



**OFFICE OF INSPECTOR GENERAL**

U.S. Department of Energy

# INSPECTION REPORT

DOE-OIG-19-36

June 2019


**MANAGEMENT OF CONSULTANT  
SERVICES AT LOS ALAMOS  
NATIONAL LABORATORY**



**Department of Energy**  
Washington, DC 20585

June 25, 2019

MEMORANDUM FOR THE MANAGER, LOS ALAMOS FIELD OFFICE

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

SUBJECT: INFORMATION: Inspection Report on "Management of Consultant Services at Los Alamos National Laboratory"

BACKGROUND

From June 1, 2006, to October 31, 2018, Los Alamos National Security, LLC (LANS) operated Los Alamos National Laboratory (Los Alamos) for the National Nuclear Security Administration. Los Alamos' primary mission is its national security responsibilities, which include the design, qualification, certification, and assessment of nuclear weapons. Los Alamos is one of the largest science and technology institutes in the world, and it conducts multidisciplinary research in fields such as national security, space exploration, renewable energy, medicine, nanotechnology, and supercomputing. To accomplish its mission, LANS procures consultant services through the Acquisition Services Management division.

The Office of Inspector General has identified issues with consultant services at Los Alamos in the past. In June 2013, report DOE/IG-0889, *Concerns with Consulting Contract Administration at Various Department Sites*, described how Los Alamos authorized payments to a consultant without evidence of deliverables and detailed invoices to support the allowability of these payments.

LANS had 74 active consultant agreements during fiscal years 2014, 2015, and 2016, with associated incurred costs totaling approximately \$3.4 million. The Federal Acquisition Regulations require specific controls for consultant services, such as examining reasonableness of cost, monitoring contract limitations, and ensuring invoices include sufficient detail as to the nature of actual services performed. We initiated this inspection to determine whether LANS effectively managed its consultant services.

RESULTS OF INSPECTION

We found that LANS did not always effectively manage its consultant services. During our review of pre-award activities for all 74 consultant agreements, nothing came to our attention

that would indicate significant concerns or weaknesses. However, during our review of post-award activities, we judgmentally selected the 21 highest dollar consultant agreements for testing and found that LANS did not:

- Monitor the period of performance for 4 of 21 (19 percent of the sample) consultant agreements or ceiling price for 6 of 21 (29 percent of the sample) consultant agreements, resulting in \$36,119 in questioned costs.
- Ensure consultant invoices contained sufficient detail of the services provided for 6 of 21 (29 percent of the sample) consultant agreements, resulting in \$288,379 in questioned costs.

Additionally, we found that LANS procured consultant services using guest agreements and task orders, which did not have internal controls to ensure the costs were allowable per Federal Acquisition Regulations. While we did not identify any instances of conflicts of interest or unnecessary costs, LANS should ensure consultant services are procured appropriately to mitigate these risks.

These conditions occurred due to lack of adherence to internal policies and Federal regulations. Further, the Federal Los Alamos Field Office did not provide adequate oversight over consultant services. Having controls in place to ensure that invoices include details of services performed was especially important due to past instances when supporting documentation was lacking. We questioned a total of \$324,498 in consultant service costs, directly relating to these concerns. Also, we made recommendations to improve controls and oversight of consultant agreements.

#### MANAGEMENT RESPONSE

Management concurred with the recommendations and stated that Los Alamos has already begun to implement improvements in its acquisition processes for the procurement of consultant services. Additionally, management stated that Los Alamos' Human Resources Division has already revamped its processes to more thoroughly screen proposed guest agreements for consulting, training, or other activities more appropriate for subcontracts. We consider management's comments and corrective actions to be responsive to our recommendations and commend management for being proactive and taking action before the issuance of our final report. Management's comments and our responses are summarized in the body of the report. Management's formal comments are included in Appendix 3.

#### Attachment

cc: Deputy Secretary  
Chief of Staff  
General Counsel  
Administrator, National Nuclear Security Administration

# MANAGEMENT OF CONSULTANT SERVICES AT LOS ALAMOS NATIONAL LABORATORY

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# MANAGEMENT OF CONSULTANT SERVICES AT LOS ALAMOS NATIONAL LABORATORY

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## BACKGROUND

In the Management and Operating Contract for the Los Alamos National Laboratory (Los Alamos), National Nuclear Security Administration, clause I-132(j) incorporated Federal Acquisition Regulation (FAR) subpart 31.2. FAR 31.205-33, *Professional and Consultant Service Costs*, defined professional and consultant services as those services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the contractor. Consultant services may be acquired by contractors to enhance their legal, economic, financial, or technical positions. Contractors generally acquire consultant services to obtain information, advice, opinions, alternatives, conclusions, recommendations, training, or direct assistance, such as studies, analyses, evaluations, liaison with Government officials, or other forms of representation. In addition to Federal regulations, we obtained Los Alamos' and Los Alamos National Security, LLC's policies and procedures relevant to the inspection.

The Department of Energy's Office of Inspector General reported concerns about consultant services at Los Alamos in the past. In June 2013, report DOE/IG-0889, *Concerns with Consulting Contract Administration at Various Department Sites*, described how, between August 2009 and February 2011, Los Alamos authorized 19 payments totaling \$195,718 to a consultant without evidence of work products and detailed invoices to support the allowability of these payments.

## DETAILS OF FINDINGS

We found that Los Alamos National Security, LLC (LANS) did not always effectively manage consultant services. During our review of pre-award activities for all 74 consultant agreements, nothing came to our attention that would indicate significant concerns or weaknesses. However, we reviewed post-award activities for 21 judgmentally selected consultant agreements in addition to the use of other procurement vehicles for consultant services and found that LANS:

- Did not always monitor consultant agreements for contract limitations and did not ensure invoices included sufficient detail as to the nature of the actual services provided prior to approval; and
- Procured consultant services through guest agreements and task orders, which was outside of the consultant agreement process.

These conditions occurred due to lack of adherence to internal policies and Federal regulations. Further, the Federal Los Alamos Field Office did not provide adequate oversight over LANS' use of consultant services.

As a result, LANS incurred questioned costs in the amount of \$324,498 due to a lack of monitoring consultant agreements and not ensuring that invoices included sufficient detail. Additionally, because LANS procured consultant services without a consultant agreement, it did

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not follow internal controls designed to ensure that costs were allowable and to mitigate organizational conflicts of interest. While we did not identify any instances of this, in bypassing internal controls, LANS and the Los Alamos Field Office might not be aware of potential organizational conflicts of interest, unnecessary costs of work, or any economic impact that could have occurred.

### **Consultant Agreement Post-Award Activities**

During our review of post-award activities, we found that the LANS division responsible for procurements, Acquisition Services Management (ASM), did not always effectively manage consultant agreements. To conduct our review, we selected 21 of the 74 consultant agreements, based on highest dollar value, and identified additional concerns. Specifically, ASM:

- Did not monitor the period of performance for four consultant agreements or ceiling price for six consultant agreements; and
- Approved 64 invoices for 6 consultant agreements that did not include sufficient detail as to the nature of the actual services provided.

Without following its policies and procedures to monitor consultant agreements, LANS incurred questioned costs in the amount of \$36,119. In addition, a lack of monitoring may increase the risk of contract overruns, which could lead to exceeding the funding specified in the consultant agreement or performing work outside the scope of the consultant agreement. Lastly, without appropriate invoicing procedures, LANS incurred questioned costs in the amount of \$288,379. The total amount of questioned costs resulting from LANS' lack of adherence to policies and procedures was \$324,498.

<b>Finding</b>	<b>Questioned Costs</b>
Work performed outside of the period of performance	\$9,248
Billed amount that exceeded the ceiling price	26,871
Invoices lacking sufficient detail as to the nature of actual services performed	288,379
<b>Total</b>	<b>\$324,498</b>

### **Contract Terms**

We found that LANS did not monitor the period of performance or ceiling price for multiple consultant agreements. Specifically, LANS paid consultants for work performed outside of the period of performance specified in the contract for 4 of 21 (19 percent) consultant agreements, resulting in \$9,248 in questioned costs. For example, LANS paid an invoice for work performed in February 2012, even though the period of performance expired in September 2011. We also found that 6 of 21 (29 percent) consultants performed work when there was no funding left on the agreement and billed invoices where the cumulative amount exceeded the contract ceiling price, resulting in \$26,871 in questioned costs. For example, an invoice for work performed in January 2017 exceeded the contract ceiling price by \$1,775. LANS paid this invoice in January

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2017 but did not modify the contract to increase the ceiling price until February 2017. LANS paid invoices for three of the six consultant agreements prior to issuing a modification to increase the ceiling price.

FAR 31.205-33(c)(4), *Professional and Consultant Service Costs*, required that in order for costs of consultant services to be allowable, the services performed must be consistent with the purpose and scope of the services contracted for or otherwise agreed to. In addition, Los Alamos Procedure 850, *Subcontract Technical Representative Procedure*, required that subcontracts be monitored and that the Procurement Specialist ensures compliance with subcontract terms and conditions. LANS applies subcontract policies and procedures to consultant agreements because they are considered to be a type of subcontract. The monitoring issues occurred because LANS did not adhere to internal policies or Federal regulations to manage consultant agreements. Specifically, LANS did not adhere to Los Alamos' policy for Procurement Specialists to monitor the period of performance or ceiling price, resulting in \$36,119 in questioned costs. Additionally, the Los Alamos Field Office did not provide adequate oversight of post-award activities. Specifically, the Los Alamos Field Office set internal thresholds that precluded the majority of consultant agreements from being reviewed by the Contracting Officer.

### **Invoices Lacking Sufficient Detail**

We found that in 6 of 21 (29 percent) consultant agreements, LANS approved invoices that did not contain sufficient detail of the services provided by the consultant. Specifically, these 6 consulting agreements had 64 associated invoices, all of which lacked the detail required by FAR 31.205-33, resulting in \$288,379 in questioned costs. For example:

- One consultant's invoices stated "Advising and Consulting Services" in the description of work, while another's stated "Consultant Services" without any detail of the nature of the actual services provided;
- A different consultant's invoices stated "For services rendered under consultant agreement [number]" in the description of work;
- Another consultant's invoices listed "Advising on complex electronic materials" in the description of work;
- Lastly, two different consultant's invoices did not provide any description of the work performed.

FAR 31.205-33(f)(2), *Professional and Consultant Service Costs*, stated that evidence necessary to determine that the work performed was proper and did not violate law or regulation shall include invoices or billings submitted by consultants with sufficient detail as to the time expended and nature of actual services provided. LANS did not adhere to this requirement. Additionally, the Los Alamos Field Office did not provide adequate oversight of post-award activities. Specifically, the Los Alamos Field Office set internal thresholds that did not require the majority of consultant agreements to be reviewed by the Contracting Officer.

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## Consultant Services Awarded through Other Procurement Vehicles

At the start of this inspection, an ASM official told us that consultant services could only be procured through consulting agreements; however, we found that LANS procured consultant services outside of this process. Specifically, LANS' Human Resources Division (HR) procured consultant services through guest agreements, and ASM obtained consultant services through task orders.

As a result of LANS procuring consultant services without a consultant agreement, it may not have followed internal controls designed to ensure that costs were allowable and to mitigate organizational conflicts of interest. Guest agreements and task orders bypass the level of scrutiny inherent in internal controls for pre- and post-award of consultant services. For example, 73 of the guest agreements totaling \$260,625 exceeded the Contracting Officer consent threshold; however, because the services were not procured as consultant agreements, the services were not reviewed by the Contracting Officer. In bypassing these controls, such as requiring invoices, work products, and disclosure and identification of conflicts of interest and monitoring contract limitations, LANS and the Los Alamos Field Office may have not been aware of potential organizational conflicts of interest, unnecessary costs of work, or any economic impact that could have occurred. We did not identify any conflicts of interest or unnecessary costs associated with guest agreements or task orders; however, to mitigate these risks, LANS needs to ensure that consultant services are procured appropriately.

### Guest Agreements

During our review of official guest agreements awarded from fiscal year 2014 to 2016, we determined that 172 of 449 (38 percent) were used to procure consultant services, contrary to LANS' assertion at the start of the inspection. The description of activities to be performed during the visit for these 172 guest agreements aligned with the FAR 31.205-33 description of consultant services. Los Alamos Procedure 709-3 (P 709-3), *Guest Agreements*, defined a laboratory guest as an individual who visits the laboratory for a limited duration or on an infrequent basis. P 709-3 further stated that official guest activities are to attend meetings, tour the facilities, observe research and other activities, present colloquia/seminars, and/or hold discussions. In addition, official guests may also be members of review committees or advisory boards and contribute to their reports. The FAR 31.205-33 stated that professional and consultant services are generally acquired to obtain information, advice, opinions, alternatives, conclusions, recommendations, training, or direct assistance, such as studies, analyses, evaluations, liaison with Government officials, or other forms of representation.

Several examples illustrate our finding that HR used 172 official guest agreements to procure consultant services. Four guest agreements for one individual listed activities as "advice and consulting." In another instance, two guest agreements for an individual specifically listed "consulting" as an activity. Of the 172 guest agreements, 96 described activities that did not meet those identified in P 709-3. The remaining 76 guest agreements were for members of review committees or advisory boards. While being a member of a review committee or advisory board was listed in P 709-3 as a reason why LANS enters into guest agreements, the activities performed for the review committees or advisory boards were consultative in nature.



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For example, 43 official guests were members of the Science, Technology, and Engineering Review Committee, and their duties consisted of evaluating the quality of science, technology, and engineering and advising Los Alamos management.

Guest agreements used to procure consultant services that met the activities described in P 709-3	76
Guest agreements used to procure consultant services that did <u>not</u> meet the activities described in P 709-3	96
<b>Total amount of guest agreements used to procure consultant services</b>	<b>172</b>

HR procured consultant services through guest agreements because it did not adhere to its written procedure or Federal regulations. In addition, HR did not apply the FAR 31.205-33 criteria when reviewing requests for guest agreements to ensure that they were not consultative in nature.

By procuring consultant services via guest agreements, LANS bypassed the controls designed to ensure that the costs were allowable and to ensure that an organizational conflict of interest disclosure was submitted. For example, guests were not required to submit invoices or work products, even though FAR 31.205-33 requires this kind of supporting documentation for consultant services to be allowable. Additionally, Department of Energy Acquisition Regulation (DEAR) 952.209-72 required the contractor to obtain a conflict of interest disclosure from the consultant and determine in writing whether the disclosed interests presented an actual or significant potential for an organizational conflict of interest. P 709-3 does not include either the FAR or DEAR requirements.

### **Task Orders**

We also reviewed task orders and found that LANS procured consultant services in 7 of 157 (4 percent) task orders. For example, one task order totaling \$51,540 specifically listed the services of five consultants in the statement of work, indicating that there were, in fact, consultant services. LANS Acquisition Practice 6166, *Task Orders*, which was applicable during the scope of our inspection, did not include all of the FAR 31.205-33 or the DEAR 952.209-72 requirements. Therefore, by procuring consultant services via task orders, LANS did not apply the appropriate controls, such as conflict of interest reviews, to ensure that the consultant service costs were allowable per FAR and DEAR.

LANS used task orders to procure consultant services because it defined a consultant as a named individual acting on his or her own behalf who provides expert advisory or assistance services of a technical or professional nature. The term “named individual” refers to a specific individual, not a company. LANS took the position that if it was awarding an agreement to a company rather than an individual, a consultant agreement was not necessary. FAR 31.205-33 defined consultant services as “those services rendered by persons who are members of a particular profession or possess a special skill and who are not officers or employees of the contractor.” The term “persons” could refer to an individual or a company. Therefore, the LANS Acquisition Practice 6371 definition of a consultant is not consistent with FAR 31.205-33.

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### **Inconsistency**

Further, we found that HR and ASM did not consistently apply FAR 31.205-33 in determining if services warranted a consulting agreement. We determined that HR awarded a guest agreement for consultant services, whereas ASM awarded a task order to the same vendor for similar services. When we discussed this inconsistency with HR, an official acknowledged that the services should have been procured through a consultant agreement. However, when we discussed the inconsistency with ASM, an official maintained that the task order was the proper vehicle. Based on the FAR definition of consultant services, it is our opinion that these services should have been procured using a consultant agreement.

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## RECOMMENDATIONS

We recommend that the Manager, Los Alamos Field Office:

1. Advise the management and operating contractor to adhere to internal policies and Federal regulations, ensuring that contract limitations for consultant agreements are monitored;
2. Provide adequate oversight of consultant agreements and direct the management and operating contractor's Acquisition Services Management Division to ensure that consultant invoices provide sufficient detail as to the time expended and nature of the actual services provided, as required by FAR 31.205-33(f);
3. Advise the management and operating contractor's Human Resources Division to adhere to its written procedure and apply FAR 31.205-33 criteria when awarding guest agreements;
4. Ensure that the management and operating contractor's Acquisition Services Management Division is using the appropriate definition of consultant services, as defined in FAR 31.205-33; and
5. Advise the management and operating contractor to provide clear guidance that leads to consistency among its Human Resources and Acquisition Services Management Divisions regarding criteria for defining and identifying consultant services.

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

6. Determine the allowability of the \$324,498 in questioned costs in this report and seek recovery of those costs deemed unallowable.

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## **MANAGEMENT RESPONSE**

Management concurred with the recommendations and stated that Los Alamos has already begun to implement improvements in its acquisition processes for the procurement of consultant services. Specifically, the Acquisition Services Management Division has established an Invoice Review Team to review flexibly priced subcontracts, to include consultant agreements, and will ensure that the Invoice Review Team's processes and procedures align with FAR 31.205-33(f). Additionally, management explained that Los Alamos' Human Resources Division has already revamped its processes to more thoroughly screen proposed guest agreements for consulting, training, or other activities more appropriate for subcontracts.

Management's comments are included in Appendix 3.

## **INSPECTOR COMMENTS**

We consider management's comments and corrective actions to be responsive to our recommendations. We commend management for being proactive and taking action before the issuance of our final report. We believe that the revamped processes to screen proposed guest agreements would address multiple recommendations.

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

### **Objective**

We conducted this inspection to determine if Los Alamos National Security, LLC (LANS) effectively managed its consultant services.

### **Scope**

We performed our inspection at Los Alamos National Laboratory (Los Alamos) from March 2017 to January 2019. The inspection scope was limited to 74 consulting agreements that were active from fiscal year (FY) 2014 through FY 2016 and the allowability of costs per Federal regulations, Department of Energy directives, Los Alamos' and LANS' policies and procedures, and contractual requirements. The 74 consulting agreements had incurred costs totaling \$3.4 million over the lifetime of the agreements; some agreements began prior to 2014 or extended past 2016, and as a result, had incurred costs prior to 2014 and subsequent to 2016. The inspection was conducted under Office of Inspector General project number S17IS006.

### **Methodology**

To accomplish our objectives, we:

- Reviewed applicable Department and Federal Acquisition Regulations;
- Reviewed applicable Department Directives;
- Reviewed Los Alamos' and LANS' policies, procedures, and contractual requirements related to the requisition, awarding, and administration of consulting agreements, including consulting agreements awarded by upper management;
- Reviewed the consulting agreement process oversight by LANS' Named Individual Review Team;
- Reviewed relevant reports and policy flashes issued by the Office of Inspector General, Government Accountability Office, LANS' Internal Audits, LANS' Named Individual Review Team, and the Los Alamos Field Office for FY 2014 – FY 2016, relating to consultant agreements;
- Obtained clarification from LANS as to what constitutes a “consultant” and reviewed subcontract awards of a similar nature, including all instruments used to award consulting agreements;
- Obtained a universe of 74 consulting-type agreements and performed attribute sampling;

- Subsequently, we reduced our sample to 21 consultant agreements for the review of period of performance, ceiling price, Contracting Officer consent, and detail included on invoices;
- Collected and reviewed appropriate documentation such as requisitions, contract agreements, and contract documentation, including task orders, statements of work, deliverables, expense receipts, and contractor invoices; and
- Interviewed LANS and Los Alamos Field Office officials.

This inspection was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Inspection and Evaluation*. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our inspection objective.

We believe that the evidence obtained provided a reasonable basis for our findings and conclusions based on our inspection objective. The inspection included tests of controls and compliance with laws and regulations to the extent necessary to satisfy the inspection objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our inspection. Also, we assessed the Department's implementation of the *Government Performance and Results Act (GPRA) Modernization Act of 2010* as it relates to our inspection objective and found that the Department had established performance measures for the procurement activities we reviewed. Additionally, we relied on computer-processed data to satisfy our objective. We confirmed the validity of such data, as appropriate, by conducting interviews and reviewing source documents.

Management waived an exit conference on May 7, 2019.

## **RELATED REPORTS**

### **Office of Inspector General**

- Inspection Report on [\*Concerns with Consulting Contract Administration at Various Department Sites\*](#) (DOE/IG-0889, June 2013). The inspection found that, between August 2009 and February 2011, Los Alamos National Laboratory authorized 19 payments totaling \$195,718 for the services of Heather Wilson and Company, LLC without evidence of work products and detailed invoices to support the allowability of these payments. 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.

### **Los Alamos National Laboratory's Internal Ethics & Audit Division**

- *Internal Audit Report on Consultant Agreements* (IA-13-02, May 2013). The purpose of the audit was to determine if controls over the execution and administration of Los Alamos National Security, LLC's (LANS) consultant agreements were adequate to ensure compliance with the terms and conditions of the subcontracts, fair and reasonable pricing, and compliance with Federal and Department of Energy regulations, prime contract requirements, and LANS' policies and procedures. The auditors determined that controls were adequate, overall, to ensure fair and reasonable pricing. However, they determined that controls needed improvement to ensure compliance with the terms and conditions of the subcontracts and compliance with Federal and Department regulations, prime contract requirements, and LANS' policies and procedures. As part of management's corrective actions, a review team was established to screen requests for service agreements to named individuals to identify potential conflicts of interest and other matters.

## MANAGEMENT COMMENTS



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



April 5, 2019

MEMORANDUM FOR TERI L. DONALDSON  
INSPECTOR GENERAL

FROM: LISA E. GORDON-HAGERTY

SUBJECT: Response to the Office of Inspector General Draft Report,  
*Management of Consultant Services at Los Alamos National  
Laboratory* (S17IS006)

Thank you for the opportunity to review and comment on the subject draft report. The Department of Energy's National Nuclear Security Administration is committed to ensuring that appropriate acquisition procedures are used across the enterprise. We appreciate the inspectors' validation of our pre-award processes for consultant agreements and identification of opportunities to enhance post award controls. We agree with the report's recommendations and Los Alamos has already begun to implement improvements in its acquisition processes for the procurement of these services.

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





Attachment

**NATIONAL NUCLEAR SECURITY ADMINISTRATION**  
**Management Decision**

*Management of Consultant Services at Los Alamos National Laboratory (S17IS006)*

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

**Recommendation 1:** Advise the management and operating contractor to adhere to internal policies and Federal regulations, ensuring that contract limitations for consultant agreements are monitored.

*Management Response:* Concur. Los Alamos National Laboratory's (LANL) Acquisition Services Management Division (ASM) will formally communicate and provide refresher training to the LANL requesters, Contract Administrators, and consultants on the requirements for staying within the subcontract ceiling and period of performance. In addition, ASM will determine whether additional engineered controls and enhanced system reporting capabilities are available in Oracle to assist Contract Administrators in monitoring contract ceiling and period of performance. Estimated Completion Date: December 31, 2019.

**Recommendation 2:** Provide adequate oversight of consultant agreements and direct the management and operating contractor's Acquisition Services Management Division to ensure that consultant invoices provide sufficient detail as to the time expended and nature of the actual services provided, as required by Federal Acquisition Regulation (FAR) 31.205-33(f).

*Management Response:* Concur. ASM will review internal policy, and Consultant Agreement Pro Forma and other relevant forms, to assure alignment with FAR 31.205-33(f). ASM will also assess invoices submitted from fiscal years (FY) 2014 to 2019 to validate the invoices contained sufficient detail, as required by FAR 31.205-33(f). Additionally, ASM will reinforce to the LANL requesters, Contract Administrators, and consultants the requirements for adequate description of services performed on invoices. Finally, ASM has established an Invoice Review Team to review flexibly priced subcontracts, to include consultant agreements, and will ensure that the Invoice Review Team's processes and procedures align with FAR 31.205-33(f). Estimated Completion Date: December 31, 2019.

**Recommendation 3:** Advise the management and operating contractor's Human Resources Division to adhere to its written procedure and apply FAR 31.205-33 criteria when awarding guest agreements.

*Management Response:* Concur in Principle. Action was previously taken to address the Inspectors' findings. In FY 2016, LANL's Human Resources Division (HR) revamped their processes to more thoroughly screen proposed guest agreement tasks to determine if

## Attachment

they involved “consulting,” “training,” or other activities more appropriate for subcontracts rather than guest agreements. HR will continue to rigorously review each proposed Guest Agreement to make sure the scope of work is appropriate for a guest agreement. Finally, HR began checking internal systems to ensure that an individual named for a guest agreement is not already a subcontracted consultant. The findings in the report were largely from samples of transactions prior to these changes. The Department of Energy’s National Nuclear Security Administration (DOE/NNSA) considers this recommendation closed based on processes already in place.

**Recommendation 4:** Ensure that the management and operating contractor’s Acquisition Services Management Division is using the appropriate definition of consultant services, as defined in FAR 31.205-33.

*Management Response:* Concur. ASM will review its internal policies and forms for consistency with FAR 31.205-33 and make any changes deemed necessary. Estimated Completion Date: December 31, 2019.

**Recommendation 5:** Advise the management and operating contractor to provide clear guidance that leads to consistency among its Human Resources and Acquisition Services Management Divisions regarding criteria for defining and identifying consultant services.

*Management Response:* Concur. HR and ASM will review current guidance and make any changes deemed necessary to further clarify requirements for determining whether procured services are considered consultant services. If necessary, staff will be retrained on that guidance. Estimated Completion Date: December 31, 2019.

**Recommendation 6:** Direct the contracting officer to determine the allowability of the \$321,936 in questioned costs in this report and seek recovery of those costs deemed unallowable.

*Management Response:* Concur. The Procuring Contracting Officer with DOE/NNSA will determine cost allowability for the questioned costs identified in the report and follow FAR 42.801, *Notice of Intent to Disallow Costs*, to resolve any unallowable costs identified. Estimated Completion Date: December 31, 2019.

**SCHEDULE OF FINDINGS**

The table below displays consultant agreements by total dollar and categories of associated findings.

Finding #1- Consultant worked outside of the period of performance

Finding #2- Ceiling price was exceeded

Finding #3- Invoices lacked detail regarding the nature of services performed

<b>Consultant Agreement No.</b>	<b>Total Amount Paid</b>	<b>Finding #1</b>	<b>Finding #2</b>	<b>Finding #3</b>
69123-001-09	\$117,897			X
108943	95,239	X	X	X
87540-001-11	201,355	X	X	
142158-1	84,934	X		
182810	163,033			X
223472-1	81,517			X
230252	90,546		X	X
255474	64,500			X
268118	21,433	X		
296364	152,292		X	
298824	141,060		X	
362267	69,389		X	
	<b>Totals</b>	<b>See Appendix 5</b>	<b>See Appendix 5</b>	<b>See Appendix 5</b>

**SCHEDULE OF QUESTIONED COSTS**

<b>Consultant Agreement No.</b>	<b>Total Amount Paid to Consultant</b>	<b>Amount Questioned Because the Consultant Worked Outside the Period of Performance</b>	<b>Amount Questioned Because the Consultant Agreement Exceeded the Ceiling Price</b>	<b>Amount Questioned Because the Invoices did not Include Sufficient Detail as to the Nature of Services Provided</b>	<b>Total Questioned Costs</b>
69123-001-09	\$117,897	\$0	\$0	\$93,522	\$93,522
108943	95,239	2,700	2,128	46,800	51,628
87540-001-11	201,355	2,928	3,799	0	6,727
142158-1	84,934	900	0	0	900
182810	163,033	0	0	36,275	36,275
223472-1	81,517	0	0	8,280	8,280
230252	90,546	0	700	87,902	88,602
255474	64,500	0	0	15,600	15,600
268118	21,433	2,720	0	0	2,720
296364	152,292	0	11,446	0	11,446
298824	141,060	0	7,719	0	7,719
362267	69,491	0	1,079	0	1,079
<b>Total</b>		<b>\$9,248</b>	<b>\$26,871</b>	<b>\$288,379</b>	<b>\$324,498</b>

**Note:** We have ensured that there is no overlap of questioned costs in the table above.

## **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.