

United States Government

Department of Energy

memorandum

DATE: June 24, 2009

Audit Report Number: OAS-L-09-10

REPLY TO

ATTN TO: IG-32 (A08ET058)

SUBJECT: Report on "Audit of Closure of Subcontracts at the Oak Ridge National Laboratory and East Tennessee Technology Park"

TO: Manager, Oak Ridge Office

INTRODUCTION AND OBJECTIVE

A significant portion of Federal funds expended at the Oak Ridge National Laboratory (ORNL) and the East Tennessee Technology Park (ETTP) are attributable to subcontracts for goods and services. In Fiscal Year (FY) 2008, \$744 million of ORNL's \$1.3 billion in total obligations, and \$131 million of ETTP's \$361 million in total obligations, were made for subcontracts. ORNL is managed by UT-Battelle, LLC (UT-Battelle) and ETTP is managed by Bechtel Jacobs Company LLC (Bechtel Jacobs) through prime contracts with the Department of Energy's (Department) Oak Ridge Office.

UT-Battelle and Bechtel Jacobs are expected to ensure that subcontracts are closed within a reasonable period of time after all actions are complete. Timely close-out actions of subcontracts are vital to, among other things, ensuring that unexpended funds are de-obligated so that they can be used for other purposes. In the absence of contractor benchmarks, we relied on Federal standards to determine a reasonable timeframe to measure subcontract close-out activities. According to the Federal Acquisition Regulations (FAR), Federal contracts are complete when the required goods or services have been delivered and accepted, and the Government has given notice that the contract is terminated or it has expired. The FAR suggests that cost-type contracts should be closed within 36 months of completion; firm-fixed-price contracts should be closed within 6 months completion; and other types of contracts, such as fixed-price contracts, should be closed within 20 months of completion. Close-out activities include settling indirect cost rates, obtaining final invoices, auditing contract files, and ensuring that excess funds are de-obligated.

The Office of Inspector General has issued a number of reports that identified problems with closing subcontracts in a timely manner. For example, in our "Report on Management Controls over Subcontract Administration at the National Security Laboratories" (OAS-M-04-06, August 2004), we identified 287 subcontracts at 3 sites that had been awaiting close-out for more than 3 years. In light of the significant expenditures for subcontracts, we initiated this audit to determine if subcontracts were being closed in a timely manner at ORNL and ETTP.

CONCLUSION AND OBSERVATIONS

UT-Battelle and Bechtel Jacobs had not always closed subcontracts at ORNL and ETTP, respectively, in a timely manner. UT-Battelle exceeded the FAR benchmarks on 285 subcontracts valued at \$497 million. Bechtel Jacobs exceeded the benchmarks on 40 subcontracts valued at more than \$126 million, including 20 subcontracts that it inherited from the predecessor ETTP contractor in 1998. For instance, as of January 2009:

- An analysis of the 285 UT-Battelle subcontracts showed UT-Battelle had exceeded the 36-month FAR benchmark on 53 cost-type subcontracts valued at nearly \$60 million. Some of these subcontracts had been completed as long ago as 1999. UT-Battelle also had a backlog of 219 firm-fixed-price and 13 fixed-price subcontracts valued at more than \$437 million awaiting closure for longer than the 6 and 20 month benchmarks, respectively; and,
- Similarly, 20 fixed-price Bechtel Jacobs subcontracts valued at \$118.3 million had been completed for more than 20 months. Additionally, Bechtel Jacobs had not closed, within FAR benchmarks, 20 subcontracts that were originally awarded by the predecessor ETTP contractor but transferred to Bechtel Jacobs when it became the management contractor at ETTP in April 1998. The subcontracts included 6 cost-type subcontracts valued at \$6.2 million and 14 fixed-price subcontracts valued at \$1.6 million.

We determined that subcontracts were not closed in a timely manner because the Oak Ridge Office had not included a requirement to focus on the timely closure of subcontracts in the UT-Battelle or Bechtel Jacobs contracts. Additionally, the Department had not included the timeliness of subcontract closures as part of its reviews of the contractors' purchasing systems. Consequently, the contractors did not consider close-out to be a high priority.

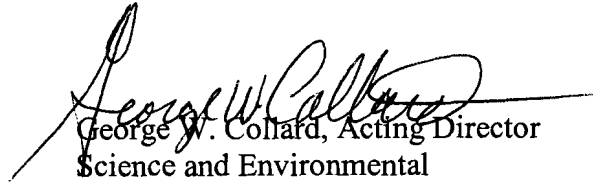
Failure to close subcontracts in a timely manner may unnecessarily encumber funds that could be de-obligated and used for other purposes, and preclude the protection and recovery of government-owned property provided to subcontractors. For instance, UT-Battelle and Bechtel Jacobs had \$2.2 million and \$1.7 million obligated, respectively, on completed subcontracts which remained open beyond the benchmarks. This issue becomes more significant in light of the work planned under the American Recovery and Reinvestment Act of 2009 (Recovery Act). The Oak Ridge Office will be receiving more than \$826 million in Recovery Act funds and will be relying on subcontractors to perform much of the work. Subcontracts funded by the Recovery Act must be closed in a timely manner so that unexpended funds can be de-obligated and used to achieve the Recovery Act's objectives.

SUGGESTED ACTIONS

To address the issue discussed above, we suggest that you direct the Contracting Officer to:

- Institute requirements or measures requiring timely close-out of subcontracts; and,
- Direct UT-Battelle and Bechtel Jacobs to close the specific subcontracts identified in this report and de-obligate excess funds.

No recommendations are being made in this report; therefore, a formal response is not required. We appreciate the cooperation of the Oak Ridge Office staff during the audit.



George W. Collard, Acting Director
Science and Environmental
Audits Division
Office of Inspector General

Attachment

cc: Team Leader, Audit Liaison, CF-1.2
Audit Liaison, Oak Ridge Office

SCOPE AND METHODOLOGY

This review was performed between June 2008 and June 2009 at the Oak Ridge Office, the Oak Ridge National Laboratory, and the East Tennessee Technology Park in Oak Ridge, TN. The scope of our review included subcontracts that had been completed but remained open during Fiscal Years (FY) 2007 and 2008. To accomplish our objective, we:

- Reviewed contract clauses pertaining to the administration of subcontracts;
- Reviewed policies and procedures for conducting cost reviews and closing subcontracts;
- Reviewed subcontractor cost reviews conducted in FY 2007 subcontracts;
- Reviewed internal controls over subcontracts relative to cost allowability;
- Judgmentally selected subcontracts for review;
- Reviewed listings of cost-type and fixed-price subcontracts pending closure; and,
- Held discussions with Department of Energy and contractor personnel.

We conducted this performance audit in accordance with generally accepted Government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our audit. We also assessed performance measures in accordance with the Government Performance and Results Act of 1993 and found that performance measures were developed for subcontract administration in general, but were not developed for subcontract close-outs specifically. We did not assess the reliability of computer processed data since it was not used to satisfy our audit objective. Management waived an exit conference.