

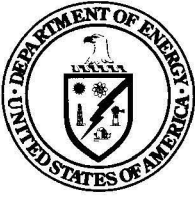


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Description of document:	Four (4) Department of Energy (DOE) Inspection Reports, 1999-2005
Requested date:	2016
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Department of Energy
Washington, DC 20585

SEP 19 2016

Re: Freedom of Information Act Request HQ-2016-00958-F

This is the Office of Inspector General (OIG) response to the request for information that you sent to the Department of Energy (DOE) under the Freedom of Information Act (FOIA), 5 U.S.C. § 552. You asked for a copy of the following documents:

“INSPECTION REPORT: S051S022, March 21, 2005, Review of Possible Inappropriate Job Solicitation

Report IG-0671: Concerns Regarding the Department of Energy's Counterintelligence Inspection Program (U)

SPECIAL REPORT: OAS-SR-05-01, October 1, 2004, Department's Process of Responding to a Congressional Information Request

INSPECTION REPORT: S99IS022, December 1, 1999, Lawrence Livermore National Laboratory Domestic Partner Travel

INSPECTION REPORT: S99IS025, May 1, 1999, Inspection Report of Management on Unauthorized Release of Internal Report”

The OIG has completed the search of its files and identified six documents responsive to your request. A review of the responsive documents and determination concerning their release has been made pursuant to the FOIA, 5 U.S.C. § 552. Based on this review, the OIG determined that certain material has been withheld from the responsive documents pursuant to subsections (b)(3), (b)(5), (b)(6), and (b)(7)(C) (referred to as Exemptions 3, 5, 6, and 7(C) respectively). Specifically the OIG review determined:

- Documents 1 and 5 are being released to you with certain material withheld pursuant to Exemptions 6 and 7(C).
- Documents 2 and 4 are being released to you in their entirety.
- Document 3 originated with the DOE's Office of Intelligence and Counterintelligence (IN). This document has been forwarded to IN for a determination concerning its releasability. IN will respond directly to you concerning the document.



- Document 6 is being released to you with certain material withheld pursuant to Exemptions 3, 5, 6, and 7(C).

If you have any questions about the processing of Document 3, you may contact the following:

Mr. Alexander C. Morris, U.S. Department of Energy, 1000 Independence Avenue, SW,
Washington, DC 20585 or on (202) 586-5955

Exemption 3 protects information included in OIG's records specifically exempted from disclosure by another Federal statute; in this case the National Security Act of 1947, 50 U.S.C. § 3024(i)(1). Pursuant to this statute, certain information pertaining to intelligence sources and methods is protected.

Exemption 5 exempts from mandatory disclosure "inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency. . . ." Exemption 5 incorporates the attorney-client privilege, which protects confidential communications related to a legal matter for which a client has sought professional advice. The privilege protects a client's disclosure to an attorney, the attorney's opinions regarding the information disclosed, and communications between attorneys regarding the information.

The information withheld under Exemption 5 includes confidential communications between DOE attorneys and DOE staff. Releasing this information could have a chilling effect on the willingness of attorneys to make honest and open recommendations to their clients in the future and harm the integrity of the governmental decision-making process. Therefore, information is being withheld pursuant to the attorney-client privilege.

Exemption 6 protects from disclosure "personnel and medical and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy. . . ." Exemption 7(C) provides that "records or information compiled for law enforcement purposes" may be withheld from disclosure, but only to the extent the production of such documents "could reasonably be expected to constitute an unwarranted invasion of personal privacy. . . ."

Names and information that would tend to disclose the identity of certain individuals have been withheld pursuant to Exemptions 6 and 7(C). Individuals involved in the OIG enforcement matters, which in this case include subjects, witnesses, sources of information, and other individuals, are entitled to privacy protections so that they will be free from harassment, intimidation and other personal intrusions.

In invoking Exemptions 6 and 7(C), we have determined that it is not in the public interest to release the withheld material. In this request, we have determined that the public interest in the identity of individuals who appear in these files does not outweigh these individuals' privacy interests. Those interests include being free from intrusions into their professional and private lives.

To the extent permitted by law, the DOE, in accordance with Title 10, Code of Federal Regulations (C.F.R) § 1004.1, will make available records it is authorized to withhold pursuant to the FOIA unless it determines such disclosure is not in the public interest.

As required, all releasable information has been segregated from the material that is withheld and is provided to you. See 10 C.F.R. § 1004.7(b)(3).

This decision may be appealed within 30 calendar days from your receipt of this letter pursuant to 10 C.F.R. § 1004.8. Appeals should be addressed to the Director, Office of Hearings and Appeals, HG-1/L'Enfant Plaza Building, U.S. Department of Energy, 1000 Independence Avenue SW, Washington, DC 20585-1615. You may also submit your appeal by e-mail to OHA.filings@hq.doe.gov, including the phrase "Freedom of Information Appeal" in the subject line.

Thereafter, judicial review will be available to you in the Federal district court either (1) in the district where you reside, (2) where you have your principal place of business, (3) where the Department's records are situated, or (4) in the District of Columbia.

Sincerely,

 for
Sarah Nelson

Sarah B. Nelson
Assistant Inspector General
for Audits and Administration
Office of Inspector General

Enclosures

Document Number 1



Department of Energy

Washington, DC 20585

March 21, 2005

MEMORANDUM FOR THE SECRETARY

FROM:

Greg Friedman
Gregory H. Friedman
Inspector General

SUBJECT:

INFORMATION: Report on Review of Possible Inappropriate Job Solicitation (S05IS022)

Based upon a request from your office, the Office of Inspector General initiated a review of an allegation that [REDACTED]

Management, broached the possibility of future employment with [REDACTED] of Washington Group International. Washington Group International is one of the entities competing for a contract for which [REDACTED] is the Source Selection Official.

As part of our review, we interviewed individuals who were identified as potentially having information relevant to this matter, including [REDACTED] and [REDACTED] and [REDACTED] acknowledged having two telephone conversations within the last several weeks. However, when interviewed, both [REDACTED] and [REDACTED] stated that during their conversations [REDACTED] did not solicit employment at Washington Group International.

The source of the original allegation, a person outside the Department of Energy, told us [REDACTED] had heard that [REDACTED] had given [REDACTED] the impression that [REDACTED] was seeking employment with Washington Group International. This person told us that [REDACTED] had heard this from one of two individuals at Washington Group International. However, when interviewed, both individuals denied having made the comment. Further, the original source told us that [REDACTED] had no first hand knowledge of the conversation between [REDACTED] and [REDACTED], nor did [REDACTED] have other evidence to substantiate the allegation.

Absent any new information, we are concluding our inquiry into this matter. The results of our review were shared with the Department's Assistant General Counsel for General Law.

Please contact me if I may be of any further assistance.

This report is the property of the Office of Inspector General and is for OFFICIAL USE ONLY. Appropriate safeguards should be provided for the report and access should be limited to Department of Energy officials who have a need-to-know. Any copies of the report should be uniquely numbered and should be appropriately controlled and maintained. Public disclosure is determined by the Freedom of Information Act, Title 5, U.S.C. § 552, and the Privacy Act, Title 5, U.S.C. § 552a. The report may not be disclosed outside the Department without prior written approval of the Office of Inspector General.

—OFFICIAL USE ONLY—



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Document Number 2

~~OFFICIAL USE ONLY~~



U.S. Department of Energy
Office of Inspector General
Office of Inspections and Special Inquiries

Inspection Report

Concerns Regarding the Department of Energy's Counterintelligence Inspection Program

RELEASE

~~OFFICIAL USE ONLY~~

~~This report is marked as Official Use Only in view of the Official Use Only comments provided to the Office of Inspector General by the Office of Counterintelligence~~

DOE/IG-0671

January 2005

~~OFFICIAL USE ONLY~~

~~OFFICIAL USE ONLY~~



Department of Energy

Washington, DC 20585

January 18, 2005

MEMORANDUM FOR THE SECRETARY

FROM: _____

Greg Friedman
Gregory H. Friedman
Inspector General

SUBJECT: _____

INFORMATION: Inspection Report on "Concerns Regarding the Department of Energy's Counterintelligence Inspection Program"

BACKGROUND

The Office of Inspector General (OIG) recently completed a review of allegations regarding the Department of Energy's (DOE) counterintelligence inspection program (Inspection Program). Specifically, a confidential complainant alleged that: the cost of the Inspection Program was excessive; the Inspection Program lacked Federal management; inspection reports were biased against National Nuclear Security Administration facilities and activities; inspections were not conducted in compliance with Generally Accepted Government Auditing Standards; and, inspection reports were not timely.

The objective of our review was to determine the facts surrounding the allegations. The OIG did not attempt to assess the overall quality of the Inspection Program. This report contains information from documents marked by the program office as "Official Use Only." Accordingly, this report is marked "Official Use Only."

RESULTS OF INSPECTION

We were unable to substantiate the allegations regarding the Inspection Program.

One of the allegations provided to the OIG was that the cost of the Inspection Program was excessive. Because we could not identify a comparable program at another agency, we had no meaningful benchmark against which to compare the cost of the DOE effort. Thus, we were not in a position to opine conclusively on the excessive cost question.

In evaluating the cost issue, however, we found that neither Federal officials nor Pacific Northwest National Laboratory (Pacific Northwest) officials, who were responsible for managing the Inspection Program, could initially provide complete and detailed data on the specific cost of individual inspections. While this complicated our work, it did not affect the conclusions noted above.

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Further, during the course of our review, certain other matters came to our attention and we provide the following observations:

- The use of Pacific Northwest to procure the services to conduct counterintelligence inspections was inconsistent with DOE policy on purchasing by management and operating contractors; and,
- There were philosophical differences between Office of Counterintelligence and Office of Defense Nuclear Counterintelligence officials, resulting in part from the Department's bifurcated counterintelligence program. We believe these differences have the potential to undermine the effectiveness of the overall counterintelligence efforts of the Department.

We made recommendations to management to address the issues raised in this report.

MANAGEMENT REACTION

Management took issue with certain recommendations, observations, and statements in our report. Management's comments are provided in their entirety in Appendix B. Where appropriate, we revised our report based on management comments.

Attachment

cc: Deputy Secretary
Administrator, National Nuclear Security Administration
Under Secretary for Energy, Science and Environment
Director, Office of Counterintelligence
Director, Office of Intelligence
Director, Office of Management, Budget and Evaluation
Chief, Office of Defense Nuclear Counterintelligence
Director, Office of Program Liaison and Financial Analysis (ME-100)
Director, Policy and Internal Controls Management (NA-66)

CONCERNS REGARDING THE DEPARTMENT OF ENERGY'S COUNTERINTELLIGENCE INSPECTION PROGRAM

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**INTRODUCTION AND
OBJECTIVE**

The Office of Inspector General (OIG) recently completed a review of allegations regarding the Department of Energy's (DOE) counterintelligence inspection program (Inspection Program). Specifically, a confidential complainant alleged that: the cost of the Inspection Program was excessive; the Inspection Program lacked Federal management; inspection reports were biased against National Nuclear Security Administration (NNSA) facilities and activities; inspections were not conducted in compliance with Generally Accepted Government Auditing Standards (GAGAS); and, inspection reports were not timely.

The objective of our review was to determine the facts surrounding the allegations. The OIG did not attempt to assess the overall quality of the Inspection Program.

BACKGROUND

Presidential Decision Directive-61 (PDD-61), "U. S. Department of Energy Counterintelligence Program," issued in 1998, required DOE to establish a formal Inspection Program to identify deficiencies in and to improve operations of DOE's counterintelligence functions. Historically, both defense and non-defense counterintelligence activities were managed within the Department by a single, unified counterintelligence office. In accordance with PDD-61, the Office of Counterintelligence (OCI) was created for this purpose, reporting directly to the Secretary of Energy. However, in the FY 2000 National Defense Authorization Act, DOE's counterintelligence operations were bifurcated by the creation of a separate Office of Defense Nuclear Counterintelligence (ODNCI) responsible for NNSA counterintelligence activities. While the Department now has two separate counterintelligence offices, the OCI Director retained responsibility for the Inspection Program both for NNSA and non-NNSA operations. The Inspection Program is administered for the OCI Director by Pacific Northwest National Laboratory (Pacific Northwest), a DOE management and operating (M&O) contractor. Pacific Northwest subcontracts with individual inspectors who conduct the counterintelligence inspections.

**OBSERVATIONS AND
CONCLUSIONS**

We did not substantiate the allegations regarding the Inspection Program. However, we found that:

- Neither Federal program officials nor contractor officials responsible for managing the Inspection Program could initially provide detailed data on the specific costs of the individual inspections conducted under the program. During our review, Pacific Northwest provided changing cost figures regarding the cost of individual inspections.

Although not directly related to the scope of our review, we made the following observations:

- The use of Pacific Northwest to procure the services of inspectors to conduct counterintelligence inspections was inconsistent with DOE policy on purchasing by M&O contractors; and,
- There were philosophical differences between OCI and ODNCI officials, resulting in part from the Department's bifurcated counterintelligence program. We believe these differences have the potential to undermine the effectiveness of the overall counterintelligence efforts of the Department.

**COST OF THE
INSPECTION
PROGRAM**

We could not determine if the costs of the Inspection Program were excessive. We attempted to contrast the costs of the Inspection Program with similar efforts in other agencies. However, we were unable to find a comparable program to serve as a benchmark. Responsible officials advised that the Inspection Program was modeled after the Federal Bureau of Investigation's (FBI) field office inspection program. A senior FBI Inspections Division official identified significant differences between the Inspection Program at DOE and the FBI's program. Therefore, we could not compare the two programs.

**FEDERAL
MANAGEMENT**

We found that Federal managers provide direct oversight of the Inspection Program. However, responsible Federal officials could not provide data regarding the specific costs of the individual inspections conducted under the Inspection Program. Also, during our review, Pacific Northwest provided changing cost figures regarding the cost of individual inspections. Under these circumstances, we do not believe that Federal managers have adequate assurance that the costs for the Inspection Program are being properly managed.

When we asked Federal officials for the costs of the individual inspections, they referred us to Pacific Northwest. Initially, Pacific Northwest could not provide detailed cost data for individual inspections. Subsequently, Pacific Northwest provided us different cost data on several occasions between July 2003 and December 2004.

Based upon the latest data provided by Pacific Northwest in December 2004, approximately \$7.8 million was spent on labor and travel costs for specific inspections between the start of the program in 1999 and late 2003, and approximately the same amount was spent on other Inspection Program costs, including overhead costs. The other Inspection Program costs include Pacific Northwest's cost to manage/administer the Inspection Program, which was approximately 9 percent of the yearly total inspection cost. Pacific Northwest officials said that the 9 percent consisted of labor/travel hours associated with managing the project (client interface, monthly/quarterly reports, etc.), and the costs associated with administering the inspector subcontracts.

Using the cost data provided by Pacific Northwest in December 2004, we calculated that approximately \$15.6 million was spent on the Inspection Program between 1999 and late 2003, of which the

average labor and travel costs for a full inspection of a counterintelligence office were approximately \$131,300. However, when a pro rata allocation of the overhead and other Inspection Program costs was added to the labor and travel costs, the total average cost of each inspection was approximately \$262,600.¹ Similarly, special inspections, which are limited scope follow-up inspections conducted when a site receives a rating of marginal or below in any of its activities, had average labor and travel costs of approximately \$75,000, and average total costs of about \$150,000. As an example, the counterintelligence activities at the Oakland Operations Office, which were managed by a Federal official, were inspected on April 15-26, 2002. The counterintelligence inspection team consisted of 6 inspectors, 1 technical advisor, and 2 administrative staff. The labor and travel costs for this inspection were \$192,783. The total cost, including labor, travel, and the pro rata amount, was \$385,566.

In his management comments, the OCI Director provided similar figures for the average cost of individual inspections. He stated that the average full inspection is approximately \$135,924 (unburdened) or approximately \$266,752 (with costs pro rata), while a special inspection is approximately \$76,244 (unburdened) or approximately \$149,628 (with costs pro rata). We could not account for the differences in the inspection costs.

Also, the OCI Director stated that a 48 percent reduction in expenditures from Fiscal Year 2002 (\$3.97 million) to Fiscal Year 2004 (\$2.09 million) demonstrates that the costs of the Inspection Program are being sufficiently managed. Although it appears that management has taken steps to reduce the costs of the Inspection Program, we note that the decrease in expenditures was not solely the result of cost reduction efforts. A Pacific Northwest official stated that the decrease in expenditures was achieved by reducing project management and financial administration time, streamlining administrative processes, decreasing the number of personnel involved in each inspection and decreasing the frequency of inspections from every 2 years to every 3 years for programs rated as Satisfactory. However, we note that the number of sites reviewed decreased from 14 in Fiscal Year 2002 to 9 in Fiscal Year 2004, and the number of inspection reports issued decreased from 11 in Fiscal Year 2002 to 7 in Fiscal Year 2004.

¹ These figures do not include the Headquarters inspection that was conducted during February 10-21, 2003, and March 24-April 4, 2003. The cost of the Headquarters inspection, including labor, travel and the pro rata amount, was approximately \$1,803,600.

BIAS AGAINST NNSA	We did not identify a bias against NNSA-related offices by the Inspection Program. We reviewed a sample of inspection reports for both OCI and ODNCI offices. We noted that the reports were written in a manner that singled out individuals for criticism in both offices. Also, we did not identify a meaningful difference between the ratings given to OCI offices and the ratings given to ODNCI offices.
AUDITING STANDARDS	We found that the Inspection Program is not required to follow GAGAS. GAGAS are standards for Federal auditors contained in the Government Auditing Standards (Yellow Book) promulgated by the Government Accountability Office. PDD-61 required DOE to establish an inspection program for its counterintelligence activities, but did not contain a requirement that the inspection program follow GAGAS. Also, an FBI official advised that the FBI field office inspection program does not follow GAGAS.
TIMELINESS OF REPORTS	We found that inspection reports were typically being issued within 60 days of the site visit. A responsible official told us that early in the Inspection Program reports were issued three to six months after the completion of fieldwork. However, in May 2003, the Inspection Report for the OCI/ODNCI Headquarters inspection stated that reports were being "delivered too late after completion of an inspection." It also stated an objective to issue future inspection reports within 60 days of the end of the site visit. We reviewed a sample of seven inspection reports issued since May 2003, and found that all seven were issued within 60 days of the site visit.
OBSERVATIONS	We observed that the use of Pacific Northwest to procure the services of inspectors to conduct counterintelligence inspections was inconsistent with DOE policy on purchasing by M&O contractors. We determined that under DOE policy, Headquarters offices, such as OCI, are not to subcontract through M&O contractors for services that could be directly contracted by Federal Procurement managers. DOE procurement officials opined that by administering the counterintelligence inspection program, Pacific Northwest was directly supporting a Headquarters mission that was not within the scope of its M&O contract. Although OCI officials advised us that they have explored other procurement options for obtaining support for the Inspection Program, OCI continues to use Pacific Northwest for this purpose. Both DOE procurement and OCI officials opined that it may be more cost effective to procure a support services contract for the inspections program directly through OCI Headquarters.

We also observed that there were philosophical differences between OCI and ODNCI officials, resulting in part from the Department's bifurcated counterintelligence program, which has the potential to undermine the effectiveness of the overall program. We determined that the relationship between the personnel of these two offices was not as collegial, particularly regarding the Inspection Program, as would have been expected given the importance of the Department's counterintelligence efforts and the need for a cooperative effort complex-wide. Within the last year, the Secretary of Energy, the Administrator of NNSA, and the National Counterintelligence Executive expressed concern that the bifurcation of the Department's counterintelligence function could impede efficient counterintelligence activities at DOE. Our observations during this review tended to support this concern, and we believe that the Department should continue its efforts to consolidate counterintelligence activities.

RECOMMENDATIONS

We recommend that the Director, Office of Counterintelligence:

1. In coordination with the Director, Office of Management, Budget, and Evaluation, identify the most appropriate mechanism for procuring support for the counterintelligence inspection program; and
2. Enhance efforts to manage the costs of the counterintelligence inspection program.

MANAGEMENT COMMENTS

Management took issue with certain of the recommendations, observations, and statements in the report. Regarding the first recommendation, management stated that they had undertaken consultations with the Director, Office of Procurement and Assistance Management, to determine if the use of Pacific Northwest to procure services of inspectors to conduct counterintelligence inspections is consistent with DOE policy. Management disagreed with the second recommendation. Management stated that the problems leading to the recommendation were addressed prior to our review. Management's comments are provided in their entirety in Appendix B.

INSPECTOR COMMENTS

Where appropriate, we revised our report to address management's comments. Although management stated that Pacific Northwest had implemented a system for tracking the costs of individual inspections starting in the middle of Fiscal Year 2003, Pacific Northwest officials told us that there had been no attempt to track

individual inspection costs prior to our request for this data. Data provided by Pacific Northwest in response to our request for the cost and staffing levels for individual inspections continually changed during our review. Our report includes the latest data from Pacific Northwest, which was provided in December 2004. We believe the changing cost and staffing figures provided by Pacific Northwest officials confirms our belief that Federal and contractor officials need to enhance their efforts to manage the costs of the Inspection Program.

**SCOPE AND
METHODOLOGY**

As part of our review, we interviewed Federal and contractor DOE and NNSA officials at headquarters and the following field locations: Pacific Northwest National Laboratory, Richland Operations Office, Lawrence Livermore National Laboratory, Livermore Site Office, and Sandia National Laboratory in California. We also reviewed documents relevant to the counterintelligence inspections program and DOE procurement policy.

This inspection was conducted in accordance with the "Quality Standards for Inspections" issued by the President's Council on Integrity and Efficiency.

Document Number 4



Department of Energy
Washington, DC 20585

October 1, 2004



MEMORANDUM FOR THE SECRETARY

FROM:

Greg Friedman
Gregory H. Friedman
Inspector General

SUBJECT:

INFORMATION: Special Report on the "Department's
Process for Responding to a Congressional Information
Request" OAS-SR-05-01

INTRODUCTION

On January 15, 2004, members of the U. S. House of Representatives, Committee on Government Reform, acting under the "Seven Member Rule" (5 U.S.C. 2954), requested that the Department of Energy provide copies of all communications relating to H.R. 6, the Energy Policy Act of 2003, covering the period November 21, 2003, to January 15, 2004. The members requested all written, electronic, or oral communications between the Department or other executive branch officials and industry lobbyists, representatives of trade associations or interest groups, or other persons outside of the executive branch relating to H.R. 6. This request was preceded by a similar request, dated December 22, 2003, from Representatives Henry A. Waxman and John D. Dingell that raised concerns about the Department's compliance with prohibitions against lobbying contained in 18 U.S.C. 1913, to which the Department responded on January 6, 2004. According to Committee members, the Department's initial response did not provide the information requested and they were prompted to make the second request under the "Seven Member Rule." On February 4, 2004, the Department responded to the Committee member's second request for information.

Subsequently, the Ranking Minority Member and 13 other members of the Committee asked the Office of Inspector General to review the veracity and completeness of the response that the Department sent to members of the Committee. Committee members also requested that the Office of Inspector General examine how the Department's response was researched and reviewed. The Office of Inspector General conducted a fact-finding review, the objective of which was to determine the Department's process for developing its February 4, 2004, response to the congressional request for information.

OBSERVATIONS

Responsible officials indicated that the Department followed its normal process when preparing the February 4, 2004, response to the members of the Committee. Officials in the Office of General Counsel (OGC) and the Executive Secretariat (ES) indicated that they took the request seriously and that they expended a good deal of effort to collect



information and respond in a timely manner. However, the Department does not have a requirement to maintain documentation of research efforts completed in response to congressional data requests. Thus, by necessity, our review was based largely on the recollections of officials involved with the response. Those officials explained that, due to the passage of time, they had only limited recollection of the actual procedures performed. They told us that, to the best of their knowledge, they followed their standard practice when responding to this congressional inquiry. As explained, the process in this case: (i) was limited to searches of certain written and electronic communications for high-level Department officials; (ii) did not include inquiries of lower-level officials outside the offices determined to be the most likely to have information responsive to the request, or other executive branch officials; and, (iii) would not have included direct inquiries of all high-level Department officials to determine whether any contacts were made that were not documented in hard copy or electronic files.

Research and Review Process

Officials told us that normally ES serves as the focal point for directing information requests to the appropriate offices for response. In this case, ES directed the request to OGC because it was closely related to the December 22, 2003, congressional request regarding the Department's compliance with the prohibitions against lobbying. According to OGC officials, they received information submitted by various offices and prepared the response that was sent to Committee members on February 4, 2004.

ES and OGC told us that, while they could not recall who made the determination, a decision was made that the Offices of the Secretary; Deputy Secretary; Under Secretary for Energy, Science, and Environment; Assistant Secretary for Congressional and Intergovernmental Affairs; Scheduling and Advance; and ES were most likely to have information responsive to the request. The Department's response to the Committee members identified the offices that were searched for responsive documents. ES and OGC officials indicated that the Committee members' request letter was provided to these offices with either an oral or e-mail request. Officials stated that responding offices would typically search their phone logs, e-mails, correspondence and subject files, and daily calendars. ES and OGC officials also indicated that it was not their general process to provide specific guidance on how to conduct searches. However, OGC officials stated that they discussed with the Office of Congressional and Intergovernmental Affairs what types of records should be searched to respond to this specific congressional request.

Scope of Research and Review Process

According to ES and OGC officials, they routinely make judgments regarding the scope of their research and review process because of the volume of requests the Department receives and the level of effort required to respond to them. They added that searches for information must be made in a manner that provides timely responses. For these reasons, officials acknowledged that they decided to limit their review to the Department elements most likely to have information responsive to the request. In particular, officials who prepared the response advised us that:

- Program offices, such as the Offices of Fossil Energy and Nuclear Energy, were not included in the information search because the request was directed to offices most likely to have contacts on legislative matters.
- Other executive branch officials outside the Department were not asked about their contacts with industry officials because, according to Department officials, such a search would be outside the Department's capabilities and would be logistically unreasonable. They noted, however, that if other executive branch officials had any communications with outside entities regarding H.R. 6 and had "carbon copied" the Secretary, a record of that communication would likely have been identified in the Department's search of its correspondence files.
- The Department's website was not researched because it was publicly available and information about any relevant contacts would already be available to the congressional requesters. Officials asserted that searches of the calendars for the Secretary, Deputy Secretary and Under Secretary should have identified all speeches related to H.R. 6. However, ES and OGC indicated that the subject of a meeting or speech is not always listed on the calendar and that this lack of specificity might account for missing the two secretarial speeches previously identified by Committee members as responsive to questions raised about H.R. 6.
- While those preparing the February 4, 2004, response directly questioned the Deputy Secretary about industry contacts related to H.R. 6, the Secretary and the Under Secretary were not specifically consulted about such contacts. Rather, the Department's response to the committee members was based on a review of hardcopy and electronic files. Finally, officials told us, and available documentation indicated, that none of the offices other than the Assistant Secretary for Congressional and Intergovernmental Affairs reviewed or concurred in the final response to the Committee members' request.
- Contacts with, or initiated by, congressional officials were omitted because OGC decided that the thrust of the request was that the Department possibly had not complied with prohibitions against lobbying and contacts with Congress as set forth in 18 U.S.C. 1913. Additionally, OGC asserted that members of Congress would not always want their contacts with the Department made public. Further, the Department discussed its decision to exclude communications between members of Congress and the Department of Energy related to H.R. 6 in its February 4, 2004, response to the Committee members.

Documentation of Research and Review Process

According to ES and OGC officials, the Department's process does not require that detailed records be maintained supporting the sources that were searched and the specific methodologies used. As a consequence, Department officials involved in the subject search told us that they found it necessary to rely primarily on their recollection regarding the processing of the response to the Committee members. They acknowledged, as well, that their recollections, after the passage of about eight months, may be incomplete. Further, as previously noted, little documentation was available to support the oral descriptions of the process employed in this case. For example, we did not find evidence of complete responses provided to OGC, which would have explained which files were searched and which could have confirmed whether or not relevant contacts had been identified. Documentation to support reported e-mail searches in the Offices of the Deputy Secretary and Under Secretary were not available, and officials we contacted in these offices could not recall searching for any communications related to the request of the Committee members. However, OGC officials advised us that a senior official in the Office of the Deputy Secretary had searched that office for relevant communications in response to the Committee members' request. Additionally, officials could not provide documentation supporting the reported detailed review of the Secretary's calendar since November 21, 2003. While an Office of Scheduling and Advance official recalled searching the Secretary's calendar for information on energy-related contacts, the official could not recall if anything was found.

In summary, as described by OGC and ES, the Department followed its normal process in responding to the Committee members' information request. However, we were unable to independently confirm the described process because of the lack of detailed records and the incomplete recollection of these officials caused by the passage of time.

We discussed the facts contained above with Department officials who prepared the congressional response and included relevant comments, where appropriate. Our review methodology is described in an attachment to this report.

We appreciate the cooperation of the Department's staff during this review. If you have any questions regarding the matters discussed in this report, please do not hesitate to contact me.

cc: Deputy Secretary
Under Secretary for Energy, Science and Environment
Assistant Secretary for Congressional and Intergovernmental Affairs
General Counsel
Director, Office of the Executive Secretariat

Attachment

SCOPE AND METHODOLOGY

To accomplish our objective we:

- Reviewed the congressional request dated December 22, 2003, from Congressmen Henry Waxman and John Dingell; and the January 15, 2004, request from members of the Committee on Government Reform;
- Reviewed the Department's responses dated January 6 and February 4, 2004, respectively, from the General Counsel and the January 15, 2004, response from the Acting General Counsel;
- Interviewed officials from the Offices of General Counsel and Executive Secretariat involved in coordinating the response to each request;
- Interviewed officials from the Offices of the Deputy Secretary; Under Secretary for Energy, Science and Environment; Congressional and Intergovernmental Affairs; and Scheduling and Advance to determine the processes they used to respond to the request; and,
- Reviewed documents of communications regarding energy related contacts provided by various offices.

This was a special review of the Department's process for responding to a particular inquiry from congressional sources and did not include tests of internal controls and compliance with laws and regulations applicable to audits.

Document Number 5

**INSPECTION
REPORT
TO
MANAGEMENT**

**LAWRENCE LIVERMORE
NATIONAL LABORATORY
DOMESTIC PARTNER TRAVEL**

S99IS022

DECEMBER 1999



**U.S. DEPARTMENT OF ENERGY
OFFICE OF INSPECTOR GENERAL
OFFICE OF INSPECTIONS**

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INSPECTION OF LAWRENCE LIVERMORE NATIONAL LABORATORY DOMESTIC PARTNER TRAVEL

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Overview

INTRODUCTION AND OBJECTIVE

On February 10, 1999, the Office of Inspector General, U.S. Department of Energy (DOE), initiated an inspection of allegations regarding inappropriate travel by certain employees of the Lawrence Livermore National Laboratory (Livermore). Specifically, information provided to the Office of Inspections alleged that Livermore has inappropriately funded vacations and personal business in conjunction with official travel for 10 employees (five couples) who were identified as domestic partners.

The objective of this inspection was to determine if the five couples employed by Livermore traveled together to the same business locations on the same dates without an appropriate business purpose. Our inspection was conducted from March through August 1999, and included a review of 136 travel expense reports for the 10 Livermore employees, as well as interviews with several of the Livermore travelers and their supervisors concerning the purpose of specific trips and the expenses authorized. We also interviewed Livermore management officials regarding the practices generally used by the Lawrence Livermore National Laboratory in managing, administering, and funding the Livermore travel program.

This inspection report has been prepared in part to accomplish the purposes of the Government Performance and Results Act of 1993 by documenting methods of decreasing waste and improving efficiency in Federally-funded programs. This inspection was conducted in accordance with "Quality Standards for Inspections" issued by the President's Council on Integrity and Efficiency.

**OBSERVATIONS AND
CONCLUSIONS**

Our inspection did not find widespread evidence that the five couples named in the allegations traveled together without an appropriate business purpose, or that vacations and other personal business were inappropriately funded in conjunction with official travel. The five couples included in this inspection traveled together 48 times (for a total of 96 trips) from Fiscal Year 1994 through Fiscal Year 1998. For 93 of the 96 trips reviewed, we found no direct evidence that the business purposes of the trips were inappropriate, or that Livermore inappropriately funded vacations and personal business in conjunction with the official business of these trips.

However, for three of the 96 trips, we did find that the use of Department funds to finance all or part of these three trips was inappropriate, and that recovery of funds is warranted. In the case of two of these trips, a couple employed by Livermore traveled together by car to Colorado to discuss fossils and the human exploration of the planet Mars as part of two independent research projects, and charged their time and travel costs to the Department. In the case of the third trip, a Livermore employee filed a false Traveler's Expense Report and a false Foreign Trip Report which stated that he was on official business in Berlin, Germany, when he was actually on vacation in Southern Germany, Austria, and Italy for a portion of the period claimed.

Details of Findings

Vacation and Personal Business Combined with Official Travel

The 10 Lawrence Livermore National Laboratory employees who were alleged to have combined vacations and personal business with official travel, traveled together a total of 48 times (for a total of 96 trips) from Fiscal Years 1994 through 1998. Generally, the business purpose of these trips included attendance at conferences, programmatic meetings, and invitations to give presentations or talks. We found that for 34 of the 96 trips, the travelers took 113 personal days where vacations and/or personal business were constructed around the official business of the trips, often at locations distant from their temporary duty locations. We note that one couple traveled a total of 25 times together (50 trips), or about one-half of the total trips we reviewed, and took a total of 46 personal days in conjunction with their official travel.

We did not find direct evidence that the five couples named in the allegations traveled together without an appropriate business purpose, or that Livermore inappropriately funded vacations and personal business in conjunction with official travel for 93 of the 96 trips reviewed. For the three remaining trips though, we did find that the use of Department funds to finance all or part of these three trips was inappropriate, and that recovery of funds is warranted.

Independent Research Funded Through Official Travel

One couple traveled together without an appropriate business purpose. Specifically, [REDACTED] at Livermore, traveled by car from Livermore to Fruita, Denver, and Boulder, Colorado, from Sunday, August 9, 1998, through Monday, August 17, 1998, accompanied by their [REDACTED]. [REDACTED] said the official business purpose of traveling to Fruita, Colorado, on August 10 and 11 was to visit the Dinamation International Society. [REDACTED] said that an appointment had been arranged to discuss Livermore technology for gamma labeling of fossils and the use of lasers to remove the rock matrix that surrounds fossils without damaging them. [REDACTED] also said that a visit to the Denver Museum of Natural History on Wednesday, August 12, 1998, was for a similar purpose. [REDACTED] said that Thursday, August 13, through Sunday, August 16, 1998, was spent at the first Mars Society Conference, in Boulder, Colorado, where [REDACTED] made three speeches regarding human settlement of the planet Mars. The two Livermore employees were reimbursed a total of \$2,131 for

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travel-related expenses, and were paid \$8,811 in wages while on this trip. The total cost incurred by Livermore was \$10,942.¹

The DOE Oakland Contracting Officer for Livermore said that [redacted] was unaware of any DOE programmatic guidance, Laboratory Directed Research and Development Program, Work-For-Others Program, or any other allowable reason for spending DOE funds for fossil or Mars settlement issues. [redacted] said these activities appeared to be independent research work on the part of the travelers. Similarly, a Livermore Deputy Associate Director said that the use of lasers for fossil excavation or gamma labeling technology was not specifically approved at the time of travel by anyone from the Department of Energy.

Section (e), "Examples of items of unallowable costs," Clause 3.2, "ALLOWABLE COSTS," of the DOE Management and Operating Contract (M&O Contract) with the Regents of the University of California for the Management of the Lawrence Livermore National Laboratory (Contract No. W-7405-ENG-48, effective October 1, 1997) states that the costs of independent research and development, excluding Laboratory Directed Research and Development, are unallowable unless specifically provided for elsewhere in the contract. Our inspection was not able to identify any DOE programmatic guidance, Laboratory Directed Research and Development, or Work-For-Others Program related to this trip. As such, the amount of \$10,942 represents an unallowable cost under the M&O Contract and should be recovered.

Falsification of a Travel Expense Report

A Livermore employee made a claim of official business on a travel expense report for a portion of a trip that was actually vacation time. Specifically, [redacted] for the Livermore laser program, filed a travel expense report and a trip report, claiming [redacted] was on official business from June 19, 1998, to July 14, 1998, when the evidence shows that [redacted] began a vacation in Germany and Austria on July 11, 1998. Travel documents show that [redacted] traveling with [redacted] at Livermore, attended conferences and meetings in Russia and Berlin, Germany, from June 19, 1998, to Friday,

¹ This figure was revised from \$7,855 in the draft report to \$10,942 in the final report to reflect Livermore's recalculation of the labor cost using the standard salary, payroll burden, Organizational Personnel Charge, and the Organizational Facility Charge.

July 10, 1998, when the Berlin conference ended. At this point in their trip, [redacted] went on vacation together in Germany, Austria and Italy.

[redacted] told us that [redacted] was on personal leave in Germany, Austria, and Italy beginning July 11, 1998, and that [redacted] was traveling with [redacted] the entire time, and that [redacted] never left [redacted]. [redacted] said that, after their official business at a scientific workshop concluded on July 10, 1998, [redacted] and [redacted] were on "pure vacation," and that no official business was conducted. [redacted] stated that "I am accurate on this." However, on his Traveler's Expense Report, and on a separate Foreign Trip Report, [redacted] claimed that his official business meetings continued in Berlin until July 14, 1998.

[redacted] initially told us that [redacted] never left the suburbs of Berlin during the weekend of July 11 and 12, and that [redacted] had business meetings in Berlin on July 13 and 14. However, after some discussion, [redacted] admitted that [redacted] left Berlin on Friday, July 10, 1998, with [redacted] and traveled with [redacted] to Mittenwald, a town located near the German-Austrian border. [redacted] then said that he drove 690 kilometers (428 miles) from Mittenwald, Germany, back to Berlin on the morning of Monday, July 13, 1998, for a scheduled meeting with the Director of a German institute. [redacted] said after the two hour meeting, [redacted] returned to Mittenwald to join [redacted]. [redacted] said that the driving time from Mittenwald to Berlin was about four to five hours. However, we note that the one-way driving time from Mittenwald to Berlin is estimated to be seven hours and fifteen minutes as shown on a German travel service document. [redacted] continued to receive per diem until July 15, 1998, and was reimbursed for hotel costs on July 11, 12, and 13.

The [redacted] of the German institute who allegedly met with [redacted] on July 13, 1998, said that [redacted] knows who [redacted] is. The [redacted] said that [redacted] had met with [redacted] during a workshop in Berlin that the [redacted] had chaired during the week of July 6 through July 10, 1998. However, the [redacted] said that [redacted] did not meet with [redacted] after the Berlin workshop concluded on Friday, July 10, 1998. The [redacted] said that after the workshop concluded

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on July 10, 1998, [redacted] left Berlin and traveled to Southern Germany to be at home with his family. The [redacted] said that [redacted] was positive that, after the workshop concluded on July 10, 1998, [redacted] did not meet again with [redacted]

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A review of [redacted] travel expense report shows that \$502.12 in hotel and per diem costs were inappropriately paid and should be recovered. Additionally, an estimated salary adjustment equal to 2 days of salary or \$889 plus benefits, should also be recovered, for a total of \$1,391.

Recommendations

Considering the evidence of inappropriate use of Department funds to finance all or part of these three trips, we recommend the following:

For the Manager, Oakland Operations Office:

Recommendation 1: Take appropriate action to recover \$10,942 in wages and travel expenses for the trip taken by [redacted] where Department funds were used to conduct independent research projects.

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Recommendation 2: Take appropriate action to recover an estimated \$1,391 in wages plus benefits and travel expenses for the trip taken by [redacted] where [redacted] claimed [redacted] was in an official business status when, in fact, [redacted] was on vacation for a portion of the trip.

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In addition, we are also recommending that appropriate personnel actions be taken against [redacted]. Specifically, based on the results of our inspection, we found that [redacted] (1) falsified a LLNL Traveler's Expense Report which resulted in reimbursement for expenses that [redacted] was not entitled to; (2) falsified a Foreign Trip Report which indicated that [redacted] was on official business when in fact [redacted] was on personal business for a portion of this trip; and (3) made false and misleading statements to representatives of the Office of Inspector General during the conduct of this inspection in an effort to conceal the true nature of [redacted] activities.

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For the Manager, Oakland Operations Office:

Recommendation 3: Consistent with the findings of this report, recommend that Livermore take appropriate personnel action against [REDACTED] in accordance with Section E II.5.2., "Other Corrective Action," of the Lawrence Livermore National Laboratory Personnel Policies and Procedures Manual for falsifying two travel related documents and for providing false and misleading statements to the Office of Inspector General.

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Recommendation 4: Direct Livermore to conduct a review of other trips taken by [REDACTED] over the past five years to determine if there are any other instances where [REDACTED] has been inappropriately reimbursed travel related expenses as a result of falsified travel documents, and, if so, take appropriate action to recover these amounts.

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**MANAGEMENT
COMMENTS**

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Recommendation 1: The DOE Oakland Operations Office (Oakland) "concurred in principle" with the finding and recommendation. Livermore's DOE Oakland Contracting Officer said [redacted] has decided to issue a "Notice of Intent to Disallow" \$10,942 for inappropriate travel.

Recommendation 2: Oakland "concurred in principle" with the finding and recommendation, stating that Oakland will take appropriate action. Oakland also stated that a referral has been made to the Livermore Office of Investigative Services, who will conduct an investigation regarding the falsification of a travel expense report and that this investigation will be completed by December 31, 1999. Oakland will review the results of the Livermore investigation and make allowability determinations by March 30, 2000.

Recommendation 3: Oakland "concurred in principle" with the finding and recommendation, stating that Oakland agrees with Livermore's proposed action of referring the Office of Inspector General's finding to the Livermore Office of Investigative Services, for Livermore's own investigation of the matter. Oakland stated that Livermore will complete their review by December 31, 1999, and that Oakland will validate Livermore's findings and respond to the Office of Inspector General by March 30, 2000.

Recommendation 4: Oakland concurred with Livermore's proposed action to have the Livermore Office of Investigative Services conduct a review of travel by the subject employee for the past five years. Oakland stated that Livermore will complete their review by December 31, 1999, and that Oakland will validate Livermore's findings and respond to the Office of Inspector General by March 30, 2000.

INSPECTOR COMMENT

We consider management's comments to the recommendations to be responsive.

Document Number 6

INSPECTION REPORT TO MANAGEMENT

**TITLE: "Unauthorized Release of
Internal Report" (S99IS025)**

MAY 1999



**U.S. DEPARTMENT OF ENERGY
OFFICE OF INSPECTOR GENERAL
OFFICE OF INSPECTIONS**

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REPORT OF INSPECTION ON
"UNAUTHORIZED RELEASE OF INTERNAL REPORT"
(S99IS025)

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<u>Observations and Conclusions</u>	2
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INSPECTION REPORT TO MANAGEMENT ON

"Unauthorized Release of Internal Report"

(S99IS025)

OVERVIEW

Introduction and Objective

On March 23, 1999, the Office of Inspector General, U.S. Department of Energy (DOE), initiated an inspection into the facts and circumstances surrounding the unauthorized release to an individual outside DOE of a document entitled "INTERNAL REPORT TO THE SECRETARY, SPECIAL SECURITY REVIEW, PHASE 1, JANUARY THROUGH DECEMBER 1998" (Internal Report). Information from the Internal Report appeared in an article by Mr. Peter Eisler (hereafter referred to as the reporter) published in the March 17, 1999, issue of *USA Today*. The inquiry into the unauthorized release of the Internal Report was requested by the Secretary of Energy in a March 19, 1999, memorandum to the Inspector General.

The Internal Report was prepared by a review team led by [REDACTED] (b)(6),(b)(7)(C) National Security Programs, Sandia National Laboratories (Sandia). Former Secretary of Energy Federico Peña tasked the review team to develop an approach to review and evaluate security roles, responsibilities, and methodologies as they might impact changes in DOE safeguards and security policy and guidance. The review team consisted of members from six DOE sites as well as six Senior Advisors and two consultants.

The document was marked with the following warning: "UNCLASSIFIED CONTROLLED NUCLEAR INFORMATION, NOT FOR PUBLIC DISSEMINATION." Unauthorized dissemination of Unclassified Controlled Nuclear Information (UCNI) is subject to civil and criminal sanctions under Section 148 of the Atomic Energy Act of 1954, as amended (AEA) (42 USC 2168). This statute is implemented through a regulation, 10 C.F.R. Part 1017, and DOE Order 471.1. Any person who violates any regulation or order of the Secretary issued under 42 USC 2168 with respect to the unauthorized dissemination of information shall be subject to a civil penalty, not to exceed \$100,000 for each such violation; and subject to a criminal penalty, under Section 223 of the AEA (42 USC 2273), of \$5,000 and/or two years imprisonment.

The objective of this inspection was to determine who was responsible for the unauthorized release of the Internal Report to an individual outside DOE.

This inspection was conducted in accordance with "Quality Standards for Inspections" issued by the President's Council on Integrity and Efficiency.

Observations and Conclusions

—We were unable to conclusively determine who released the Internal Report outside DOE. Thirty original copies of the Internal Report were printed by Sandia on January 21, 1999. These original copies were distributed at DOE Headquarters, the Albuquerque Operations Office, and Sandia. We determined that at least 31 additional copies of the Internal Report were reproduced. We also determined that in excess of 125 DOE and DOE contractor employees had access to the Internal Report, but this number could be substantially higher because of the large number of copies available throughout the Department. We interviewed over 60 DOE and DOE contractor employees, including the principals and key senior staff of the DOE offices that received an original copy of the Internal Report. Everyone interviewed denied releasing the Internal Report outside the Department of Energy.

The results of our inspection, based on extensive interviews, document searches, and reviews of telephone records, do not provide conclusive evidence as to the individual, or individuals, who inappropriately released the Internal Report. There were indications, however, that the Internal Report was released by someone within, or closely connected to, the Office of Nonproliferation and National Security (NN). Specifically, the *USA Today* article included information from two issue papers that were prepared by the Office of Safeguards and Security (NN-51), and we found no evidence that these two issue papers were ever distributed outside NN prior to publication of the article. Further, [redacted] Office of Public Affairs said the reporter told [redacted] that he had copies of DOE internal tracking sheets for annual reports to the President on the status of safeguards and security at domestic nuclear weapons facilities for 1994 through 1997. DOE officials believed the documents in question were internal tracking sheets used by the Office of Security Affairs (NN-50), the Office of the Assistant Secretary for Nonproliferation and National Security (NN-1), and the Office of the Executive Secretariat. We determined that the NN-50 and NN-1 tracking sheets would not normally leave NN; and the Executive Secretariat tracking sheet would normally only pass between NN and the Office of the Executive Secretariat.

Using information available through DOE's Office of Chief Information Officer, we examined all outgoing and selected incoming telephone records for the periods associated with the release of the Internal Report. We determined that four telephone calls were made from telephones assigned to [redacted] Office of Safeguards and Security (NN-51), to the reporter's direct office phone number from January 1998 until publication of the article. These phone calls are notable since [redacted] told us in two interviews that [redacted] had no recollection of ever having spoken to the reporter prior to publication of the article. Two telephone calls were placed to the reporter's direct office phone number on January 22, 1998 and January 23, 1998. On January 23, 1998, the Deputy Secretary issued a memorandum to DOE Heads of Departmental Elements announcing that [redacted] would be heading a team to review and evaluate DOE security. Two additional telephone calls were placed to the reporter 12 and 13 days, respectively, before the article was printed in March 1999. A complete discussion of all Departmental telephone calls to the reporter just prior to the publication of the article are presented in the "Details of Finding" section of this report.

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(C) Finally, in a memorandum dated March 18, 1999, [redacted] Office of Security Affairs, stated that [redacted] had received information that indicated that the unauthorized release of the Internal Report may have come from within the Office of Security Affairs or the Office of Safeguards and Security. (b)(6),(b)(7)
(C)

DETAILS OF FINDING

Printing and Distribution of the Internal Report

On January 21, 1999, 30 original copies of the Internal Report were printed by Sandia in Albuquerque, New Mexico. Twelve of the original copies were hand delivered to DOE Headquarters and provided to certain attendees at a January 25, 1999, DOE Security Council (Council) meeting. Eleven copies were hand delivered to Sandia's office in Washington, D.C., and seven copies remained at Sandia in Albuquerque, New Mexico, and were distributed to individuals at Sandia who participated in the review and to the Manager of the Albuquerque Operations Office.

The Council is chaired by the Under Secretary of Energy. At the January 25, 1999, meeting of the Council, the Internal Report was provided to officials from the Offices of Nonproliferation and National Security; Defense Programs; Environmental Management; Field Management; and Environment, Safety and Health. The Under Secretary advised the recipients that the document was very sensitive and must be tightly controlled. Recipients of the Internal Report were to prepare comments on the report and provide their comments to the Under Secretary.

Prior to the Council meeting, the Manager, Albuquerque Operations Office, was provided a copy of the Internal Report. The Director, Office of Counterintelligence, was also provided a copy of the Internal Report subsequent to the Council meeting. Certain members of the review team that prepared the Internal Report and the Senior Advisors to the review team were also provided copies.

We determined that the Internal Report was widely distributed within DOE. In excess of 125 DOE and DOE contractor personnel had access to either original or reproduced copies of the Internal Report. In addition to the 30 original copies of the Internal Report, we are aware of 31 reproduced copies that were made. The Office of Nonproliferation and National Security reproduced at least 25 copies; and the Office of Environmental Management and the Albuquerque Operations Office reproduced three copies each. Twenty-one of the 25 copies reproduced within the Office of Nonproliferation and National Security have been destroyed by the Office of Safeguards and Security.

Documentation in the Possession of USA Today

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(C) Just prior to publication of the article, the reporter called [redacted] Office of Public Affairs. According to [redacted] the reporter said he was working on an article and had in his possession a copy of the Internal Report, internal DOE memoranda, and DOE internal tracking reports which showed that DOE was late in providing annual reports to the President on the status of safeguards and security at domestic nuclear weapons facilities for 1994 (b)(6),(b)(7)
(C)

through 1997. When the article appeared in *USA Today*, the Office of Security Affairs, NN-50, determined that information from two issue papers prepared by the Office of Safeguards and Security, NN-51, was also quoted in the article. [REDACTED]

Information Included in the *USA Today* Article

The *USA Today* article, entitled "Feds sought 19 nuke probes: Agency cites 'alarming' security lapses," quoted information contained in a letter from [REDACTED] to the Secretary of Energy that transmitted the Internal Report. The transmittal letter was included as part of the Internal Report. The entire document, including the transmittal memorandum, was stamped UCNI. (b)(3):50 U.S.C. § 3024(i)(1) (b)(6),(b)(7) (C)

[REDACTED] as follows: "There has been an alarming increase of instances where nuclear weapons design, intelligence and other national defense information has been either compromised or placed at risk" and "some of the cases involve 'disclosures of classified and/or sensitive unclassified information, including potential nuclear computer codes, to foreign nationals'...." The article [REDACTED] (b)(3):50 U.S.C. § 3024(i)(1) (b)(6),(b)(7) (C) stating that "Other problems noted in the briefing material and other internal reports obtained by *USA Today* include a backlog of 4,000 'reinvestigations' that need to be done on DOE personnel whose security clearances are beyond their five-year re-examination date."

Distribution of the Two Office of Safeguards and Security Issue Papers

Although several officials told us they thought the two issue papers were forwarded to the Office of the Secretary, we were unable to confirm that the issue papers were distributed outside the Office of Nonproliferation and National Security prior to publication of the article. Office of Security Affairs documentation showed that [REDACTED] NN-50, hand-carried the issue papers to the Office of the Assistant Secretary for Nonproliferation and National Security (NN-1). However, [REDACTED] could not specifically recall providing the issue papers to NN-1. NN-1 officials did not recall ever seeing or receiving the issue papers; and there was no record of the issue papers in the NN-1 correspondence tracking system. In addition, the Office of Congressional, Public, and Intergovernmental Affairs and the Office of Executive Secretariat had no record of having received the issue papers; and [REDACTED] who coordinates all briefing materials for the Secretary, did not recognize the issue papers and had no record of having received them. (b)(6),(b)(7) (C) (b)(6),(b)(7) (C)

It should be noted that the article contained inaccurate information that was not widely distributed. Specifically, the article included the following statement: the "Department of Energy (DOE) requested at least 19 FBI investigations last year after internal reviews indicated classified or sensitive information was leaked, stolen or compromised at U.S. nuclear weapons plants and laboratories." [REDACTED]

(b)(6),(b)(7) which (b)(6),(b)(7) in June 1998. (b)(6),(b)(7) told us that this is the only issue paper (b)(6),(b)(7) that cited the 19 FBI investigations because the number of FBI investigations cited was not (b)(6),(b)(7) accurate. After (b)(6),(b)(7) said (b)(6),(b)(7) realized that the actual number of (b)(6),(b)(7) FBI investigations was 12 but never notified anyone of this discrepancy. In fact, (b)(6),(b)(7) recently (b)(6),(b)(7) determined that only eight incidents were actually referred to the FBI. (C)

Distribution of Internal Tracking Sheets

(b)(6),(b)(7) As noted previously, just prior to the publication of the article, the reporter called (b)(6),(b)(7) and told (b)(6),(b)(7) among other things, that he had copies of DOE internal tracking sheets for annual (C) reports to the President on the status of safeguards and security at domestic nuclear weapons facilities for 1994 through 1997. Officials we interviewed said they believed that the documents the reporter had were internal tracking sheets used by NN-1, NN-50, and the Office of Executive Secretariat. We determined that the NN-1 and NN-50 tracking sheets would not normally leave NN; and the Office of Executive Secretariat tracking sheet would normally only pass between NN and the Office of the Executive Secretariat.

Office of Security Affairs Memorandum on Release of Security Information

(b)(6),(b)(7) (b)(6),(b)(7) informed us that (b)(6),(b)(7) initially believed that the unauthorized release of the Internal (C) Report occurred from within the Office of Security Affairs, which includes the Office of Safeguards and Security. The day after the article appeared, (b)(6),(b)(7) issued a memorandum (b)(6),(b)(7) to all Federal and contractor employees in these two offices stating that (b)(6),(b)(7) had "received (b)(6),(b)(7) information that indicates that a person or persons working in the Office of Security Affairs or (C) the Office of Safeguards and Security may have released, or caused to be released, internal drafts and other information concerning the Department's security operations to persons outside the Department with no official need to know of this information." However, in an interview with (b)(6),(b)(7) (b)(6),(b)(7) said (b)(6),(b)(7) was no longer sure that the information was leaked from (b)(6),(b)(7) (b)(6),(b)(7) organization, but (b)(6),(b)(7) acknowledged that the reporter's possession of the issue papers and the (C) internal tracking sheets did seem to point to NN.

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(b)(7)(C)

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(b)(7)(C)

(b)(5),(b)(6), (b)(7)(C) had employees sign a statement that read: "I hereby attest to my understanding fully my responsibilities, under law and Department of Energy regulation and directives, to protect classified, controlled, proprietary and sensitive information entrusted to me."

OIG Interviews of DOE and DOE Contractor Employees

The Office of Inspector General interviewed more than 60 of the DOE and DOE contractor employees who had received either an original or reproduced copy of the Internal Report or who had access to a copy of the Internal Report. This included principals or key senior staff of the organizations that received an original copy of the Internal Report, including the Office of Nonproliferation and National Security; the Office of Defense Programs; the Office of Environmental Management; the Office of Environment, Safety and Health; the Office of Field Management; the Office of Counterintelligence; the Albuquerque Operations Office; and Sandia. Everyone interviewed denied releasing the Internal Report to any individual(s) or entity(ies) outside the Department of Energy or its contractors. In addition, everyone interviewed who acknowledged having access to the two issue papers denied releasing the issue papers to any individual(s) or entity(ies) outside the Department of Energy or its contractors. We found no evidence during the course of these interviews that anyone outside the Office of Nonproliferation and National Security had ever seen these issue papers prior to publication of the article.

OIG Review of Telephone Records

DOE, through the Office of the Chief Information Officer, had access to the telephone numbers for incoming and outgoing calls on assigned cellular phones and for outgoing calls from assigned desk phones. Records of all telephone calls made from Germantown and Forrestal Government desk phones, from June 1998 to April 1999, were reviewed to determine whether any calls were made to the reporter's direct phone number at *USA Today*. We also examined records of all Government issued cellular calls made by certain DOE employees who had access to the Internal Report and issue papers during the same time period.

A review of the June 1998 to April 1999 phone records showed that 10 calls were placed to the reporter's direct phone number at *USA Today* prior to March 17, 1999. Seven calls were from DOE's Office of Public Affairs, one call was from the Office of the Under Secretary, and two calls were from phones assigned to [REDACTED] One call was made from [REDACTED] desk phone on March 4, 1999, at 6:19 p.m. The call lasted about 3.5 minutes. Another call was made to the reporter on March 5, 1999, at 10:22 a.m. from the cellular phone assigned to [REDACTED] The call originated from Reston, Virginia, and lasted approximately two minutes. These calls were placed to the reporter 12 and 13 days, respectively, before the *USA Today* article was published.

Based on the results of a review of these phone records, we also obtained the desk and cellular phone records for [REDACTED] for January 1998 to May 1998. A review of these records showed that two calls, of approximately one minute each, were made from [REDACTED] cellular phone to the reporter's direct phone number at *USA Today* on January 22, 1998, and January 23, 1998. On January 23, 1998, the Deputy Secretary had issued a memorandum to DOE Heads of Departmental Elements announcing that [REDACTED] review and evaluate DOE security.

(b)(6),(b)(7)
(C)

Calls to the Reporter from the Office of Public Affairs and the Office of the Under Secretary

(b)(6),(b)(7)
(C) Individuals in the Office of Public Affairs made seven calls to the reporter just prior to (b)(6),(b)(7)
(C) publication of the article. On March 11, 1999, [redacted] placed two calls to the reporter. One call lasted 18 seconds, and the other call lasted almost four minutes. [redacted] also called the reporter four times on March 16, 1999. The first call lasted 14 seconds; the second call lasted almost 9 and one-half minutes; the third call lasted almost 5 minutes; and the fourth call lasted 33 seconds. [redacted] Office of Public Affairs, also placed a call to the reporter on March 16, 1999. This call lasted approximately one and one-half minutes.

(b)(6),(b)(7)
(C) [redacted] said these calls were all pursuant to official business and [redacted] did not provide the (b)(6),(b)(7)
(C) reporter with information from the Internal Report, the issue papers, or the internal tracking sheets. [redacted] also said that [redacted] saw a cover of the Internal Report prior to the article but that [redacted] did not have a copy of the report itself nor the two issue papers and the internal tracking sheets until after the article was published. [redacted] said [redacted] has never had access to the Internal Report or the issue papers. (b)(6),(b)(7)(C)

(b)(6),(b)(7)
(C) The phone records also showed that the [redacted] phone was used to place a 22-second (b)(6),(b)(7)
(C) call to the reporter on March 16, 1999. [redacted] did not recall this telephone call but [redacted] said it might have been related to an official interview about safeguards and security issues that the reporter was scheduled to have with [redacted]. The interview occurred on (b)(6),(b)(7)
(C) March 17, 1999.

Interviews of [redacted]

(b)(6),(b)(7)
(C) In an initial interview with [redacted] on March 24, 1999, prior to the Office of Inspector General's receipt of the Department's telephone records, [redacted] said [redacted] did not recall having any conversations with the reporter and that calls [redacted] receives from the press are usually referred to DOE's Office of Public Affairs. Further, [redacted] denied discussing the (b)(6),(b)(7)
(C) Internal Report with anyone outside NN or its contractors. Based on our review of the telephone records we obtained, [redacted] was interviewed again on April 14, 1999. [redacted] (b)(6),(b)(7)
(C) again said [redacted] had no recollection of having talked to the reporter prior to our March 24, 1999, interview with [redacted]. However, [redacted] said that within a couple of days after the (b)(6),(b)(7)
(C) March 24, 1999 interview, [redacted] called the reporter. [redacted] advised us that the reporter would confirm that [redacted] was not the source who had provided the reporter with the Internal Report. (b)(6),(b)(7)
(C) The telephone call made to the reporter after [redacted] initial interview does not appear on the DOE telephone records. [redacted] was asked again if [redacted] had any conversations with (b)(6),(b)(7)
(C) the reporter before this call. [redacted] replied "not particularly." [redacted] said [redacted] receives calls from the press all the time, and [redacted] almost always refers these calls to DOE's Office of Public (b)(6),(b)(7)
(C) Affairs. [redacted] further said that there have been times that [redacted] has had regular talks with (b)(6),(b)(7)
(C) the press, but they have not been with the *USA Today* reporter. When asked if [redacted] had ever sent the reporter any information over a facsimile machine, [redacted] replied "not that I (b)(6),(b)(7)
(C) remember."

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

[illegible]

(b)(6), (b)(7)
(C) Subsequent to the second interview, the Office of Inspector General obtained telephone records that showed two telephone calls were made from [REDACTED] cellular phone on January 22, 1998 and January 23, 1998, to the reporter's office phone. However, we did not reinterview [REDACTED] because [REDACTED] had already told us several times that [REDACTED] had no recollection of having talked to the reporter except for [REDACTED] call to the reporter after our initial interview.
(b)(6), (b)(7)(C) (b)(6), (b)(7)(C)

Office of Safeguards and Security Telephone Log

We reviewed the current telephone log maintained by [REDACTED] secretary, and we noted it (b)(6), (b)(7) (C) contained incoming calls from January 27, 1999, to April 13, 1999. There were no incoming telephone calls listed from the reporter. The secretary assigned to the Deputy Director, Office of Safeguards and Security, also made entries on the telephone log. Both secretaries said they have no recollection of ever talking to the reporter or taking a message for [REDACTED] from the (b)(6), (b)(7) (C) reporter. Both secretaries also said they have never sent the reporter any information over a facsimile machine. We obtained the records for two facsimile machines in [REDACTED] (b)(6), (b)(7) (C) office area for the time period June 1, 1998, to April 14, 1999. The records show that no facsimiles were sent to the reporter's office from those machines.

CONCLUSION

Our inspection determined that numerous copies of the Internal Report existed, including 30 original copies and at least 31 reproduced copies, and that in excess of 125 DOE and DOE contractor employees had access to the Internal Report. We interviewed over 60 key DOE and DOE contractor employees who had access to the Internal Report and everyone interviewed denied releasing the Internal Report outside the Department.

However, as discussed earlier in the report, there were indications that the Internal Report was released by an individual, or individuals, within the Office of Nonproliferation and National Security. However, these indications notwithstanding, we were unable to conclusively determine who released the Internal Report outside the Department of Energy.