

CR-B-02-02

AUDIT REPORT

PROCUREMENT ADMINISTRATION AT BROOKHAVEN NATIONAL LABORATORY



U.S. DEPARTMENT OF ENERGY
OFFICE OF INSPECTOR GENERAL
OFFICE OF AUDIT SERVICES

AUGUST 2002



U. S. DEPARTMENT OF ENERGY
Washington, DC 20585

August 22, 2002

MEMORANDUM FOR THE ACTING MANGER, CHICAGO OPERATIONS OFFICE

FROM: Rickey R. Hass, Director (Signed)
Science, Energy, Technology,
and Financial Audits
Office of Audit Services
Office of Inspector General

SUBJECT: INFORMATION: Audit Report on "Procurement Administration at
Brookhaven National Laboratory"

BACKGROUND

In May 1999, the Office of Inspector General evaluated certain aspects of Brookhaven National Laboratory's (Brookhaven) procurement function and found that Brookhaven had not fully enforced the terms of its subcontracts for health physics technicians. This audit, *Health Physics Technician Subcontracts at Brookhaven National Laboratory* (ER-B-99-08, May 1999), recommended that Brookhaven strengthen its administration of subcontracts. Department of Energy (Department) management concurred with our recommendations and directed Brookhaven to implement improvements. To gauge the sufficiency of corrective actions, we initiated this follow-on audit at the request of the Brookhaven Area Office to determine whether Brookhaven administered procurements in accordance with applicable regulations and its contract.

RESULTS OF AUDIT

While Brookhaven had initiated certain improvements, it did not always properly administer procurements. Specifically, Brookhaven did not always:

- Provide the Department with required advance notice for certain procurement actions, including those that exceeded specified dollar thresholds;
- Prepare adequate justification for non-competitive procurements or exemptions from requirements of the Buy American Act; and,
- Accurately maintain procurement data on small business contracting and small purchases.

Problems with procurement administration occurred because Brookhaven had not provided adequate training for acquisition staff, implemented appropriate control measures, and effectively implemented an assessment and performance measurement program. As a consequence, neither the Department nor Brookhaven had full assurance that competition was adequate and that procurement awards provided the best value and were in the best interests of the government. Additionally, inaccuracies in its procurement database contributed to Brookhaven overstating its small business contracting activity by about \$10 million in Fiscal Year (FY) 2000 and \$12 million in FY 2001.

The report recommends that the Manager, Chicago Operations Office, direct Brookhaven to give priority attention to performing a series of corrective actions and incorporate completion of the actions into a specific performance measurement that must be attained within the next fiscal year. The report also recommends that the Manager establish performance measures to monitor the quality and effectiveness of Brookhaven's procurement function.

MANAGEMENT REACTION

Management concurred with the findings and recommendations and stated that Brookhaven has been working to improve its procurement system and has begun initiating changes that will comply with the recommendations. Management comments have been included in Appendix 1.

PROCUREMENT ADMINISTRATION AT BROOKHAVEN NATIONAL LABORATORY

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Overview

INTRODUCTION AND OBJECTIVE

The Department of Energy's (Department) Brookhaven National Laboratory (Brookhaven) is a multi-program research laboratory that conducts basic and applied research in the physical, biomedical, and environmental sciences, as well as in energy technologies. Brookhaven's broad mission is to produce excellent science in a safe, sound manner. At the center of Brookhaven's research are complex, leading edge, user-oriented research facilities such as the Relativistic Heavy Ion Collider and the National Synchrotron Light Source. Brookhaven Science Associates, a nonprofit corporation, operates Brookhaven under a contract administered by the Department's Chicago Operations Office and its onsite Brookhaven Area Office. In carrying out its mission, Brookhaven contracts for a wide array of goods and services, from routine parts and supplies to sophisticated scientific equipment and technical support. To meet its needs, Brookhaven awards about \$150 million in subcontracts and purchases each year.

In May 1999, the Office of Inspector General evaluated certain aspects of Brookhaven's procurement function and found that Brookhaven had not fully enforced the terms of its subcontracts for health physics technicians. This audit, *Health Physics Technician Subcontracts at Brookhaven National Laboratory* (ER-B-99-08, May 1999), recommended that Brookhaven strengthen its administration of subcontracts. Department management concurred with our recommendations and directed Brookhaven to implement improvements. To gauge the sufficiency of corrective actions, we initiated this follow-on audit at the request of the Brookhaven Area Office to determine whether Brookhaven administered procurements in accordance with applicable regulations and its contract.

CONCLUSIONS AND OBSERVATIONS

While Brookhaven had initiated certain improvements, it did not always properly administer procurements. Specifically, Brookhaven did not provide the Department with required advance notice for certain procurement actions, including those that exceeded specified dollar thresholds. In addition, justifications for noncompetitive procurements or for exemptions from requirements of the *Buy American Act* were not always prepared or were inadequate. Also, Brookhaven did not accurately maintain procurement data on small business contracting and small purchases. In general, Brookhaven is required to manage its procurement activities in accordance with established procedures that

incorporate Departmental regulations. Problems with procurement administration occurred because Brookhaven had not provided adequate training for acquisition staff, implemented appropriate control measures, and effectively implemented an assessment and performance measurement program. As a consequence, neither the Department nor Brookhaven had full assurance that competition was adequate and that procurement awards provided the best value and were in the best interests of the government. Additionally, inaccuracies in its procurement database contributed to Brookhaven overstating its small business contracting activity by about \$10 million in Fiscal Year (FY) 2000 and \$12 million in FY 2001.

Management should consider these issues when preparing its yearend assurance memorandum on internal controls.

(Signed)
Office of Inspector General

Improvements Needed for Procurement Administration

Problems with Procurement Administration

Brookhaven did not always meet approval, notification, and justification requirements when awarding subcontracts and making purchases. Inaccuracies in Brookhaven's procurement database contributed to a significant overstatement of its small business contracting activity and may lead to the improper documentation of certain purchases.

Approval and Notification

Despite specific requirements to do so, Brookhaven did not always request the Department's approval or provide notification for high value or non-competitive procurements. For example, approval was not obtained for two of the three procurements we reviewed valued in excess of \$10 million. In these cases, Brookhaven incorrectly notified the Department that the dollar value of one of the procurements was to be \$5 million while the other would not exceed \$800,000. Adequate advance notice was also not provided for 20 of 44, or 45 percent, of the non-competitive procurements valued over \$100,000 that we reviewed. For 14 of these non-competitive awards, no notice was given, and the estimated dollar value for the remaining 6 procurements was significantly understated.

Adequacy of Justifications

Brookhaven did not always justify non-competitive procurements and exemptions from the *Buy American Act*. For 28 of 94, or 30 percent, of the non-competitive procurements we evaluated, justification had not been prepared or was inadequate to determine whether the decision to limit competition was appropriate. We also noted that documentation to support Brookhaven's rationale for determining that 4 of 17 foreign procurements we reviewed were exempt from the *Buy American Act* had not been prepared. Without documenting justifications, Brookhaven cannot demonstrate that competition was adequate and that the awards were in the best interest of the government.

Reliability of Contracting Data

Our examination of Brookhaven's procurement database disclosed a number of misclassifications and inaccuracies that led to a significant overstatement of small business contracting activities and may have impacted documentation requirements for certain procurements. Specifically, we identified at least 180 vendors that were inappropriately classified as small businesses in Brookhaven's database.

These included multi-national corporations, universities, foreign companies, and non-profit organizations that clearly did not meet Federal requirements for classification as small businesses. Procurements from these organizations accounted for about \$10 million of the \$77 million of procurements reported by Brookhaven as having been made to small businesses in FY 2000 and about \$12 million of the \$64 million reported in FY 2001. We also observed that 117 procurements were misclassified as small dollar value awards "under \$25,000" that were subject to minimal or reduced justification and supporting documentation requirements. The misclassification of 24 procurements was potentially significant and ranged in actual value from \$100,000 to \$526,000. Improper classification as a small dollar value award may allow higher value procurements to be processed without appropriate justification or supporting documentation.

**Contract Administration
and Training
Requirements**

Department of Energy Acquisition Regulations and Brookhaven's contract require that Brookhaven's procurement process and methods be fully documented, consistently applied, and approved by the Department. As required by the Department, Brookhaven's procurement procedures prescribed dollar thresholds for notifying and justifying certain actions and, in some cases, obtaining approval prior to award. According to its Procurement Operations Manual, Brookhaven must obtain the Department's approval before issuing any subcontracts or purchase orders in excess of \$10 million and provide advance notice for non-competitive procurements that will exceed \$100,000 in value. In addition, for non-competitive procurements greater than \$25,000, a justification is required as to why such action would be in the best interest of the government. Brookhaven was also required to justify exemptions from the *Buy American Act* whenever supplies and services were obtained from other than domestic sources.

Following our prior audit, the Department directed Brookhaven management to take certain procurement related corrective actions. In addition to being required to correct each of the problems described in our report, Brookhaven agreed to provide training to technical representatives involved with procurements. Brookhaven committed to provide such training by December 31, 2000.

**Need for Management
Attention**

Brookhaven had not provided adequate training for acquisition staff, implemented appropriate control measures, and effectively implemented an assessment and performance measurement program.

Specifically, Brookhaven did not provide sufficient training for staff members with procurement related duties. Brookhaven also had not implemented controls to ensure that Department approvals were obtained and award notifications were routinely provided to the Department. Additionally, management did not perform periodic validations to ensure the accuracy of data contained in its procurement database.

Training for Acquisition Staff

Brookhaven had not provided adequate training for 61 staff members with acquisition related duties. For example, we identified 13 technical representatives who had not received training as of December 31, 2000, a deadline established by Brookhaven to correct weaknesses reported in our May 1999 audit. Of these, 10 still had not received training as of December 31, 2001. We also noted that Brookhaven did not have a plan to provide periodic training to update the procurement knowledge and skills of technical representatives. The remaining 48 individuals that had not been properly trained included project managers, division heads, and department administrative staff charged with the approval and administration of procurements through signature authority, requisitioning, budgeting, work control and quality assurance. Although not included in the original training agreement with the Department, these administrative functions are an integral part of the procurement process and procurement training for these functions will help to ensure effective administration of procurements. Providing employees with initial and update training should increase awareness of requirements and help to eliminate or minimize the problems observed during this audit.

Performance Management and Self-Assessment

We also observed that Department and Brookhaven management had not developed and implemented performance measures and had not performed an accurate self-assessment of its procurement function for FY 2001. The Department and Brookhaven did not have focused performance measures directed to correcting known weaknesses and improving overall performance of procurement administration. Furthermore, the contractor's performance of the FY 2001 self-assessment of its procurement function, the *Procurement Balanced Scorecard*, was inaccurate in that it did not report the extent of problems described in this report. The lack of specific performance

measures and an effective self-assessment program deprived the Department and Brookhaven of important tools essential to improving procurement administration.

**Reliability of the
Procurement Function**

Because of weaknesses described in this report, the Department lacks assurance that it can place full reliance on Brookhaven's procurement function. Brookhaven cannot always demonstrate that procurements were adequately competed, that awards provided the best value and were in the best interests of the government, and that exemptions from the *Buy American Act* were justified. Without adequate review and approval information, and justification for non-competitive procurements or exemptions from the *Buy American Act*, there was little assurance that lower-priced subcontractors and vendors were considered or that foreign procurements were appropriate. Additionally, inaccuracies in its procurement database contributed to Brookhaven overstating its small business contracting activity by about \$10 million in FY 2000 and \$12 million in FY 2001. Without proper training for procurement personnel and implementation of appropriate performance measurement programs, the Department will continue to be vulnerable to the same or similar procurement administration related problems.

RECOMMENDATIONS

We recommend that the Manager, Chicago Operations Office, direct Brookhaven to give priority attention to the following actions and incorporate completion of these actions into a specific performance measurement that must be attained within the next fiscal year:

- (1) Adhere to approval, notification, and justification requirements;
- (2) Correct its procurement database and implement controls to ensure the accuracy of data and periodically validate the integrity of data;
- (3) Provide initial and periodic training to all personnel involved in its procurement process; and,
- (4) Revise its reports of small business activities for FY 2000 and FY 2001.

In addition, we recommend that the Manager establish performance measures to monitor the quality and effectiveness of Brookhaven's procurement function.

Appendix 1



Department of Energy

Brookhaven Area Office
P.O. Box 5000
Upton, New York 11973

JUL 23 2002

Frederick D. Doggett
Deputy Assistant Inspector General for Audit Services
Office of Inspector General
IG-32, GTN

THRU: Larry J. Vann, Acting Manager
Chicago Operations Office

JUL 26 2002

**SUBJECT: AUDIT REPORT ON PROCUREMENT ADMINISTRATION AT
BROOKHAVEN NATIONAL LABORATORY (BNL)**

We have reviewed the subject report and concur with its findings. It is important to note that there was a high level of cooperation and assistance among the auditors, DOE and the Laboratory contractor throughout this review. The support that was observed during the course of the audit led to a quality report that will be used to improve the procurement processes at BNL. The Laboratory has been working during the past year to improve its procurement system and has demonstrated a willingness to initiate changes. They have agreed to the Report's Recommendations and have begun initiating changes that will comply with the Recommendations.

Specific comments for each of the recommendations are provided as Attachment A.

If you have any questions, please contact Robert Gordon at (631) 344-3346.

A handwritten signature in black ink, appearing to read "Frank J. Crescenzo".

Frank J. Crescenzo, Acting
Area Manager

Enclosure:
As stated

cc: J. Cramer, CRA, CH, w/encl.
S. Stronczner, Princeton IG, w/encl.
N. Torres, BAO, w/encl.

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A component of the DOE Chicago Operations Office

Appendix 1 (continued)

Attachment A

IG RECOMMENDATION

BSA should adhere to approval, notification, and justification requirements.

MANAGEMENT RESPONSE

We concur with the IG Recommendation. DOE's expectations, which are in accordance with the Report, have been communicated to the Laboratory in a letter dated March 25. The Laboratory is complying with the Report's recommendations and with DOE's expectations.

The Laboratory is complying with the Recommendation.

IG RECOMMENDATION

BSA should correct its procurement database and implement controls to ensure the accuracy of data and periodically validate the integrity of data.

MANAGEMENT RESPONSE

We concur with the IG Recommendation. The Laboratory is working on correcting the procurement database and implementing the necessary controls. This will be complete at the end of Fiscal Year (FY) 2002.

IG RECOMMENDATION

BSA should provide initial and periodic training to all personnel involved in its procurement process.

MANAGEMENT RESPONSE

We concur with the IG Recommendation. The Laboratory acknowledges the need to provide training for all personnel involved in the procurement process. We expect that the Laboratory will do as good a job in developing training for those who are peripheral to the contract administration process, as they have done with the training for the technical representatives and the department contract administration representatives. BSA will provide a plan to address this training during the third quarter of FY 2003.

IG RECOMMENDATION

BSA should revise its reports of small business activities for FY 2000 and FY 2001.

MANAGEMENT RESPONSE

We concur with the IG Recommendation. The Laboratory is well along in recalculating the reports. Based on their current analysis, it does not believe that the recalculation will result in a material difference. The revised reports for FYs 2000 and 2001 will be complete by the end of FY 2002.

Appendix 2

SCOPE

The audit was performed at Brookhaven (Upton, New York) from September 2001 to June 2002. The procurements selected for review were subcontracts and purchase orders active in FYs 2000 and 2001.

METHODOLOGY

To accomplish the audit objective, we:

- Researched applicable laws, regulations, contract terms, policies, procedures, and guidance relevant to Brookhaven's procurements;
- Interviewed the contracting officer and other Brookhaven Area Office personnel responsible for monitoring the procurement function;
- Interviewed management and personnel from Brookhaven's Division of Procurement and Property Management and from various Brookhaven departments; and,
- Reviewed an initial random sample and additional judgmentally selected Brookhaven procurements.

We focused the audit on selected aspects of procurement administration. Specifically, we reviewed whether Brookhaven obtained required Department approvals, provided advance notice to the Department for impending procurements, and adequately justified non-competitive procurements and exemptions from the *Buy American Act*. In addition, we reviewed Brookhaven's training of personnel involved with administering procurements and assessed the accuracy of Brookhaven's procurement database.

The audit was performed in accordance with generally accepted Government auditing standards for performance audits. It included tests of internal controls and compliance with laws and regulations to the extent necessary to satisfy the audit objective. 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. In performing this audit, we assessed the accuracy of data generated from Brookhaven's procurement module of its PeopleSoft data-processing system.

An exit conference was held with representatives of Brookhaven Area Office and Brookhaven on July 10, 2002.

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