



OFFICE OF INSPECTOR GENERAL

U.S. Department of Energy

INSPECTION REPORT

DOE-OIG-19-38

July 2019

**ALLEGATIONS OF MISMANAGEMENT
AT THE DEPARTMENT OF ENERGY'S
LOAN PROGRAMS OFFICE**



Department of Energy
Washington, DC 20585

July 1, 2019

MEMORANDUM FOR THE EXECUTIVE DIRECTOR, LOAN PROGRAMS OFFICE

Michelle Anderson

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

SUBJECT: Inspection Report on "Allegations of Mismanagement at the
Department of Energy's Loan Programs Office"

BACKGROUND

The Department of Energy's Loan Programs Office (LPO) finances large-scale energy infrastructure projects in the United States. LPO works closely with industry to bridge gaps in the commercial debt market when innovative technologies or unfamiliar borrowers may not be well understood by the private sector. LPO has approved more than \$30 billion of loans and loan guarantees for more than 30 projects related to energy infrastructure, manufacturing of electric vehicles, and new energy technology through its Title XVII Innovative Clean Energy Projects and Advanced Technology Vehicles Manufacturing loan programs.

The Office of Inspector General received allegations regarding specific instances of improper obligation and spending of funds by LPO. We initiated this inspection to evaluate allegations that LPO: (1) unnecessarily obligated/overfunded a support services contract by \$3 million before the end of fiscal year 2018 to avoid losing funds; (2) wasted funds on another contractor that was hired to conduct an Equal Employment Opportunity (EEO) investigation when there were resources within the Department and conduct a cultural survey that was meant to skew the results of a negative Federal Employee Viewpoint Survey; (3) wastefully used funds for decorative office items and services including a coat rack, rug, plants, and a plant watering service; and (4) reimbursed a \$600 hotel room and attempted to hide a conference room expense during travel.

RESULTS OF INSPECTION

We did not substantiate any of the allegations regarding improper obligation and spending of funds. However, during the course of our inspection, we noted an area of concern for management's consideration. In particular, during our review of contract funding actions and purchase card transactions, we found that LPO did not have formal written policies and procedures to guide employees through the request, approval, and funding/acquisition process.

Because we did not substantiate the allegations regarding improper obligation and spending of funds, and LPO is taking action to strengthen internal controls in the area of concern we identified, we are not making any recommendations.

Allegation 1 – Support Services Contract Obligation

We did not substantiate that LPO had unnecessarily obligated/overfunded its support services contract. We found that LPO had obligated approximately \$2 million (not the \$3 million alleged) at the end of fiscal year 2018. However, we found that the obligation was consistent with LPO's historic spend rates for support services and with the support service contract's overall valuation. Specifically, LPO's historic spend rate for support services was around \$3 million a quarter. Also, the support services contract, entered into in 2017, was valued at \$57 million for a 5-year term including options, which is indicative of an ongoing need for funding of approximately \$11 million a year or about \$3 million per quarter. Further, through discussion with LPO management we learned that, while Congress had limited LPO's funding in recent years, LPO was in the process of ramping up its loan activities at the time of the obligation.

In addition, we found that LPO's actions were consistent with policies for obligating time-limited funds. The *Federal Acquisition Streamlining Act of 1994* stipulates and the Department's *Financial Management Handbook* reiterates that agencies may obligate time-limited funds to cover requirements that will be performed under the entire contract and that funds made available for a fiscal year may be obligated for the total amount of a contract. Additionally, per the criteria cited above, obligated balances remain available for 5 years after the expiration of the funds for expenditures.

Allegation 2 – Investigation and Survey Funding

We did not substantiate that LPO had wasted funds on a contractor to conduct an EEO investigation when there were resources within the Department (i.e., the Office of Civil Rights) for these types of investigations. We confirmed that LPO management hired a contractor to conduct two fact finding investigations related to alleged EEO concerns. LPO management informed us that an outside contractor was chosen to avoid potential conflicts of interest. Through our discussion with LPO management, we found that one of the investigations was not finished because the complaint was ultimately dropped, and the other investigation was completed. The total cost paid for both of the investigations was \$2,625. Based on our discussion with a Department Office of Civil Rights official with responsibilities for the Department's EEO policy and investigations, we determined that LPO management was required to conduct management inquiries after receiving the EEO-related complaints. The Office of Civil Rights official also confirmed that the Office of Civil Rights cannot perform management inquiries due to potential conflicts of interest and stated that managers may decide to hire outside experts if they do not have the skills to conduct the inquiries themselves.

Further, we did not substantiate that LPO wasted funds on a cultural survey meant to skew the results of a negative Federal Employee Viewpoint Survey. We confirmed that LPO entered into a \$7,500 agreement with a third party to conduct a cultural survey. Management stated that LPO

entered into the agreement to perform a cultural survey of the entire organization to further explore the results obtained from employee-led focus groups. Further, management stated that the employees' union raised concerns about the independence of the third party, offering instead to hold additional focus groups led by the employees' union representatives. As a result of the impasse created by the employees' union objections to the use of the third party, LPO chose not to proceed with the cultural survey or additional focus groups. LPO paid the contractor \$1,856 for work performed and de-obligated the remaining balance.

Allegation 3 – Decorative Office Items and Services

Although we determined that a coat rack, rug, plants, and plant watering services were procured, generally at lower costs than alleged, we did not substantiate that these purchases constituted a wasteful use of funds. We confirmed that LPO acquired a coat rack in 2015 for \$159 (not the \$300 alleged) and a rug in 2016 for \$1,460 (rather than the \$1,800 alleged) for the former LPO Executive Director's office. In addition, LPO purchased plants in 2016 for \$911 for the LPO Executive Office suite. We also confirmed that in 2016 and 2017, LPO paid approximately \$1,955 and \$1,980, respectively, for a plant watering service.

In our review of the *Code of Federal Regulations* and an applicable Comptroller General Decision, we did not identify any prohibitions against the use of Federal funds for these types of purchases. Federal regulations allow agencies to expend funds for pictures, art, plants, and other similar items if the purchase is consistent with work-related objectives and is not for personal convenience. A Comptroller General Decision clarified that restrictions on purchases of personal convenience items do not prohibit purchases of decorative items for general office use, when a need for such items is determined by the agency, the decorations are permanent additions to office décor, and result in improved productivity and morale.

In regard to the plant watering service, we could not identify regulations either allowing or disallowing such services, except for one notation in a 1980 appropriation act, which prohibited the use of funds for plant and flower maintenance contracts. LPO provided clarification from the Office of the General Counsel, who indicated that the prohibition for plant maintenance contracts was limited to 1980 appropriations. Additionally, we compared the costs for the coat rack, rug, and plant watering services to similar products and services, and found that the prices LPO paid appeared to be reasonable. Because the expenditures were not expressly unallowable per Federal regulations and the amounts paid appeared reasonable compared to similar items, we did not find that these expenses were wasteful.

Allegation 4 – Travel and Conference Room Expenses

We did not substantiate that LPO improperly reimbursed a \$600 hotel room or attempted to hide a conference room expense during travel. The travel and conference room expense allegations were anonymous; therefore, we were unable to obtain any additional information from the complainant. However, in our review of LPO's travel expenses, we identified what we believe was the \$600 hotel room referred to in the allegation. In particular, we identified an employee's January 2017 request for actual lodging reimbursement, which substantially exceeded the \$199 per diem rate for the location, at \$569 a night plus tax. We determined the hotel reimbursement was allowable because an LPO official had approved the actual costs prior to the employee's

travel and that the actual costs did not exceed the Federal Travel Regulations threshold, which permits agencies to authorize actual expense allowances up to 300 percent of the applicable maximum per diem rate – \$597. We also verified that a conference was being held in the temporary duty station’s locale as stated in the employee’s justification and that prices were often inflated during that conference. In regard to the hidden conference room expense allegation, no transactions related to a conference room were identified during our review. Thus, we were not able to substantiate the allegation due to the inability to obtain additional information.

Other Matters

During the course of our inspection, we noted an area of concern for management’s consideration. Specifically, in our review of contract funding actions and purchase card transactions, we found that LPO did not have formal written policies and procedures to guide employees through the request, approval, and funding/acquisition process, which may allow circumvention of control points. For instance, in our review of the support service contractor’s fiscal year 2018 year-end obligation, we found that both the requestor and the approver for this action was the same individual. We discussed this situation with an LPO official, who agreed that the requestor and approver for a transaction should be different. The official also confirmed that he was aware of and approved the funding action even though his approval was not formally documented. To its credit, LPO recognized the need for stronger controls associated with acquisitions and told us that, as of April 2019, it had implemented an automated workflow process for requesting and approving contract and purchase card transactions. In our opinion, this automated process should assist LPO in strengthening its internal controls in this area.

Path Forward

Because we did not substantiate the allegations regarding improper obligation and spending of funds, and LPO is taking action to strengthen internal controls in the area of concern we identified, we are not making any recommendations.

Attachment

cc: Deputy Secretary
Chief of Staff

OBJECTIVE, SCOPE, AND METHODOLOGY

OBJECTIVE

In June 2018, the Office of Inspector General received allegations regarding specific instances of improper obligation and spending of funds by the Department of Energy's Loan Programs Office. We initiated this inspection to evaluate allegations that the Loan Programs Office: (1) unnecessarily obligated/overfunded a support services contract by \$3 million before the end of fiscal year 2018 to avoid losing funds; (2) wasted funds on another contractor that was hired to conduct an Equal Employment Opportunity investigation when there were resources within the Department and conduct a cultural survey that was meant to skew the results of a negative Federal Employee Viewpoint Survey; (3) wastefully used funds for decorative office items and services including a coat rack, rug, plants, and a plant watering service; and (4) reimbursed a \$600 hotel room and attempted to hide a conference room expense during travel.

SCOPE

The inspection was conducted at the Department Headquarters Forrestal Building located in Washington, DC. The inspection was performed from September 2018 through April 2019 and focused on the allegations of Loan Programs Office's unnecessary obligation and spending of funds. This inspection was conducted under Office of Inspector General project number S18IS012.

METHODOLOGY

To accomplish our objective, we:

- Analyzed applicable Federal laws, regulations, and procedures related to obligation of funds, procurement, and travel;
- Interviewed allegation complainants as well as Department representatives from the following offices: Loan Programs Office; Office of the Chief Financial Officer; Office of Management; Office of the Chief Information Officer; and Office of Civil Rights;
- Reviewed judgmentally-selected purchase card transactions for the period of fiscal year 2016 through fiscal year 2018;
- Reviewed judgmentally-selected contract funding memorandums and invoices for the period of fiscal year 2018; and
- Reviewed judgmentally-selected travel authorizations and vouchers.

We conducted this allegation-based inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency's *Quality Standards for Inspection and Evaluation*. Those standards require that we plan and perform the inspection to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions and observations based on our

inspection objective. We believe that the evidence obtained provided a reasonable basis for our conclusions and observations based on our inspection objective. Accordingly, 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. Finally, we relied on computer-based data, to some extent, to satisfy our objective. We confirmed the validity of such data, when appropriate, by conducting interviews and analyzing source documents.

Management waived an exit conference on June 7, 2019.

FEEDBACK

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Washington, DC 20585

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