

memorandum

DATE: January 30, 2009

REPLY TO:
ATTN OF: IG-40

SUBJECT: Letter Report on "Questionable Purchases at the Hanford Site," INS-L-09-02, S09IS002

TO: Manager, Richland Operations Office
Manager, Office of River Protection

This letter report provides the results of an Office of Inspector General inspection of questionable purchases at the Department of Energy's Hanford Site (Hanford). During a review of the procurement card program at the Fluor Hanford Company (Fluor), we learned that Fluor and another Hanford prime contractor, CH2M Hill Hanford Company (CH2M Hill), had used Government funds to purchase overtime meals for employees. In addition, we learned Fluor had used Government funds to purchase gift items that were given away to the public. The objective of this inspection was to determine if the purchase of overtime meals and gifts using Government funds was in compliance with applicable Federal regulations and policies.

BACKGROUND

The production of plutonium at Hanford ended in 1987, and currently the site is undergoing one of the world's largest environmental cleanup efforts. The Department's Richland Operations Office and the Department's Office of River Protection oversee the Hanford cleanup operations. At the time of our initial procurement card inspection, Fluor and CH2M Hill were prime contractors at Hanford. Subsequently, a number of contract changes have occurred or are in progress. However, since our review involves the use of appropriated Government funds, the results of this review remain relevant to current and incoming contractors.

RESULTS OF THE INSPECTION

We concluded that Fluor and CH2M Hill had made Government funded purchases that may have conflicted with Federal regulations and policies.

Overtime Meals

In Fiscal Year 2007, Fluor and CH2M Hill used Government funds to purchase meals for their employees working scheduled and unscheduled overtime, pursuant to labor agreements. Specifically, as part of Fluor's execution of its contract with the Department, Fluor used Government funds to purchase frozen overtime meals in bulk, which were then stored in warehouses located at Hanford. Both Fluor and CH2M Hill then requisitioned overtime meals from the warehouses on an as needed basis. According to a Fluor official, \$103,000 worth of overtime meals were purchased in Fiscal Year 2007.

United States Code 31 (31 U.S.C.) 1301(a) states that “appropriations shall be applied only to the objects for which the appropriations were made except as otherwise provided by law.” The Government Accountability Office (GAO) Comptroller General has issued decisions derived from 31 U.S.C. 1301(a) that have consistently prohibited using Government funds to purchase food or meals unless specifically authorized by statute or under unexpected extreme emergency conditions involving imminent danger to human life or destruction of Federal property¹.

Fluor and CH2M Hill labor agreements in affect at the time of our review contained a clause that stated: “Employees shall be provided with a meal and an opportunity to eat such meal on the Employer's time after completing approximately ten (10) hours of work (excluding the regular meal period) and at approximately six (6) hour intervals thereafter...” Additionally, the clause stated: “Employees called in for emergency work shall be provided a meal and an opportunity to eat such a meal on Employer time at approximately six (6) hour intervals.” There was no mention of unexpected emergency work conditions involving imminent danger to human life or the destruction of Federal property as being the basis for providing overtime meals to workers, nor was there a statutory basis.

A Richland Operations Office official determined that the practice of allowing Government funds to be used for overtime meals began with a 1955 Hanford labor agreement under a previous managing contractor and has continued under successive labor agreements since that time. The practice of Government funds being used for contractor employee overtime meals at Hanford has resulted in the expenditure of a significant amount of Government funds over the past 53 years.

Memorabilia Given Away to the Public

In Fiscal Year 2007, Fluor made approximately \$10,000 worth of procurement card purchases for memorabilia items that were given away to both contractor employees and the public at the annual Hanford Health and Safety Exposition (Exposition). These items included toys, games, hats, and T-shirts.

The Federal Acquisition Regulations (FAR) and Comptroller General generally prohibit giving mementos to customers or the public. Specifically, Part 31.205-1 of the FAR states that unallowable public relations and advertising costs include: “Costs of souvenirs, models, imprinted clothing, buttons, and other mementos provided to customers or the public.” Further, the Comptroller General has stated that, absent statutory authority, appropriated funds may not be used for personal gifts².

Fluor officials and a Richland Operations Office official stated that the Exposition was established 14 years ago by a previous managing contractor and originally was intended as a health and safety forum for Hanford employees. However, over the years the forum

¹ GAO-04-261SP, Principles of Federal Appropriations Law-Volume 1, Chapter 4, Pages 103-106, 123, Decision B-260692, January 2, 1996.

² GAO-04-261SP, Principles of Federal Appropriations Law-Volume 1, Chapter 4, Pages 155-158.

expanded to a multi-day Exposition open to both Hanford workers and the general public. Sponsors of the event have included Hanford contractors, State and local public safety departments, local news organizations, vendors, and the Department's local offices. Fluor officials informed us that every year the Richland Operations Office has permitted Fluor to use Department funds for the event. Additionally, the officials said that the memorabilia items distributed to employees and the public during the Exposition have been for the purpose of supporting health and safety both at home and the workplace. We were unable to determine exactly when giving memorabilia to the public began; however, based on interviews with Fluor officials, it appears to have been occurring for a number of years.

We discussed these two issues with Richland Operations Office and Office of River Protection officials, who stated that future collective bargaining labor agreements will not allow for Government funds to be used for overtime meals. Further, Richland Operations Office officials indicated that providing gifts to the public was not within the original purpose of the Exposition and that site contractors would no longer be allowed to use Government funds for such activities.

Given the above, no recommendations are being made in this report, and a formal response to our office is not required. This inspection was conducted in accordance with the "Quality Standards for Inspections" issued by the President's Council on Integrity and Efficiency. We appreciate the cooperation we received from your staff during the inspection. If you have any questions concerning this review, please contact Ms. Marilyn Richardson or me at (202) 586-4109.



Elise M. Ennis
Assistant Inspector General
for Inspections and Special Inquiries

cc: Director, Office of Internal Review (CF-1.2)
Audit Liaison, Richland Operations Office