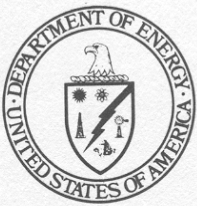




U.S. Department of Energy  
Office of Inspector General  
Office of Audit Services

# Audit Report

Transfer of Excess Personal Property  
From the Nevada Test Site to the  
Community Reuse Organization



## Department of Energy

Washington, DC 20585

March 11, 2003

### MEMORANDUM FOR THE SECRETARY

FROM:

*Greg Friedman*  
Gregory H. Friedman  
Inspector General

SUBJECT:

INFORMATION: Audit Report on "Transfer of Excess Personal Property from the Nevada Test Site to the Community Reuse Organization"

### BACKGROUND

During the 1990s, as a result of changes in program direction, the Department of Energy downsized or reconfigured a number of facilities, including the Nevada Test Site. These changes have had an acknowledged adverse economic impact on surrounding communities.

To mitigate the economic impacts, Congress authorized the Department to transfer excess personal property and provide other aid to local civic development organizations, commonly referred to as community reuse organizations (CRO). These transfers were based on the express understanding that the property was to be excess to Department needs and that the property would be used directly for community transition activities. Despite the realization that the transfers might be made at less than fair market value, the Department was to receive reasonable consideration from the CROs for the personal property.

The objective of our audit was to evaluate the process through which personal property was transferred by the Nevada Site Office (Nevada) to the local CRO.

### RESULTS OF AUDIT

Our audit disclosed that Nevada's personal property transfer practices did not strike an appropriate balance between the effort to assist community development and the need to assure that Federal taxpayers received reasonable consideration for property transferred to the local CRO. In fact, we found that the taxpayers were frequently shortchanged in this process. Specifically, Nevada:

- In February 2002, sold a drill rig to the local CRO for \$50,000 that is now being offered for sale by an out-of-state equipment broker for \$3.9 million.
- Transferred hundreds of pieces of equipment, including trucks, office machines, and trailers, to the CRO for \$1 per transfer.
- Provided laboratory equipment to the CRO that was needed at another Department site, ultimately causing the Department to spend \$2.5 million unnecessarily.



We found that, in most cases, Nevada made little, if any, effort to determine the current market value of the property provided to the CRO, nor did it confirm that the equipment's ultimate use would be for purposes directly related to developing the economies of communities in and around the Nevada Site Office. Under these circumstances, we do not think it was possible for the National Nuclear Security Administration (NNSA), Nevada's parent organization, to make informed judgments as to the appropriateness of particular property transfers.

On January 22, 2003, well after the completion of our fieldwork, the Department's Office of Worker and Community Transition issued a memorandum providing new operating guidance for future transfers of personal property to CROs. While this new guidance is a good start, we believe that the NNSA needs to emphasize that only unneeded property is to be transferred to CROs and that reasonable consideration is received for the transfers of property to the CROs. We also believe that the term "reasonable consideration," which is critical to this process, should be better defined so that it can serve as a useful decision-making guide for site managers. Finally, we concluded that the Nevada CRO situation could provide valuable insights to assist operations throughout the Department of Energy.

#### MANAGEMENT REACTION

The Associate Administrator for Management and Administration, NNSA concurred with our recommendations, and added that since a definition for "reasonable consideration" impacts NNSA and the Department, NNSA will convene all interested parties to formalize the definition.

Attachment

cc: Deputy Secretary  
Administrator, National Nuclear Security Administration  
Director, Policy and Internal Controls Management, NA-66

# **TRANSFER OF EXCESS PERSONAL PROPERTY FROM THE NEVADA TEST SITE TO THE COMMUNITY REUSE ORGANIZATION**

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# TRANSFER OF PROPERTY TO THE COMMUNITY REUSE ORGANIZATION

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## Transfer of Excess Personal Property

Certain excess personal property transferred by Nevada to the Community Reuse Organization (CRO) was not in the best interest of the taxpayers. For instance, in February 2002, Nevada transferred a drill rig to the CRO, which ultimately sold it to an equipment broker located in Texas. This broker was not involved in local community transition activities. The equipment broker originally sent a request to purchase the equipment to Nevada in June 2001. Before acting on the broker's request, Nevada offered the equipment to other Department sites and other Federal agencies, but did not receive any requests for the equipment. Rather than offer the drill rig competitively through the General Services Administration, however, Nevada instructed the CRO to purchase the drill rig, for future sale to the equipment broker.

The CRO paid Nevada \$50,000 for the drill rig, paid a subcontractor \$71,000 to clean the drill rig, and incurred \$4,000 in additional expenses. The CRO sold the drill rig to the equipment broker for \$248,000, realizing a profit of approximately \$123,000. The equipment broker is currently offering to sell the drill rig for \$3.9 million. While we have no way of knowing whether the Texas broker will ultimately sell the drilling rig for this price, the broker stands to make a considerable profit without providing a direct and substantial benefit to the local community.

Although the CRO had possession of the property listing that contained the drill rig three months prior to the transaction, the CRO neither requested to purchase the drill rig from Nevada, nor did it submit a statement of sole purpose for intended use of the property. In fact, Nevada initiated the transfer of the drill rig to the CRO to accomplish the sale to the equipment broker, thereby avoiding competition among other interested parties.

Additionally, in transactions through July 2000, Nevada sold 439 pieces of equipment to the CRO in 40 separate transactions, receiving only one dollar per transaction. Examples of the property transferred included trucks, cranes, a front-end loader, welders, and other equipment. In four of the transactions, Nevada transferred a total of 23 trucks to the CRO with a combined acquisition value of \$447,932. Nevada received an average of 17 cents for each truck. All 23 trucks were listed in good condition with some needing repairs. The majority of the trucks were subsequently transferred to community transition subcontractors and sold. The proceeds of these sales were, for the most part, shared between the CRO and the subcontractor. In those cases where the trucks were sold, the Department did not formally approve the sales, or obtain a plan documenting the use of the

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proceeds, as now required by the guidance recently issued by the Office of Worker and Community Transition.

One transfer of 20 pieces included a copy machine, acquired for \$9,310, which was less than one year old. Nevada received a nickel for the copy machine. A transfer of four pieces included two trailers, originally acquired for \$101,000, that were listed in good condition with one needing repairs. Nevada received about 50 cents for the two trailers. Nevada did not establish the fair market value of these items at the time of transfer.

In another instance, Nevada transferred laboratory equipment to the CRO in 1997 that was needed at another Department site. While the Department's guidance and Nevada's Memorandum of Understanding (MOU) with the CRO allowed Nevada to determine the recipient of property in cases where there are two parties who request the property, we question Nevada's transfer of the laboratory equipment to the CRO. Specifically, Lawrence Livermore National Laboratory's (Livermore) request for the equipment preceded the CRO's request by 13 months and, ultimately, this action cost the Department \$2.5 million. Livermore had similar equipment identified in its capital budget request and could have avoided making the purchase if it had received the excess equipment from Nevada. Finally, Nevada transferred the equipment to the CRO without receiving consideration.

Since July 2000, Nevada has determined the fair market value of transferred items and has sold the items to the CRO for more than one dollar per transaction. For example, Nevada received \$1,950 and \$6,500 for two motor homes that had fair market values of \$3,000 and \$8,000, respectively. In addition, Nevada received \$1,277 and \$1,314 for two trucks with fair market values of \$2,500 and \$2,600, respectively. While these transfers indicate improved performance, the transfer of the drill rig in February 2002 demonstrates that additional improvements still need to be made in this program.

## **Guidance for Transferring Property**

Overall, Nevada did not manage the transfers to the CRO in the best interest of the taxpayers because existing Department guidance lacked specificity and did not give full consideration to the Government's stewardship responsibilities. For instance, the Department's guidance and the existing MOU allowed Nevada's manager to decide between the CRO and another Department site when both parties requested the same property. The Department's core missions must take precedence over the CRO. Clearly, the Department should not have to use its scarce

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resources to purchase additional equipment that already exists within its own inventory. In fact, other federal agencies such as the Air Force may identify personal property as "not available for reuse" by CROs if the personal property is needed by the military or other Federal agencies.

Finally, the Department lacked procedures to determine the appropriate amount of consideration that should be received from the CRO in exchange for its personal property transfers. While sound business practices suggest that fair market value would be the starting point for determining reasonable consideration, Nevada did not determine the fair market value of the property when negotiating a transfer price with the CRO. According to Nevada personnel, management placed emphasis on economically supporting the CRO and directed that equipment be transferred to the CRO at one dollar per transfer. When Nevada personnel determined that the CRO subcontractors sold the equipment instead of using it for economic development, they drafted a letter that would have required the CRO to reimburse Nevada for the property and to stop future sales. However, the letter was not issued. Instead, Nevada modified its MOU with the CRO to make it easier for the CRO to sell the assets.

On January 22, 2003, the Office of Worker and Community Transition issued a memorandum (Appendix 1) that should help ensure that future personal property transfers are more closely monitored. The memorandum states that the proceeds from asset conversion programs must be used in support of clear community economic development purposes. The memorandum also sets forth priorities for uses of excess personal property and defines the uses of proceeds if the property is sold and readily converted to cash. Most importantly, the memorandum establishes a revenue sharing arrangement, to be negotiated on a site-by-site basis. Finally, the document requires that any excess item must be processed through standard screening procedures prior to being released to a CRO.

### **Department's Funds Impacted**

As a result of these transfers, the Department's funds were adversely impacted. The equipment broker currently in possession of the drill rig may realize a considerable profit upon the sale of the equipment. These funds might otherwise have been available to the Department or the communities surrounding the Nevada Test Site. Further, transferring hundreds of pieces of equipment for a total consideration of \$40 is unreasonable and represents an undetermined amount of funds that could have been received by the Government. Finally, the Department unnecessarily incurred expenses of \$2.5 million when

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Livermore had to purchase laboratory equipment that was already available at Nevada.

We also noted that Nevada's objectives relating to its community transition program will be compromised as long as personal property transfers to companies not engaged in economic development activities continue to occur.

## **RECOMMENDATIONS**

We recommend that the Associate Administrator for Management and Administration, NNSA, define the term "reasonable consideration" in coordination with Department of Energy officials.

We also recommend that the Senior Procurement Executive, NNSA:

1. Ensure that only unneeded property is transferred to the CROs; and,
2. Receive reasonable consideration for property transferred to the CROs.

## **MANAGEMENT REACTION**

The Associate Administrator for Management and Administration, NNSA, agreed with our recommendations and stated that the Memorandum from the Department's Office of Worker Transition would provide better direction for transferring personal property to community reuse organizations. We have included management's comments in their entirety as Appendix 2.





## Department of Energy

Washington, DC 20585

January 22, 2003

MEMORANDUM TO: DISTRIBUTION  
FROM: Michael Owen *Michael W. Owen*  
Director, Office of Worker and Community Transition  
SUBJECT: Disposition of Excess Personal Property

### BACKGROUND AND PURPOSE

Community Reuse Organizations (CROs) have been operating asset conversion and personal property transfer programs since shortly after the passage of section 3154 (Hall Amendment) of the National Defense Authorization Act of 1994 by Congress. Excess personal property disposition by Department of Energy (DOE) sites results in significant cost savings to DOE by reducing the costs associated with long-term storage, maintenance, and providing security for those assets. These programs benefit CRO's and their communities by stimulating job creation and, in some cases, by providing much needed revenue to support critical economic development programs.

Personal property programs have taken a number of different forms, although most involve the transfer of excess personal property to CRO's at no or nominal cost after a determination has been made by local DOE property managers that it is excess. CRO's then make these assets available to commercial enterprises, often at below-market value, for use in their business operations to enhance their ability to create private-sector jobs in the region. If the nature, condition, or value of assets is such that use for job creation is precluded, CRO's may sell assets at auction or by other means with proceeds to be allocated to support of ongoing economic development activities.

The purpose of this memorandum is to provide additional guidance to CRO's and DOE Field Offices regarding the disposition of excess personal property. This additional guidance is designed to facilitate use of minimum acceptable, yet more uniform, business practices in this regard as well as assure appropriate accountability for program operation.

**AUTHORITIES AND REFERENCES** ([www.wct.doe.gov](http://www.wct.doe.gov)) Program Documentation – Authorities and Guidance

National Defense Authorization Act of 1993: Sections 3161 and 3163  
National Defense Authorization Act of 1994: Section 3154 (Hall Amendment)  
Draft Policy and Planning Guidance for Community Transition Activities (June 2001)  
DOE Acquisition Letter 95-06, Personal Property Guidance  
Personal Property Letter 970-1



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## Appendix 1 (continued)

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Memorandum from Charles Przybylek, Chief Counsel, Albuquerque to Eileen Beaulieu, Community Transition Program Manager, Albuquerque (June 19, 2001)

Memorandum from Eric Fygi, Acting General Counsel to Jennifer Fowler, Chief Counsel Oak Ridge Operations Office (March 27, 1998)

Memorandum from Richard H. Hopf, Office of management and Administration to Robert Baney, Office of Worker and Community Transition (May 2, 2001)

### ISSUES

Consistent with the Office of Worker and Community Transition's (Office) commitment to exercising maximum flexibility in its administration and oversight of community transition programs and to afford communities the opportunity to develop programs responsive to local needs, there has been minimum effort to impose guidelines for property disposition programs. The Office has focused on assuring that programs operate well within the intent and rule of governing legislation through frequent monitoring of programs and consultation with program operators and interested parties across the Department.

**Uses of excess personal property:** For purposes of operating excess personal property disposition programs, authorized uses of excess personal property by CRO's, in priority order, are:

1. The transfer to a private, commercial enterprise for use in its business operations in such a way that such use results in the creation of new employment opportunities for displaced contractor workers and/or area residents.
2. The offer of a transfer to a private, commercial enterprise for use in its business operations as an inducement to establish productive capacity in a CRO's geographical service area that will result in the creation of new employment opportunities for displaced contractor workers and area residents.
3. After determination that such property has no or limited value for uses described above, CRO's may offer subject property for sale at auction or by other means that assures reasonable access to the general public and provides for most favorable terms of sale. Proceeds from sales must be used to support community economic development activity determined to be appropriate in consultation between CRO's and the local DOE community transition field contact. Activities in this regard must be sufficiently documented to allow CROs or DOE to adequately respond to information requests from the general public or responsible government officials.

**Sale of excess personal property/Use of proceeds:** There has been considerable concern expressed by a number of authorities regarding the use of the proceeds from personal property sales to support economic development activities undertaken by a local

## Appendix 1 (continued)

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CRO. This concern has focused on the treatment of excess DOE personal property as readily converted to cash to support CRO operations, particularly the payment of staff salaries and funding of unrelated CRO operations. This Office is sensitive to these concerns as a practical matter, as well as a matter of public perception.

The Office also realizes that local community transition programs and organizations are often small with indistinct lines between various staff responsibilities and program initiatives. For example, an individual staff member may constitute an entire “program,” e.g., business retention and expansion and in some cases, may also have significant administrative responsibilities. The Office, in cooperation with local DOE community transition contacts and CRO officials, shall closely monitor the use of proceeds from excess personal property disposition programs to assure that they are used in support of clearly-defined community economic development purposes, in the context of local operational and economic realities. The Office shall be the final authority in this regard in the event any disputes arise.

CRO personal property disposition program managers must conclusively meet two tests prior to the sale of assets for cash for program support, and that the uses for such support are limited as described below.

- After personal property conveyance by DOE, but prior to making such personal property available for sale to the general public, the CRO must reach a deliberate conclusion that the assets in question have no value as inducement or have no direct job creation/retention value to targeted existing area enterprises. Such a determination shall be documented in writing and provided to the local DOE community transition official as well as kept in program files.
- Prior to the sale of any personal property, the CRO must have a specific plan for use of any sale proceeds in its overall economic development program and provide written documentation of that plan in its asset conversion program description. Each of these plans must be submitted to the Office, through the local DOE community transition official, for review and approval prior to program operation. Note that CRO community transition and personal property disposition plans submitted to and on file with the Office prior to the effective date of this memorandum shall be in compliance with this provision unless a CRO is otherwise notified. Activities of a clearly administrative nature or that do not constitute or contribute to a clear community economic development purpose may not be supported by proceeds from excess asset sales.

**Value thresholds/Documentation:** Obviously, not all personal property determined to be excess has the same monetary value. Notwithstanding the requirement that all excess personal property must be screened pursuant to established DOE procedures prior to conveyance to CRO's, certain assets should undergo varying degrees of scrutiny and evaluation beyond standard screening practices to determine the full range of market utilization alternatives. This needs to be done to ascertain true value prior to making them available for sale to the general public.

## Appendix 1 (continued)

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For example, personal property that may have been state-of-the art when originally acquired may be virtually without functional value at the time of sale. Such information may be of significant value to CRO's as they develop disposition strategies.

CRO's are encouraged to work with local DOE property managers to develop any appropriate screening procedures over and above those required by existing DOE and federal regulations to meet local personal property disposition program objectives. Excess personal property that is conveyed to a CRO must be accompanied by documentation that such property has received the appropriate level of screening as determined by DOE, together with any commentary regarding price, utilization or other matters of interest to CRO's.

**Revenue sharing:** DOE may, at its sole discretion, negotiate a share of proceeds of any personal property sold to the general public through the CRO excess personal property disposition process. Such revenues may be collected as consideration for the cost of transfer of the asset to the CRO, or as a negotiated percentage of proceeds from actual sale of assets, or both. Revenue-sharing arrangements are to be negotiated on a site-by-site basis. All sales proceeds retained by DOE shall be returned to the U.S. Treasury.

### EXECUTION

CROs are encouraged to work closely with local DOE community transition officials and property managers to execute this guidance.



**Department of Energy**  
**National Nuclear Security Administration**  
Washington, DC 20585

February 19, 2003

MEMORANDUM FOR Frederick D. Doggett  
Deputy Assistant Inspector General  
for Audit Services

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

SUBJECT: Comments to IG Draft Report on the Transfer of  
Excess Property from NTS

The Office of Inspector General (IG) conducted an audit to determine whether the personal property transferred by the Nevada Site Office to the local community reuse organizations was in the best interest of the taxpayers. The National Nuclear Security Administration (NNSA) appreciated the opportunity to have reviewed the draft report, "Transfer of Excess Personal Property from the Nevada Test Site to the Community Reuse Organization."

NNSA is aware that the Department's Office of Worker and Community Transition has issued a memorandum addressing the disposition of excess personal property. This memorandum provides better direction for transferring personal property to community reuse organizations. However, we offer the following comments for the sake of clarity.

- The then Nevada Operations Office experienced a significant downturn in staffing levels with the President's decision to eliminate underground testing. At the time, the staffing level decline had the potential of causing adverse economic impacts on the surrounding communities. To mitigate the potential economic impact, Congress allowed the Department to transfer excess personal property to community reuse organizations. Property provided to the community reuse organizations was to be used for the benefit of local community transition efforts and to offset the potential effects of the staffing level reduction. Congress and the Department recognized that it could well be in the best interests of Congress, the Department, and the surrounding communities to provide the excess personal property to the community reuse organizations at less than fair market value.



## Appendix 2 (continued)

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- The report correctly states that the community reuse organizations resold transferred property at a higher price than the organization had paid. The then Memorandum of Understanding between the Government and the reuse organization (since expired) was mute on this point. Any new Memorandum of Understanding will have all of the current guidance that is applicable to this subject.

NNSA agrees with the recommendations that the Senior Procurement Executive (1) ensures only unneeded property is transferred and, (2) receive reasonable consideration for the transferred property. We recommend, however, that the recommendation to define the term "reasonable consideration" be redirected to the Associate Administrator for Management and Administration. We believe this to be a DOE/NNSA issue and it is appropriate for the Associate Administrator to convene all interested parties to formalize the term's definition.

Should you have any questions related to our comments, please contact Richard Speidel, Director, Policy and Internal Controls Management at 586-5009.

cc: Robert C. Braden, Senior Procurement Executive, NA-63  
David L. Marks, Director, Field Financial Management  
Kathleen Carlson, Manager, Nevada Site Office

## Appendix 3

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### OBJECTIVE

The objective of our audit was to determine whether the personal property transferred by the Nevada Site Office to the CRO was in the best interest of the taxpayers.

### SCOPE

The audit was performed from August to December 2002 at the Nevada Site Office in Las Vegas, Nevada, as well as NNSA Headquarters and the Department's Office of Worker and Community Transition and Office of Procurement and Assistance Management in Washington, DC. The scope of the audit included a review of Nevada's transfers of excess personal property to the CRO.

### METHODOLOGY

To accomplish the audit objective, we:

- Evaluated Federal and Department guidance concerning personal property transfers to community reuse organizations;
- Reviewed files and documentation related to Nevada's personal property transfers;
- Analyzed personal property inventory listings; and,
- Held discussions with cognizant Department and contractor personnel.

The audit was performed in accordance with generally accepted Government auditing standards for performance audits, and included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the objective of the audit. Accordingly, the audit included a review of Nevada's disposal of excess personal property to the CRO. Because our audit was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. As part of our review, we also evaluated the Department's implementation of the Government Performance and Results Act of 1993. We found that Nevada had performance measures for personal property disposals but did not have specific performance measures for property transfers to the CRO. We did not conduct a reliability assessment of computer-processed data because only a very limited amount of computer-processed data was used during the audit.

NNSA waived the exit conference.

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