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

Special Report

The American Recovery and Reinvestment Act at the Department of Energy

OAS-RA-09-01

March 2009

MEMORANDUM FOR THE SECRETARY

FROM: Gregory H. Friedman
Inspector General

SUBJECT: INFORMATION: Special Report on "The American Recovery and Reinvestment Act at the Department of Energy"

BACKGROUND

The American Recovery and Reinvestment Act of 2009 (Recovery Act) was signed into law on February 17, 2009, as a way to jumpstart the U.S. economy, create or save millions of jobs, spur technological advances in science and health, and invest in the Nation's energy future. This national effort will require an unprecedented level of transparency and accountability to ensure that U.S. citizens know where their tax dollars are going and how they are being spent. As part of the Recovery Act, the Department of Energy will receive more than $38 billion to support a number of science, energy, and environmental initiatives. Additionally, the Department's authority to make or guarantee energy-related loans has increased to about $127 billion. The Department plans to disburse the vast majority of the funds it receives through grants, cooperative agreements, contracts, and other financial instruments.

The supplemental funding provided to the Department of Energy under the Recovery Act dwarfs the Department's annual budget of about $27 billion. The infusion of these funds and the corresponding increase in effort required to ensure that they are properly controlled and disbursed in a timely manner will, without doubt, strain existing resources. It will also have an equally challenging impact on the inherent risks associated with operating the Department's sizable portfolio of missions and activities and, this is complicated by the fact that, in many respects, the Recovery Act requirements represent a fundamental transformation of the Department's mission. If these challenges are to be met successfully, all levels of the Department's structure and its many constituents, including the existing contractor community; the national laboratory system; state and local governments; community action groups and literally thousands of other contract, grant, loan and cooperative agreement recipients throughout the Nation will have to strengthen existing or design new controls to safeguard Recovery Act funds.

PROTECTING TAXPAYER INTERESTS

To aid the Department in this effort, the attached report informs the Department's leadership of the perspective of the Office of Inspector General on the risks that it should consider as stimulus activities progress. Our report is based on a body of work that has been used, over time, by Department officials to improve operations and management practices in a number of areas. Considered in today's light, our work should once again be useful in helping to avoid problems encountered in the past. To that end, this report provides the Department with "lessons learned" and suggests approaches for reducing the risks associated with the extraordinary level of Recovery Act funding. The report also outlines ongoing and planned Office of Inspector General activities designed to help ensure that the Recovery Act programs are well managed and that funds are protected from waste, fraud and abuse. Specifically, in this report we have:

- Identified specific risks that we discovered during past reviews and investigations in areas such as fund accountability and reporting, grant and cooperative agreement execution, contract management, and the management of loan guarantee efforts;

- Suggested actions that should be considered during Recovery Act planning and program execution to help reduce the likelihood that historical problems will recur;

- Described the Department's initial efforts to identify risks and to develop strategies to help ensure that Recovery Act goals and objectives are satisfied; and,

- Outlined the Office of Inspector General's risk-based approach to oversight and planned means of satisfying our Recovery Act review and investigative responsibilities.

RISKS OF FRAUD AND OTHER ABUSES

As the Recovery Act implementation proceeds, all parties should recognize that the potential risk of fraud increases dramatically when large blocks of funds are quickly disbursed. Our experience in the investigative arena has demonstrated that even during periods of normal operation, misuse of funds, submission of false or fictitious data, kickbacks and briberies, and other related fraudulent activity occur with troubling frequency. In fact, the Office of Inspector General, on average, has more than 200 fraud-related investigations open at any given time. Since Fiscal Year 2004, these investigations have resulted in about 150 criminal convictions and recoveries and fines in excess of $190 million, some of which involved task force investigations into complex fraud schemes that crossed agency boundaries. This history suggests that the Department's Recovery Act efforts to establish an effective set of safeguards or internal controls to prevent fraudulent activity should be a priority.

OVERSIGHT STRATEGY

In carrying out our oversight responsibilities, the Office of Inspector General plans to initiate real-time reviews and, where needed, rapid investigations of the Department's Recovery Act activities. Our proactive strategy is designed to aid the Department in enhancing program efficiencies and preventing or quickly detecting the misuse of funds. For instance, we have already begun an aggressive effort to provide fraud awareness briefings throughout the Department to alert program officials about potential schemes and acquaint them with the investigative responsibilities of the Office of Inspector General. These briefings have proven to be particularly useful to program officials and have, in a number of instances, facilitated their ability to recognize fraud and bring those matters to our attention. We have also coordinated our efforts with the Government Accountability Office (GAO) and plan to work with state and local oversight organizations to make the most efficient use of resources at all levels of government. Under the Department's Cooperative Audit Strategy with management and operating contractors, we recently issued supplemental planning guidance for the contractors' internal auditors requesting that they incorporate Recovery Act objectives in their annual audit plans.

We recognize that the Department has initiated a number of efforts to help ensure that it achieves the transparency and accountability objectives of the Recovery Act. In particular, the Department is actively involved in identifying program and activity-specific risks and has begun to develop plans to address those risks. It has also started to update information systems to provide accountability and transparency over Recovery Act expenditures and performance results. In addition, the Department has requested program and project-level operating plans from each of its major program elements detailing its risk mitigation strategies, internal controls, performance measures, and methods for the collection and reporting of data. Program officials also reported that they have reached out to potential recipients of funds to stress the importance of meeting Recovery Act objectives. These efforts, when complete, should help position the Department to satisfy its Recovery Act responsibilities.

MANAGEMENT REACTION

In commenting on our report, management indicated that it had taken a number of corrective actions to address specific problems identified in our prior reviews. In particular, management noted that the GAO recently recognized progress made by the Department in the areas of contract and project management and has narrowed the scope of this high-risk area to focus on only two major programs. In addition, the Department established a program to provide assistance to field sites for awarding and administering contracts as part of its contract management improvement strategy. Management agreed to re-evaluate the potential risks identified in our report at all sites in light of the significant additional funding provided under the Recovery Act.

During these challenging times, we look forward to working with the Department to ensure that goals and objectives of the Recovery Act are met and that the best interests of the citizens of the United States are protected.

Attachment

cc: Office of the Deputy Secretary
Administrator, National Nuclear Security Administration
Office of the Under Secretary of Energy
Acting Assistant Secretary for Environmental Management
Acting Assistant Secretary for Fossil Energy
Acting Assistant Secretary, Office of Electricity Delivery and Energy Reliability
Principal Deputy Assistant Secretary, Office of Energy Efficiency and Renewable Energy
Acting Director, Office of Science
Chief of Staff
Chief Financial Officer
Director, Office of Management

SPECIAL REPORT ON THE AMERICAN RECOVERY AND REINVESTMENT ACT AT THE DEPARTMENT OF ENERGY

TABLE OF CONTENTS

Background and Introduction 1

Identified Risk Areas 3

Department of Energy Response to Recovery Act 10

Office of Inspector General Recovery Act Oversight Strategy 11

Appendices

1. Office of Inspector General Reports by Risk Area..15

2. Prior External Reports by Risk Area 21

Background and Introduction

The American Recovery and Reinvestment Act of 2009 (Recovery Act) was signed into law on February 17, 2009, as a way to, among other things, jumpstart the U.S. economy, create or save millions of jobs, spur technological advances in science and health, and invest in environmental protection activities. The Recovery Act will require agencies to implement an unprecedented level of transparency and accountability that will permit the American people to determine how and for what purpose their tax dollars are being spent. To assist Federal agencies with carrying out their Recovery Act responsibilities, the Office of Management and Budget (OMB) recently issued guidance designed to meet crucial accountability objectives regarding the distribution of funds, transparency of agency efforts to the public, and achievement of program goals.

As part of the Recovery Act, the Department of Energy (Department) was appropriated more than $38 billion to support a number of major initiatives. Specifically, the Offices of:

- Energy Efficiency and Renewable Energy will receive nearly $17 billion to support various programs such as improving the energy efficiency of low-income housing, conducting energy research and development projects, and studying alternative fuels for vehicles;
- Chief Financial Officer will be provided with $6 billion as part of its loan program for new or significantly improved energy production technologies that avoid, reduce, or sequester air pollutants and other greenhouse gases;
- Environmental Management has been authorized nearly $6 billion to clean up environmental contamination resulting from Cold War manufacturing activities;
- Electricity Delivery and Energy Reliability will have $4.5 billion available, most of which is dedicated to support modernization of the Nation's electrical grid;
- Fossil Energy will receive $3.4 billion to support research and development activities such as carbon capture and storage; and,
- Science is expected to be provided with $1.6 billion to further enhance ongoing research efforts.

These funds will have significant impacts on existing Departmental missions. For example, the additional Recovery Act funds will increase the Department's ability to make or guarantee loans up to approximately $127 billion.

Because of our day-to-day work evaluating program operations, the Office of Inspector General (OIG) has a unique insight into the challenges the Department faces in its Recovery Act endeavors. As such, we have leveraged our perspective to outline risks that the Department is likely to confront as it works to finalize its stimulus activities. The body of work on which this report is based has resulted in incremental improvements in operations and management practices (See Appendix 1). Our past work, considered in today's light, is likely to be useful in helping the Department avoid the problems that could cause failures or adversely impact planned initiatives. To that end, this report provides "lessons learned" and suggests mitigation approaches that the Department should employ to reduce the risks associated with managing the unprecedented levels of Recovery Act funding. Specifically, our report:

- Identifies specific risks that we discovered during past reviews and investigations in areas such as fund accounting and reporting, grants and cooperative agreements, contract management, and loan guarantees;

- Suggests actions that should be considered during Recovery Act planning and program execution to help reduce the likelihood that the same or similar problems will recur;

- Describes the Department's initial efforts to identify risks and to develop strategies to help ensure that Recovery Act goals and objectives are satisfied; and,

- Outlines the OIG's risk-based approach to oversight and planned means of satisfying our Recovery Act review and investigative responsibilities.

Identified Risk Areas

The Recovery Act will inject a significant amount of funding into Department programs that must be expended and managed over a short time-frame. In addition, the requirements for agencies to implement unprecedented levels of transparency and accountability will present challenges that even the most well managed programs may find daunting. Under these circumstances and based on past experience, we believe that a number of activities carried out by the Department need to be closely managed to help ensure that they satisfy Recovery Act goals. These areas include funding accountability and reporting, awarding and monitoring of grants and cooperative agreements, contract management, and management of loan programs.

Funding Accountability and Reporting

Maintaining complete transparency of accounting and related reporting requirements are two key activities necessary to meet the Recovery Act objectives. However, the influx of significant funding presents new challenges and risks that the Department will need to address. Specifically, OMB Implementing Guidance directs agencies not to co-mingle Recovery Act funds with other appropriations, a mandate that will require the Department to effectively track costs. Efforts such as this can be challenging, as noted during our prior reviews of Departmental accounting practices. In particular, we identified Department facilities and sites that were unable to reconcile differences between the costs reported in financial systems and expenditure levels reported in project documentation.

Programs designed to help ensure that reported performance is complete, accurate, and transparent to the public could also be at risk of not achieving desired Recovery Act objectives. For example, we previously reported that certain programs were unable to provide complete and accurate information to demonstrate the progress of their programs. Notably, program elements had not reported performance information that was measurable, meaningful or sufficient to gauge the progress of ongoing initiatives. We noted in 2006 that the Department had not established or collected meaningful performance metrics to evaluate the cost-benefit of grants distributed through the State Energy Program. Even when energy savings performance data was submitted to program officials as required, the Department had not acted to validate or compare actual results to those planned. Investigations in other program areas also revealed instances of fabrication of data relating to the quality and progress of work completed, including the submission of false testing certifications and inaccurate information about compliance with safety requirements.

To address the risk that program results may not be properly supported and reported, management should:

- Ensure that mechanisms are in place to accurately account for funds as required by the Recovery Act; and,

- Define appropriate, quantifiable performance metrics that measure the progress of programs funded by the Recovery Act and validate the results at intervals necessary to meet OMB reporting requirements.

As stressed by the National Academy of Public Administration in a recent report, such controls are critical to establishing performance metrics that can serve as a mechanism to monitor performance and ensure accountability. Also, without adequate accounting of funds and performance reporting that includes periodic validation of results, taxpayers' confidence that Recovery Act projects are meeting intended goals may be eroded.

Awarding and Monitoring Grants and Cooperative Agreements

Grants and cooperative agreements are financial assistance tools used by the Department to fund many of its research and development activities that support advances in energy-efficient technologies and enhance the Nation's economic, environmental, and energy security. These financial instruments are also the primary means for deploying funds for scientific research to educational and other research organizations. Based on preliminary plans, the Department projects that it will disburse billions of dollars through grants and cooperative agreements, many related to energy efficiency, science, fossil energy, and electricity research and development. While the use of grants and cooperative agreements can be an effective way to fund various initiatives, these types of financial assistance tools also carry a number of demonstrated risks.

A prominent risk that we identified in the past is that officials may not have always adequately focused on ensuring that projects funded through cooperative agreements were initially evaluated for financial and business viability. For instance, our prior review of selected energy-related cooperative agreements found that the Department made an award to an entity for a major research and development project even though the recipient had been having financial and operational difficulties for years. The recipient ultimately filed for bankruptcy and the project did not meet its final objective. In that particular example, we observed that each Federal project manager had up to 50 projects to oversee – limiting their ability to effectively monitor performance. In another case, certain projects related to energy research were funded even though program officials did not always know what the projects would cost or the scope of the effort.

Our reviews have also established that program officials did not always take action to mitigate performance-related risks through effective monitoring of grants and cooperative agreements. For instance, officials did not adequately monitor a fuel-cell development project and continued to fund the effort through a cooperative agreement even though the business partner determined that the market no longer supported the need for the end-product. In addition, recipients of awards were not always monitored to determine whether significant costs were properly supported. In certain particularly troubling cases, officials had not ensured that funds were used for their intended purpose. For example, reviews and investigations revealed that Federal funds had been inappropriately used to expand a golf course, improve city-owned water supply systems, and procure personal luxury items – purchases for purposes outside the scope of the financial assistance agreement.

A recently released report by the National Procurement Fraud Task Force, which includes the U.S. Department of Justice, the Federal Bureau of Investigation and many Offices of Inspector General, has highlighted risks that grant awarding agencies often focused only on awarding the grant money and did not devote sufficient resources to the oversight of how those funds were spent. Members of the Task Force noted that some potential fraudulent acts that may be encountered are the use of grant funds for unrelated work, misrepresenting progress made for work funded by the grant, and falsification of data submitted by the grantee. Indeed, our investigative work is consistent with Task Force findings. We have, for instance, identified grantees that received Federal monies from multiple agencies for the same work and used Department funds for expenses outside the scope of the grant.

To prepare for the vast increase in projects funded through grants and cooperative agreements, and to address the risks we have previously identified, the Department should take steps to:

- Develop aggressive safeguards to ensure that financial and business risks are adequately assessed and addressed prior to initial award and that performance is monitored throughout the life-cycle;

- Maintain Federal project manager-to-financial assistance awards ratios as necessary to ensure that projects receive adequate monitoring and oversight; and,

- Adjust project management techniques to ensure the transparency of project data and ensure that specific OMB and Recovery Act monitoring and reporting requirements are met.

Controls such as these are essential to ensuring that the massive surge in funds to be distributed through grants and cooperative agreements is adequately controlled and monitored. Based on current plans, these funding mechanisms are to form a significant part of Recovery Act outlays and are therefore likely to be critical to achieving desired economic stimulus.

Contract Management

The Department uses contracts, including numerous subcontracts, as the primary mechanism for accomplishing its mission. In particular, about 90 percent of the Department's workforce is made up of contractor personnel. Similar to its normal mission activities, the Department anticipates that a significant portion of the work to be completed using Recovery Act funds will be done through new and existing contracts. As has been consistently demonstrated by the OIG and other government oversight organizations, contract management weaknesses across the Department represent a risk that, if not mitigated, is likely to increase the potential for fraud, waste, and abuse of Recovery Act funds.

Projects not achieving their intended objectives within estimated cost, scope, and schedule has been a recurring problem or theme across the complex. On many occasions over the past five years, we have identified various projects that significantly exceeded their initial scope and cost estimates and were not completed on time. A number of these projects were in areas that are now projected to receive substantial Recovery Act funds, particularly environmental cleanup and waste management.

Specific weaknesses we identified involved incomplete project planning, inadequate performance metrics, insufficient contracting and monitoring staff, and ineffective change control processes. Performance-based incentive fees were also not always adequately managed. As a result, we found one instance where a contractor received incentive awards for work that could not be completed and another where incentive fees were disproportionately high for the work performed. The majority of the problems we discovered could have been mitigated by effective Federal contract oversight and project management. In addition, we noted that a comprehensive and effective risk management strategy could have helped organizations identify and mitigate risks that lead to issues such as cost increases and schedule delays.

The risk that contractors, including sub-contractors, claim and receive payments for unallowable costs could also increase as the Department expands its contracting activities under the Recovery Act. Our review of work in this area has demonstrated that these issues are recurring problems across many of the Department's sites and programs. In one recent report, for example, we disclosed that a support service contractor at a national laboratory received payments that were questionable, inappropriate, excessive, or unsupported. At least one investigation resulted in multiple criminal convictions for employees of a Department contractor who carried out a scheme to submit fictitious bills for reimbursement and launder money through related companies. In addition, our annual reviews of contractor-claimed costs routinely identify questionable costs that may be unallowable.

As we also recently noted in our report on *Management Challenges at the Department of Energy* (DOE/IG-0808, December 2008), contract administration remains a significant vulnerability. The Government Accountability Office (GAO) recognized progress made by certain Department programs relating to contract management, including both contract administration and project management. In its January 2009 High-Risk Series report, GAO noted, however, that two major programs continue to be at high risk for fraud, waste, abuse, and mismanagement. In response to contracting weaknesses, the Department indicated that it has taken numerous corrective actions and developed an action plan to address remaining problems.

As part of ongoing efforts to improve its contract management activities, and as it develops a Recovery Act risk mitigation plan, we suggest that the Department take steps to:

- Implement effective contract and project management practices to better manage scope, cost, and schedule of new and existing contracts;
- Establish performance metrics to effectively measure contractor progress and results;
- Ensure that performance-based incentive fees are appropriate; and,
- Evaluate contract costs, as needed, to determine whether they are reasonable, allowable, and allocable.

The actions described above should help prepare the Department to address the contracting associated risks anticipated with increased Recovery Act funding.

Direct Loans and Loan Guarantees

Based on the Recovery Act and previously authorized programs, the Department has been authorized to make or guarantee loans totaling up to $127.5 billion for a variety of energy related purposes. The Department is responsible for soliciting and evaluating loan applications, approving loan guarantees, and monitoring project and loan guarantee performance. While this program carries with it many potential economic and energy related rewards when projects meet their objectives, both the OIG and the GAO have noted that there are a number of risks associated with administering the program.

The Department has been engaged in significant preparatory work developing policies and procedures to mitigate risks associated with loan activities. Based on an analysis of similar loan guarantee programs administered by other Federal agencies, we have reported on several risks that the Department should consider as it moves forward. Specifically, in 2007, we identified risks associated with adequately evaluating loan proposals and borrowers' ability to repay, monitoring project performance, and acting appropriately to protect the Government's interest in the case of defaults. Federal agencies' experience in such programs has also shown that there is a risk that participating lenders do not always comply with established monitoring procedures. The Department may also be vulnerable to this risk because, for example, it is proposing that lenders participating in loan guarantees provide monitoring services.

Another critical element we have reported on several occasions relates to whether the loan program is adequately staffed. In 2007, we initially noted that our discussions with Federal agencies showed that a capable and proficient staff is an essential element to establishing an effective loan program and minimizing costly mistakes. More recently, in 2009, we observed that the Department did not have adequate staff to administer its loan program. Although the Department had finalized its policies and procedures, the lack of adequate staffing presents a significant risk to the Department in effectively administering this nationally and economically important program.

Accordingly, to help ensure that its loan programs are successful, we suggest that the Department:

- Ensure adequate staff are available to implement the loan programs; and,

- Effectively evaluate loan proposals and borrowers' ability to repay, monitor projects to identify early warning signs of performance problems, and act appropriately to protect the taxpayers' interests in the event of loan guarantee defaults.

By mitigating risks inherent in its loan programs, the Department may be able to minimize the overall cost of the program to the taxpayers and improve the timeliness of its loan application evaluations, approvals and disbursements.

Department of Energy Response to Recovery Act

To prepare for the unprecedented levels of additional funding that many of its programs will receive as a result of the Recovery Act, the Department has initiated action to address the challenges associated with meeting transparency and accountability requirements. Officials commented that they have taken corrective actions related to many of the findings identified in previous audits and were working to implement additional actions. After reviewing a draft of our report, management also acknowledged that it was important to re-evaluate potential risks associated with past reports at sites other than those included in the initial reviews and in light of the significant additional funding provided under the Recovery Act.

Based on our preliminary meetings and information obtained from the Department, we learned that some of the specific actions that management is in the process of taking include:

- Identifying risks that the Department, and its programs in particular, may encounter as they prepare to fulfill their obligations under the Recovery Act;

- Developing risk mitigation strategies;

- Preparing spending plans that emphasized timely obligation of funds;

- Performing outreach to potential fund recipients to emphasize their responsibilities for transparency and accountability for the funds with which they are entrusted;

- Developing standardized language for grant and contract recipients to meet the objectives of the Recovery Act;

- Creating program and project-level implementation plans detailing risk mitigation strategies, internal controls, performance measures, and methods for the collection and reporting of data; and,

- Ensuring that Headquarters and field managers certify that they recognize responsibility for accountability and internal controls over their respective programs.

As an example of its efforts, the Office of Environmental Management recently brought together its field office managers and representatives from its major contractors to emphasize their responsibilities for transparency and accountability in the expenditure of Recovery Act funds. In addition, the Chief Financial Officer is leading Recovery Act accountability efforts and is working with each of the program offices to identify risks, develop related mitigation strategies, and implement performance reporting requirements. Program officials also told us that they are developing alternative means to mitigate recognized risks such as staffing shortages by hiring term and contractor employees and making procedural changes to their programs.

Office of Inspector General Recovery Act Oversight Strategy

The overarching goal of our oversight strategy is to ensure that the taxpayers' interests are protected. As specified by the Recovery Act, the OIG will provide oversight critical to economic recovery. In particular, we have adopted a risk-based review and investigative strategy that is consistent with OMB accountability objectives. As part of that strategy, the OIG has developed a Ten-Point Program that includes, among other things, evaluations of internal controls over funds management, whistleblower protection programs, and fraud awareness activities.

We have produced a risk-based approach to oversee issues relevant to Recovery Act funding. Oversight will occur through a multi-faceted approach, including the following activities:

- Initially concentrating on reviewing the Department's internal control structure and management of programs exceeding $500 million;
- Examining the efficiency and effectiveness of funds distribution by the Department to state and local governments;
- Examining the use of funds, through transaction testing, by contractors, subcontractors, and financial assistance recipients;
- Reviewing Department developed metrics that are intended to gauge program success;
- Assessing program performance and outcomes by comparing actual results to metrics on a real-time basis;
- Providing fraud awareness briefings throughout the Department;
- Refining existing relationships with state and local law enforcement, geared to aggressively pursuing fraudulent activities;
- Expanding and enhancing Hotline capabilities to respond to allegations of fraud, waste, and abuse; and,
- Expanding whistleblower protection programs and complaint evaluations.

In addition, the Inspector General will serve as a member on the Recovery Act Accountability and Transparency Board, an organization established by the Recovery Act to coordinate government-wide oversight.

As we execute our program, we expect there to be a significant increase in reviews, investigations, and whistleblower and Hotline complaints. Based on prior experience, we are anticipating an additional 500 Hotline complaints, 200 criminal investigations, and 30 to 35 retaliation complaints each year. We also anticipate additional reviews of how the Department, its contractors, and other recipients account for and use Recovery Act funds. To help ensure success, the OIG plans to realign existing employees and increase overall staffing to facilitate additional reviews, investigations, and whistleblower protection and complaint evaluations.

While many activities to oversee Recovery Act funds are in their planning stage, numerous other actions are already underway. For example, several reviews that address the adequacy of controls over programs that are likely to be the primary vehicles for distributing funds are currently in progress. Similarly, we have adjusted our annual risk assessment process to identify the highest risk stimulus-related areas within the Department, including those in the energy, environmental, and science programs. We have also coordinated our efforts with the GAO and plan to work closely with state and local oversight organizations to make the most efficient use of oversight resources. Finally, under the Department's Cooperative Audit Strategy with management and operating contractors, we recently issued supplemental planning guidance for the contractors' internal auditors to incorporate Recovery Act objectives in their annual audit plans.

Potential Impacts

The Department will undoubtedly encounter various challenges while attempting to provide adequate accountability and transparency of its activities designed to meet the objectives of the Recovery Act. Although many of these challenges will require significant efforts on the part of Departmental programs, by aggressively addressing known problem areas early, the ability to mitigate the risks identified in this report may be greatly enhanced.

However, inaction may hamper the Department's ability to achieve the objectives set forth in the Recovery Act and related implementing guidance issued by OMB. For instance, absent effective tracking of costs and reporting of program progress, stimulus activities may lose credibility with and support of taxpayers. Additionally, failing to address known weaknesses related to the management of contracts and financial assistance tools such as grants and cooperative agreements may result in projects that exceed estimated costs, take longer than necessary to complete, and ultimately do not meet their intended objectives.

In addition to our reviews, external organizations such as the GAO, the National Academy of Public Administration, and the National Procurement Fraud Task Force have also urged implementation of effective controls over the same or similar areas identified by our previous body of work (See Appendix 2). In particular, the GAO disclosed that the Department could encounter significant financial risks without an effective loan guarantee program. Furthermore, the National Procurement Fraud Task Force recently issued a guide to preventing and detecting grant related fraud and noted that a significant amount of Federal dollars are lost each year to grant fraud.

OFFICE OF INSPECTOR GENERAL REPORTS BY RISK AREA

REPORT	KEY FINDINGS	DEMONSTRATED RISKS
Funding Accountability and Reporting		
W76 Life Extension Project (DOE/IG-0729, May 2006)	The program was at risk of not achieving the first production unit within the established scope, schedule, and cost parameters. Problems occurred because the W76 project plan was not completed until more than five years after the project began. Individual site schedules were also not consistent with the overall master schedule. Further, reasons for changes to the project's baseline were not documented.	• Program goals not achieved • Use of funds not transparent • Project delays and/or cost overruns
Department of Energy Contractor Home Office Expenses (DOE/IG-0676, February 2005)	The Department did not always ensure that reimbursements to contractors were limited to an equitable share of their home office expenses. They agreed to pay for home office expenses that were duplicative, not adequately documented, improperly calculated, and unallowable. This occurred because contracting officials did not adequately review contractor cost proposals, nor did they require the contractor to report actual incurred expenses.	• Unauthorized use of funds • Use of funds not transparent
Restoration of the Monticello Mill Site at Monticello, Utah (DOE/IG-0665, October 2004)	Over 60% of the funding provided through a cooperative agreement for the restoration and long-term maintenance of the Site was spent on non-Site related projects such as golf course expansion and public water supply system improvements, for which the Government received no direct benefit. This occurred because the Department had not properly structured and did not require compliance with certain terms of the cooperative agreement. Additionally, the city inter-mingled the Departmental funds with its General Fund.	• Use of funds not transparent • Unauthorized use of funds • Project delays and/or cost overruns • Program goals not achieved
Idaho National Engineering and Environmental Laboratory's Strategic Initiative Fund (DOE/IG-0601, May 2003)	A Department contractor utilized funds specifically set aside for marketing mission development opportunities for questionable purposes, such as supplementing their Laboratory Directed Research and Development program and paying for program office activities; and for activities that did not directly support the laboratory's primary mission. This occurred because, in the absence of Department policy or clear contractual requirements, the contractor	• Unauthorized use of funds • Program goals not achieved • Use of funds not transparent

REPORT	KEY FINDINGS	DEMONSTRATED RISKS
	established its own very broad informal guidelines to manage the fund.	
Oversight Funds Provided to Local Governments in the State of Nevada **(DOE/IG-0600, May 2003)**	Departmental funds provided to the State of Nevada for oversight of the Yucca Mountain Project were used for prohibited activities such as hiring non-oversight lobbyists and attorneys, sponsoring anti-Yucca Mountain Project events, and purchasing supplies, materials, and services for their own operations. Interest earned from these funds was also retained instead of reinvested as required. The responsible program office did not sufficiently monitor the use of oversight funds received by the state because it had not ensured that program plans were completed before providing the funding. Additionally, funds were not provided based on actual expenditures nor was the allowability of expenditures reviewed.	• Unauthorized use of funds • Program goals not achieved • Use of funds not transparent
Awarding and Monitoring Grants and Cooperative Agreements		
Management Controls over Monitoring and Closeout of Small Business Innovation Research Phase II Grants **(OAS-M-08-09, July 2008)**	The Department was not closing out SBIR II grants in a timely manner, with many grants remaining open over three years after the completion of the grant term. This occurred because problems with insufficient staffing and resources required them to focus their attention on active awards rather than grant close out.	• Use of funds not transparent • Unauthorized use of funds • Project delays and/or cost overruns • Program goals not achieved
Management Controls over the State Energy Program's Formula Grants **(OAS-M-06-05, April 2006)**	The Department did not regularly perform on-site monitoring of State Energy Offices to ensure that grant funds were being used for their intended purpose and had not established or collected meaningful performance metrics to determine the cost/benefit of the Program in meeting its goals. Additionally, while consolidating their six regional offices at the National Energy Technology Laboratory and the Golden Field Office, Energy Efficiency and Renewable Energy had not specified how it would assign responsibility for or staff the program monitoring function within these entities.	• Unauthorized use of funds • Program goals not achieved

REPORT	KEY FINDINGS	DEMONSTRATED RISKS
Management of Fossil Energy Cooperative Agreements (DOE/IG-0692, July 2005)	Issues reported with cooperative agreements, due in part to uncorrected previously identified issues and a lack of Federal monitoring and oversight, included the following: • Not subjected to sufficiently detailed pre-award analysis; • Projects not always adequately defined prior to award; • Lack of risk management plans; • Funds obligated prior to making a decision to proceed; • No cost analysis for scope reduction without funding decrease; • Some required technical and financial reports waived by Department officials; and, • No prior performance review of potential awardees before award.	• Project delays and/or cost overruns • Program goals not achieved
Selected Energy Efficiency and Renewable Energy Projects (DOE/IG-0689, May 2005)	Federal project managers either had not completed or did not document technical and merit reviews of the projects. They also had not performed required site visits, and in some cases were unfamiliar with the nature and progress of the agreements for which they were responsible. These problems occurred because the Department did not devote sufficient attention or resources to managing its cooperative agreements. Project management officials were responsible for monitoring up to 50 projects simultaneously.	• Use of funds not transparent • Unauthorized use of funds • Project delays and/or cost overruns • Program goals not achieved
Management Controls over Administration of the WERC Project (OAS-M-04-03, May 2004)	The Department did not always ensure that this Congressionally directed project was accomplishing its goals or that reimbursed costs were appropriate, because officials were not substantially involved in monitoring the project. Specifically, they were not always aware of project activities and accepted documents for planning, budgeting, and expenditures that lacked the amount of detail needed for monitoring.	• Use of funds not transparent • Unauthorized use of funds • Program goals not achieved
The McNeil Biomass Project (DOE/IG-0630, December 2003)	We found that the Department continued to provide financial assistance to the project even though there was little or no progress in meeting annual programmatic performance objectives because program managers did not devote adequate attention to monitoring progress against project milestones.	• Project delays and/or cost overruns • Program goals not achieved

REPORT	KEY FINDINGS	DEMONSTRATED RISKS
Inspection of Savannah River Operations Office Management of Emergency Response and Law Enforcement-Related Grants (DOE/IG-0604, June 2003)	The Department was not adequately managing grants to Georgia and South Carolina and did not have documentation to support whether or not the grant recipients were on schedule and meeting milestones. Specifically, the Department was not receiving many of the required deliverables and was also not following up on the delinquent deliverables. Furthermore, there was not a formal system in place for tracking grant deliverables.	• Project delays and/or cost overruns • Program goals not achieved
Contract Management		
Contract Transition Activities at the Nevada Test Site (OAS-M-08-02, November 2007)	Contract transition costs and activities were not fully effective in safeguarding Federal records and ensuring contract terms and Federal regulations were followed. Specifically, employee concern records were not retained due to confusion regarding contractual requirements, and questionable relocation costs were incurred.	• Unauthorized use of funds • Program goals not achieved
Work Order Estimate and Cost Issues for Site Support Services at Los Alamos National Laboratory (DOE/IG-0780, October 2007)	The actual costs for Los Alamos National Laboratory's support services contractor exceeded estimated costs by more than 20% for work order tasks over 75% of the time. In addition, questionable labor and material charges were also found related to this contractor. These issues occurred due to internal control weaknesses associated with the laboratory's work control system.	• Use of funds not transparent • Unauthorized use of funds • Program goals not achieved
Performance-Based Contract Incentives at the Hanford Site (DOE/IG-0739, September 2006)	The Department's limited financial resources were applied to incentivize environmental cleanup end-states that were not readily attainable and fees were paid for work that could not be completed. This occurred because the performance-based contract incentives that they developed were not realistic, achievable or adaptable to changing circumstances.	• Use of funds not transparent • Program goals not achieved
Management Controls over Performance Fees in the Idaho National	A number of the Department's performance fees were disproportionately high for the work performed and/or were implemented well after the associated performance period began. This resulted from a lack of balance	• Program goals not achieved • Unauthorized use of funds

REPORT	KEY FINDINGS	DEMONSTRATED RISKS
Laboratory Contract (OAS-M-06-07, August 2006)	between achieving programmatic priorities and the difficulty level of performing the work, as well as ineffective communication between Headquarters and Field officials regarding their respective expectations.	
Follow-up Audit Report on the Department of Energy's Performance of the Miamisburg Closure Project (DOE/IG-0721, March 2006)	Cost increases, schedule delays, pending milestones that appear unlikely to be met, and requested reductions in contract requirements have all been issues related to the project. While additional work scope was the primary driver for these issues, we found that the Department had not adequately planned for uncertainties that it was aware of before and after awarding the current contract, including employee pension costs and soil volumes requiring remediation.	• Project delays and/or cost overruns • Program goals not achieved
Report on Management Controls Over Subcontract Administration at the National Security Laboratories (OAS-M-04-06, August 2004)	The Laboratories did not always ensure that audits were conducted, questioned costs were resolved, and completed subcontracts were closed in a timely manner, because they lacked appropriate controls and adequate staffing, and because the National Nuclear Security Administration had not developed specific performance measures related to subcontract administration.	• Use of funds not transparent • Unauthorized use of funds
Management Controls Over Subcontract Administration by the National Renewable Energy Laboratory (OAS-M-04-02, March 2004)	Problems existed with the National Renewable Energy Laboratory's procurement cycle, such as (1) subcontractor acquired property that could not be located, (2) experimental property not included in inventories, and (3) failure to de-obligate unexpended funds or recover property associated with completed or expired contracts. These issues occurred because the laboratory did not follow Departmental regulations on accounting for property, inventory requirements, and coordination with subcontractors. In addition, a focused performance measure for contract closeout had not been developed.	• Use of funds not transparent • Unauthorized use of funds • Program goals not achieved
Direct Loans and Loan Guarantees		
The Department of Energy's Loan Guarantee Program for	The Department's Loan Guarantee Program was understaffed by as many as 21 employees for it normal workload in fiscal year 2009. This staffing limitation led management to focus resources on issuing	• Funds not provided in a timely, fair, or reasonable manner • Program goals not achieved

REPORT	KEY FINDINGS	DEMONSTRATED RISKS
Innovative Energy Technologies (DOE/IG-0812, February 2009)	new solicitations at the expense of completing additional key controls to ensure that the program was well managed and that objectives were accomplished.	
Loan Guarantees for Innovative Energy Technologies (DOE/IG-0777, September 2007)	While the Department was implementing the Loan Guarantee Program, this report highlighted some lessons learned from past experience that should have helped foster the program's success. Specific areas covered included program staffing, risk management, monitoring strategy, and liquidation.	• Funds not provided in a timely, fair, or reasonable manner • Program goals not achieved

PRIOR EXTERNAL REPORTS BY RISK AREA

REPORT	KEY FINDINGS	DEMONSTRATED RISKS
Government Accountability Office		
American Recovery and Reinvestment Act – GAO's Role in Helping to Ensure Accountability and Transparency (GAO-09-453T, March 2009)	GAO's bimonthly reviews of selected states and localities will examine how Recovery Act funds are being used and whether they are achieving the stated purposes of the Act. Lessons learned and best practices noted in the report which can be helpful in addressing challenges to implementing the Recovery Act include fraud prevention, contract management, and grants accountability. It presented specific practices in each area that should help ensure the accountability and transparency over the use of Recovery Act funds.	• Use of funds not transparent • Unauthorized use of funds • Project delays and/or cost overruns • Program goals not achieved
Contract and Project Management Concerns at the National Nuclear Security Administration and Office of Environmental Management (GAO-09-406T, March 2009)	The cost increases and schedule delays for most of the projects GAO reviewed occurred as a result of inconsistent application of project management tools and techniques on the part of both the Department and its contractors. Preliminary results from their review of a current National Nuclear Security Administration project indicate that project management concerns continue. Specifically, officials had not conducted a risk analysis on their current schedule using statistical techniques, and therefore could not adequately state their level of confidence in meeting the project's completion date.	• Use of funds not transparent • Unauthorized use of funds • Project delays and/or cost overruns • Program goals not achieved
High-Risk Series – An Update (GAO-09-271, January 2009).	This was GAO's presentation on the status of the 30 areas across the Federal government that it has designated as high-risk. GAO recognized progress in resolving certain issues, but noted that contract management was still considered a high risk area. GAO specifically found that 9 of 12 major construction projects, with total costs of about $27 billion, exceeded original cost or schedule estimates, principally because of ineffective project oversight and poor contractor management by the Department.	• Use of funds not transparent • Project delays and/or cost overruns • Program goals not achieved
New Loan Guarantee Program Should Complete Activities Necessary for Effective and	GAO reported that the Department is not well positioned to manage the loan guarantee program effectively and maintain accountability because it has not completed a number of key management and internal control activities. As a result, the Department may not be able to process applications	• Funds not provided in a timely, fair, or reasonable manner • Program goals not achieved

REPORT	KEY FINDINGS	DEMONSTRATED RISKS
Accountable Program Management **(GAO-08-750, July 2008)**	efficiently and effectively, although it has begun to do so. They stated that the Department had not sufficiently determined the resources it will need or completed detailed policies, criteria, and procedures for evaluating applications, identifying eligible lenders, monitoring loans and lenders, estimating program costs, or accounting for the program.	
National Academy of Public Administration		
Office of Energy Efficiency and Renewable Energy: Reorganizing for Results **(September 2004)**	This report provides an assessment of the 2002 reorganization of the Department's Office of Energy Efficiency and Renewable Energy. The report included a number of forward-looking recommendations, such as developing indicators of program management performance and effectiveness to assess the results of the reorganization, creating mechanisms to hold staff accountable for new processes and procedures, and obtaining independent outside expertise to evaluate certain elements of its acquisition/financial assistance and project management operations.	• Funds not provided in a timely, fair, or reasonable manner • Project delays and/or cost overruns • Program goals not achieved
National Procurement Fraud Task Force		
A Guide to Grant Oversight and Best Practices for Combating Grant Fraud **(February 2009)**	The report recognized that a large part of Government dollars lost to fraud, waste, and abuse includes dollars lost to grant fraud, and prepared this White Paper to discuss recommendations for agencies to consider in preventing and detecting fraud, waste, and abuse in the grants they administer. The Task Force recommended the following: • Require the grantee to certify that its grant application statements are true and correct; • Provide grant fraud training; • Maintain regular communication; • Take steps in the grants they award to create transparency; • Share information within and between agencies; and, • Provide active oversight and monitoring of the grantee by both grant administrators and the Office of Inspector General.	• Use of funds not transparent • Unauthorized use of funds • Project delays and/or cost overruns • Program goals not achieved

IG Report No. OAS-RA-09-01

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 they are applicable to you:

1. What additional background information about the selection, scheduling, scope, or procedures of the 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 which 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 Judy Garland-Smith (202) 586-7828.

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://www.ig.energy.gov

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