

ER-B-98-06

AUDIT REPORT

FLUOR DANIEL FERNALD'S USE OF TEMPORARY SERVICES SUBCONTRACTORS



APRIL 1998

U.S. DEPARTMENT OF ENERGY
OFFICE OF INSPECTOR GENERAL
OFFICE OF AUDIT SERVICES



DEPARTMENT OF ENERGY

Washington, DC 20585

April 1, 1998

MEMORANDUM FOR THE MANAGER, OHIO FIELD OFFICE

FROM: Terry L. Brendlinger
Eastern Regional Audit Office
Office of Inspector General

SUBJECT: INFORMATION: Audit Report on "Fluor Daniel Fernald's Use of Temporary Service Subcontractors"

BACKGROUND

The Department of Energy (Department) and Fluor Daniel Fernald (Fluor Daniel) implemented two work force restructurings at the Fernald Environmental Management Project between Fiscal Years (FY) 1994 and 1996. During the restructurings, the Department's cost for temporary service subcontracts increased from \$2.8 million to \$9.8 million annually. The objective of this audit was to determine whether Fluor Daniel utilized temporary service agreements in an economical and efficient manner and in accordance with the policy and goals of the Department's Work Force Restructuring Program.

RESULTS OF AUDIT

Fluor Daniel did not utilize temporary service agreements in an economical and efficient manner nor in accordance with the policy and goals of the Department's Work Force Restructuring Program. Fluor Daniel was required by the terms of its contract to postpone hiring new employees during work force restructuring, and to retain as many displaced employees as possible by placing them in open positions or by retraining them for future jobs. Despite these requirements, Fluor Daniel used temporary service subcontractors to replace separated employees and to occupy positions which could have been offered to separated employees. These conditions occurred because the Ohio Field Office did not effectively monitor Fluor Daniel's restructuring efforts and its use of temporary service subcontractors. As a result, the Department's restructuring goals were not fully achieved, and the annual cost for temporary service workers increased by \$7 million while the Department spent \$13.7 million to separate Fluor Daniel employees. Further, the Department reimbursed Fluor Daniel at least \$405,000 for unreasonable separation incentives.

We recommended that the Manager, Ohio Field Office, require Fluor Daniel to discontinue the practice of replacing permanent employees whose jobs are being eliminated with temporary workers and ensure that subcontract labor is considered in future work force restructuring analyses and plans; closely monitor Fluor Daniel's restructuring efforts and temporary service subcontracts to ensure compliance with contractual requirements and Departmental policy and goals; and recover \$405,000 from Fluor Daniel for unreasonable separation benefits.

MANAGEMENT REACTION

Management agreed to require Fluor Daniel to discontinue the practice of replacing permanent employees with temporary workers and to include subcontract labor in future restructuring analyses and plans. Also, management agreed to more closely monitor Fluor Daniel's restructuring efforts and temporary service subcontracts. However, management did not agree to recover \$405,000 for questionable separation benefits because management considered the costs to be reasonable and allowable.

FLUOR DANIEL FERNALD'S USE OF TEMPORARY SERVICE SUBCONTRACTORS

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Overview

INTRODUCTION AND OBJECTIVE

The Department of Energy (Department) and Fluor Daniel Fernald (Fluor Daniel) implemented two work force restructurings at the Fernald Environmental Management Project (Fernald Project) between Fiscal Years (FY) 1994 and 1996. The restructurings were necessitated by budget reductions and the need to change the mix of workers' skills to environmental cleanup and restoration. The Department spent about \$13.7 million for the restructurings.

The Office of Inspector General (OIG) issued an audit report in April 1996 dealing with the restructuring of the work force at the Fernald Project. In Report ER-B-96-01, *Audit of Work Force Restructuring at the Fernald Environmental Management Project*, we concluded that as of September 30, 1995, the restructurings were not effective in reducing staffing levels or in improving the mix of workers' skills. We reported that Fluor Daniel spent \$2.9 million to separate 255 employees in October 1993. However, by September 30, 1994, all but 14 of the employees separated were either rehired or replaced by new employees with similar skills. The second restructuring began in October 1994 and was not completed in April 1996. However, the restructuring has subsequently been completed. We recommended that the Department (1) require Fluor Daniel to perform a comprehensive skills analysis, review the skills of employees scheduled to be separated, and encourage employees with skills that are needed to retain their jobs; (2) develop future restructuring plans based on comprehensive skills analyses in accordance with Departmental guidance; and (3) monitor Fluor Daniel's restructuring activities to ensure that the Department's objectives are met. Management agreed that there were some deficiencies in the first restructuring and concurred with the audit recommendations. Management stated that corrective actions were taken in the second restructuring, and that the second restructuring was meeting the Department's objectives.

The Department's cost for temporary service subcontracts increased significantly while the work force was being restructured at the Fernald Project. In FY 1994, when the first restructuring took place, the Department spent \$2.8 million for temporary service subcontracts. However, in FY 1996, when the second restructuring was in its final stages, the cost for temporary service subcontracts increased to \$9.8 million.

The objective of this audit was to determine whether Fluor Daniel utilized temporary service agreements in an economical and efficient manner and in accordance with the policy and goals of the Department's Work Force Restructuring Program.

OBSERVATIONS AND CONCLUSIONS

The audit disclosed that Fluor Daniel did not utilize temporary service agreements in an economical and efficient manner nor in accordance with the policy and goals of the Department's Work Force Restructuring Program. Fluor Daniel was required by the terms of its contract to postpone hiring new employees during work force restructuring, and to retain as many displaced employees as possible by placing them in open positions or by retraining them for future jobs. Despite these requirements, Fluor Daniel used temporary service subcontractors to replace separated employees and to occupy positions which could have been offered to separated employees. These conditions occurred because the Ohio Field Office did not effectively monitor Fluor Daniel's restructuring efforts and its use of temporary service subcontractors. As a result, the Department's restructuring goals were not fully achieved, and the annual cost for temporary service workers increased by \$7 million while the Department spent \$13.7 million to separate Fluor Daniel employees. Further, the Department reimbursed Fluor Daniel at least \$405,000 for unreasonable separation incentives.

The audit identified a material internal control weakness that management should consider when preparing its yearend assurance memorandum on internal controls.

/s/
Office of Inspector General

Inappropriate Use of Temporary Workers

Temporary Workers Were Used to Augment the Work Force and to Replace Separated Employees

Fluor Daniel subcontracted for temporary workers to augment its regular work force and to replace employees who were separated under the Department's Work Force Restructuring Program. Fluor Daniel issued a memorandum in December 1994 requesting that division managers identify their anticipated requirements for temporary personnel for FY 1995. The memorandum defined temporary personnel as individuals who might support a division's programs for less than 12 months, support special programs, replace teaming partner or subcontractor personnel who might be reassigned, or replace Fluor Daniel employees who might be separated under the restructuring program. The memorandum was issued about two months before Fluor Daniel issued letters to employees who were at risk of separation under the second restructuring.

Several managers responded to the memorandum by identifying employees who were expected to separate under the restructuring and for whom replacements would be needed. For example, the Environmental Safety and Health Assurance Department identified four individuals who were expected to separate and would "require replacement by temporary or long-term subcontract support."

Most of the temporary workers hired during the restructurings were used for long-term—not temporary—assignments. As of June 30, 1997, Fluor Daniel had a total of 178 temporary workers at the site, including 72 who had worked there for less than 1 year, 53 between 1 and 2 years and 53 more than 2 years.

We determined that at least 39 of the temporary workers assigned at the site during the second restructuring were placed in identical job classifications as permanent employees who were separated at about the same time. Four examples follow:

- Fluor Daniel separated an environmental/lab scientist III on August 21, 1995, at a cost of \$34,103. Three weeks earlier, Fluor Daniel had obtained the services of an environmental/lab scientist III from a temporary service subcontractor.
- An information/records specialist III was separated on July 3, 1995, at a cost of \$17,223. Two days earlier, Fluor Daniel had obtained the services of an information/records specialist III from a temporary service subcontractor.

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- Fluor Daniel separated an information/records specialist I on June 26, 1995, at a cost of \$16,933. Five days later, Fluor Daniel acquired the services of an information/records specialist I from a temporary service subcontractor.
 - Another information/records specialist I was separated on July 10, 1995, at a cost of \$16,673. Two weeks later, Fluor Daniel acquired the services of an information/records specialist I from a temporary service subcontractor.

As of June 30, 1997, all four of the subcontractor employees discussed above were still employed as "temporary workers" at the Fernald Project.

Fluor Daniel stated that the complexity and diversity of projects and the cost of retraining prevented them from transferring employees from eliminated positions to positions that were filled by temporary service subcontractors. Management stated that each separated employee would have required several months of training to acquire the skills possessed by the temporary workers discussed in the examples.

Fluor Daniel Was Contractually Required to Carefully Plan and Coordinate Reductions in Employment

Departmental Order 3309.1A requires that reductions in contractor employment at Department-owned facilities be carefully planned and coordinated. A reasonable interpretation of this requirement would indicate that Fluor Daniel should have included subcontractor employees when it formulated its workforce restructuring plan. Also, the order states that contractors are required to make every effort to postpone hiring and to fill vacancies through the transfer of personnel from positions to be eliminated. Order 3309.1A is incorporated into Fluor Daniel's contract by reference.

In addition to Order 3309.1A, the Department issued specific guidance for the work force restructuring at the Fernald Project. The Department stated that its goal was to retain as many individuals as possible who were in positions that were being reduced by placing them in open positions or retraining them for positions that would be required in the future. The guidelines stated, "*Employees who possess the minimum education and experience needed to transfer into a position will be considered. Additional training may be required to bring them into full qualification. After selection and transfer, these individuals will be provided site- and job-specific training as determined by the appropriate organization.*"

Ohio Field Office Did Not Effectively Monitor Fluor Daniel's Activities

The Ohio Field Office did not effectively monitor Fluor Daniel's restructuring activities or its temporary service subcontracts to ensure that Fluor Daniel complied with Departmental policy and contract terms. The lack of effective monitoring of Fluor Daniel's restructuring efforts was previously addressed in OIG Report ER-B-96-01, *Audit of Work Force Restructuring at the Fernald Environmental Management Project* (April 1996). Management stated in response to Report ER-B-96-01 that as part of the lessons learned from the FY 1994 restructuring, it took a much more active role in the implementation of the FY 1995 restructuring plan.

The Ohio Field Office monitored Fluor Daniel's hiring of new employees during the second restructuring, but it did not monitor Fluor Daniel's employment of temporary workers. In December 1994, just after the announcement of the second restructuring, Fluor Daniel awarded two basic ordering agreements to acquire temporary service workers to augment the regular workforce. One of the basic ordering agreements provided clerical support for assignments of 6 to 18 months, and the other provided clerical and technical support for assignments beyond 18 months. However, the Department did not require Fluor Daniel to include temporary workers in its work force restructuring analyses or plans.

Departmental Goals Were Not Achieved and Fluor Daniel's Costs Were Unreasonable

The Department did not fully achieve its restructuring goals at the Fernald Project. The Department reported that 1,007 employees were separated between FYs 1994 through 1996. However, the actual reduction in Fluor Daniel's staffing was considerably less than reported. Fluor Daniel had 2,412 permanent employees before the first restructuring began. As of December 31, 1997, Fluor Daniel had 2,014 permanent employees on board. Thus, the actual reduction was 398 employees. Also, a major portion of the savings which might have accrued to the Department as the result of reducing the Fluor Daniel work force by 398 employees was offset by the \$7 million increase in the annual cost of temporary workers. Therefore, instead of paying \$13.7 million to reduce the work force by 1,007 employees as reported, the Department actually paid more than \$20 million to reduce Fluor Daniel's work force by only 398 employees.

Additionally, the Department reimbursed Fluor Daniel at least \$405,000 for questionable employee separation costs. Fluor Daniel paid \$278,000 to 14 employees who were released when temporary service subcontractors in the same job classifications could have been released at no cost to the Department. Also, Fluor Daniel hired 7 temporary workers to be permanent employees in job classifications targeted for separations in the first restructuring, then paid them a total of \$127,000 to separate less than 2 years later under the second restructuring. We question the reasonableness, and therefore, the allowability of the \$405,000 reimbursed to Fluor Daniel.

Recommendations

We recommend that the Manager, Ohio Field Office:

1. Require Fluor Daniel to discontinue the practice of replacing permanent employees whose jobs are being eliminated with temporary workers and ensure that subcontract labor is considered in future work force restructuring analyses and plans;
2. Closely monitor Fluor Daniel's restructuring efforts and temporary service subcontracts to ensure compliance with contractual requirements and Departmental policy and goals;
3. Recover \$278,000 from Fluor Daniel for separation benefits paid to employees who were released when temporary workers in the same job classifications could have been released at no cost to the Department; and
4. Recover \$127,000 from Fluor Daniel for separation benefits paid to 7 temporary workers who were hired as permanent employees after the first restructuring and separated less than 2 years later under the second restructuring.

Management Reaction

Management concurred with Recommendations 1 and 2. The Contracting Officer has advised Fluor Daniel that it cannot use subcontract labor to replace permanent employees whose jobs are being eliminated. Also, the Contracting Officer has directed Fluor Daniel to consider subcontract labor in future work force restructuring analyses and to show the number of subcontractor employees in weekly strength reports to the Department. Management did not concur with Recommendations 3 and 4, stating that the \$405,000 in question was

reasonable and allowable. Management stated that the forecast budget reduction did not occur, and a revised staffing strategy was necessary. Fluor Daniel asked employees with needed skills to rescind their voluntary reduction-in-force (VRIF) benefits and continue their employment; however, only 32 employees agreed to rescind their benefits. Thus, subcontract labor was required to augment the staff. In addition, the seven temporary workers who were hired after the first restructuring and separated less than two years later met the criteria established by the Department for VRIF benefit eligibility.

Auditor Comments

We consider management's reaction to Recommendations 1 and 2 to be responsive. However, we disagree with management's determination that the \$405,000 in questionable VRIF benefits was reasonable and allowable. Fluor Daniel requested that its division managers identify the need for temporary workers to replace permanent employees about two months *before* the at-risk letters were sent to employees who were targeted for release. Fluor Daniel should have released the temporary workers instead of offering VRIF benefits to permanent employees in the same job classifications. Also, instead of hiring seven temporary workers after the first restructuring and offering them VRIF benefits in the second restructuring, Fluor Daniel should have retained permanent employees in the same job classifications during the first restructuring. The temporary workers could have been released during the first restructuring at no cost to the Department.

Appendix

SCOPE

The audit was performed at the Fernald Project in Fernald, Ohio, from May 20, 1997, through January 29, 1998.

METHODOLOGY

To accomplish the audit objective, we:

- Reviewed Federal and Departmental guidelines on the use of temporary service subcontractors,
- Reviewed Departmental guidance on work force restructuring activities at the Fernald Project,
- Held discussions with Departmental and Fluor Daniel personnel regarding the use of temporary service subcontractors;
- Evaluated Fluor Daniel's staffing levels before and after the work force was restructured; and
- Evaluated the appropriateness and cost of Fluor Daniel's use of temporary service subcontractors during the restructuring of the work force.

The audit was performed in accordance with generally accepted Government auditing standards for performance audits, and included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. Accordingly, the assessment included reviews of Departmental policies, procedures, and responsibilities for work force restructuring and the use of temporary service subcontractors. 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 in Fluor Daniel's accounting, security, and human resources information systems to accomplish the audit objective. We assessed the reliability of the data as it pertained to the audit objective, including relevant general and application controls and found them to be adequate. Based on these assessments, we concluded that the data were sufficiently reliable to be used in meeting the audit objective.

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