



OFFICE OF INSPECTOR GENERAL

U.S. Department of Energy

AUDIT REPORT

DOE-OIG-18-24

March 2018

**THE DEPARTMENT OF ENERGY'S
MANAGEMENT OF MANAGEMENT AND
OPERATING CONTRACTOR
TEMPORARY FOREIGN ASSIGNMENTS**



Department of Energy
Washington, DC 20585

March 14, 2018

MEMORANDUM FOR THE DIRECTOR, OFFICE OF MANAGEMENT
ASSOCIATE PRINCIPAL DEPUTY ADMINISTRATOR,
NATIONAL NUCLEAR SECURITY ADMINISTRATION
DEPUTY DIRECTOR FOR FIELD OPERATIONS, OFFICE
OF SCIENCE

A handwritten signature in cursive script, reading "Sarah B. Nelson".

FROM: Sarah B. Nelson
Assistant Inspector General
for Audits and Administration
Office of Inspector General

SUBJECT: INFORMATION: Audit Report on "The Department of Energy's
Management of Management and Operating Contractor Temporary
Foreign Assignments"

BACKGROUND

The Department of Energy is responsible for advancing the energy, environmental, and nuclear security of the United States. In support of this mission, the Department uses management and operating (M&O) contracts to operate many of its facilities. Due to the worldwide nature of the Department's mission, the Department's M&O contractor employees travel extensively to foreign countries on both short and long-term assignments. For the purpose of our audit, we focused on M&O contractor temporary foreign assignments lasting at least 6 months in duration. According to the Department's Foreign Travel Management System, M&O contractor employees took 123 trips lasting 6 months or more at an estimated cost of just over \$2 million from fiscal year 2012 through fiscal year 2015. Department of Energy Acquisition Regulation 970.3102-05-46, *Travel Costs*, considers costs incurred by contractors for official travel as allowable costs and permits the contractors to have flexibility in the method used in determining these costs as long as the method used results in a reasonable charge, with some limits. For example, costs incurred for lodging, meals, and incidentals are considered reasonable and allowable only to the extent they do not exceed the maximum per diem rate allowed for Federal employees. Due to the amount of travel and funding involved, we initiated this audit to determine whether the Department effectively and efficiently managed M&O contractor temporary foreign assignments.

RESULTS OF AUDIT

During our review, nothing came to our attention to indicate that the Department had not effectively and efficiently managed M&O contractor temporary foreign assignments. Each of

the five sites that we reviewed had policies and procedures in place to manage temporary foreign assignments and generally followed those policies and procedures. When exceptions were noted to the policies at one of the five sites, the contractor had documented justification for the exceptions. Finally, although we did not identify any significant concerns with the Department's management of M&O contractor temporary foreign assignments, we did identify an opportunity to improve consistency on the treatment of costs for foreign assignments by the Department providing greater guidance to Contracting Officers and M&O contractors on the reasonableness of costs incurred.

Foreign Travel Guidance

We identified a potential need for additional guidance related to the reasonableness of costs for contractor foreign temporary assignments, similar to existing guidance on contractor domestic assignments and Federal employee overseas assignments. While the Federal Acquisition Regulation and Department of Energy Acquisition Regulation provide guidance on the allowability of certain travel costs such as airfare and per diem, the regulations do not contain specific guidance for contractor assignments. In 2012, the Department issued Acquisition Letter AL 2013-01 *Contractor Domestic Extended Personnel Assignments*, which provided detailed guidance to Contracting Officers on determining reasonableness of costs incurred by contractors on domestic extended assignments. The Acquisition Letter states that for contractor domestic extended assignments, contractors should be reimbursed the lesser of temporary relocation costs or a reduced per diem. Additionally, the Department had guidance for determining allowable and reasonable foreign travel costs for Federal employees, including the *Department's Handbook on Overseas Assignments*, which required cost comparisons be conducted for Federal employees on long-term foreign assignments. However, we found no similar guidance for contractor foreign assignments.

In the absence of Department specific guidance on contractor foreign assignments, one site official noted that the site was applying the domestic travel guidance to foreign assignments. Although not required by the Department, Brookhaven National Laboratory conducted cost comparisons for 11 assignments, resulting in at least \$156,000 in cost savings. We consider the inclusion of cost comparisons in the guidance for contractor domestic assignments and Federal employee foreign assignments to be a best practice for ensuring the reasonableness of costs. The Department may want to consider implementing similar guidance for contractor temporary foreign assignments. While we recognize the need for latitude given the wide range of mission requirements for the M&O contractors, we noted that additional guidance may help contracting and program personnel ensure that the costs of temporary foreign assignments are reasonable and more consistent among the M&O contractors.

SUGGESTED ACTION

Because nothing came to our attention to indicate that the Department had not effectively and efficiently managed contractor temporary foreign assignments, we are not making any formal recommendations. However, in order to provide for more consistency in the determination of

cost reasonableness for temporary foreign travel, we suggest that the Director of the Office of Management, in consultation with the Department's Program Offices, provide clarification regarding the determination of reasonableness of foreign travel costs.

When we discussed our suggestion with management officials, they stated that existing guidance included in the Federal Acquisition Regulation and the Department of Energy Acquisition Regulation, as well as best commercial practices, provided appropriate guidance for assessing the reasonableness of costs. However, we believe that additional clarification on the reasonableness of contractor foreign travel costs, similar to the guidance on the use of cost comparisons in the Department's Acquisition Letter AL 2013-01, *Contractor Domestic Extended Personnel Assignments*, would be beneficial.

Attachments

cc: Deputy Secretary
Chief of Staff
Under Secretary of Energy
Under Secretary for Science
Administrator, National Nuclear Security Administration

OBJECTIVE, SCOPE, AND METHODOLOGY

OBJECTIVE

We performed this audit to determine whether the Department of Energy effectively and efficiently managed management and operating contractor temporary foreign assignments.

SCOPE

The audit was conducted from April 2016 to March 2018, at the Brookhaven National Laboratory in Upton, New York; Los Alamos National Laboratory in Los Alamos, New Mexico; and Sandia National Laboratories in Albuquerque, New Mexico. Additionally, we reviewed contractor temporary foreign assignments at Lawrence Berkeley National Laboratory in Berkeley, California, and Oak Ridge National Laboratory in Oak Ridge, Tennessee. The audit scope included a review of contractor temporary foreign assignments during fiscal years 2012 through 2015 that were 6 months or longer in duration. This audit was conducted under the Office of Inspector General project number A16GT037.

METHODOLOGY

To accomplish our audit objective, we reviewed:

- Applicable Federal and Department regulations, policies, and procedures related to temporary foreign assignments;
- Prior reports issued by the Office of Inspector General; and
- Corrective actions taken to address prior audit findings.

Additionally, we judgmentally selected a sample of 5 Department sites from a universe of 14 sites with temporary foreign assignments. This selection was based on the number of contractors on foreign assignments, the duration of the foreign assignments, and the estimated costs of the foreign assignments. Because a judgmental sample of Department sites was used, the results were limited to the sites selected. For each of these contractors, we:

- Reviewed contractor policies, procedures, and practices for managing temporary foreign assignments at the contractors selected;
- Interviewed key Department and contractor personnel;
- Reviewed administrative documents for the foreign assignments, including service agreements, training certificates, and country clearances;
- Reviewed cost agreements associated with the foreign assignments;

- Reviewed the contractor's management and operating contracts for clauses applicable to the audit objective; and
- Analyzed foreign assignment costs and compared them to allowable costs for Federal employees on similar assignments.

We conducted this performance audit in accordance with generally accepted Government auditing standards. Those standards required 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 that the evidence obtained provides a reasonable basis for our findings and conclusion based on our audit objective. Accordingly, we assessed significant internal controls and the Department's implementation of the *GPRA Modernization Act of 2010* and determined that it had not established performance measures specifically related to the audit area. 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. We relied on computer-processed data. We assessed the reliability of computer-generated data by conducting interviews and reviewing supporting documentation and found the data to be reliable for the purposes of this audit. Additionally, we verified that KPMG LLP conducted test work on behalf of the Office of Inspector General on general and application controls at all five sites reviewed during our audit and specifically tested payroll application controls at two of the sites. KPMG LLP found no issues that affected our audit findings.

We held an exit conference with management officials from Brookhaven National Laboratory on February 28, 2018. Other management officials waived an exit conference.

PRIOR REPORTS

- Audit Report on [Follow-up Audit of Contractor Intergovernmental Personnel Act Assignments](#) (DOE/IG-0928, November 2014). The audit found that Los Alamos National Laboratory and Lawrence Livermore National Laboratory paid excessive allowances to its employees on *Intergovernmental Personnel Act* (IPA) assignments, including reimbursing employees for both extended travel and relocation expenses. Further, Los Alamos National Laboratory and Lawrence Livermore National Laboratory, through Department of Energy funding, also paid all costs associated with 23 IPA assignments with other Federal agencies, even though the assignments were intended to benefit both organizations. Additionally, thirteen assignees from Los Alamos National Laboratory, Lawrence Livermore National Laboratory, and Oak Ridge National Laboratory had been on assignments for more than 6 years during their careers. While there was no limit on the number of years a contractor assignee can spend on an IPA assignment, Federal employees are limited to a 6-year maximum over their entire career. The problems identified occurred because, similar to issues revealed during the 2007 review, the Department had not developed and issued policy and guidance or provided the oversight necessary to effectively manage contractor use of IPA assignments. The Department continued to incur excessive costs for IPA assignments and may not have realized the benefits these assignments are designed to generate.
- Audit Report on [Follow-up Audit on Term Assignment of Contractor Employees](#) (DOE/IG-0890, July 2013). Based on a review of 96 contractor employees from 5 Department laboratories that were assigned to the Washington, DC, area on term assignments, the audit found that many of the problems disclosed in a 2005 report persisted. Specifically, the audit found that some dislocation allowances appeared to be excessive and continued to vary significantly between the laboratory contractors providing term assignees. The audit noted 27 instances in which site contractors paid a total of over \$230,000 in relocation allowances to employees temporarily assigned to the Washington, DC, area and also paid extended per diem; 25 instances in which employees on term assignment were provided a total of over \$27,000 in per diem allowances, including lodging for business travel from Washington, DC, to their permanent duty station at the same time they had received per diem for their temporary assignment to Washington, DC; and 14 instances, totaling over \$61,000, in which contractors had paid employees on term assignment per diem allowances that exceeded the sites' established per diem limits. Further, programs were not able to demonstrate in writing that required cost comparisons had been performed. These problems occurred, in part, because the Department did not provide adequate and timely guidance to effectively control dislocation costs. In addition, the Department did not provide sufficient oversight to ensure cost comparisons were performed and alternatives were considered. Furthermore, the facility contractor database used by program officials to monitor term assignments was incomplete, inaccurate, and did not track the actual costs of term assignments. Without improvements in the administration of term assignments, Department management cannot be assured that it is making the most cost effective use of its limited resources.

- Audit Report on [*The Department of Energy's International Offices and Foreign Assignments*](#) (OAS-L-13-05, January 2013). The audit found the Department was unable to fill, or fill in a timely manner, key positions at three international offices and that foreign permanent change of stations and foreign travel were not always managed at the contractor level. In particular, travelers did not always receive the required training or country clearance prior to foreign travel or assignments. The audit found that although the four laboratories visited had policies and procedures in place for obtaining proper authorization to travel into foreign countries and receiving required security training, the policies and procedures were not being followed as intended. The lack of compliance with established policies placed the security and safety of the Department's foreign travelers at an increased risk.
- Management Alert on [*The Department of Energy's Management of Foreign Travel*](#) (DOE/IG-0872, October 2012). The special inquiry found that despite the sizable expenditure of Federal funds, the Department had not made a concerted effort to reduce contractor international travel costs. While the Department implemented a mandatory 30 percent reduction in Federal employee travel, a parallel action had not been taken to manage or control foreign travel by contractors. Had the Department applied the 30 percent reduction criteria to the international travel costs incurred by its 100,000 contractor workforce, as much as \$15 million could be saved each year.
- Management Alert on [*Extended Assignments at Princeton Plasma Physics Laboratory*](#) (DOE/IG-0864, May 2012). The report disclosed that the Department had reimbursed Princeton \$1.04 million for lodging subsidies incurred by two employees who were on extended assignments - 14 years in one case and 9 years in the other. While existing laboratory policy permitted temporary assignments, the duration of these particular assignments appeared to be excessive and inconsistent with Department policies. Further, Princeton Plasma Physics Laboratory never updated its 1998 analysis or evaluated other options, such as permanent changes of station for the employees. The Department developed and issued guidance to address contractor extended assignments that are not covered by other Departmental guidance. Additionally, Princeton Plasma Physics Laboratory agreed to reimburse the Department \$1 million.

FEEDBACK

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