



OFFICE OF INSPECTOR GENERAL

U.S. Department of Energy

# AUDIT REPORT

DOE-OIG-19-14

February 2019

**MANAGEMENT OF CONSULTANT  
AGREEMENTS AT LAWRENCE  
LIVERMORE NATIONAL LABORATORY**



**Department of Energy**  
Washington, DC 20585

February 1, 2019

MEMORANDUM FOR THE MANAGER, LIVERMORE FIELD OFFICE

*Michelle Anderson*

FROM: Michelle Anderson  
Deputy Inspector General  
for Audits and Inspections  
Office of Inspector General

SUBJECT: INFORMATION: Audit Report on "Management of Consultant Agreements at Lawrence Livermore National Laboratory"

BACKGROUND

Since October 2007, Lawrence Livermore National Security, LLC has operated Lawrence Livermore National Laboratory (Livermore) for the National Nuclear Security Administration. Livermore has a primary mission to strengthen the United States' security through development and application of science and technology to enhance the Nation's defense, reduce the global threat from terrorism and weapons of mass destruction, and respond to scientific issues of national importance.

In accomplishing its mission, Livermore uses a variety of methods for obtaining services, including consultant agreements. Livermore acquires consultants with special knowledge or expertise who provide independent expert advisory services of a technical or professional nature on a fee or per diem basis. Livermore obtains consultants through consultant agreements, which are based on reimbursement of actual hours worked and material costs at a fixed rate issued to an individual for the performance of consulting services. For fiscal years 2013 through 2015, Livermore had 484 active consultant agreements, with incurred costs of approximately \$6 million. We initiated this audit to determine whether Livermore effectively managed and administered its consultant agreements.

RESULTS OF AUDIT

In general, nothing came to our attention to indicate that Livermore had not effectively managed and administered its consultant agreements. Livermore had a consultant agreement and claims administration in place to process consultant agreements and review consultant invoices. In addition, Livermore established policies and procedures to reflect its management and operating contract requirements and applicable regulations. However, we identified instances that would improve how Livermore manages and administers its consultant agreements. Specifically:

- We found 22 consultant agreements that had potential organizational conflicts of interest, which were identified and disclosed by Livermore but were not monitored to ensure that the conflicts of interest were fully mitigated as required by Livermore’s *Conflicts of Interest Compliance Plan* and internal policy on *Organizational Conflicts of Interest*. We did not identify any actual conflicts in these cases. In addition, the 22 consultant agreements had mitigation plans, but the plans did not include all the necessary elements, as required.
- We identified one instance in which a conflict of interest was not disclosed, as required.
- Livermore retained consultants longer than 5 years without adequate justification. For example, a consultant agreement was renewed for 19 years without sufficient justification.
- Livermore paid unsupported consultant claims, which resulted in \$20,410 in questioned costs. In addition, consultants’ travel claims did not consistently follow federal acquisition and travel regulations, which resulted in \$1,340 in questioned travel costs.

The issues we identified were due to weaknesses in Livermore’s internal policies and procedures, as well as a lack of implementation of Federal Acquisition Regulation requirements. Specifically, Livermore’s policies and procedures did not provide clear guidance for mitigation plan monitoring responsibilities, consultant agreement renewals, and travel requirements. In addition, Livermore did not ensure that its policies and procedures were always followed.

The lack of a well-established monitoring process for mitigation plans reduces our confidence in Livermore’s ability to provide reasonable assurance that consultants are independent and performing work free of biases from financial, contractual, organizational, or other interests. In addition, without properly evaluating and justifying long-term consultant agreements, Livermore may grant unfair competitive advantage to specific parties. Finally, without adequate controls in place, Livermore may not be able to provide reasonable assurance that only allowable consultant costs are incurred and claimed. We made recommendations to improve controls over consultant agreements.

## MANAGEMENT RESPONSE

Management concurred with the report’s findings and recommendations and indicated that corrective actions are underway. Management appreciates the OIG’s recognition of the National Nuclear Security Administration’s increased focus in the area of organizational conflicts of interest. In addition, management recognizes the opportunities to further improve Livermore’s formal policies for overseeing consulting agreements. Also, management commented that it had concerns with one conclusion stated in our report. Specifically, the report included a statement that “Livermore and the Department may not be protected from an environment that fosters partiality or grants unfair competitive advantage to specific parties.” According to management, this statement is inconsistent with the auditors’ findings of no actual organizational conflicts of interest and no issues that would indicate Livermore had not effectively managed and

administered consultant agreements. Based on management's feedback, we adjusted the wording of this sentence in the final report. Management's comments can be found in their entirety in Attachment 3.

#### Attachments

cc: Deputy Secretary  
Chief of Staff

# MANAGEMENT OF CONSULTANT AGREEMENTS AT LAWRENCE LIVERMORE NATIONAL LABORATORY

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# **MANAGEMENT OF CONSULTANT AGREEMENTS AT LAWRENCE LIVERMORE NATIONAL LABORATORY**

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## **DETAILS OF FINDINGS**

### **Management and Administration of Consultant Agreements**

In general, nothing came to our attention to indicate that Lawrence Livermore National Laboratory (Livermore) had not effectively managed and administered its consultant agreements. Livermore had a consultant agreement and claims administration in place to process consultant agreements and review consultant invoices. In addition, Livermore established policies and procedures to reflect its management and operating contract requirements and applicable regulations. However, we identified instances that would improve how Livermore manages and administers its consultant agreements. Specifically:

- We found 22 consultant agreements that had potential organizational conflicts of interest, which were identified and disclosed by Livermore but were not monitored to ensure that the conflicts of interest were fully mitigated as required by Livermore's *Conflicts of Interest Compliance Plan* and internal policy on *Organizational Conflicts of Interest*. We did not identify any actual conflicts in these cases. In addition, the 22 consultant agreements had mitigation plans, but the plans did not include all the necessary elements, as required.
- We identified one instance in which a conflict of interest was not disclosed, as required.
- Livermore retained consultants longer than 5 years without adequate justification. For example, a consultant agreement was renewed for 19 years without sufficient justification.
- Livermore paid unsupported consultant claims, which resulted in \$20,410 in questioned costs. In addition, consultants' travel claims did not consistently follow Federal acquisition and travel regulations, which resulted in \$1,340 in questioned travel costs.

### **Conflicts of Interest Disclosed but Not Monitored**

We found 22 consultant agreements that had potential organizational conflicts of interest, which Livermore identified and disclosed but were not monitored to ensure that the conflicts of interest were fully mitigated. Instead, Livermore relied on consultants to adhere to their established mitigation plans. Livermore management and operating contract Clause I-071 Department of Energy Acquisition Regulations 952.209-72, *Organizational Conflicts of Interest*, requires Livermore to take actions to avoid, neutralize, or mitigate actual or significant potential organizational conflict to its satisfaction. In addition, Livermore's management and operating contract Clause H-37, *Conflicts of Interest Compliance Plan*, requires Livermore to submit a Conflicts of Interest Compliance Plan, which outlines Livermore's approach for adhering to the *Organizational Conflicts of Interest* contract clause and describes its procedures for aggressively self-identifying and resolving organizational conflicts of interest, including how actual or potential conflict of interest issues will be identified and either mitigated, resolved, or avoided

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during contract performance. Furthermore, Livermore's internal policy on *Organizational Conflicts of Interest* requires Livermore to develop a mitigation plan that contains the specific requirements to mitigate the conflict of interest, explains how the requirements will be implemented by the consultant, and outlines how Livermore will monitor the implementation of the mitigation plan.

Livermore awarded consultant agreements to individuals who had organizational and financial interests in companies that had already been awarded subcontracts by the same directorate requesting the consultants' services. Directorates at Livermore include major operating groups, such as Global Security, Weapons and Complex Integration, and Operations and Business. For example, we noted the following:

- A consultant who was formerly contracted as the Chief of Staff of the requesting directorate was the owner of a company that had active subcontracts with the directorate and was affiliated with another company that had active subcontracts with the directorate. Immediately after the Chief of Staff's contract had expired in January 2014, Livermore awarded a consultant agreement with a large scope of work that could potentially place the consultant at risk of reviewing the consultant's own work. Livermore disclosed this as a potential conflict of interest, and a mitigation plan was established. The mitigation plan required the consultant to refrain from participating in any discussions, reviews, evaluations, or approvals of prior work under previous subcontracts. However, Livermore did not monitor to ensure the mitigation plan was followed and could not demonstrate that the terms were being reviewed and verified.
- A consultant served as a member of a directorate review committee tasked to evaluate the scope and quality of projects and programs for the requesting directorate, but the consultant also served as a fiduciary board member for a contractor with active subcontracts in the same directorate during fiscal years (FYs) 2013 through 2015. Livermore disclosed this as a potential conflict of interest because the consultant's other business relationship could potentially impair the consultant's objectivity or ability to render impartial advice. However, Livermore could not demonstrate that specific efforts were made to separate the consultant from the subcontracts, as required by the mitigation plan. In addition, Livermore did not monitor to ensure the mitigation plan was fully implemented, as required.
- A consultant served as a member of a directorate review committee but was also president and chief executive officer of a company that had active subcontracts with the same directorate during FYs 2013 through 2015. Livermore disclosed this as a potential conflict of interest because the consultant could potentially review the company's work and/or be perceived to be biased in favor of the company's work. However, Livermore could not demonstrate that specific efforts were made to separate the consultant from the subcontracts, as required by the mitigation plan. In this case, Livermore also did not perform monitoring activities to ensure the mitigation plan was fully implemented, as required.

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Livermore officials stated that the instances we identified were neither actual nor significant potential conflicts of interest but did require mitigation plans. While Livermore put mitigation plans in place, the plans were not monitored to ensure that the terms of the plans were met.

We also discussed our observations with the Livermore Field Office Contracting Officer (CO), who recognized that Livermore should follow its approved policies and procedures by monitoring mitigation plans.

### **Mitigation Plans**

In addition, the 22 consultant agreements had mitigation plans that did not include all the necessary elements, as required by Livermore's internal policy on *Organizational Conflicts of Interest*. Per Livermore's policy on *Organizational Conflicts of Interest*, if the potential for conflict of interest exists, Livermore is required to develop a mitigation plan that explains why it is in Livermore's best interest to award the consultant agreement to a consultant with a potential conflict of interest. However, we found 22 of the 40 mitigation plans did not include Livermore's best interest justification. In addition, we also found that the mitigation plans did not address Livermore's courses of action, as required, to ensure the mitigation plans were implemented.

### **Conflict of Interest Not Disclosed**

During our review, we identified a consultant who had an active subcontract in the same directorate that requested the consultant services. Less than 2 months after awarding the consultant agreement, Livermore also awarded the consultant another subcontract in the same directorate that requested the consultant services. The consultant did not disclose the existence of this subcontract to the Consultant Office. We noted that the consultant agreement required the consultant to report any change in his private interests or services that may result or appear in a conflict of interest. When we brought this issue to Livermore's attention, the Consultant Office Administrator (COA) stated that the consultant should have notified the Consultant Office when the subcontract was awarded and stated that there was no evidence that the required notification occurred.

### **Long-Term Consultant Agreements**

Consultants were retained for longer than 5 years without adequate justification. Specifically, 15 of 40 consultant agreements we reviewed were renewed for more than 5 years and were repeatedly renewed without sufficient justification. Federal Acquisition Regulation (FAR) 31.205-33, *Professional and Consultant Service Costs*, states that when determining allowable costs, an individual is to consider whether the service can be performed more economically by employment rather than by contracting. Justification documentation should demonstrate that the agreements were the most economical option or that other potential suppliers may be able to fulfill the need. However, we identified:

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- A consultant tasked to evaluate the scope and quality of projects and programs had a consultant agreement renewed continuously for 19 years in which Livermore spent \$105,210 during FYs 2014 through 2015.
  - A consultant contracted to support Livermore's involvement in the Enhanced Surveillance Program had a consultant agreement renewed continuously for 18 years in which Livermore spent \$39,434 during FYs 2015 through 2016.
  - A consultant advising on designing survey research projects had a consultant agreement renewed for 14 years in which Livermore spent \$55,486 during FYs 2013 through 2014.

In each of these instances, Livermore could not demonstrate evidence that it had considered other possible providers. We discussed our observations with the Field Office CO who stated that Livermore should re-examine consultant agreements to evaluate potential changes in the market and whether other possible sources are available. The Field Office CO further stated that in order for Livermore to justify renewing the agreement to the same consultant, the consultant needs to be a legitimate sole source and that Livermore must document that no other source is available to perform the work. Further, we discussed our observations with a National Nuclear Security Administration, Office of Acquisition and Project Management official, who expects Livermore to perform an analysis for multi-year agreements to determine if it is still economical to contract out the service rather than hire an employee to perform the work. Neither of these expectations were demonstrated with documentation.

### **Unsupported Consultant Invoices**

We identified both unsupported consultant claims and travel claims that did not consistently follow federal acquisition and travel regulations. Livermore paid unsupported consultant claims, which resulted in \$21,750 in questionable costs. FAR 31.205-33, *Professional and Consultant Service Costs*, states that fees for services rendered are allowable only when supported by evidence of the nature and scope of the service furnished, such as consultant work products and related documents. However, we found:

- Three consultant claims lacked sufficient detail as to the time expended on and nature of the actual services provided. Although the invoices lacked work description details, the claims were signed by the technical representatives, which resulted in payments of the claims. For example, one consultant was reimbursed for over 5 days of work without describing the specific work performed. In another instance, a consultant was reimbursed for over 3 days of work without detailing the specific work performed.
- Five additional consultants' claims had blank descriptions of work or activity breakdown sections. After bringing this to Livermore's attention, they provided sufficient support for the consultants' services. Livermore should ensure description of work is clear prior to paying future invoices.

We brought these instances to the attention of Livermore officials, who stated that these consultant claims were paid based on the old system. During FYs 2013 through 2015, the COA

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was not involved in reviewing the submitted claims. However, three consultant claims still remain without sufficient detail or evidence, so we are questioning \$20,410 in unsupported invoices for these three items. In the beginning of FY 2016, Livermore recognized that the claim processing controls required improvement and began to require the COA to review submitted claims.

Additionally, we found that consultant travel claims did not consistently follow the Federal acquisition and travel regulations, which resulted in \$1,340 in questionable travel costs. FAR 31.205-46, *Travel Costs*, requires Livermore to bill the Department for consultant travel costs incurred for lodging, meals, and incidental expenses based on per diem prescribed by General Services Administration's Federal Travel Regulations; and, aircraft costs incurred for lowest airfare available to the contractor during normal business hours. However, a consultant was reimbursed for a hotel stay over per diem without approval. In addition, two consultants were reimbursed for first class and business class airfares without prior approval. We discussed these concerns with Livermore officials, who agreed that these costs should not have been paid.

### **Inadequate Policies and Procedures**

The issues we identified occurred, in part, because Livermore's policies and procedures did not:

- Clearly define the role of the mitigation plan monitor and assign the monitoring responsibility to any specific individual or group. Although Livermore's internal policy on *Organizational Conflicts of Interest* required Livermore to monitor implementation of the mitigation plan, it did not specify which department or job function ultimately owned the responsibility. After interviewing officials from Livermore's Supply Chain Management, Independent Audit and Ethics Department, as well as technical representatives, we found that none of the groups were aware of which department was ultimately responsible for monitoring the mitigation plan.
- Provide clear guidance on how to handle renewals of consultant agreements. While Livermore's internal policy on *Consultant Services* establishes the 5-year limitation requirement for multi-year agreements, it does not clearly state what steps should be taken if consultant agreements are renewed for several years exceeding the 5-year limitation.
- Incorporate all FAR requirements. Livermore's policy on *Consultant Services* did not fully incorporate requirements outlined within FAR 31.205-33, *Professional and Consultant Service Costs*. For example, the policy on *Consultant Services* did not include the requirement to consider, when determining allowable costs, whether the service can be performed more economically by employment rather than contracting.
- Incorporate all consultant claim requirements as prescribed in Livermore's internal guide, *Requestor Guidelines for Consultant Agreements*. Livermore technical representatives rely on this internal guide in reviewing and approving consultant agreements. According to the internal guide, technical representatives are responsible for reviewing invoices and verifying and certifying the accuracy of the consultants' costs. Although such

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responsibilities were incorporated into the internal guide, it did not specifically state that the consultant claims required sufficient detail as to the time expended on and nature of the actual services provided, as required by FAR 31.205-33, *Professional and Consultant Service Costs*. In addition, the previous claim forms utilized for consultant payment did not have a location for the consultant to provide sufficient detail as to the work performed. To Livermore's credit, the claim forms were revised in June 2014 to allow for work detail to be included on the forms. However, the internal guide was not revised to ensure communication and consistent implementation of the FAR requirement.

- Although Livermore officials stated that reimbursement of the questioned travel costs was due to inadequate oversight, Livermore could improve by clearly outlining and incorporating all relevant travel requirements in its *Travel Expense Rules*, to ensure that applicable federal and travel expense requirements are followed. For example, Livermore's *Travel Expense Rules* do not fully incorporate the FAR 31.205-46, *Travel Costs*, requirement that states only aircraft costs incurred for lowest airfare available to the contractor during normal business hours are allowable. The policy also does not explicitly state that airfare reimbursement is based on the lowest airfare available, but rather states that aircraft costs will be reimbursed for no more than the coach class.

## **Policies and Procedures Were Not Always Followed**

We also attributed these problems to Livermore not following its internal policies and procedures. Specifically, Livermore Supply Chain Management was not documenting the best interest justification because it did not follow its internal policy on *Organizational Conflicts of Interest*. According to the COA, Livermore's current practice is to informally consider its best interest to award the consultant agreement when a conflict of interest is identified, however its best interest justification is not formally documented in the procurement file. The COA and Livermore Supply Chain Management's Operations, Policy & Oversight department recognized this weakness and plan to implement the requirement in its future evaluations of a consultant's conflict of interest.

## **Impact**

A well-established monitoring process for mitigation plans ensures that potential and/or actual conflicts of interest are mitigated. Although we did not identify any actual conflicts of interest, the lack of monitoring process reduces our confidence in Livermore's ability to provide reasonable assurance that consultants are independent and performing work free of biases from financial, contractual, organizational, or other interests. In addition, without properly evaluating and justifying long-term consultant agreements, Livermore may grant unfair competitive advantage to specific parties. Finally, without adequate controls in place, Livermore may not be able to provide assurance that only allowable consultant costs are incurred and claimed. During FYs 2013 through 2015, Livermore incurred \$21,750 in questionable consultant service costs, including \$20,410 in unsupported claims and \$1,340 in questionable travel costs. We made recommendations that we believe, if fully implemented, should enhance Livermore's management and administration of consultant agreements.

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## RECOMMENDATIONS

To ensure that consultant agreements are effectively managed and administered, we recommend that the Manager, Livermore Field Office:

1. Direct Livermore's Supply Chain Management to assign the monitoring responsibility of mitigation plans and clearly specify its roles and responsibilities to fully mitigate organizational conflicts of interest, as required by Livermore's policy on *Organizational Conflicts of Interest*.
2. Direct Livermore's Supply Chain Management to revise its policy on *Consultant Services* to align with the FAR 31.205-33(d) to ensure that consultant agreements are appropriately evaluated to determine whether it is the most economical option.
3. Direct Livermore's technical representatives to ensure that consultant invoices consistently provide sufficient detail as to the time expended and nature of the actual services provided, as required by FAR 31.205-33(f). In addition, direct Livermore to revise its internal guide, *Requestor Guidelines for Consultant Agreements*, to clearly align with FAR 31.205-33(f) invoice requirements.
4. Direct Livermore to revise its *Travel Expense Rules* to align with FAR 31.205-46, *Travel Costs* requirements on obtaining lowest airfare available during normal business hours.
5. Ensure that Livermore's Supply Chain Management document in writing its best interest justification when awarding a consultant agreement to a consultant with a potential conflict of interest, as required by its policy on *Organizational Conflicts of Interest*.
6. Direct Livermore to review its existing consultant agreements to ensure compliance with its internal policies on *Consultant Services* and *Organizational Conflicts of Interest*.

We also recommend that the Manager, Livermore Field Office, direct the Contracting Officer to:

7. Determine the allowability of the \$21,750 in questionable costs in this report and seek recovery of those costs.

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## **MANAGEMENT RESPONSE**

Management concurred with the report's findings and recommendations and indicated that corrective actions are underway. Management appreciates the OIG's recognition of the National Nuclear Security Administration's increased focus in the area of organizational conflicts of interest. In addition, management recognizes the opportunities to further improve Livermore's formal policies for overseeing consulting agreements. Also, management commented that it had concerns with one conclusion stated in our report. Specifically, the report included a statement that "Livermore and the Department may not be protected from an environment that fosters partiality or grants unfair competitive advantage to specific parties." According to management, this statement is inconsistent with the auditors' findings of no actual organizational conflicts of interest and no issues that would indicate Livermore had not effectively managed and administered consultant agreements.

Management's formal comments are included in Attachment 3.

## **AUDITOR COMMENTS**

Management's comments and proposed actions are responsive to our findings and recommendations. Based on management's feedback, we adjusted the wording of the sentence it had concerns with in the final report.

## **OBJECTIVE, SCOPE, AND METHODOLOGY**

### **Objective**

We conducted this audit to determine whether Lawrence Livermore National Laboratory (Livermore) effectively managed and administered its consultant agreements.

### **Scope**

The audit was performed from March 2016 to February 2019 at Livermore, located in Livermore, California. The audit scope included a review of active consultant agreements during fiscal years 2013 through 2015. We conducted this audit under Office of Inspector General project number A16LL029.

### **Methodology**

To accomplish our audit objective, we:

- Reviewed Federal laws and regulations, Department of Energy regulations and guidance, and contract provisions related to consultant agreements.
- Reviewed Livermore's internal policies, procedures, and practices.
- Reviewed Livermore's pre-award and post-award processes in administering consultant agreements and the Department's oversight activities.
- Judgmentally selected 40 consultant agreements from a universe of 484 active consultant agreements during fiscal years 2013 through 2015 based on risk indicators including, but not limited to, consultants employed by affiliated sources, agreements with highest days of usage, and agreements that incurred highest travel expenses. A non-statistical sample design was chosen with the intent to isolate consultant agreements with the highest risk indicators. Because the selection was based on a judgmental sample, results and overall conclusions cannot be projected to the entire population or universe of active consultants subject to the audit.
- Obtained the 40 consultant agreements, reviewed the associated documents contained in the official procurement files, and assessed whether consultant agreements were administered in accordance with applicable criteria. We also reviewed consultants' claims to test compliance with contract terms, applicable laws, regulations, policies, and procedures.
- Reviewed prior reports issued by the Office of Inspector General, Government Accountability Office, and Livermore's Independent Audit and Ethics Department.
- Interviewed key Department officials and Livermore personnel to obtain an understanding of the processes for managing and administering consultant agreements.

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 that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. The audit included tests of internal controls and compliance with the laws and regulations to the extent necessary to satisfy the audit objective. Additionally, we assessed the Department's implementation of the *GPRM Modernization Act of 2010* as it relates to our audit objective and found that the Department had established performance measures for the procurement activities we reviewed.

Because our review was limited, it would not have necessarily disclosed all internal control deficiencies that may have existed at the time of our audit. We relied on computer-processed data to satisfy the audit objective. Based on recent reviews of Livermore's information technology controls performed by KPMG LLP on behalf of the Office of Inspector General, we determined that the data was sufficiently reliable for the purposes of the audit.

Management waived an exit conference on December 10, 2018.

## **RELATED REPORTS**

### **Office of Inspector General**

- Special Review on the [\*National Nuclear Security Administration's Management of Support Service Contracts\*](#) (OAS-M-15-05, July 2015). The review discovered activities that could lead observers to question the National Nuclear Security Administration's management of support services contracts. The audit found that support services contracts exhibited characteristics of a personal services contract, contracted services approached being inherently Governmental functions, and the National Nuclear Security Administration's use of program funds for some support services contracts was questionable. However, the limited review found no clear violations of the Federal or Department acquisition regulations. The National Nuclear Security Administration had self-identified the issues and is taking corrective actions to address them.
- Inspection Report on the [\*Concerns with Consulting Contract Administration at Various Department Sites\*](#) (DOE /IG-0889, June 2013). The inspection found concerns with the administration and management of agreements with Heather Wilson and Company, LLC for advice and consultation provided to senior managers at four Department contractor-operated sites. Four facility contractors paid approximately \$450,000 to Heather Wilson and Company, LLC even though they did not receive evidence that work performed under the agreements had been completed. The issues identified in the report occurred because contractor officials responsible for crafting and administering the consulting agreements either did not incorporate, or failed to enforce, the requirements of the federal acquisition regulations into the agreements with Heather Wilson and Company, LLC.

### **Lawrence Livermore National Laboratory's Independent Audit & Ethics Department**

- Internal Audit Report on Consultant Agreements (No. 15-08, November 2015). The objective of the audit was to determine if the subcontracts for consultant services have clear descriptions of services and are properly administered in compliance with Lawrence Livermore National Laboratory's management and operating contract, Supply Chain Management, and Department of Energy requirements. The review found that from October 1, 2014, to July 27, 2015, the 30 consultant agreements had clear descriptions of services. The issues identified during the audit include a lack of sufficient evidence to support some consultant claims, "hands-on" work being performed by consultants, and the scope of work and term in agreements were sometimes inconsistent with Lawrence Livermore National Laboratory policy.

## MANAGEMENT COMMENTS



Department of Energy  
Under Secretary for Nuclear Security  
Administrator, National Nuclear Security Administration  
Washington, DC 20585



November 26, 2018

MEMORANDUM FOR APRIL STEPHENSON  
ACTING INSPECTOR GENERAL

FROM: LISA E. GORDON-HAGERTY 

SUBJECT: Comments on the Office of Inspector General Draft Report  
*Management of Consultant Agreements at Lawrence Livermore  
National Laboratory (A16LL029)*

Thank you for the opportunity to review and comment on the subject draft report. We appreciate the Office of Inspector General's recognition of the National Nuclear Security Administration's (NNSA) increased focus in the area of organizational conflicts of interest. NNSA concurs with the recommendations in the report, which highlight opportunities to further improve Lawrence Livermore National Security, LLC (LLNS) formal policies for overseeing consulting agreements. We do, however, have concerns with one conclusion stated in the report.

The report includes a statement that "Livermore and the Department may not be protected from an environment that fosters partiality or grants unfair competitive advantage to specific parties." This statement is inconsistent with auditors' findings of no actual organizational conflicts of interest and no issues that would indicate LLNS had not effectively managed and administered consultant agreements.

The attachment to this memorandum details the specific actions planned and taken to address the report's recommendations, as well as timelines for completion. We have also provided technical and general comments under separate cover for your consideration to enhance the clarity and factual accuracy of the report. If you have any questions regarding this response, please contact Mr. Dean Childs, Director, Audits and Internal Affairs, at (301) 903-1341.

Attachment



**NATIONAL NUCLEAR SECURITY ADMINISTRATION**  
**Response to Report Recommendations**

Management of Consultant Agreements at Lawrence Livermore  
National Laboratory (A16LL029)

The Office of Inspector General (OIG) recommended that the Manager, Livermore Field Office:

**Recommendation 1:** Direct Livermore's Supply Chain Management to assign the monitoring responsibility of mitigation plans and clearly specify its roles and responsibilities to fully mitigate organizational conflicts of interest, as required by Livermore's policy on Organizational Conflicts of Interest (OCI).

*Management Response:* Concur - LLNS, working with the Contracting Officer, will review current internal policy on OCI against Federal requirements to determine if additional monitoring is required, and if necessary, will establish a process for monitoring mitigation plans. Estimated completion date: March 31, 2019

**Recommendation 2:** Direct Livermore's Supply Chain Management to revise its policy on Consultant Services to align with the FAR 31.205-33(d) to ensure that consultant agreements are appropriately evaluated to determine whether it is the most economical option.

*Management Response:* Concur - LLNS, working with the Contracting Officer, will review current internal policies against Federal requirements, and if necessary, update the policies. Estimated completion date: March 31, 2019

**Recommendation 3:** Direct Livermore's technical representatives to ensure that consultant invoices consistently provide sufficient detail as to the time expended and nature of the actual services provided, as required by FAR 31.205-33(f). In addition, direct Livermore to revise its internal guide, Requestor Guidelines for Consultant Agreements, to clearly align with FAR 31.205-33(f) invoice requirements.

*Management Response:* Concur - The claim form was revised in June 2014 to allow for work detail to be included. Additionally, LLNS will work with the Contracting Officer to address other appropriate changes to existing procedures. Estimated completion date: March 31, 2019

**Recommendation 4:** Direct Livermore to revise its Travel Expense Rules to align with FAR 31.205-46, Travel Costs requirements on obtaining lowest airfare available during normal business hours.

*Management Response:* Concur - LLNS will update the language in its policy to reflect the current language in FAR 31.205-46. Estimated completion date: December 31, 2018

**Recommendation 5:** Ensure that Livermore's Supply Chain Management document in writing its best interest justification when awarding a consultant agreement to a consultant with a potential conflict of interest, as required by its policy on OCI.

*Management Response:* Concur - A six sigma process improvement project has resulted in the formalization of OCI review and Documentation of Record practices. The policies and procedures in Supply Chain Management and the Ethics Office are being updated accordingly. Estimated completion date: March 31, 2019

**Recommendation 6:** Direct Livermore to review its existing consultant agreements to ensure compliance with its internal policies on *Consultant Services* and *Organizational Conflicts of Interest*.

*Management Response:* Concur - Supply Chain Management will continue to review each consultant agreement as it comes up for renewal to ensure compliance with all applicable requirements. NNSA considers this recommendation closed.

**Recommendation 7:** Direct the Contracting Officer to determine the allowability of the \$21,750 in questionable costs in this report and seek recovery of those costs.

*Management Response:* Concur - LLNS will work with the Contracting Officer to resolve all identified questioned costs in the report. Estimated completion date: June 30, 2019

## **FEEDBACK**

The Office of Inspector General has a continuing interest in improving the usefulness of its products. We aim to make our reports as responsive as possible and ask you to consider sharing your thoughts with us.

Please send your comments, suggestions, and feedback to [OIG.Reports@hq.doe.gov](mailto:OIG.Reports@hq.doe.gov) and include your name, contact information, and the report number. Comments may also be mailed to us:

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

If you want to discuss this report or your comments with a member of the Office of Inspector General staff, please contact our office at (202) 586-1818. For media-related inquiries, please call (202) 586-7406.