

memorandum

DATE: August 13, 2007 Audit Report Number: OAS-L-07-18

REPLY TO
ATTN OF: IG-32 (A07PR061)

SUBJECT: Audit of Executive Compensation at Brookhaven National Laboratory

TO: Manager, Brookhaven Site Office

INTRODUCTION AND OBJECTIVE

As part of a Department of Energy-wide audit of executive compensation, we reviewed executive compensation at the Office of Science's Brookhaven National Laboratory (Brookhaven). Our audit covered executive compensation costs incurred and claimed for Fiscal Years 2003, 2004, and 2005. Brookhaven Science Associates, LLC, operated Brookhaven under Department of Energy (Department) contract number DE-AC02-98CH10886.

The amount of executive compensation that can be reimbursed to Department contractors is limited by legislation, regulations, and contract terms. For example, reimbursable compensation is limited to the annual cap determined by the Administrator, Office of Federal Procurement Policy (OFPP). In addition, Department of Energy Acquisition Regulations, Federal Acquisition Regulations (FAR), Department policies and guidance, as well as contract provisions establish limitations and guidelines for determining whether executive compensation is reasonable and allowable. Generally, executive compensation includes salaries, bonuses, incentive compensation, pension contributions, health benefits, and other fringe benefits.

The objective of our Department-wide audit was to determine whether executive compensation reimbursed to contractors was allowable, consistent with contract terms, and conformed with applicable Federal requirements and guidance.

CONCLUSIONS AND OBSERVATIONS

We found that Brookhaven executive compensation costs reimbursed to Brookhaven Science Associates did not exceed the annual cap determined by the Administrator, OFPP, and compensation generally complied with applicable provisions of procurement regulations, Department policies and guidance, and the Brookhaven contract. However, we identified questioned costs related to Brookhaven's executive compensation. Specifically, we questioned \$31,472 consisting of \$10,727 for an executive's salary in excess of the approved salary ceiling and \$20,745 for fringe benefit costs associated with unallowable salary costs. Details of our questioned costs are as follows:

Salary for Brookhaven Executive

We questioned the amount that an executive's salary exceeded the salary ceiling approved by the contracting officer. Brookhaven agreed with our finding and in February 2007 credited the contract in the amount of \$10,727 for the questioned salary and applicable pension benefits.

Fringe Benefits for Unallowable Salaries

We questioned \$20,745 charged to the Brookhaven contract for fringe benefit costs associated with unallowable salary costs. For some executives, Brookhaven paid salaries that exceeded the salary ceilings approved by the contracting officer. Appropriately, the contractor did not charge the contract for salary costs in excess of approved ceilings and for associated pension costs. However, the contractor charged the contract with non-pension fringe benefit costs associated with unallowable salaries. For the 3-year period covered by our audit, we estimated this overcharge of fringe benefits to be about \$20,745.

Brookhaven's representative stated that Acquisition Letter 2000-12 allowed fringe benefit costs irrespective of any salary cap. However, we do not agree with Brookhaven's interpretation of Acquisition Letter 2000-12 because the section cited by Brookhaven's representative does not address fringe benefit costs associated with unallowable salary. Fringe benefit costs associated with unallowable salary are unallowable because the FAR stipulates that unallowable costs should normally include all directly associated costs, and Brookhaven's Cost Accounting Standards Disclosure Statement, which describes Brookhaven's cost accounting practices, states that Brookhaven's full fringe benefit rate is to be applied to all salaries, which would include unallowable salaries. Therefore, the fringe benefit costs directly associated with the unallowable salary costs were also unallowable.

RECOMMENDATIONS

We recommend that the Manager, Brookhaven Site Office, direct the contracting officer to:

- 1) Determine the allowability of our questioned costs and recover costs determined to be unallowable; and
- 2) Determine whether costs, similar to those identified in our audit, were claimed after September 30, 2005, and recover costs determined to be unallowable.

SCOPE AND METHODOLOGY

The Department-wide audit was conducted from July 2006 to July 2007 at the Office of Management, Department support offices and site offices, and 13 contractor sites, including Brookhaven National Laboratory in Upton, New York. The scope of the Department-wide audit covered executive compensation costs incurred and claimed for Fiscal Years 2003, 2004, and 2005 and included the compensation of about 200 executives including facility directors, deputy directors, key personnel, and other

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senior management employees. Compensation included salaries, bonuses, incentive compensation, pension contributions, health benefits, other fringe benefits, travel and relocation reimbursements, and any other payments made to the executive or on behalf of the executive.

To accomplish the audit objective, we identified executives and their compensation; verified compensation to accounting records and supporting documentation; and, tested compliance with legislation, regulations, Department policies and guidance, and contracts.

We conducted the audit 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 audit 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 audit. Also, we considered the establishment of performance measures in accordance with the *Government Performance and Results Act of 1993*, as they related to the audit objective, and found that the Department had not established performance measures specifically addressing executive compensation. We relied on computer-processed data to accomplish the audit objective. When appropriate, we performed limited test work of data reliability during our audit and determined that we could rely on the computer-processed data.

We discussed our questioned costs with the contracting officer.

We appreciate the cooperation of your staff during our review. Please advise us within 15 work days of any action you plan to take with respect to our recommendations.



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