



U.S. Department of Energy  
Office of Inspector General  
Office of Audits and Inspections

# Inspection Report

Allegations Concerning Contracting  
for Services of Former Employees  
at Sandia National Laboratories

INS-L-13-04

March 2013



Department of Energy  
Washington, DC 20585

March 15, 2013

MEMORANDUM FOR THE MANAGER, SANDIA FIELD OFFICE, NATIONAL NUCLEAR  
SECURITY ADMINISTRATION

*Sandra D. Bruce*

FROM: Sandra D. Bruce  
Assistant Inspector General  
for Inspections  
Office of Inspector General

SUBJECT: INFORMATION: Inspection Report on "Allegations Concerning  
Contracting for Services of Former Employees at Sandia National  
Laboratories"

BACKGROUND

As part of the National Nuclear Security Administration, Sandia National Laboratories (Sandia) is a multi-program national security laboratory managed and operated under a contract with Sandia Corporation, a subsidiary of Lockheed Martin Corporation. Sandia conducts research and development that supports critical strategic areas such as nuclear weapons, nonproliferation, military technologies, energy and homeland security. Sandia subcontracts with various suppliers for services not available at the Laboratories. In Fiscal Year 2011, Sandia's subcontract costs totaled approximately \$921 million. The Sandia Field Office is the Federal entity responsible for administering the contract with Sandia.

The Office of Inspector General received an anonymous complaint alleging that: (1) Sandia hired former employees as consultants at salaries exceeding what they were paid prior to retirement; and (2) one former employee was brought back through an independent consulting company for over a decade. It was also alleged that Sandia officials responsible for approving certain hiring actions were adept at circumventing rules and regulations. We initiated an inspection to review the facts and circumstances surrounding the allegations.

CONCLUSIONS AND OBSERVATIONS

We substantiated the allegations that Sandia hired former employees as consultants at salaries exceeding what they were paid prior to retirement and that one former employee was brought back through subcontracts for over a decade. Specifically, in eight cases we reviewed, Sandia acquired the services of former employees and paid them a higher hourly rate than the employees received prior to retiring. In addition, one former employee worked as a consultant over a

period of 10 years under two separate 5-year subcontracts. While neither of these conditions violated any Federal guidelines, we did find that the practices we observed violated internal Sandia policies regarding the employment of former employees. In two instances, the hiring of former employees as consultants with higher hourly rates violated internal rules that prohibited such practice if Sandia employment had ended within the previous year.

### Higher Hourly Rates

We determined that Sandia acquired the services of former employees and paid them a higher hourly rate than the employees received prior to retiring. Our tests of eight contracts for employees who retired revealed that in all instances the hourly rates were higher than the salaries paid at the time of their retirement. We determined that in these cases, the hourly rates were based on current market rates. However, in two of the eight cases we reviewed, the contracts violated Sandia's policy of restricting hourly rates of former employees who were employed by Sandia within the past year.

Specifically, Sandia Corporate Procedure SCM100.2.10, *Acquire Services of Non-Employees*, indicates that, for the use of Professional Services Providers and Consultants, if Sandia employment ended within the past year, the contract rate may not exceed the ending salary divided by 2,080 hours. We were told that this procedure was put into place to discourage recent retirees from returning to Sandia in the same or similar position at rates higher than what they were paid prior to retirement. In the two instances that violated Sandia policy, the former employees were paid hourly rates of \$110.00 and \$95.36, whereas at the time of retirement the employees' hourly rates were \$81.44 and \$68.89, respectively. For the first year of the contracts involved, the individuals were paid approximately \$16,173 and \$5,269 more than intended under Sandia Corporate Procedure SCM100.2.10. The justification for the rates of pay provided by the Sandia Contracting Representative in these two cases shows that the higher rates of pay were based on comparisons to prior Sandia contracts with similar job description and the contractor's price list that reflected their current charges.

However, with the exception of these two contracts, we generally did not identify issues with the hourly rates paid to former Sandia employees. Specifically, we found no Federal, Department of Energy or Sandia guidance that limited hourly rates beyond the restriction found in Sandia Corporate Procedure SCM100.2.10. The governing criteria for determining the reasonableness of the hourly rates paid was the Federal Acquisition Regulation (FAR) 15.404-1, *Proposal Analysis Techniques*. This regulation establishes criteria for ensuring that an agreed-to price is fair and reasonable.

### Period of Performance for Consulting Contracts

We determined that a former Sandia employee had been hired as a consultant over a period of 10 years. This occurred under two separate 5-year subcontracts. Specifically, we found that the former employee worked as a consultant from 2002 to 2007 under a 1-year consultant

agreement with four 1-year options through an independent company as the only employee. Also, the same employee was hired as a consultant/sole proprietor in 2008 under a Professional Service Agreement performing the same work as the previous contract with a period of performance through 2013. However, we did not determine that Sandia violated any Federal policy because there was not specific NNSA guidance prohibiting Sandia from contracting with a former employee as a consultant over a period of 10 years when two separate 5-year subcontracts were awarded.

Also, Sandia's Procurement Guideline 10.6.G, *Consultants and Professional Service*, allows for the period of performance for consultant and professional service agreements to run a maximum of 5 years. Specifically, the guideline indicates that consultant and professional service agreements could exist up to 1 year, and may be renewed 1 additional year (not to exceed 5 years) after mutual consent from all parties. Therefore, under current Sandia policy, there would not be a prohibition on hiring a consultant over a period of 10 years under two separate 5-year subcontracts.

It should be noted that Sandia has been concerned about the use of former employees as contractors and has explored ways of limiting the employment of former employees as consultants, service contractors or staff augmentation employees. Specifically, Sandia was concerned that existing policy did not sufficiently encourage line organizations to perform appropriate succession planning and transfer historical knowledge. As a result, Sandia revised its policy to limit, among other things, work hours and the overall period of performance as reflected in the current language of Sandia's Procurement Guideline 10.6.G. However, as evidenced by the condition we identified where a former Sandia employee had been hired as a consultant over a period of 10 years, it is clear that under current policy the period of performance of former employees hired as consultants can be extended for significant periods, potentially muting Sandia's intent to limit the use of former employees.

We are not making any recommendations because we found no violations of Federal or Departmental policy; therefore, a response is not required. This report is being issued for information only. We appreciate the cooperation of your staff during our inspection.

#### Attachment

cc: Deputy Secretary  
Acting Under Secretary for Nuclear Security  
Chief of Staff  
Manager, Sandia Field Office  
Director, Office of Internal Controls, NA-MB-20  
Director, Office of Risk Management and Financial Policy, CF-50  
Assistant Director, Office of Risk Management and Financial Policy, CF-50  
Audit Resolution Specialist, Office of Risk Management and Financial Policy, CF-50  
Team Leader, Office of Risk Management and Financial Policy, CF-50  
Audit Liaison, Sandia Field Office

## **OBJECTIVE, SCOPE AND METHODOLOGY**

### **OBJECTIVE**

The objective of our inspection was to review the facts and circumstances surrounding the allegations that: (1) Sandia National Laboratories (Sandia) hired former employees as consultants at salaries exceeding what they were paid prior to retirement; and (2) one former employee was brought back through an independent consulting company for over a decade. It was also alleged that Sandia officials responsible for approving certain hiring actions were adept at circumventing rules and regulations.

### **SCOPE**

This allegation-based inspection was performed between February 2012 and December 2012 at Sandia National Laboratories in Albuquerque, New Mexico.

### **METHODOLOGY**

To accomplish the inspection objectives, we:

- Interviewed Sandia and National Nuclear Security Administration personnel;
- Examined contract files of former employees;
- Reviewed and evaluated Sandia internal policies and procurement guidelines regarding contracts for services of former employees and acquiring services of non-employees; and,
- Reviewed the Federal Acquisition Regulation, Section 15.404 *Proposal Analysis*.

The inspection was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency *Quality Standards for Inspection and Evaluation*. Those standards require that we plan and perform the inspection to obtain sufficient, appropriate evidence to provide a reasonable basis for our conclusions and observations based on our objectives. We believe the evidence obtained provides a reasonable basis for our conclusions and observations based on our inspection objective. The inspection included tests of controls and compliance with laws and regulations to the extent necessary to satisfy the inspection 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 inspection. Finally, we relied on computer-processed data, to some extent, to satisfy our objective related to personal affiliation and hiring irregularities. We confirmed the validity of such data, as appropriate, by conducting interviews and reviewing source documents.

The exit conference with management was waived by NNSA.

## CUSTOMER RESPONSE FORM

The Office of Inspector General has a continuing interest in improving the usefulness of its products. We wish to make our reports as responsive as possible to our customers' requirements, and, therefore, ask that you consider sharing your thoughts with us. On the back of this form, you may suggest improvements to enhance the effectiveness of future reports. Please include answers to the following questions if applicable to you:

1. What additional background information about the selection, scheduling, scope, or procedures of the audit or inspection would have been helpful to the reader in understanding this report?
2. What additional information related to findings and recommendations could have been included in the report to assist management in implementing corrective actions?
3. What format, stylistic, or organizational changes might have made this report's overall message more clear to the reader?
4. What additional actions could the Office of Inspector General have taken on the issues discussed in this report that would have been helpful?
5. Please include your name and telephone number so that we may contact you should we have any questions about your comments.

Name \_\_\_\_\_ Date \_\_\_\_\_

Telephone \_\_\_\_\_ Organization \_\_\_\_\_

When you have completed this form, you may telefax it to the Office of Inspector General at (202) 586-0948, or you may mail it to:

Office of Inspector General (IG-1)  
Department of Energy  
Washington, DC 20585

ATTN: Customer Relations

If you wish to discuss this report or your comments with a staff member of the Office of Inspector General, please contact our office at (202) 253-2162.

This page intentionally left blank.

The Office of Inspector General wants to make the distribution of its reports as customer friendly and cost effective as possible. Therefore, this report will be available electronically through the Internet at the following address:

U.S. Department of Energy Office of Inspector General Home Page

<http://energy.gov/ig>

Your comments would be appreciated and can be provided on the Customer Response Form attached to the report.