



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

# Audit Report

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Work for Others Performed by the  
Department of Energy for the  
Department of Defense



**Department of Energy**  
Washington, DC 20585

October 26, 2009

MEMORANDUM FOR THE SECRETARY

FROM:   
Gregory H. Friedman  
Inspector General

SUBJECT: INFORMATION: Audit Report on "Work for Others Performed by the Department of Energy for the Department of Defense"

BACKGROUND

Pursuant to the Atomic Energy Act of 1954, as amended, and the Economy Act of 1932, the Department of Energy and its semi-autonomous National Nuclear Security Administration (NNSA) provide research and technical assistance to other Federal agencies on a reimbursable, full cost recovery basis through the Work for Others (WFO) program. For the vast majority of WFO technical projects, Department Federal officials furnish administrative project oversight while the actual detailed scientific or technical work is completed by the Department's "management and operating" contractors. These contractors are awarded a special contract type specifically created under the Federal Acquisition Regulation to manage and operate Department sites and facilities, including sophisticated laboratories and technical centers, on a government-owned, contractor-operated basis.

With annual expenditures exceeding \$1 billion, the Department of Defense (DoD) is one of the Department's largest WFO customers. Work performed for DoD at the Department's national laboratories and other facilities includes highly technical research in areas such as nuclear weapons systems, counter-terrorism, and in-theater troop support. The National Defense Authorization Act for Fiscal Year (FY) 2009, required the Inspectors General of the DoD and the Department to review procurement methods to determine whether the Department complied with DoD procurement requirements and/or whether alternative procurement policies were in place. In response, we focused our review on projects performed by NNSA because it completes the vast majority (approximately \$900 million in FY 2008) of the Department's work for DoD. As part of this effort, and, at the specific request of the DoD Office of Inspector General (DoD OIG), we identified the universe of WFO technical projects that received new funding in the fourth quarter of FY 2008 at NNSA sites. We independently reviewed a judgmental sample of 11 projects selected by the DoD OIG to meet the objectives of this audit.

RESULTS OF AUDIT

Our review revealed that NNSA managed DoD WFO technical projects in a manner consistent with requirements of the Atomic Energy Act of 1954, the Federal Acquisition Regulation, and the Department's implementing guidance, the Department of Energy Acquisition Regulation. Because of the very nature of the Department's management and operating contracting model, WFO projects may not be technically compliant with DoD procurement regulations in certain instances. We found that NNSA did not let new contracts or task orders for the DoD WFO technical projects we reviewed and instead managed them under its existing internal

control process as part of its management and operating contract structure. In one instance, we noted that the Department had, at DoD's request, supplemented its control structure to incorporate specific DoD procurement requirements.

Senior Department of Energy procurement officials acknowledged that neither the Department nor NNSA modified their existing prime contracts to incorporate specific defense procurement requirements because such modifications would be inappropriate, costly, and inefficient. In short, they informed us that the Department had developed and implemented a series of controls designed to monitor overall contractor performance, including WFO technical projects. Department and NNSA officials noted, however, that they were willing to incorporate DoD specific requirements into work orders should DoD request and fund such efforts. Additional details regarding management of WFO technical projects are discussed in the body of this report.

Given the importance of the work products resulting from the collaborations between the Department and DoD, we concluded that identifying avenues to improve these relationships would serve the national interest. Based on our review, including the analysis of the 11 projects and discussions with both Department Federal and contractor officials, we identified several opportunities to achieve this objective. In particular, we noted that NNSA and its contractors had not:

- Always (2 of the 11 projects) provided DoD customers with specifically requested cost information the customer believed it needed to determine the reasonableness of costs charged for WFO technical projects. However, we found no evidence that DoD pursued the request with the contractor or pressed Department officials to intervene. And, based on Department documentation, each of the DoD sponsors ultimately elected to proceed with the requested work even though it had not received the desired information; and,
- Adequately defined roles and responsibilities of the Department and those of DoD customers for monitoring the technical performance of the management and operating contractor on WFO technical projects.

These matters were brought to the attention of NNSA officials during the course of the audit. They informed us that they had initiated corrective actions to address these concerns. Their planned actions are, according to NNSA officials, designed to ensure that DoD customers are provided with all appropriate cost and pricing information as requested by the DoD customer and clarify responsibilities for monitoring and control of WFO technical projects. These actions, when fully implemented throughout the Department of Energy complex, are likely to be helpful in improving management of WFO technical projects. We have also made several recommendations designed to improve management of the Department's WFO process. Details of our findings, management actions, and our recommendations are discussed in the body of this report.

Our review of this matter is substantially complete. However, based on the results of efforts to resolve these issues, we may elect to engage in additional reviews in the future.

### MANAGEMENT REACTION

Management provided technical comments on this report. Management's comments have been included in Appendix 3.

Attachment

cc: Deputy Secretary  
Chief of Staff  
Administrator, National Nuclear Security Administration  
Director, Office of Procurement & Assistance Management, MA-60  
Director, Office of Acquisition and Supply Management, NA-63  
Technical Director for Institutional and Joint Programs, NA-121.4  
Manager, Sandia Site Office  
Manager, Livermore Site Office

**REPORT ON WORK FOR OTHERS PERFORMED BY THE  
DEPARTMENT OF ENERGY FOR THE DEPARTMENT OF  
DEFENSE**

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## **Work for Others Projects**

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### **Departmental Management of Work for Others Projects**

The National Nuclear Security Administration's (NNSA) control structure was generally consistent with meeting the Department of Energy's (Department) requirements for Work for Others (WFO) projects; however, it may not have always ensured that Department of Defense (DoD) requirements were met. Although NNSA prime contracts under which work is performed for DoD do not specifically comply with certain defense procurement requirements, we noted that the Department had developed and implemented its own regimen of safeguards designed to ensure that WFO technical projects were appropriate. We also found that NNSA, in at least one case, had included unique DoD procurement requirements in the inter-agency agreement for a WFO technical project at the request of the DoD.

In particular, the Department requires that work performed under the WFO program be consistent with the mission of the facility conducting the work and not:

- Have an adverse impact on programs assigned to the facility completing the work;
- Compete directly with private sector work; and,
- Create a burden on Department or NNSA resources.

The Department also requires its contractors to establish prices for the work performed for others to ensure that the full cost of such work is recovered from customers. Because WFO efforts are performed under existing contracts, Department officials told us that costs charged to external customers are the same as those incurred by the Department for normal mission work performed under its management and operating contracts.

An NNSA procurement official noted that WFO technical projects are performed pursuant to inter-agency agreements as permitted by the Atomic Energy Act of 1954, as amended (42 U.S.C. 2053), and the Economy Act of 1932, as amended (31 U.S.C. 1535), by existing management and operating contractors and that they generally do not involve separate tasks and delivery orders. The NNSA official asserted, therefore, that defense procurement requirements are not applicable for modification into NNSA's prime contracts. For example, because WFO technical projects are performed under the scope and terms and conditions of its existing facility contracts and are not separate awards, an NNSA official

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explained that they do not make price reasonableness determinations or obtain certified cost or pricing data for individual WFO technical projects performed for DoD, or any other Federal customer. According to this official, the evaluation of price reasonableness and cost and pricing data is performed as part of the original award of its management and operating contract. Additionally, NNSA officials noted that because WFO technical projects amount to technical directions under existing level-of-effort contracts, certified cost or pricing data per Federal Acquisition Regulation 15.403-4 is not required. NNSA also told us that it provides administrative oversight of WFO technical projects to ensure that they satisfy the Department's program policies, including their consistency with the facilities' mission. As such, the Department requires its Federal field elements to, among other things, establish procedures for monitoring projects in parallel with contractors and WFO customers. We found that the NNSA does not routinely assign separate contracting officer representatives to monitor contractor performance on individual WFO technical projects performed for DoD customers. Instead, a contracting officer and various contracting officer technical representatives are assigned to monitor performance of the management and operating contractor as a whole. An NNSA official pointed out that while contractor performance on individual DoD WFO technical projects is not separately monitored, overall performance is monitored by the Department's contractor performance control structure, including annual performance measures and evaluation.

This same NNSA official explained that costs incurred by the Department's contractors, including those for WFO technical projects, are subject to and undergo various financial management reviews and audits, including reviews of forward pricing rates, final actual costs, and Cost Accounting Disclosure Statements. Department procurement officials confirmed that NNSA WFO policies described above are consistent with those followed by other program elements.

Consistent with the Department's position, in March 2005, NNSA's Office of General Counsel (OGC) opined that DoD specific procurement requirements were not applicable to the Department's WFO program. The opinion was provided in response to a request made by the Department of Navy that the Department add over 226 DoD specific procurement requirements to the Sandia National Laboratories (Sandia) contract as a condition of a Strategic Weapons Security

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Systems WFO technical project. The OGC opined that Section 854 of the National Defense Authorization Act for Fiscal Year (FY) 2005 preventing DoD from acquiring goods and services through agencies that did not comply with DoD acquisition regulation did not apply to the Department's WFO program. Specifically, he concluded that the Congressional direction applied to the award of contracts, including task orders or delivery orders, by a civilian agency on behalf of DoD. The attorney that completed the opinion noted that the WFO program does not involve the award of a contract or placement of a task or delivery order. Rather, the WFO program is simply a vehicle through which the Department assists other entities and agencies in conducting research at the Department's laboratories under the existing scope, terms, and conditions of previously awarded management and operating contracts.

Although NNSA does not believe that it is appropriate to modify existing contracts to incorporate defense procurement requirements, an NNSA official stated that specific defense procurement requirements can be incorporated into the inter-agency agreement for a WFO technical project. This official stated, however, that it is the DoD contracting officer who is responsible for identifying unique DoD requirements, negotiating for their inclusion, and providing funding to support their completion in the inter-agency agreement for WFO technical projects. Unless the inter-agency agreement includes DoD requirements, NNSA officials said that they are not included in the scope of work for the WFO technical projects. With one exception, however, we did not identify any instances where DoD requested and NNSA included specific defense procurement requirements in the inter-agency agreements. Specifically, none of the inter-agency agreements for the 11 projects we reviewed included unique defense procurement requirements. NNSA officials were able to provide one example of a WFO technical project providing in-theater support to the DoD in Iraq where unique DoD requirements were included in the inter-agency agreement at the request of the DoD customer, but they were unable to provide additional examples.

**Cost Data and  
Coordination Issues**

Our review identified several issues related to interaction with DoD WFO customers. In particular, based on testing of WFO technical projects conducted by Sandia; Lawrence Livermore National Laboratory (Livermore); and, the Y-12 National Security Complex (Y-12), we determined that NNSA's contractors did not always provide the level of

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financial information requested by DoD customers. Some of the information that was not provided may have been needed by DoD customers to satisfy DoD requirements regarding price reasonableness determinations. We also noted that the inter-agency agreements between the Department and DoD did not always clearly specify the respective roles and responsibilities of the agencies regarding monitoring contractor performance on individual WFO technical projects.

#### Supporting/Detailed Cost Information

In 6 of the 11 projects we reviewed, DoD customers requested additional information in support of the cost estimate prepared by the NNSA's contractors. NNSA contractors provided additional cost information for four of the projects but not the specifics as requested for the remaining two projects. Specifically, in a WFO technical project between Sandia and the DoD, the WFO agreement stated that a detailed cost breakdown was required and should include direct labor, indirect costs, other costs such as materials, government furnished equipment, and fee. Instead of including specific costs, Sandia provided a cost estimate that contained a summary of monthly direct labor dollars, direct labor hours, travel, and subcontract costs to the DoD customer. The DoD customer responded that the proposed cost estimate contained insufficient detail to support its analysis and evaluation of proposal. The DoD requested individual direct labor categories and rates; indirect costs; other direct costs; materials; fringe; and, general and administration (G&A) costs. Sandia provided a second cost estimate detailing the monthly cost totals and a standard form letter stating that its specific overhead cost recovery rates and individual salary rates were proprietary information and were generally not released externally.

In another WFO technical project with Livermore, the DoD requested a detailed breakdown of the cost estimate including direct labor; indirect costs (fringe benefits, overhead, and G&A; travel costs); and, an itemized list of acquired equipment costs. Livermore prepared a cost estimate that contained limited cost details including post doctoral and full time equivalent hours and rate per hour, travel, and a summary of the total indirect costs. According to Livermore officials, the Laboratory historically had not released indirect cost details to outside entities. Thus, Livermore did not provide a detailed listing of the indirect costs as requested to the DoD.

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We found no evidence in either of the above cases that the DoD customers continued to pursue obtaining the cost information they requested before agreeing to the projects.

#### Clearly Defined Roles and Responsibilities

Inter-agency agreements between NNSA and DoD did not clearly specify the respective roles and responsibilities of the agencies regarding monitoring contractor performance on individual WFO technical projects. Department WFO policies require Heads of Field Elements and NNSA Site Office Managers to develop and implement procedures for WFO review, acceptance, authorization, and monitoring; and, encourage parallel review and processing by the Department, the WFO customer, and NNSA site contractor. Further, the Office of Management and Budget (OMB) Office of Federal Procurement Policy guidance, dated June 6, 2008, requires agencies entering into interagency agreements to specify each party's roles and responsibilities to ensure the effective management of such agreement. We found no evidence that roles and responsibilities for monitoring contractor performance was specified in the 11 agreements we reviewed. Furthermore, we found no evidence that NNSA had designated a contracting officer representative for any of the 11 projects.

NNSA officials explained that they do not have either the resources or the special knowledge of the customer that is needed to monitor each WFO technical project performed for DoD. These officials also indicated that such services could be provided to the DoD customer, but that it would be provided at added cost since the Department's policy is to recover the full cost of WFO work. The Office of Inspector General (OIG) has previously pointed out performance problems that can occur in work performed for other agencies because the roles and responsibilities of NNSA and customer agencies were not clearly defined. Specifically, in our report on *National Nuclear Security Administration's Construction of a Radiological/Nuclear Complex for the Department of Homeland Security* (DOE/IG-0775, September 12, 2007), we pointed out that a lack of clarity about the roles and responsibilities of NNSA and the Department of Homeland Security for managing and coordinating the project resulted in its completion being significantly delayed and original cost estimates exceeded.

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In response to our prior report, NNSA issued draft guidance to its site offices in September 2008 regarding roles and responsibilities on WFO agreements. The proposed guidance stated that prior to initiating WFO technical projects, site offices should specify responsibilities for monitoring contract performance in interagency agreements and statements of work. However, according to an NNSA official, the guidance was not finalized pending a Department decision regarding the applicability of the June 2008 OMB guidance, as well as a NNSA internal assessment of its site offices' execution of the WFO program. This assessment was recently completed and NNSA is in the process of evaluating the results to identify any systemic problems.

### **Recent Guidance**

According to an NNSA procurement official, cost information at the Department's facility and management contractors is Federal information and is available to other Federal agencies. This official also agreed that WFO agreements should clearly define roles and responsibilities of the Federal partners for overseeing the facility contractors' performance. Accordingly, NNSA issued guidance on August 26, 2009, to its site offices regarding the availability of cost information to Federal agencies and roles and responsibilities on WFO agreements. Specifically, the guidance stated that cost and technical performance data will be provided to a requestor to ensure the technical representatives have sufficient information to monitor the WFO technical projects. The guidance also stated that, prior to initiating WFO technical projects, site offices should specify the Department's, DoD's or other federal entity requestor's responsibilities for monitoring contract performance in interagency agreements or statements of work. These actions, if fully implemented, should result in more visible cost information and clearly defined roles and responsibilities to monitor WFO performance.

While NNSA's recent guidance addresses issues discussed in this report, it applies only to NNSA contracting officers and does not apply to the entire Department. We could find no evidence that the Department has issued similar clarifying guidance that would be applicable to other sites performing work for DoD including those managed by the Office of Science.

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As required by the National Defense Authorization Act (NDAA), the DoD recently announced that procurements from non-defense agencies that had not certified as complying with defense procurement requirements would be limited to \$100,000 or less. The Department certified to DoD in 2008 and 2009, that all reimbursable work performed for DoD by the Department's contractors would comply with Federal Acquisition Regulations and Department of Energy Acquisition Regulations. The Department, however, acknowledged that DoD may determine that additional requirements are necessary to meet the requirements of the NDAA. The Department asserted that it did not believe that the subject NDAA requirements were applicable to reimbursable work performed by the Department and its contractors; however, it committed to reaching agreement with DoD on additional work requirements prior to performing any work.

Despite the Department's certification to DoD, Sandia informed us that it has received notice from certain DoD customers that they will halt funding for WFO technical projects under the terms of the NDAA. Realistically, in the case of Sandia, this restriction could prevent DoD from acquiring mission-related services that could be critical to the national defense and which are available from no other sources.

**Cost and Performance Impacts**

Without detailed cost information and clarification of contractor performance monitoring roles and responsibilities, NNSA cannot be assured that it is meeting the needs of its DoD customers. For example, without detailed cost and pricing information, DoD customers may not be able to obtain all pricing information they believe is necessary to satisfy defense procurement regulation requirements. Unless monitoring roles and responsibilities are clearly defined for WFO projects, vital national security projects performed by NNSA for DoD may not be completed within cost estimates and established performance schedules. Prompt action to address recently imposed procurement restrictions is also necessary to ensure that DoD continues to be provided with unique, and likely mission critical, research and other services.

**RECOMMENDATIONS**

We recommend that the Department's Director, Office of Procurement and Assistance Management, and NNSA's Senior Procurement Executive:

1. Enter into a Memorandum of Understanding (MOU) with the DoD Senior Procurement Executive to

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establish the respective agencies' roles and responsibilities pertaining to WFO technical projects to ensure compliance with the National Defense Authorization Act; and,

2. Continue to work with DoD procurement officials and Congress as necessary to resolve recently imposed funding restrictions on WFO technical projects.

We also recommend that the Department's Director, Office of Procurement and Assistance Management in coordination with NNSA's Senior Procurement Executive issue guidance:

1. Clarifying its policy on the release of detailed cost and pricing information to WFO customers; and,
2. Requiring Department contracting officers to clearly specify the Department's and other federal entity requestor's roles and responsibilities for monitoring contractor performance on WFO technical projects.

Finally, we also recommend that the Senior Procurement Executive, NNSA, periodically monitor WFO agreements to ensure that the directions regarding pricing data and clarity of responsibilities are adhered to.

**MANAGEMENT  
REACTION AND  
AUDITORS COMMENTS**

Department and NNSA procurement officials provided technical comments on a draft of this report. We addressed management's technical comments throughout the body of this report.

Additionally, management questioned the level of detail for cost and pricing data that should be provided to DoD, and how coordination with the Defense Contract Audit Agency would be achieved should DoD task that agency to audit cost and pricing data. Management also suggested that we focus our recommendations solely on the Department and NNSA entering into a MOU with DoD regarding roles and responsibilities for ensuring compliance with the NDAA.

The level of detail for cost and pricing data to be provided to DoD should be based, in our view, on agreements reached in the development of the recommended MOU between the Department, NNSA and DoD. Coordination with the Defense Contract Audit Agency, and other audit organizations outside the Department, is the responsibility of the OIG as the

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cognizant audit organization for the Department of Energy and NNSA.

Finally, we continue to believe that further actions are warranted in the areas of guidance and monitoring the performance of WFO technical projects by the Department's and NNSA's management and operating contractors that are beyond the establishment of the recommended MOU.

## Appendix 1

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**OBJECTIVE** To determine whether the Department of Energy (Department) complied with Department of Defense (DoD) procurement requirements when performing work for the DoD.

**SCOPE** The audit was performed between March and October 2009 at Sandia National Laboratories (Sandia), the Sandia Site Office; Lawrence Livermore National Laboratory (Livermore); the Livermore Site Office; the Y-12 National Security Complex (Y-12); Y-12 Site Office; and, Department and the National Nuclear Security Administration Headquarters. We reviewed 11 projects judgmentally selected by the DoD Office of Inspector General (DoD OIG) that either received new or continuing DoD obligations in the last quarter of Fiscal Year (FY) 2008.

**METHODOLOGY** To accomplish the audit objective, we:

- Reviewed applicable Laws, Departmental Orders, other Departmental guidance, and contracts;
- Reviewed and analyzed internal NNSA guidance;
- Identified the universe of Work for Others (WFO) projects that received new DoD funding in the fourth quarter of FY 2008 at NNSA's sites;
- Tested 11 WFO technical projects judgmentally selected by the DoD OIG for compliance with Department WFO policies and procedures; and,
- Interviewed key Department, NNSA, 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 objective. We believe that the evidence obtained provides a reasonable basis for findings and conclusions based on our audit objective. The audit included tests of controls and compliance with laws and regulations necessary to satisfy the audit objective. 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 assessed performance measures established under the Government Performance and Results Act of 1993 and found that Sandia, Livermore, and Y-12 had specific performance measures related to the WFO program. Finally, we determined that computer-processed data was integral to meeting the objective of this audit.

Department and NNSA officials waived an exit conference.

### PRIOR REPORT

#### Office of Inspector General Report

- The *National Nuclear Security Administration's Construction of a Radiological/Nuclear Complex for Homeland Security*, (DOE/IG-0775, September 2007). The Department of Energy (Department) and the Department of Homeland Security (Homeland Security) entered into an interagency agreement with National Nuclear Security Administration's Nevada Site Office to construct the Radiological/Nuclear Countermeasures Test and Evaluation Complex (Rad/Nuc CTEC). Homeland Security requested that the project be fast-tracked so that construction at Nevada Test Site could begin before building design was completed in order to have the project completed by February 2007. The audit determined that management and coordination responsibilities between the Department and Homeland Security were not clearly defined and the project was not appropriately staffed. The audit concluded that experience with the (Rad/Nuc CTEC) project provided important "lessons learned" for managing the Department's expanding portfolio of Work for Others projects.

October 8, 2009

Joint DOE/NNSA Comments on Draft Audit Report  
Work for Others Performed by the DOE for DOD

1. The cover memo and draft report contain several references which incorrectly state that the requirements of Section 801 of the NDAA for FY 2008 require non-Defense agencies, including DOE, to certify and comply with “all defense procurement requirements” (e.g., transmittal, 3<sup>rd</sup> line from bottom, and page 1, first paragraph of draft report), and/or “Defense Federal Acquisition Regulations (DFAR) requirements” (several references in cover memo and body of the draft report). This characterization of the requirement in the draft report is inconsistent with both Section 801 and DOD’s implementing regulations at DFARS 217.7800. Both require certification and compliance with “defense procurement requirements.” The law and regulation neither prescribe compliance/certification with “all” defense procurement requirements, nor with DFARS. It should be noted that “defense procurement requirements” may be prescribed by various policy issuances which are not exclusive to the DFARS. A DOE analog would be the DEAR, DOE/NNSA Acquisition Letters, the DOE Acquisition Guide, DOE Orders, and written policy direction by the respective DOE and NNSA Senior Procurement Executives. In addition, it should be further noted that DOD has not formally defined what “defense procurement requirements” encompass beyond general instruction to DOD personnel prescribed at DFARS 217.7802.
2. Page 2 of the cover memo identifies four bullets as “DOD procurement tasks.” These requirements are not unique to DOD nor are all of these requirements prescribed in either the FAR or DFARS. Moreover, DOD has not formally prescribed such requirements for DOE or, to our knowledge, any other non-Defense agency pursuant to Section 801 and DFARS 217.7800. The report correctly addresses both DOE and NNSA procurement official’s determination that these requirements do not generally apply to WFO technical projects under an M&O contract.
3. Reference 4<sup>th</sup> bullet on page 2 pertaining to pre-award audits of project level costs. Throughout the draft report there are references indicating that DOD desires and that DOE should provide DOD with detailed cost and pricing information for the purpose of review and audit of such information by DOD officials. The report fails to address the level of detail that the OIG believes will satisfy DOD’s concerns with respect to cost/pricing data (e.g., cost-level breakdowns of direct labor rates and indirect rates). Moreover, the provision of such information for the purposes of DOD analysis/audit would presumably invite DOD to task the Defense Contract Audit Agency (DCAA) to audit the information which would require DCAA access to and audit of M&O contractor accounting records. The draft report does not address how such access would be coordinated with the DOE OIG as the cognizant auditor for DOE M&O contracts.
4. Page 3 of cover memo and page 5 of the report incorrectly state that DOE has not provided the requested DOD certification. Attached are the executed certifications, dated October 7, 2008, and October 8, 2009.

October 8, 2009

5. Report, page 1, first paragraph indicates a finding that NNSA control structure has not, in the past, ensured compliance with DOD procurement requirements for WFO technical projects. This should be rewritten to acknowledge that no such requirement existed prior to enactment of 801; that DOE/NNSA has, in fact, certified to such compliance subject to DOD specifically defining applicable defense procurement requirements for each WFO technical project; and, with one exception as noted in the draft report, to date, DOD has not defined any such requirements for NNSA (or DOE) WFO technical projects.

6. Replace the term “WFO project” with “WFO technical project” throughout.

7. Page 1 of the report, last paragraph, replace “DFARs” with “DOD”.

8. In lieu of the recommendations on page 6 of the report, we suggest that the OIG consider the following single recommendation:

“The DOE and NNSA Senior Procurement Executives should enter into a Memorandum of Agreement with the DOD Senior Procurement Executive to establish the respective agencies roles and responsibilities pertaining to WFO technical projects to ensure compliance with Section 801 of the NDAA for FY 2008.”

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