

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

Special Report


Resolution of Questioned, Unresolved
and Potentially Unallowable Costs
Incurred in Support of the Yucca
Mountain Project



Department of Energy
Washington, DC 20585

July 29, 2010

MEMORANDUM FOR THE UNDER SECRETARY OF ENERGY

FROM: 
Gregory H. Friedman
Inspector General

SUBJECT: INFORMATION: "Resolution of Questioned, Unresolved and Potentially Unallowable Costs Incurred in Support of the Yucca Mountain Project"

INTRODUCTION

The Nuclear Waste Policy Act Amendments of 1987 designated Yucca Mountain in Southwestern Nevada as the site for a national geologic repository for high-level nuclear waste. The Department of Energy assigned management of the program to the Office of Civilian Nuclear Waste Management (OCRWM). Bechtel SAIC Company, LLC (BSC) was the management and operating contractor for OCRWM's Yucca Mountain Project from April 1, 2001, until its contract with the Department ended on March 31, 2009. In early 2009, the Department indicated that it intended to terminate the Project and is moving to shut down all activities by September 30, 2010.

In recognition of the very ambitious schedule for shutting down the Project, the Office of Inspector General (OIG) issued a report on the "*Need for Enhanced Surveillance During the Yucca Mountain Project Shut Down*" (OAS-SR-10-01, July 21, 2010). In that report, we identified lessons learned from a number of previous Department activities with attributes and characteristics similar to those that would be encountered during the Yucca Mountain Project shut down. One key point in that report related to protecting the interest of the ratepayers and taxpayers by employing a robust contract close out process. We indicated that the OIG would be issuing a separate report questioning Project contractor-incurred costs that the Department needs to address during the contract close-out process to ensure that disallowed costs are settled and funds recouped; required audits of costs incurred are completed; and, that all excess funds are de-obligated.

Today, we issued a separate contract audit report on "*Audit Coverage of Cost Allowability for Bechtel SAIC Company LLC During Fiscal Years 2004 Through 2009 Under Department of Energy Contract No. DE-AC28-01-RW12101*" (OAS-V-10-15, July 2010). This report identified specific costs questioned in the contract audit report that will need to be resolved as part of the Yucca Mountain Project shut down and contract close-out.

QUESTIONED or UNRESOLVED COSTS

We identified over \$175 million in questioned and unresolved costs claimed by BSC during Fiscal Years (FY) 2001 through 2009. Specifically,

- \$19,024,410 in questioned costs that had been identified in audits and reviews and had not been resolved; and,
- \$159,955,538 in subcontract costs that we consider to be unresolved because necessary audits had not been requested or performed.

Questioned Costs

The Department has not resolved \$18,793,992 in costs questioned by BSC's own internal audit function. These costs, some of which were discovered as early as 2002, include:

- Subcontract costs totaling \$340,000 for unsupported costs, time charged while traveling, unallowable per diem expenses and mathematical errors discussed in the FY 2002 Allowable Cost Audit;
- Subcontract costs totaling \$84,680 for unsupported labor charges and travel expenses identified during the FY 2003 Allowable Cost Audit;
- A total of \$762,000 in subcontract costs identified by BSC Internal Auditors in their FY 2004 Allowable Cost Audit. Specifically, the amount questioned included \$749,000 for subcontract costs that did not have supporting documentation, and \$13,000 for unsupported time charged by subcontractor employees while traveling;
- Unsupported labor and travel costs, calculation errors and double billing totaling \$1,337,754 questioned in the FY 2005 Allowable Cost Audit;
- Unsupported labor and travel costs, payment errors for rent and furniture and duplicate billings of \$310,500 identified in the FY 2006 Allowable Cost Audit;
- Unsupported labor and travel costs and time charged while traveling totaling \$13,500 identified in the FY 2007 Allowable Cost Audit;
- Payments without supporting documentation and unsupported labor charges totaling \$6,027 questioned in the FY 2008 Allowable Cost Audit; and,
- \$15,939,531 in unsupported costs identified in the FY 2009 Allowable Cost Audit that included payments to Department of Energy national laboratories, BSC's parent company, and an array of suppliers and vendors; unsupported relocation costs; automobile lease payments due to types of vehicles leased; undocumented rates used for calculation of relocation income tax allowances; shipment and storage costs of household goods in excess of the allowable amount; and, costs of an employee's apartment lease cancellation fee.

Based on testing performed by the OIG during the current audit, we identified and questioned an additional \$207,207 in subcontract costs, \$14,185 in relocation costs and \$35,652 in costs which BSC failed to recover from two employees who were not entitled to relocation benefits since

they failed to remain employed for the required period of time. These additional costs will also need to be resolved during the contract close-out process.

Unresolved Subcontractor Costs

BSC had neither audited nor arranged for audit of nearly \$160 million in subcontractor costs that remain unresolved until audited. BSC was required by its contract with the Department to either conduct an audit of subcontractor costs or arrange for such an audit to be performed by the cognizant government audit agency.

Finally, we identified at least 23 subcontracts for FYs 2004 through 2009 for which we could not obtain evidence that BSC had requested DCAA audits through the Department's OCRWM contracting officer. There also was no documentation to show that BSC had requested audits of the direct and indirect rates charged on two subcontracts for FY 2004, FY 2005 or FY 2006. Therefore, we reported subcontractor costs totaling \$77,367,089 as unresolved costs pending audit.

Continuing Concerns/Path Forward

Our concern with contractor/subcontractor incurred costs issues at OCRWM is not new. In a 2005 OIG audit report on *Assessment of Changes to the Internal Control Structure and their Impact of the Allowability of Cost claimed by and Reimbursed to Bechtel SAIC Company, LLC* (OAS-V-05-03, January 2005), we questioned subcontractor costs totaling \$95,552,645 that had not been audited. Of the total amount questioned, \$82,588,449 had not been resolved. As we understand it, the OCRWM contracting officer is waiting for the Defense Contract Audit Agency (DCAA) to complete three audit reports and for BSC to provide additional information before determining the allowability of the remaining questioned costs. We reported the \$82,588,449 as unresolved costs pending audit.

As noted, when aggregated, we identified over \$175 million in questioned and unresolved costs claimed by BSC from 2001 through 2009. A summary breakdown of these costs is presented in Attachment 1 of this report. In our contract audit report on costs incurred by BSC from FY 2004 through 2009, we recommended that the Acting Principal Deputy Director, Office of Civilian Radioactive Waste Management, direct the Contracting Officer to take action to resolve these costs by:

1. Ensuring that subcontractor costs were audited as required in the contract; and,
2. Making determinations regarding the allowability of questioned costs identified in this report and recover those costs determined to be unallowable.

Management concurred with the recommendations in the report but could not provide an estimated closure date for the corrective actions since it is contingent upon DCAA's audit response time. In connection with our 2010 audit, OCRWM indicated that it is in the process of reviewing the:

- Subcontracts which the OIG identified as requiring an audit. OCRWM committed to requesting the appropriate audit for those subcontracts for which it determines an incurred cost audit or close-out audit is required.
- Questioned costs identified in the report in order for the Contracting Officer to make a determination of allowability for those costs. OCRWM indicated that, for those costs that are determined to be unallowable, a Contracting Officer determination letter will be sent to BSC requesting reimbursement for those costs.

Management's comments are attached.

The Department has placed closure of the Office of Civilian Radioactive Waste Management on an expedited fast track. As such, we request that management inform us as to the program element and management official to be charged with resolving the issues identified in this report.

cc: Chief of Staff

Acting Principal Deputy Director, Office of Civilian Radioactive Waste Management
Director, Office of Legacy Management
Manager, Oak Ridge Office

Attachments

Summary of Questioned Costs and Unresolved Subcontract Costs Pending
Audit

Bechtel SAIC Company, LLC
Contract No. DE-AC28-01RW12101
October 1, 2000 through March 31, 2009

	FY 2001-2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	Total
Relocation Costs		\$4,263	\$1,212		\$35,652	\$5,367	\$3,343	\$49,837
Subcontract Costs		1,404	11,328	62,289			132,186	207,207
Unresolved Costs ¹	\$424,680 ²	762,000	1,337,754	310,500	13,500	6,027	15,939,531	18,793,992
Errors ³			(6,346)	(20,280)				(26,626)
Total Questioned Costs after Adjustments for Errors	<u>\$424,680</u>	<u>\$767,667</u>	<u>\$1,343,948</u>	<u>\$352,509</u>	<u>\$49,152</u>	<u>\$11,394</u>	<u>\$16,075.0</u>	<u>\$19,024,410</u>
Unresolved Subcontract Costs Pending Audit	\$82,588,449	\$20,884,651	\$16,901,161	\$19,575,313	\$14,939,404	\$4,049,119	\$1,017,441	\$159,955,538

¹ Unresolved costs include costs questioned by Internal Audit in prior audits but have not been resolved.

² These costs were questioned by Internal Audit prior to the scope of our audit but remained unresolved.

³ Errors are understatement (overstatement) of costs questioned by Internal Audit.



Department of Energy

Washington, DC 20585

June 1, 2010

MEMORANDUM FOR DAVID SEDILLO, DIRECTOR
NNSA AND SCIENCE AUDITS DIVISION
OFFICE OF INSPECTOR GENERAL

FROM: DAVID K. ZABRANSKY
ACTING PRINCIPAL DEPUTY DIRECTOR
OFFICE OF CIVILIAN RADIOACTIVE
WASTE MANAGEMENT

SUBJECT: Comments on Inspector General Draft Report on "Audit
Coverage of Cost Allowability for Bechtel SAIC Company,
LLC During Fiscal Years 2004 through 2009 Under Contract
No. DE-AC28-01RW12101"

The purpose of this memorandum is to provide the Office of Civilian Radioactive Waste Management's response to the identified recommendations in the subject draft report.

We appreciate the opportunity to comment on the draft report. If you have any questions, please contact Kenneth Powers of my staff at 702-794-1301.

Attachment:
Responses to Recommendations



**Responses to Recommendations in Draft Audit Report
“Audit Coverage of Cost Allowability for Bechtel SAIC Company, LLC During
Fiscal Years 2004 through 2009 Under Contract No. DE-AC28-01RW12101”**

RECOMMENDATIONS

We recommend the Acting Principal Deputy Director, Office of Civilian Radioactive Waste Management, direct the Contracting Officer to:

RECOMMENDATION 1

Ensure that subcontractor costs are audited as required in the contract.

MANAGEMENT DECISION

Concur. The Office of Civilian Radioactive Waste Management (OCRWM) is in the process of reviewing those subcontracts for which the Office of Inspector General identified as requiring an audit. For those subcontracts for which OCRWM determines an incurred cost audit or close-out audit is required, then OCRWM will request the appropriate audit.

Estimated date of closure: Contingent upon the Defense Contract Audit Agencies’ (DCAA) response time.

RECOMMENDATION 2

Make determinations regarding the allowability of questioned costs identified in this report and recover those costs determined to be unallowable.

MANAGEMENT DECISION

Concur. The Office of Civilian Radioactive Waste Management is in the process of reviewing the questioned costs identified in the report in order for the Contracting Officer to make a determination of allowability for those costs. For those costs that are determined to be unallowable, a Contracting Officer determination letter will be sent to Bechtel requesting reimbursement of those costs.

Estimated date of closure: Contingent upon receipt of DCAA audit response.

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