



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

Inspection Report

Concerns Related to the Office of
International Material Protection and
Emergency Cooperation



Department of Energy

Washington, DC 20585

April 1, 2003

MEMORANDUM FOR THE SECRETARY

FROM:

Greg Friedman
Gregory H. Friedman
Inspector General

SUBJECT:

INFORMATION: Report on "Inspection of Concerns Related to the Office of International Material Protection and Emergency Cooperation"

BACKGROUND

The Office of Inspector General received allegations regarding the Material Protection, Control and Accounting Program managed by the National Nuclear Security Administration's Office of International Material Protection and Emergency Cooperation (IMPEC). The allegations centered on:

- the creation of an advisory committee, the Board of Visitors, in violation of the Federal Advisory Committee Act (FACA), and
- the inappropriate handling of payments from an unauthorized sublease for office space to support the Material Protection, Control and Accounting Program in Moscow, Russia.

The objectives of our inspection were to determine if: (1) the Board of Visitors advisory committee was established in conformance with FACA requirements, and (2) payments for a sublease for office space in Moscow were appropriately handled.

RESULTS OF INSPECTION

We concluded that the Board of Visitors was not established in conformance with FACA requirements. We found that IMPEC officials did not adhere to advice from the Office of General Counsel when establishing the Board of Visitors, nor did they obtain required approval to provide compensation to Board of Visitors members. We found that a subcontractor had improperly kept about \$14,000 in payments resulting from subleases of office space in Moscow. However, when this came to the attention of the prime contractor, the contractor took appropriate action to recoup these funds. Thus, we concluded that this matter was resolved satisfactorily.

We further found that Department of Energy contractor officials did not adhere to internal procurement policies and procedures when contracting for support to the Board of Visitors and when contracting for the primary lease for the office space in Moscow.



We are reviewing additional procurement issues in a follow-on inspection, which will be the subject of a separate report.

MANAGEMENT REACTION

Management agreed with our conclusions and recommendations. Management advised that they tasked a special fact finder to look into other internal control issues related to this program and, with the publication of our draft report, had expanded the scope of his review. Management also advised that at the completion of the fact finder's report, management would develop and implement the appropriate policies and corrective actions.

Attachment

cc: Deputy Secretary
Acting Administrator, National Nuclear Security Administration
Under Secretary for Energy, Science, and Environment
Deputy Administrator for Defense Nuclear Nonproliferation
Director, Policy and Internal Controls Management (NA-66)

INSPECTION OF CONCERNS RELATED TO THE OFFICE OF INTERNATIONAL MATERIAL PROTECTION AND EMERGENCY COOPERATION

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Overview

INTRODUCTION AND OBJECTIVE

The Office of Inspector General (OIG) received allegations regarding the Material Protection, Control and Accounting Program managed by the Office of International Material Protection and Emergency Cooperation (IMPEC), National Nuclear Security Administration (NNSA), Department of Energy (DOE). The allegations centered on:

- the creation of an advisory committee, the Board of Visitors¹, in possible violation of the Federal Advisory Committee Act (FACA), and
- the inappropriate handling of payments from an unauthorized sublease for office space to support the Material Protection, Control and Accounting Program in Moscow, Russia.

The objectives of our inspection were to determine if: (1) the Board of Visitors advisory committee was established in conformance with FACA requirements, and (2) payments for a sublease for office space in Moscow were appropriately handled.

CONCLUSIONS AND OBSERVATIONS

We concluded that the Board of Visitors was not established in conformance with FACA requirements. We found that IMPEC officials did not adhere to advice from the DOE Office of General Counsel when establishing the Board of Visitors, nor did they obtain required approval to provide compensation to Board of Visitors members. We also concluded that the matter of payments from the unauthorized sublease of office space in Moscow was appropriately resolved. We found that a DOE contractor recouped payments from a subcontractor that had leased the office space for DOE and then subleased some of the office space to other entities. The subcontractor had improperly kept the payments resulting from these subleases.

We further found that DOE contractor officials did not adhere to contractor procurement policies and procedures when contracting with the Potomac Foundation to provide support for the Board of Visitors and when contracting for the primary lease for the office space in Moscow.

We are reviewing additional procurement issues in a follow-on inspection, which will be the subject of a separate report.

¹ The Board of Visitors was comprised of senior figures from the political, business, legal, and investment banking communities, and provided non-binding advice and assistance to IMPEC on the Material Protection, Control and Accounting Program with the Russian Federation. It met once formally in December 2000.

Details of Findings

In 1972, Congress enacted FACA to address the proliferation and lack of effective management of Government advisory committees. For the purpose of FACA, the term “advisory committee” means any group established or utilized by an agency in the interest of obtaining advice or recommendations. The intent of FACA is to ensure that:

- valid needs exist for establishing and continuing advisory committees;
- advisory committees are properly managed and their proceedings are open to the public; and
- Congress is kept informed of advisory committee activities.

BOARD OF VISITORS ESTABLISHMENT

We determined that the Board of Visitors was not established in conformance with FACA requirements. IMPEC officials established the Board of Visitors as a non-Department group to advise on IMPEC’s non-proliferation mission. On November 15, 2000, Wackenhut Services, Inc. (WSI), which operates DOE’s Nonproliferation National Security Institute in Albuquerque, New Mexico, awarded a contract at the direction of IMPEC officials to the Potomac Foundation to provide support to the Board of Visitors. The Potomac Foundation is a non-profit, private operating foundation that conducts policy analysis relating to international security/economic issues and domestic political developments. Support included dissemination of materials to Board of Visitors members and providing summaries of Board member discussions.

We learned that the Office of General Counsel advised IMPEC officials that the Board of Visitors could be established and would be in conformance with FACA requirements, only if the Board of Visitors was a subcommittee to the Secretary of Energy Advisory Board (SEAB), or otherwise “registered” pursuant to FACA. The SEAB is the highest-level external advisory board in DOE and provides advice on issues of importance to the Secretary, including national security policy. We determined that the Board of Visitors was not established as a SEAB subcommittee, nor was it “registered” pursuant to FACA. Registration includes filing an advisory committee charter and publishing notice in the Federal Register.

PAYMENTS FOR BOARD OF VISITORS

We determined that the required approval was not obtained by IMPEC officials to provide funds to the Potomac Foundation for compensation to the Board of Visitors. DOE M 510.1-1, “Advisory

Committee Management Program,” dated September 30, 1996, allows for compensation of advisory committee members only when “directed by law” or approved by the Secretary. The Potomac Foundation had a fixed-price contract for the Board of Visitors and was paid for the meetings regardless of whether all members attended. We learned that WSI, on behalf of IMPEC, paid invoices submitted by the Potomac Foundation for two meetings of the Board of Visitors held in December 2000 and April 2001. The invoices totaled \$36,500 for each meeting, including \$16,500 per meeting to compensate the members of the Board of Visitors. A senior IMPEC official advised us that compensation for Board members had not been approved by the Secretary or “directed by law.”

Based on available documentation, we were unable to determine if the Potomac Foundation actually compensated the entire membership of the Board of Visitors or only the meeting attendees. A WSI official responsible for managing the Potomac Foundation contract was unable to locate much of the documentation regarding the contract.

We determined that the Potomac Foundation received full payment for two meetings of the Board of Visitors, including compensation for the entire Board of Visitors even though all Board members did not attend the meetings. We learned from the records provided by IMPEC that at least three members did not attend the December 2000 meeting. Regarding the April 2001 meeting, a senior IMPEC official advised that there was not an actual meeting of the Board of Visitors because he only conversed with one member.

MOSCOW SUBLEASE

We determined that WSI officials recouped payments from a subcontractor that had leased office space in Moscow for DOE and then subleased some of the space to other entities without DOE permission. The subcontractor had improperly kept the payments resulting from these subleases.

In 1999, WSI leased office space in Moscow through a subcontractor on behalf of the Material Protection, Control and Accounting Program. The subcontractor subsequently subleased part of the excess office space to other entities. Instead of providing the funds from the sublease payments to WSI and having the monies properly credited, the subcontractor kept the payments. In December 1999, WSI learned of the subleasing arrangement and took action to remedy the matter. WSI modified its contract with the subcontractor and recouped \$14,000, the entire amount of the sublease payments.

**PROCUREMENT
REQUIREMENTS**

We found that WSI officials did not adhere to WSI policies and procedures when awarding sole source contracts to the Potomac Foundation to provide support for the Board of Visitors and to a specified subcontractor to lease office space for DOE in Moscow. A sole source justification was not prepared for either award as required by the WSI Purchasing Manual, Chapter III, under Competition, “d. Sole Source Justification.”

In addition, IMPEC officials and an IMPEC support contractor assisted the Potomac Foundation in the preparation of its unsolicited proposal for the Board of Visitors contract. The assistance included reviewing draft proposals and providing recommended changes. DOE Order 542.2, “Unsolicited Proposals,” states that discussions with a prospective submitter prior to submission of a proposal will be limited to a discussion of the DOE mission and needs relative to the type of work contemplated. According to DOE’s procurement office, the assistance provided by IMPEC officials and the support contractor was not in compliance with the DOE Order.

Also, WSI officials could not provide documentation that described the need to lease office space in Moscow, the general requirements of the lease, and the lease cost. According to Department of Energy Acquisition Regulations (DEAR), Subpart 917.74 “Acquisition, Use, and Disposal of Real Estate,” it is DOE’s policy that leases will be justified with such documentation.

We discussed these procurement-related actions with IMPEC and WSI officials. None of the officials believed they were accountable for these actions. IMPEC officials insisted that WSI officials were responsible for ensuring the subcontract with the Potomac Foundation and the subcontract associated with the Moscow office space lease were in accordance with procurement policies, while WSI officials said that IMPEC officials had directed them to take the actions.

Recommendations

RECOMMENDATIONS

We recommend that the Deputy Administrator for Defense Nuclear Nonproliferation:

1. Review the facts and circumstances surrounding the creation of the Board of Visitors advisory committee and take appropriate corrective actions; and, strengthen internal controls to ensure that proper advisory board approvals are obtained in the future.
2. Determine if existing advisory committees established by the Office of Defense Nuclear Nonproliferation are in conformance with FACA requirements.
3. Determine if the amount of funds paid to the Potomac Foundation for Board of Visitors' meetings was warranted and, if not, take action to recoup funds as appropriate.
4. Ensure that IMPEC officials are knowledgeable of procurement requirements and adhere to these requirements in future procurements.

MANAGEMENT COMMENTS

In comments dated February 13, 2003, management agreed with our conclusions and recommendations. Management advised that a special fact finder had been tasked to look into other internal control issues related to this program and that with the publication of our draft report, management had expanded the scope of his review. Management also advised that at the completion of the fact finder's report, management would develop and implement the appropriate policies and corrective actions. Management's verbatim comments are in Appendix B.

INSPECTOR COMMENTS

We consider management's comments and actions to be generally responsive to our recommendations and the issues addressed in our report.

Appendix A

SCOPE AND METHODOLOGY

Our review was conducted during the period December 2001 to April 2002. As part of our review, we interviewed Department of Energy (DOE) Headquarters officials in the Office of Defense Nonproliferation, National Nuclear Security Administration; the Office of Management, Budget and Evaluation; and the Office of General Counsel. We also interviewed DOE and DOE contractor officials at the Nonproliferation and National Security Institute, the Albuquerque Operations Office, and Brookhaven National Laboratory, as well as an official of the Potomac Foundation.

We collected, reviewed, and analyzed documentation on procurement and advisory committees/boards including:

- DOE Order 221.1, “Reporting Fraud, Waste, and Abuse to the Office of Inspector General,” dated March 22, 2001.
- DOE Manual 510.1-1, “Advisory Committee Management Program,” dated September 30, 1996.
- General Accounting Office (GAO) Testimony No. GAO/T-GGD-98-24, “Federal Advisory Committee Act: Overview of Advisory Committees Since 1993,” dated November 5, 1997.
- Federal Advisory Committee Act, 1972.
- GAO Report No. GAO-01-823 “Department of Energy: Status of Achieving Key Outcomes and Addressing Major Management Challenges.”

We also reviewed the contract file for the Moscow office lease and documents regarding the contract for the Board of Visitors.

The inspection was conducted in accordance with the “Quality Standards for Inspections” issued by the President’s Council on Integrity and Efficiency.

Appendix B



Department of Energy
National Nuclear Security Administration
Washington, DC 20585

FEB 13 2003

MEMORANDUM FOR Christopher R. Sharpley
Acting Assistant Inspector General
for Inspections

FROM: Anthony R. Lane *Anthony R. Lane*
Associate Administrator
for Management and Administration

SUBJECT: Comments to Draft Inspection Report, S02IS015

The Office of Inspector General (IG) provided the National Nuclear Security Administration (NNSA), on January 7, 2003, their draft Inspection Report, "Inspection of Concerns Related to the Office of International Material Protection and Emergency Cooperation." The Inspection was based on allegations related to NNSA's Material Protection, Control and Accounting Program in that the program created an advisory committee in possible violation of the Federal Advisory Committee Act; and, that there was inappropriate handling of payments from an unauthorized sublease for office space to support the program in Russia. NNSA understands that the objectives of the inspection were to determine if: (1) the advisory committee was established in conformance with Federal requirements; and (2) payments for a sublease for office space in Moscow were appropriately handled.

NNSA appreciates the IG's offer to review the draft Inspection Report. We generally agree with the draft Inspection Report and the conclusions reached. We also agree with the recommendations as stated in the report. NNSA had tasked a special fact finder to look into other internal controls issues related to this program. With the publication of this draft report, NNSA expanded the scope of review for the special fact finder. At the completion of the special fact finder's work, and subsequent report on his observations, the Deputy Administrator for Defense Nuclear Nonproliferation, along with the Senior Procurement Executive, will develop and implement the appropriate policies and corrective actions.

cc: Deputy Administrator for Defense Nuclear Nonproliferation, NA-20
NNSA Senior Procurement Executive, NA-63



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5. Please include your name and telephone number so that we may contact you should we have any questions about your comments.

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