



OFFICE OF INSPECTOR GENERAL

U.S. Department of Energy

AUDIT REPORT

DOE-OIG-19-35

June 2019

**THE DEPARTMENT OF ENERGY'S
MANAGEMENT OF THE ACTIONET
INFORMATION TECHNOLOGY
SUPPORT CONTRACT**



Department of Energy
Washington, DC 20585

June 10, 2019

MEMORANDUM FOR THE SECRETARY

A handwritten signature in cursive script, appearing to read "Teri L. Donaldson".

FROM: Teri L. Donaldson
Inspector General

SUBJECT: INFORMATION: Audit Report on “The Department of Energy’s Management of the ActioNet Information Technology Support Contract”

BACKGROUND

The Department of Energy’s Office of the Chief Information Officer (OCIO) is tasked with information technology (IT) responsibilities that include maintaining a technical architecture, procurement of IT goods and services, project management, and cybersecurity. Under the cognizance of the OCIO, the Energy Information Technology Services support function is responsible for administering technology services such as system and data hosting, network and video services, telecommunications, and enterprise applications such as electronic mail services. To support the OCIO’s mission, the Department awarded a cost-plus-fixed-fee contract to ActioNet, Inc. in October 2011 to provide IT support services to the OCIO and other Department programs and field sites. The contract was awarded with a 2-year base period and a 2-year option period with a ceiling value of approximately \$485 million. Although the contract was expected to be re-competed in April 2016 after the full option period was exhausted, it was extended several times. Currently, the contract is extended through April 2019, and the ceiling value has increased to approximately \$1.2 billion.

Since at least fiscal year 2010, the Office of Inspector General has identified contract management as a significant challenge at the Department. For instance, our most recent report on *Management Challenges at the Department of Energy – Fiscal Year 2019* (DOE-OIG-19-07, November 2018) identified weaknesses with contract oversight, including subcontractor management. Due to continuing IT and contract management challenges, we initiated this audit to determine whether the ActioNet IT support contract was properly managed in accordance with Federal laws and regulations and Department requirements.

RESULTS OF AUDIT

We found that the Department had not effectively managed the ActioNet IT support contract in accordance with Federal and Department requirements. In particular, the Department may have spent significantly more than necessary for direct labor costs over the life of the contract as a

result of inadequate management of the contract. In addition, the use of subcontractors by ActioNet increased exponentially from what was initially anticipated, without adequate procedures in place to ensure that the need for additional subcontractors was warranted or that costs were fair and reasonable. Furthermore, multiple extensions to the period of performance, which were considered significant changes to the ActioNet contract, were not supported by documentation or other appropriate contract management actions. Specifically, we found that:

- The Department potentially spent at least \$33 million more than necessary over the life of the contract for direct labor costs and related fees incurred by ActioNet. We determined that ActioNet routinely exceeded the labor rates agreed to in the contract, which resulted in questioned direct labor costs billed to the Department. For example, we identified that rates charged to the Department for 69 of 72 labor categories billed on invoices during the life of the contract were consistently in excess of contract ceiling rates. In at least one instance, the Department paid over \$462 per hour for a senior level labor category even though the contract rate was about \$71 per hour – more than six times the agreed-upon rate.
- The use of subcontractors under the ActioNet contract had increased substantially from what was envisioned when ActioNet submitted its contract proposal to the Department. Although ActioNet initially proposed to use 6 subcontractors, we identified that at least 119 subcontractors had been approved to perform approximately \$261 million worth of work under the contract – an increase of nearly 20 times the original proposal. Despite the significant increase, we found a lack of detail related to subcontractor costs that were billed to the Department and instances where the invoicing data did not always contain complete information. Furthermore, Department officials approved the addition of subcontractors to the contract without determining whether costs were fair and reasonable. Due to the lack of documentation related to subcontractor costs, we questioned the approximately \$261 million paid for subcontractor work as unsupported costs until the Department can demonstrate that the costs were fair and reasonable.
- Contrary to Federal requirements, Department officials had not always ensured that changes to the ActioNet contract were supported by appropriate contract management actions and related documentation. For instance, even though the contract was extended by 3 years and the ceiling value increased more than \$711 million, officials had not adequately evaluated ActioNet's price proposals to ensure that the final agreed-upon price was fair and reasonable. While Federal Acquisition Regulations required reviews such as technical evaluations, cost or price analyses, and/or independent Government cost estimates be performed prior to approval, the Department was unable to provide any evidence that such reviews were conducted regarding the contract extensions.

The issues identified occurred, in part, because Department officials had not implemented appropriate internal controls to ensure effective monitoring and oversight of the ActioNet contract. For instance, although the Office of Acquisition Management's Contract Management Plan included a documented invoice review process, officials had not followed the process to ensure only allowable and/or reasonable charges were billed to the Department. In addition, according to ActioNet officials, the number of subcontractors drastically increased over the life

of the contract for several reasons, including changes in the scope of work and direction by Department OCIO officials to hire specific subcontractors. Furthermore, Department officials had not implemented Federal requirements related to ensuring that all contract management functions were performed and appropriately documented. While the former and current Contracting Officers could not explain why certain contracting activities did not occur, an internal Department review commissioned by the Office of Management related to Headquarters procurement functions, completed in March 2018, identified issues with contracting staff's skillsets and abilities. In response to our preliminary report, management commented that findings in the internal review were not validated and the report was not finalized.

Without significant improvements, the Department may continue to encounter weaknesses related to managing and overseeing the ActioNet contract, as well as future IT contracts. The problems identified during our review placed the Department at an increased risk of misusing taxpayer dollars and reimbursing costs that may not be allowable, reasonable, or necessary. As noted in our report, we determined that the Department may have spent at least \$33 million more than necessary over the life of the contract for direct labor and related fees. We also questioned the approximately \$261 million paid for subcontractor labor due to the lack of documentation to support cost reimbursements. In light of the weaknesses identified, we made recommendations that, if fully implemented, should help the Department improve IT contract management activities.

MANAGEMENT RESPONSE

Management concurred with the recommendations and indicated that corrective actions had been initiated or were planned to address the issues identified in the report. Management proposed various corrective actions to address issues identified in the report and enhance contract management controls to ensure adequate contract monitoring and oversight. Management's comments and our responses are summarized in the body of the report. Management's formal comments are included in Appendix 4.

Attachment

cc: Deputy Secretary
Chief of Staff
Chief Information Officer
Director, Office of Management

**THE DEPARTMENT OF ENERGY’S MANAGEMENT OF THE
ACTIONET INFORMATION TECHNOLOGY SUPPORT
CONTRACT**

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THE DEPARTMENT OF ENERGY'S MANAGEMENT OF THE ACTIONET INFORMATION TECHNOLOGY SUPPORT CONTRACT

BACKGROUND AND DETAILS OF FINDINGS

The Office of the Chief Information Officer (OCIO) is responsible for providing information technology (IT) support services within the Department of Energy. In October 2011, the Department awarded a cost-plus-fixed-fee contract¹ to ActioNet, Inc. to provide IT mission support services to the OCIO and other Department programs and field sites. ActioNet was tasked with providing support for IT operations, cybersecurity, and system development and engineering, among other activities. Although the contract was awarded in 2011, ActioNet did not begin incurring costs and billing the Department until April 2012. The Department awarded the contract with a 2-year base period and a 2-year option period with a ceiling value of approximately \$485 million, of which approximately \$268 million (55 percent) was estimated for direct labor costs. At the time, it was anticipated that the contract would be re-competed in April 2016 after the initial 2-year option period was exhausted. However, the contract has been extended several times, currently through April 2019, and the ceiling value has more than doubled to approximately \$1.2 billion.

As of August 2018, the Department has spent more than \$946 million on the ActioNet contract. Of that amount, more than \$590 million (62 percent) has been spent on labor costs, including about \$261 million on subcontractor labor. The remainder of the funds was dedicated to charges such as IT equipment and travel expenses for contractor employees. To manage and oversee the contract, the Department designated a Contracting Officer, Contract Specialist, Contracting Officer Representative, and Technical Monitors primarily from the Office of Acquisition Management and the OCIO. Although our review focused on the management of the contract, we did not conduct an evaluation to determine the adequacy of services received.

Contract Management

We found that the Department had not effectively managed the ActioNet IT support contract in accordance with Federal and Department requirements. In particular, the Department spent at least \$33 million more than necessary related to direct labor costs and associated fees over the life of the contract as a result of inadequate management of the contract. In addition, we determined that the use of subcontractors by ActioNet increased exponentially from what was initially anticipated, without adequate procedures in place to ensure that the need for additional subcontractors was warranted or that subcontractor costs were fair and reasonable. Furthermore, multiple extensions to the period of performance, which were considered significant changes to the ActioNet contract, were not supported by documentation or other appropriate contract management actions.

¹ According to the Federal Acquisition Regulation, a cost-plus-fixed-fee contract is a cost-reimbursement contract that pays the contractor at actual cost along with a fixed fee that is negotiated at the start of the contract.

Contract Costs

Since the inception of the ActioNet contract in 2012, the Department spent nearly \$330 million for direct labor charges to support IT infrastructure activities such as management of networks, telecommunication systems, and electronic mail services. However, based on our detailed analysis, we calculated that ActioNet overcharged the Department more than \$33 million for direct labor and associated fees over a 7-year period². Specifically, ActioNet billed the Department at substantially higher rates and/or at a range of different rates than what was stipulated in the contract³. We determined that ActioNet routinely exceeded the established labor rates for 69 of 72 labor categories billed on invoices during the life of the contract. In particular, we found:

- During the sixth year of the contract, individuals in one particular labor category worked 52,120 hours and should have been paid a total of \$3,951,822 based on rates established in the contract. However, we found that this labor category was paid a total of \$4,992,354, a difference of \$1,040,532.
- Similarly, individuals in a senior level labor category charged 22,450 hours in the fourth year of the contract and were paid a total of \$2,322,305. We determined that this labor category should have been paid \$1,666,111 or \$656,194 less.
- ActioNet billed for 10 unapproved labor categories in 85 instances since the beginning of the contract, totaling approximately \$948,000. However, there was no evidence provided to indicate that these new labor categories were approved by the Contracting Officer as required by the contract's terms and conditions. When we asked the former Contracting Officer if she had approved the addition of new labor categories, she stated that she did not recall whether or not she approved the new labor categories.

The table below summarizes the questioned direct labor costs incurred by ActioNet employees (not subcontractors) and billed to the Department for each year of the contract.

Contract Year²	Total Direct Labor Billed to the Department	Total Questioned Direct Labor
Year 1	\$30,883,571	\$3,437,960
Year 2	\$42,332,619	\$3,477,641
Year 3	\$51,740,366	\$4,887,273
Year 4	\$59,645,148	\$5,955,114
Year 5	\$57,604,011	\$5,828,024
Year 6	\$60,463,424	\$6,656,082
Year 7	\$27,103,648	\$2,774,400
TOTAL	\$329,772,787	\$33,016,494

² Each contract year began in April with Year 1 beginning in April 2012. Due to the timing of our review, Year 7 only included costs for 5 months, from April 2018 through August 2018.

³ Appendix 1 demonstrates numerous examples of the discrepancies in the rates ActioNet billed to the Department for various labor categories.

ActioNet officials indicated that they did not believe compliance with the rates in the contract was required because it was a cost-plus-fixed-fee contract and instead billed the Department at actual cost. However, we determined that ActioNet and the Department agreed to and accepted the terms and conditions by signing the base contract. During our review, the current Contracting Officer noted that ActioNet should have complied with the rates established in the contract. Furthermore, we found no evidence that the use of these rates was waived by the Department.

Use of Subcontractors

We found that ActioNet significantly increased its use of subcontractors from what was anticipated when ActioNet submitted its contract proposal to the Department. In particular, while ActioNet initially proposed to use 6 subcontractors, we identified that at least 119 subcontractors had been approved to perform approximately \$261 million (44 percent of the total labor billed) worth of work under the contract – an increase of nearly 20 times the original proposal. Although changes in the scope of work under the contract could require additional subcontractors, we found that, despite the significant increase, a lack of detail existed related to subcontractor costs that were billed to the Department, and invoicing data did not always contain complete information. For example, we determined that invoicing data for the \$261 million billed to the Department did not always contain subcontractor names/identifiers, labor categories, and/or billable hours. In general, billing information only contained total costs incurred during the billing period of performance, essentially making it impossible to conduct an adequate review of subcontractor costs to determine whether they were fair and reasonable. Moreover, two recent external audits conducted by the Defense Contract Audit Agency – the organization selected by the Department to audit contractor costs – questioned over \$58 million in subcontractor costs for fiscal years 2012 through 2015 because ActioNet did not provide sufficient supporting documentation to demonstrate it performed adequate procedures to determine the reasonableness of subcontract costs. At the time of our review, the Contracting Officer had directed ActioNet to respond to the Defense Contract Audit Agency reports and take corrective actions, as appropriate.

Furthermore, we determined that the Department approved the addition of subcontractors to the contract without determining whether costs were fair and reasonable. According to the Federal Acquisition Regulation (FAR), the Contracting Officer is responsible for the determination of a fair and reasonable price, including subcontracting costs. The FAR includes specific items the Contracting Officer should consider for each subcontractor before approval, such as whether the prime contractor conducted cost or price analyses on proposed subcontractor prices or negotiated subcontractor prices. In addition, the FAR requires that the Contracting Officer determine whether the subcontractor had an approved purchasing system and noted that the Contracting Officer should analyze the subcontractor's certified cost or pricing data. However, contrary to each of the requirements, the Department was unable to provide any evidence that such reviews were conducted. Due to the lack of documentation maintained by the Department, we asked the former Contracting Officer – who approved at least 53 subcontractors – to explain her process for reviewing the addition of new subcontractors, but she responded that she could not remember what process she had used. Furthermore, she indicated that she either had not considered the

items specified in the FAR or could not recall specific information. The lack of recollection of processes made it even more important for the Department to maintain critical documentation related to management of the contract.

Due to the subcontractor management issues identified during our review related to a lack of adequate details and the approval of additional subcontractors without determining whether costs were fair and reasonable, we questioned the approximately \$261 million paid for subcontractor work as unsupported costs until the Department can demonstrate that the costs were fair and reasonable.

Contract Documentation

Contrary to Federal requirements, Department officials had not always ensured that changes to the ActioNet contract were supported by appropriate contract management actions and related documentation. For example, even though the contract was extended by 3 years and the ceiling value increased more than \$711 million, Department officials had not adequately evaluated ActioNet's price proposals to ensure that the final agreed-to price was fair and reasonable, as required by FAR. For example, when ActioNet was granted its third extension in March 2018 at an additional estimated cost of \$184 million, the Contracting Officer at the time did not develop a Price Negotiation Memorandum or other negotiated agreement to document that the Department had performed reviews on the proposal as required by FAR or performed negotiations with ActioNet before making a determination that prices were fair and reasonable. Specifically, the FAR states that reviews, such as technical evaluations, cost or price analyses, or independent Government cost estimates, should be performed to examine the types and quantities of labor hours and material proposed to determine the reasonableness of the proposal. However, neither OCIO nor Office of Management officials were able to provide evidence that such reviews were conducted or that negotiated agreements existed. Furthermore, although we asked the former Contracting Officer, who was also the Contract Specialist for almost 2 years before becoming the Contracting Officer for 4 years, she stated that she could not recall whether any reviews or negotiations were conducted. This was extremely concerning because this official was involved with the contract for almost 6 years, maintained an unlimited contracting warrant, and was responsible for managing and overseeing this complex IT support contract. In addition, management indicated that a Justification for an Exception to Fair Opportunity was signed for each contract extension. However, we determined that this document was not adequate to support the extensions because it did not include evidence of the various requirements noted above.

Notably, we identified several inconsistencies while reviewing ActioNet's extension pricing proposals. For example, the most recent extension proposal indicated that one labor category was estimated to make \$230.63 per hour even though this labor category should have only paid between \$62.45 and \$77.29 per hour based on escalated rates from the contract. In addition, we noted instances where ActioNet repeatedly proposed higher rates for junior level positions as compared to the corresponding intermediate and senior levels for the same category. In one instance, we determined that, on average, a junior level position was billed approximately \$27 and \$13 more per hour than intermediate and senior levels, respectively. Similarly, individuals in another junior level labor category were billed around \$30 and \$12 more per hour than

intermediate and senior levels, respectively. When we asked ActioNet officials to explain these occurrences, they did not provide a detailed explanation or justification. Had the Department performed adequate reviews of these proposals, contracting officials may have noticed similar irregularities and could have asked ActioNet for additional details prior to approval.

Furthermore, although required by Department policy, we determined that the Department's procurement system of record did not contain adequate documentation related to the ActioNet contract. In particular, essential contract documents such as ActioNet's price proposal for its first extension year and its original proposal to the contract solicitation were not maintained in the official contract file, as required by Department policy and FAR. When we asked the current Contracting Officer and Contract Specialist for copies of the documents, they were unable to locate the documents, even outside of the official contract file. It is important to maintain sufficient contract documentation to provide a complete background as a basis to make informed decisions and to support contractual actions taken.

Monitoring and Oversight

The issues identified occurred, in part, because Department officials had not implemented appropriate internal controls to ensure effective monitoring and oversight of the ActioNet contract. In particular, although the Office of Acquisition Management's Contract Management Plan included a documented invoice review process, officials had not followed the process to ensure that only allowable and/or reasonable charges were billed to the Department. For example, officials had not always reviewed or validated the costs billed on the invoices to ensure that costs submitted by ActioNet were allowable and that appropriate rates were used. The Contracting Officer Representative, who was the designated invoice approving official, was responsible for reviewing and approving monthly invoices which, on average, were well over 500 pages and totaled \$11 million each month, including multiple months totaling over \$17 million. When we asked the Contracting Officer Representative about her invoice review process, she stated that she relied on the Technical Monitors from the OCIO to review the expenses for each month but often approved invoices without receiving any feedback or documented review from the Technical Monitors. She also indicated that, in her opinion, the contract was too large to assess unallowable costs. Although not directly contributing to the weaknesses identified during our review, we also found that the Department had not updated the Contract Management Plan since it was established during initial award even though significant changes to the contract had occurred. Furthermore, according to ActioNet officials, the number of subcontractors drastically increased over the life of the contract for several reasons, including changes in the scope of work. While changes in scope could result in the additional use of subcontractors, our review did not focus on the scope of individual work orders. ActioNet also indicated that OCIO officials directed them to hire specific subcontractors, which may have been a violation of contract management requirements and raised concerns regarding potential conflicts of interest. When discussing our findings with the Chief Information Officer, he indicated similar concerns with the ability to manage the high number of subcontractors and the process for adding/justifying subcontractors. Although indicated during discussions, ActioNet officials did not provide documentation to support assertions related to the hiring of specific subcontractors.

In addition, officials had not implemented Federal requirements related to ensuring that all contract management functions were performed and appropriately documented. We found no evidence that the former Contracting Officer documented any negotiated agreements with the contractor. Specifically, based on our interviews and reviews of documentation, we were unable to determine whether technical evaluations, cost or price analyses, or independent Government cost estimates were performed on the contract proposals to ensure fair and reasonable pricing, as required by FAR. While the former and current Contracting Officers could not explain why certain contracting activities did not occur, an internal Department review commissioned by the Office of Management related to Headquarters procurement functions, completed in March 2018, identified issues with contracting staff's skillsets and abilities. In response to our preliminary report, management commented that findings in the internal review were not validated and the report was not finalized.

Impact of Contract Management Weaknesses

As a result of the lack of contract management practices related to the ActioNet contract identified during our review, we determined that the Department spent at least \$33 million more than necessary for direct labor costs and related fees over the life of the contract. In addition, due to the absence of details related to subcontractors, we questioned approximately \$261 million as unsupported costs until the Department can ensure that the costs were fair and reasonable.

Without significant improvements to its contract management function, the OCIO and Office of Management may continue to encounter weaknesses related to managing and overseeing the ActioNet contract, as well as future IT contracts. The problems identified during our review placed the Department at an increased risk of misusing taxpayer dollars and reimbursing costs that may not be allowable, reasonable, or necessary. In light of existing contract management challenges facing the Department, programs must ensure that contracting officials have the proper knowledge and skills necessary to provide adequate monitoring and oversight. During our review, the Department informed us that it was in the process of awarding a new IT support contract to replace the existing contract. As such, the Department should immediately and thoroughly evaluate the weaknesses highlighted in this report and apply lessons learned to contracts in the future.

RECOMMENDATIONS

To improve monitoring and oversight of current and future IT support contracts, we recommend that the Chief Information Officer and the Director, Office of Management:

1. Implement appropriate contract management controls as required by FAR and other Federal and Department requirements to ensure adequate monitoring and oversight;
2. Implement an effective invoice review process for contracts to ensure that only allowable and reasonable costs are charged to and paid by the Department;
3. Develop and implement a process to evaluate the need for subcontractors to ensure that no conflicts of interest exist and that the need for subcontractors is warranted;
4. Resolve the questioned costs described in this report and ensure that appropriate incurred cost audits are conducted prior to official contract closeout;
5. Ensure contracting staff are qualified and have sufficient training to properly perform contract management activities, including following required record retention practices; and
6. Reassess the warrants issued to contracting staff based on the issues identified in our report, including an evaluation of the dollar value thresholds authorized under the warrants.

MANAGEMENT RESPONSE

Management concurred with each of the report's recommendations and indicated that corrective actions had been initiated or were planned to address the issues identified in the report. For instance, management stated that it rescinded invoice approval authority from the Contracting Officer Representative, and future invoices for the ActioNet contract and the follow-on contract will be reviewed and approved by the Contracting Officer with support from an independent auditor. In addition, management noted that it plans to implement an enhanced mandatory quarterly training program beginning in September 2019 and will conduct training for Contracting Officers on contract management requirements, including records retention, file documentation, invoice processing, and subcontract consent. Management also commented that it will be assessing the competencies and related warrants of the contracting staff who worked on the ActioNet contract and remain with the organization. Management stated that, going forward, it has implemented improvements to the internal controls program to strengthen the organization's ability to identify and correct deficiencies and, in instances where noncompliance with requirements is identified, an evaluation will be conducted to determine the appropriate followup action. Furthermore, management indicated that it will work to recover the questioned costs identified in our report.

Although not directly related to the recommendations, management commented that the rates for the base and all option years were negotiated in the contract. Management also indicated that Justifications for Exception to Fair Opportunity were signed for each ceiling increase and documented in the file.

AUDITOR COMMENTS

Management's comments and planned corrective actions were responsive to our recommendations. While we agree that rates were negotiated for the first 4 years of the contract, rates were not negotiated for the 3 extension years. In addition, as noted in our report, we determined that the Justifications for an Exception to Fair Opportunity were not adequate to support the extensions. Management's comments are included in Appendix 4.

LABOR COST ANALYSIS

Our analysis of direct labor costs billed to the Department of Energy by ActioNet identified that ActioNet billed the Department at substantially higher rates and/or at a range of different rates than what was agreed to in the contract. During our review, we determined that 69 of 72 labor categories used since the inception of the contract had instances where the charges billed to the Department exceeded the contract rates. The table below includes 25 examples to demonstrate how the labor categories were billed. When labor rates were not readily available in the contract, we calculated the rates based on applying 2.8 percent escalation to each year of the contract. In addition, the table below includes the lowest and highest rates ActioNet billed in a particular year. Although the billed rates were sometimes lower than the expected rates, our detailed analysis indicated that the majority of charges exceeded the established rates.

Labor Category	Contract Year	OIG Calculated Labor Rate	Range of Rates Billed on Invoices During the Year	
			Lowest Rate	Highest Rate
Labor Category 1	Year 1	\$39.68	\$64.88	\$146.74
Labor Category 2	Year 3	\$80.42	\$73.48	\$124.79
Labor Category 3	Year 6	\$80.42	\$43.48	\$169.26
Labor Category 4	Year 2	\$58.19	\$77.45	\$108.19
Labor Category 5	Year 1	\$76.09	\$67.75	\$147.46
Labor Category 6	Year 1	\$72.13	\$66.29	\$127.73
Labor Category 7	Year 6	\$56.48	\$46.05	\$133.53
Labor Category 8	Year 2	\$70.69	\$62.59	\$462.09
Labor Category 9	Year 1	\$58.19	\$60.41	\$340.19
Labor Category 10	Year 2	\$71.72	\$111.92	\$131.91
Labor Category 11	Year 5	\$83.19	\$52.63	\$181.24
Labor Category 12	Year 1	\$70.15	\$83.07	\$186.63
Labor Category 13	Year 2	\$45.14	\$30.28	\$98.94
Labor Category 14	Year 1	\$74.60	\$64.33	\$307.60
Labor Category 15	Year 4	\$142.05	\$127.74	\$226.37
Labor Category 16	Year 2	\$66.28	\$32.97	\$126.84
Labor Category 17	Year 2	\$94.38	\$73.89	\$504.87
Labor Category 18	Year 2	\$79.59	\$76.73	\$233.56
Labor Category 19	Year 4	\$110.32	\$72.04	\$158.74
Labor Category 20	Year 1	\$97.23	\$52.89	\$213.77
Labor Category 21	Year 1	\$69.16	\$40.15	\$110.87
Labor Category 22	Year 3	\$64.18	\$54.44	\$104.87
Labor Category 23	Year 5	\$72.52	\$67.95	\$349.82
Labor Category 24	Year 2	\$61.37	\$110.20	\$110.24
Labor Category 25	Year 3	\$75.48	\$80.47	\$139.50

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

We conducted this audit to determine whether the ActioNet, Inc. information technology support contract was properly managed in accordance with Federal laws and regulations and Department of Energy requirements.

Scope

The audit was performed between February 2018 and March 2019 at Department Headquarters in Washington, DC and Germantown, Maryland. Our review covered nearly 6 ½ years of the Department's 7-year contract with ActioNet to help manage the Energy Information Technology Services support function which began incurring costs in 2012. The audit was conducted under Office of Inspector General Project Number A18TG013.

Methodology

To accomplish the objective, we:

- Reviewed applicable laws, regulations, and directives related to contract management;
- Reviewed relevant reports issued by the Office of Inspector General and the Government Accountability Office;
- Held discussions with officials from the Department, including various Federal and contractor staff associated with the ActioNet contract;
- Reviewed documentation pertaining to the ActioNet contract, including contract terms, conditions and modifications, contractor proposals, and work order/project documentation; and
- Judgmentally selected the largest of five subtask orders issued under the ActioNet contract for detailed review based on dollar value (the estimated ceiling value was approximately \$1.15 billion). We reviewed all direct labor costs incurred by ActioNet employees and billed to the Department from the inception of the contract through August 2018.

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 objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objective. Accordingly, we assessed significant internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. In particular, we assessed the Department's implementation of the

GPRA Modernization Act of 2010 and determined that the Department had established performance measures for managing contracts and contractor performance. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. Finally, we relied on computer-processed data and determined that the data provided was sufficiently reliable for the purpose of our audit objective.

An exit conference was held with Department officials on May 30, 2019.

RELATED REPORTS

Office of Inspector General

- Special Report on [*Management Challenges at the Department of Energy – Fiscal Year 2019*](#) (DOE-OIG-19-07, November 2018). The Office of Inspector General annually identifies what it considers to be the most significant management challenges facing the Department of Energy. One significant challenge identified in fiscal year 2019 was weaknesses with contract oversight, including subcontractor management. The Department spends approximately 90 percent of its annual budget on contracts, and as of September 2018, the Department managed 14,455 contracts valued at more than \$25 billion. In addition, since 1990, the Government Accountability Office has designated the Department’s contract management, including inadequate contract and project oversight, as a high-risk area.
- Audit Report on [*Management and Oversight of Information Technology Contracts at the Department of Energy’s Hanford Site*](#) (DOE-OIG-16-10, April 2016). This report substantiated that there were several problems related to the management and oversight of the information technology contracts at the Hanford Site. In particular, several Mission Support Alliance, LLC executives held senior executive positions within Lockheed Martin Corporation and, as such, had inappropriately taken actions on excluded activities that resulted in the appearance of a conflict of interest. In addition, weaknesses were identified related to contract awards and work scope, time and material task orders, and affiliate fee or profit. The identified weaknesses occurred, in part, because Mission Support Alliance, LLC had not fully executed the Mission Support Contract in accordance with its terms. In addition, the Richland Operations Office had not promptly acted to compel involved contractors to comply with requirements. Furthermore, Richland Operations Office and Mission Support Alliance, LLC officials had not ensured that incurred cost audits were conducted in accordance with Federal requirements, a key component of an effective monitoring and oversight program.

Government Accountability Office

- [*DEPARTMENT OF ENERGY: Use of Leading Practices Could Help Manage the Risk of Fraud and Other Improper Payments*](#) (GAO-17-235, March 2017). This report found that the Department of Energy managed the risk of fraud and improper payments through its internal controls program, which includes prepayment invoice reviews and post payment audits. However, several challenges limited the effectiveness of this approach. For example, the Department did not have a department-wide invoice review policy or well-documented procedures at five of the six sites with invoice review responsibilities. Consequently, the Department had no assurance that control activities at these sites are operating as intended. Furthermore, the Department’s approach to managing fraud risk did not incorporate leading practices such as conducting regular fraud risk assessments that are tailored to the program or developing and documenting a strategy to mitigate assessed fraud risks.

MANAGEMENT COMMENTS



Department of Energy

Washington, DC 20585

May 13, 2019

MEMORANDUM TO: SARAH B. NELSON
ASSISTANT INSPECTOR GENERAL FOR TECHNOLOGY,
FINANCIAL, AND ANALYTICS

FROM: STEPHEN (MAX) EVERETT *SME*
CHIEF INFORMATION OFFICER

INGRID KOLB *IK*
DIRECTOR, OFFICE OF MANAGEMENT

SUBJECT: MANAGEMENT RESPONSE TO DRAFT AUDIT REPORT “THE
DEPARTMENT OF ENERGY’S MANAGEMENT OF THE
ACTIONET IT SUPPORT CONTRACT” (A18TG013)

Thank you for the opportunity to comment on the subject draft report. DOE understands the importance of effectively managing our procurement and information technology functions to successfully accomplish DOE’s mission. We concur with your recommendations and offer the following response:

Direct Labor Costs. The draft report states several times that ActioNet may have overcharged DOE at least \$33 million for direct labor and associated fees over a seven-year period. DOE shares the IG’s concern and has commissioned the Defense Contract Audit Agency (DCAA) to conduct detailed audits for each fiscal year of the contract. We are working collaboratively with DCAA to determine whether the contractor has been reimbursed for any unallowable costs and will aggressively seek to recover any such costs.

Subcontractors. The draft report states that ActioNet significantly increased its use of subcontractors over the course of the contract. DOE agrees that the increase in subcontractors resulted from changes in the scope and technical requirements of the ActioNet contract over a seven-year period. DOE found that subcontractors were added to the contract in accordance with Federal Acquisition Regulation (FAR) clause 52.244-2. A random sample of file documentation shows that ActioNet requested DOE’s consent and that the Contracting Officer provided consent via modification. Notwithstanding, we acknowledge that the Contracting Officer’s documentation regarding subcontractor consent could have more comprehensively addressed the factors prescribed in the FAR.

Contract Documentation. The draft report states that DOE officials had not adequately evaluated ActioNet’s price proposals on contract extensions to ensure prices were fair and reasonable, as required by the FAR. While there were rates negotiated for the base and all

options years in the contract, we acknowledge we could have more thoroughly documented the file to support contract actions. In addition, “Justifications for Exception to Fair Opportunity” were executed for each ceiling increase and documented in the file.

MANAGEMENT RESPONSE TO RECOMMENDATIONS

1. Implement appropriate contract management controls as required by FAR and other Federal and Department requirements to ensure adequate monitoring and oversight.

We concur with this recommendation. DOE is strengthening contract management controls in accordance with the FAR and DOE regulations to ensure adequate contract monitoring and oversight for the current contract as well as any future contracts. For instance, for the ActioNet contract, we permanently rescinded invoice approval authority from the Contracting Officer Representative (COR), effective April 2019. The Contracting Officer is now responsible for invoice approval. We are also seeking the support of an independent auditor to assist in reviewing the invoices. In addition, we have implemented improvements to the Office of Headquarters Procurement Services’ internal review program to ensure that internal control processes are followed, contracts are properly documented, and contracting staff comply with relevant statutes, regulations, and policies.

With the objective of reducing risks and increasing internal controls and government oversight associated with its contracts administration of IT programs, DOE’s Office of Chief Information Officer (OCIO) is renewing its efforts for its CORs to ensure program requirements are clearly defined, contractor performance is appropriately monitored, and technical direction is provided to the contractor as required.

Estimated Completion Date: Fourth Quarter FY 2019

2. Implement an effective invoice review process for contracts to ensure that only allowable and reasonable costs are charged to and paid by the Department.

We concur with this recommendation. We rescinded invoice approval authority for the ActioNet contract from the COR, effective April 2019. Future invoices for the ActioNet contract and the follow-on contract (CIO’s Business Operations Support Services) will be reviewed and approved by the Contracting Officer with support from an independent auditor. In addition, we will consider using an auditor to support invoice review for other large, complex contracts.

As previously stated, the Office of Headquarters Procurement Services has also implemented improvements to its internal review program to ensure that internal control processes are followed, contracts are properly documented, and contracting staff comply with relevant statutes, regulations, and policies. This includes ensuring that Contracting Officers properly oversee the execution of authorities delegated by them to CORs, including the authority to review and approve invoices/vouchers.

Estimated Completion Date: Fourth Quarter FY 2019

3. Develop and implement a process to evaluate the need for subcontractors to ensure that no conflicts of interest exist and that the need for subcontractors is warranted.

We concur with this recommendation. FAR clause 52.244-2 establishes procedures, which have been enforced in the ActioNet contract, as it relates to consent to subcontract. DOE will continue to incorporate and enforce appropriate FAR and DOE Acquisition Regulation clauses in future contracts regarding subcontract consent to avoid or mitigate organizational conflicts of interest with prime contractors and their subcontractors. The Department acknowledges that the Contracting Officer's documented consent could have more comprehensively addressed the factors to be considered in providing such consent that are prescribed in FAR 44.202-2, including determining that the contractor has demonstrated that it has performed adequate cost or price analysis. As previously stated, the Office of Headquarters Procurement Services has also implemented improvements to its internal review program to ensure that internal control processes are followed, contracts are properly documented, and contracting staff comply with relevant statutes, regulations, and policies. This includes ensuring that Contracting Officers properly document subcontract consent in accordance with the aforementioned FAR considerations.

Estimated Completion Date: Fourth Quarter FY 2019

4. Resolve the questioned costs described in this report and ensure that appropriate incurred cost audits are conducted prior to official contract closeout.

We concur with this recommendation. DOE commissioned DCAA to audit the ActioNet contract for FY 2012 through FY 2017. We are working collaboratively with DCAA to determine whether the contractor was reimbursed for any unallowable costs and will aggressively seek to recover any such costs. This includes an analysis of DCAA's previously audited questioned costs as well as the OIG's \$33 million in questioned direct labor costs and the \$261 million in questioned costs relating to subcontracts.

Estimated Completion Date: Fourth Quarter FY 2020

5. Ensure contracting staff are qualified and have sufficient training to properly perform contract management activities, including following required record retention practices.

We concur with this recommendation. As part of an enhanced mandatory quarterly training program, beginning in September 2019, we will conduct training for Headquarters Contracting Officers on contract management requirements, including records retention, file documentation, invoice processing, and subcontract consent. DOE will continue to ensure that all Contracting Officers are qualified, have the proper certifications, and satisfy the mandatory requirements of the FAR and the Department guidelines for delegated warrant authority.

Estimated Completion Date: Fourth Quarter FY 2019

6. Reassess the warrants issued to contracting staff based on the issues identified in our report, including an evaluation of the dollar value thresholds authorized under the warrants.

We concur with this recommendation. The Contracting Officer who awarded the ActionNet contract and many of the administrative Contracting Officers have since left the Office of Headquarters Procurement Services. For those contracting staff who worked on the ActionNet contract and who remain with the organization, management will assess their competencies and related warrant authorities based on the issues identified in the subject report.

As a general matter, Contracting Officers are certified pursuant to the Federal Acquisition Certification in Contracting (FAC-C) Program, as required by the Office of Federal Procurement Policy. Under the FAC-C Program, Contracting Officers must satisfy mandatory requirements for the appropriate level of delegated warrant authority as set forth in the FAR and Departmental policies and guidelines. To ensure consistent compliance with contracting requirements, DOE has implemented improvements to the Office of Headquarters Procurement Services' internal control program to strengthen the organization's ability to identify and correct deficiencies. In instances where noncompliance with requirements is identified on the part of a Contracting Officer, an evaluation will be conducted to determine the appropriate follow-up action, including limiting or rescinding the Contracting Officer's warrant authority, providing additional training, and/or establishing stronger internal controls.

Estimated Completion Date: Fourth Quarter FY 2019

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