also found another example where it appeared that a vendor had not submitted invoices until after funding was added to the contract to pay for services already rendered.
 - Contract files did not contain sufficient documentation to support the decisions related to contract actions taken. We found numerous examples of missing documentation, including four contract files that were missing solicitation documentation and two contract files that were missing modifications or releases. Other examples of missing documentation included responses to quality assurance reviews, legal reviews, meeting minutes, delegation letters, and status reports/communication from the COTR.

In addition to the issues identified during our review of 20 contract workers, several contracting officers expressed concern that program offices often have difficulty clearly defining the service that is needed, which complicates and slows down the acquisition process. Statements of work used to describe the services to be acquired did not always clearly and completely communicate what was needed by the program office to assure a timely and efficient purchase, as required by Purchasing Instructions. For example, an official told us that one procurement action had to be cancelled about 4 months after the solicitation was issued primarily because of a poorly written statement of work.

Contributing Factors

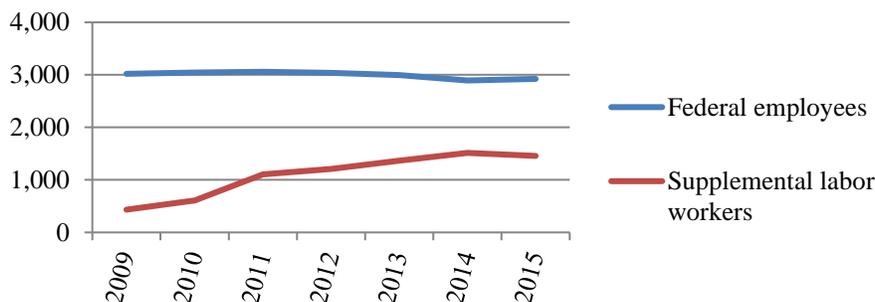
The issues we identified occurred, in part, because of Bonneville's supplemental labor category of contract workers, lack of a strategic workforce plan, insufficient management and oversight of its contractor workforce, and an inadequate procurement control environment.

Supplemental Labor Category

Bonneville's personal services contracts were the direct result of problems with the manner in which Bonneville managed and implemented its supplemental labor category for contract workers. As previously stated, Bonneville defined supplemental labor workers as non-Government staff that augment existing Federal staff levels and/or fill gaps in the Federal workforce. In many respects and as described in our report, Bonneville treated its supplemental labor workers as Federal staff.

Over time, supplemental labor workers have become a significant part of Bonneville's workforce. In 2009, Bonneville had approximately 400 supplemental labor workers. Since that time, supplemental labor workers increased significantly to a high of just over 1,500 in 2014, a 250 percent increase. During this time, Federal employees remained constant at about 3,000 annually, as shown below.

Federal Employees and Supplemental Labor Workers by Fiscal Year (2009–2015)



The significant increase in supplemental labor workers resulted from numerous factors that included an increased workload, a cap on Federal employees, and the ease and speed that supplemental labor workers could be acquired in contrast to the hiring process for Federal employees. Additionally, officials told us the number of supplemental labor workers increased when its ability to hire Federal employees was suspended between June 2013 and September 2014.

Bonneville's Supplemental Labor Management Office developed a Manager's Guide to a Contract Workforce to provide guidance on managing a workforce that included both Federal

employees and supplemental labor workers. The guidance stressed the need for managers to build relationships and team dynamics between Federal employees and contract personnel that work together on many of the same projects. Bonneville worked to create inclusive environments that, in our opinion, blurred the relationship between Federal employees and contract workers. Managers had the additional challenge of managing offices with numerous supplemental labor workers from multiple vendors because each supplemental labor position was individually competed. For example, the Information Technology Service Desk had about 40 supplemental labor workers from 11 separate vendors, and Information Technology Project Management had about 45 supplemental labor workers from 13 separate vendors. One official told us it is difficult to have so many vendors supplying contract workers within the same office and another official told us it would be preferable to have an entire function outsourced to one vendor.

Additionally, Bonneville's shared vendor management system and lack of on-site vendor representatives contributed to Federal managers having a greater level of involvement with supplemental labor workers. The vendor management system is an automated, Web-based system used to track and manage supplemental labor workers that allowed immediate, real-time access to supplemental labor worker data by both Bonneville and vendors. The system contributed to a greater level of involvement between Federal managers and supplemental labor workers than what would normally occur. For example, supplemental labor workers used the system to input the hours they worked in a record resembling a timesheet, Bonneville managers used the system to review and approve the hours worked, and the system automatically converted the timesheets into an invoice that was paid to the vendor. Additionally, although supplemental labor contracts specified that vendors would provide a representative to manage its employees, the contracts also required that the representative be located off-site. One Federal manager told us the fact that vendor representatives were not located on-site meant the Federal manager had to manage the supplemental labor workers on a daily basis.

Strategic Workforce Plan

Bonneville did not have a strategic plan to effectively manage its workforce. According to Office of Management and Budget memorandum M-09-26, *Managing the Multi-Sector Workforce*, a workforce plan must consider all of the functions, performance goals, and missions of an organization and identify inherently governmental and critical functions before the appropriate number and mix of Federal and contract workers can be determined. Bonneville lacked a comprehensive strategy that encompassed all categories of its workforce (Federal employees, supplemental labor, outsourced, and expert/consultant services). Instead, Bonneville had only a partial workforce strategy that addressed only two categories: Federal employees and supplemental labor workers. Additionally, although Bonneville had completed an inventory of its Federal workforce and identified inherently governmental and critical Federal positions, it had not completed an inventory of its contract workers. Without a comprehensive strategic workforce plan, Bonneville lacked visibility into the number and mix of Federal and contract workers needed to meet its current and future mission.

Bonneville has recognized that it needs to improve workforce planning to focus on its overall workforce. Officials told us the current cap of 3,100 Federal employees was being evaluated to

determine whether that number is adequate to meet the current and future needs of its mission. Bonneville also recognized that an evaluation process should exist to determine what category of worker (Federal, supplemental labor, outsourced, or expert/consultant) should be requested when a manager identifies a need for additional resources and whether the use of contract workers over time was appropriate. Policy Letter 11-01 required that workforce planning dedicate a sufficient amount of work for Federal employee performance to operate effectively, maintain control of the mission, and build competencies to retain institutional knowledge of operations. When work can be performed by contractors, the workforce plan must ensure that sufficient personnel with appropriate training, experience, and expertise are available, and will remain available for the duration of contracts, to manage and oversee contractor performance and evaluate and approve or disapprove the contractor work products and services.

Management and Oversight

Bonneville did not provide sufficient management and oversight to ensure that contract workers did not perform inherently governmental and critical work that should be reserved for Federal employees. The effective management and oversight of services contracts requires a team effort and typically involves contracting officers, COTRs, and field inspectors (managers). However, every Federal employee has an obligation to help ensure contract workers do not perform work that should be reserved for Federal employees.

The Purchasing Instructions defined oversight roles and responsibilities normally performed by contracting officers, COTRs, and managers. However, these activities generally related to inspecting and accepting work and ensuring specific tasks were accomplished as required by the contract. The Purchasing Instructions did not provide specific management and oversight responsibilities to ensure contract workers did not perform inherently governmental and critical work that should be reserved for Federal employees, such as those described in Policy Letter 11-01, which could assist Bonneville with this responsibility. Policy Letter 11-01 required files for services contracts to contain preaward confirmation that the function to be contracted did not include work that must be reserved for Federal employees and that the agency will be able to manage the contractor consistent with its responsibility to perform all inherently governmental functions and maintain control of its mission and operations. Additionally, Policy Letter 11-01 recommended that agencies review, on an ongoing basis, the functions being performed by contractors to ensure they do not expand to work that must be reserved for Federal employees.

Furthermore, except for contracting officers, Bonneville lacked recurring training to help its Federal employees understand and meet their responsibilities of ensuring that contract workers do not perform inherently governmental and critical work that should be reserved for Federal employees. Although Bonneville offered initial training for COTRs and training for Federal managers of supplemental labor workers, it did not offer recurring training for these two groups or for its other Federal employees. Providing recurring training for all Federal employees, similar to training recommended by Policy Letter 11-01, could assist Bonneville in meeting its responsibility to ensure that contract workers do not perform work that should be reserved for Federal employees. Policy Letter 11-01 recommended training, no less than every 2 years, to improve employee awareness of their responsibilities. Additionally, several officials told us that clearer guidance on what constitutes inherently governmental duties was needed.

Procurement Control Environment

The weaknesses in the acquisition and administration of services contracts were often caused by Bonneville officials not properly applying prescribed policies and procedures. However, Bonneville had taken steps that should assist in addressing these weaknesses. For example, officials told us they had strengthened training for contracting officers, improved the quality review process for contracts, and had a goal to strengthen statements of work to ensure needs are adequately communicated. Additionally, officials expressed concern with limitations of its contract management system where contract files were maintained. Specifically, officials told us the system is not set up to hold an entire contract file and uploading documents is time consuming and costly.

Impact

Creating personal services contracts instead of obtaining employees through direct hire or other procedures may violate civil service laws. Furthermore, the indicators that suggest contract workers may be performing inherently governmental and critical work that should be reserved for Federal employees places Bonneville at risk of not being able to maintain control of its mission and operations. Bonneville's Talent Management Strategy stated that supplemental labor workers have a higher turnover rate than Federal employees (23 percent vs. 2 percent), Bonneville often pays more for supplemental labor than for Federal employees, Bonneville does not manage its workforce efficiently, and supplemental labor workforce spending has increased because managers do not consistently accept cost management recommendations. Finally, Bonneville's weaknesses in the acquisition and administration of services contracts may affect its ability to obtain the best buy for each dollar spent.

Other Matters

We reviewed the circumstances surrounding an Office of Inspector General hotline complaint received in March 2015. Although we substantiated an allegation that Bonneville had created personal services contracts as previously described in our report, we were not able to or did not substantiate the other allegations. The specifics of the other allegations and our findings were as follows:

- The complainant alleged that Bonneville was violating Federal law by abusing temporary labor laws found in 5 Code of Federal Regulations 300.503, *Conditions for Using Private Sector Temporaries*. We found no violations of these temporary labor laws primarily because Bonneville did not enter into contracts for temporary contract services as identified in this law.
- The complainant alleged that Bonneville management and general counsel started to "soften" the wording of a draft internal audit report and was concerned the draft report would potentially be shelved. We found that the final report issued in June 2015 did contain changes from the December 2014 draft report. However, we found no evidence that the changes were inappropriate.

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- The complainant alleged that Bonneville management exercised an undue amount of influence over a specific contracting action and had undue involvement in another contractor's employee wages. We found no evidence of an undue amount of influence or involvement by Bonneville management on the specific contracts as alleged. Although we found that management did express concern related to the specific contracting activity and had discussions related to contractor employee wages, the concern and discussions did not appear inappropriate to the circumstances.
 - The complainant alleged that Bonneville management lacked ethical behavior and cost consciousness in contracting. However, we found no evidence substantiating this allegation.

Path Forward

Bonneville had completed or was in the process of implementing improvements to address the issue areas identified by Internal Audit. For example, Bonneville had updated the Purchasing Instructions to clarify the prohibited use of personal services and contracting for inherently governmental functions. Bonneville also had ongoing actions, such as developing mandatory annual training for Federal managers requesting supplemental labor workers and controls to prevent supplemental labor workers from performing functions designated as inherently governmental. Completing these improvements along with recommendations included in our report could significantly reduce Bonneville's risk, enhance its operations, and optimize its workforce.

RECOMMENDATIONS

We recommend that the Administrator of Bonneville Power Administration:

1. Review and analyze Bonneville's contract terms and administration of its supplemental labor workers to ensure personal services contracts are not created.
2. Develop a comprehensive strategic workforce plan that includes the appropriate number and mix of Federal and contract workers that Bonneville needs to accomplish its current and future mission.
3. Update the Bonneville Purchasing Instructions to provide specific management and oversight responsibilities to ensure contract workers do not perform work that should be reserved for Federal employees.
4. Develop and conduct recurring training to help all Federal employees understand and meet responsibilities to ensure only Federal employees perform work reserved for the public sector.
5. Evaluate the adequacy of its contract management system to maintain official contract files.

MANAGEMENT RESPONSE

Management concurred with the recommendations in the report and stated that some corrective actions had been completed and additional actions were planned. Specifically, management implemented new standardized processes and controls to support procurement compliance; created a new compliance function within its Supplemental Labor Management Office; and planned to refine statements of work and subsequent contracts to eliminate any potential for the intent of the services being requested to be misconstrued. Additionally, management updated the Purchasing Instructions to include clear language prohibiting personal services contracts and guidance regarding inherently governmental functions and planned to add specific language outlining management and oversight responsibilities. Management developed an annual recurring online training class required for all personnel associated with the procurement or use of supplemental labor. This training is also available to all Bonneville Federal employees. Furthermore, management evaluated the adequacy of its contract management system to maintain contract files and determined it was inadequate. To address the inadequacies, management moved forward with a technology proposal. Finally, management has undertaken a significant effort to improve workforce planning and it has created a comprehensive workforce strategy initiative. This initiative will be completed in multiple stages over the next several years with final completion of a Workforce Study scheduled for October 2020.

Management's comments are included in Appendix 2.

AUDITOR COMMENTS

Management comments and corrective actions, both those taken and planned, were responsive to our recommendations.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The objective of this audit was to determine whether the Bonneville Power Administration's (Bonneville) contractor workforce is effectively and efficiently managed.

Scope

The audit was performed between August 2015 and December 2016 at Bonneville in Portland, Oregon. Our scope included Bonneville's acquisition and administration of its contractor workforce (supplemental labor, outsourced, expert/consultant, and miscellaneous/other) that was active as of June 2015. The audit was conducted under Office of Inspector General project number A15DN049.

Methodology

To accomplish our audit objective, we:

- Reviewed applicable laws, regulations, policies, and procedures.
- Reviewed relevant reports issued by the Office of Inspector General, Government Accountability Office, Bonneville, and other entities.
- Interviewed Bonneville officials to obtain an understanding of its contractor workforce, including the processes for procurement and administration of contract workers.
- Judgmentally selected a sample of 20 contract workers from a universe of 3,117 (as of June 2015) based on the category of contract worker and the type of contract. The sample included all four categories of Bonneville's contractor workforce (supplemental labor, outsourced, expert/consultant, and miscellaneous/other). Obtained and reviewed associated documents that included all contents of the official contract files, the contracting officer's technical representative files, and invoices to test compliance with contract terms, applicable laws, regulations, policies, and procedures. Because selection was based on a judgmental sample, results of the sample cannot be projected to the universe of contract workers.

We conducted this performance audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Accordingly, we assessed significant internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. We considered the *GPRA Modernization Act of 2010* as necessary to accomplish the objective, and we determined that Bonneville had goals related to its contractor workforce. 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. Finally, we relied on computer-processed data to a limited extent to accomplish our audit objective and performed appropriate tests to validate the results.

An exit conference was waived by management on December 14, 2016.

MANAGEMENT COMMENTS



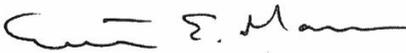
DEC 05 2016

Department of Energy

Bonneville Power Administration
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Portland, Oregon 97208-3621

EXECUTIVE OFFICE

In reply refer to: NSP

MEMORANDUM FOR: SARAH B. NELSON
ASSISTANT INSPECTOR GENERAL FOR AUDITS
AND ADMINISTRATIONFROM: ELLIOT E. MAINZER 
ADMINISTRATOR AND CHIEF EXECUTIVE OFFICERSUBJECT: RESPONSE TO DRAFT AUDIT REPORT: "BONNEVILLE POWER
ADMINISTRATION'S CONTRACTOR WORKFORCE"

The Bonneville Power Administration (Bonneville) appreciates the opportunity to provide comments on the Office of Inspector General's (OIG) draft audit report. We further appreciate that your staff acknowledged that Bonneville took positive corrective actions in response to our own audit in the Supplemental Labor Management Office (SLMO). Improved management of Bonneville's contractor workforce is a priority for Bonneville and we agree with your recommendations to improve Bonneville's operations. A summary of our response to each of the OIG recommendations is below.

Recommendation 1: *Review and analyze Bonneville's contract terms and administration of its supplemental labor workers to ensure personal services contracts are not created.*

Management Response: Concur. As a result of Bonneville's Office of Internal Audit review of supplemental labor, Bonneville implemented new program procedures to document and deliver standardized processes and controls to support procurement compliance, updated classroom training and manager handbooks to more clearly explain what a personal services relationship is, and drafted and distributed a new field inspector designation letter. Bonneville also reviewed applicable contract documentation to validate that no personal services language existed, finding that although no specific personal service language existed, there were noted opportunities to refine future statements of work. The goal of refining the statements of work would be to eliminate the potential of internal or external parties misconstruing the intent of the service(s) being requested. Additionally in continued support of this effort, Bonneville also created a new compliance function in SLMO to assess and monitor adherence to its procurement policy, which includes attestation forms from the requirements owner that certifies the service requested does not violate personal services policy as outlined in the BPI. The majority of the activities were completed as of June 30, 2016 with updates to the next generation of Supplemental Labor/Professional Services statements of work and subsequent contracts occurring in FY17 Q3.

Recommendation 2: *Develop a comprehensive strategic workforce plan that includes the appropriate number and mix of Federal and contract workers that Bonneville needs to accomplish its current and future mission.*

Management Response: Concur. Bonneville has undertaken a significant effort to improve workforce planning, and as such has created a comprehensive Workforce Strategy Key Strategic Initiative. The initiative takes a total talent management approach, including the following efforts: a Workforce Study, Modernization and Flexibilities Plan, a Supplemental Labor Compliance, Diversity and Inclusion Program Strategy, and finally, an Executive Succession Program. Each of these discrete tasks will have timelines for deliverables over the next several years, culminating in a comprehensive strategic total workforce planning and management approach, yielding workforce mix optimization, and improved cost management for Bonneville customers. The Workforce Study component of this plan is scheduled to be completed in multiple stages with final completion scheduled for October, 2020.

Recommendation 3: *Update the Bonneville Purchasing Instructions to provide specific management and oversight responsibilities to ensure contract workers do not perform work that should be reserved for Federal employees.*

Management Response: Concur. The Bonneville Purchasing Instructions (BPI) were updated in March 2016 in response to Bonneville's Office of Internal Audit review of supplemental labor. The Purchasing Instructions incorporated changes to Part 23 "Service Contracts" to include clear policy prohibiting Personal Service Contracts and guidance regarding Inherently Governmental Functions and Functions Closely Associated with Performance of Inherently Governmental Functions. Much of the updated information in the BPI was derived from the principles outlined in OPM Policy Letter 11-01 "Performance of Inherently Governmental and Critical Functions". This update was also foundational to the training developed and subsequently deployed to managers across Bonneville, ensuring that contractor support services do not violate this new policy. Bonneville is currently updating BPI Appendix 14 "Contracting Officer's Technical Representatives (COTR) Requirements for Contract Administration" to add specific language outlining management and oversight responsibilities for COTRs that directly manage Supplemental Labor and Professional Service type contracts. The corrective action based on Bonneville's own internal audit to update BPI Part 23 "Service Contracts" was completed March 2016 with the updated BPI Appendix 14 "COTR Requirements for Contract Administration" projected to be completed by July 2017.

Recommendation 4: *Develop and conduct recurring training to help all Federal employees understand and meet responsibilities to ensure only Federal employees perform work reserved for the public sector.*

Management Response: Concur. Bonneville has developed an annual recurring on-line training class that explains what inherently governmental tasks and closely associated with inherently governmental tasks are, as well as defining personal services and how to avoid

creating a personal services relationship with the contract workforce. This training is a requirement for all Bonneville personnel associated with the procurement or utilization of supplemental labor, including: all managers; supplemental labor requestors; and time sheet validators. This training is available to all Bonneville federal employees. This corrective action plan was completed by June 30, 2016.

Recommendation 5: *Evaluate the adequacy of its contract management system to maintain official contract files.*

Management Response: Concur. The Supply Chain and Risk organizations jointly evaluated the capabilities of Bonneville's contract management systems to effectively maintain official contract files and determined it to be inadequate. Subsequently, a technology proposal was submitted to the Agency Prioritization Steering Committee (APSC) and approved for Business Transformation Planning (BTP) phase on September 12, 2016. This corrective action plan was completed by September 12, 2016.

We appreciate the OIG's thorough review of our contractor workforce program and take the findings very seriously. We are committed to addressing the remaining opportunity areas and establishing a contractor workforce program that stands out as a center of excellence. Additional information regarding our response is available as necessary and upon request.

Thank you again for the opportunity to respond to the draft audit report.

FEEDBACK

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