



Highlights of [GAO-08-4](#), a report to the Chairwoman, Subcommittee on Immigration, Citizenship, Refugees, Border Security, and International Law, Committee on the Judiciary, House of Representatives

Why GAO Did This Study

Congress enacted a program to compensate Department of Energy employees and contractors in the atomic weapons industry who developed work-related illnesses. Labor administers the program using estimates of workers' likely radiation exposure to decide claims. The estimates are produced by Health and Human Services' (HHS) National Institute for Occupational Safety and Health (NIOSH) and reviewed by the Advisory Board on Radiation and Worker Health. NIOSH awarded a contract to Oak Ridge Associated Universities (ORAU) to help carry out its work. GAO examined: (1) costs and oversight of NIOSH's contracts, (2) implementation of the conflict of interest policy for NIOSH and its contractors, (3) the extent of Labor's involvement in NIOSH's activities and actions to deny benefits, and (4) challenges to advisory board independence and options to enhance it. GAO reviewed contract files, examined Labor's comments on NIOSH documents, and analyzed data on cases sent to NIOSH for rework.

What GAO Recommends

GAO recommends improving HHS contractor oversight and transparency of Labor's involvement in NIOSH activities, to which HHS and Labor agreed, and suggests that Congress consider options to enhance board independence.

To view the full product, including the scope and methodology, click on [GAO-08-4](#). For more information, contact Daniel Bertoni at (202) 512-7215 or bertonid@gao.gov.

ENERGY EMPLOYEES COMPENSATION

Actions to Promote Contract Oversight, Transparency of Labor's Involvement, and Independence of Advisory Board Could Strengthen Program

What GAO Found

ORAU's contract costs almost tripled from \$70.1 million to \$198.7 million because the original cost estimate significantly underestimated program complexity and resources needed. The contractor ran into complexities such as unavailable or incomplete radiation monitoring records, forcing the use of more staff resources to estimate workers' radiation exposure. Labor costs were particularly expensive because of the need for technical expertise. NIOSH established procedures to monitor overall contractor performance and focused on expediting claims processing, achieving considerable progress. However, its oversight of contractor costs was insufficient and NIOSH relied primarily on external audits to validate labor charges. These audits are not a substitute for preventive controls needed to ensure that the agency reimburses only allowable costs charged by the contractor.

NIOSH has issued a comprehensive conflict of interest policy. Because there are a limited number of experts with knowledge of Energy sites, the contractor often hires individuals who previously worked at these sites, and this policy attempts to incorporate their input while avoiding conflicts of interest that could have a detrimental effect on claimants. Most policy provisions have been implemented, but with some delays. As a result, NIOSH has not yet audited disclosure forms or imposed any applicable penalties.

Labor's extensive involvement in commenting on draft NIOSH technical documents used to estimate radiation doses and returning cases to NIOSH for rework did not indicate a systematic effort to deny benefits paid to claimants, but Labor's rationale for its comments was not always transparent. A detailed explanation was needed for GAO to understand how certain comments made the NIOSH documents more clear and consistent and how this would facilitate Labor's adjudication of cases. For example, one comment suggested that NIOSH was being overly favorable to claimants and upwardly biasing their dose estimates by using data from a group of monitored workers at a particular site to estimate radiation doses for unmonitored workers at other sites. However, Labor explained it was seeking clarification to adjudicate cases where claimants might object to their estimate being based on a site where they had never worked. GAO's analysis of the 2,811 cases that Labor returned to NIOSH for rework as of March 2007 did not indicate an effort to deny benefits because 87 percent of the cases had less than a 50 percent probability of causation, based on NIOSH's initial dose reconstruction, and thus likely would have been denied.

While GAO did not find evidence that the advisory board was impeded in performing its statutory duties, issues pertaining to the board's funding structure, member appointment process, and support staff present challenges to its independence. Various options are available to enhance independence such as appropriating funds in a separate line item for the board, establishing bipartisan Congressional involvement in appointing board members, and developing procedures to ensure support staff is independent of the program.