

September 12, 2007

The Honorable John D. Dingell  
Chairman  
Committee on Energy and Commerce  
Attention: Kyle Chapman, Legislative Clerk  
U.S. House of Representatives  
Washington, DC 20515-6115

Dear Chairman Dingell:

This responds to your letter dated July 6, 2007, regarding the April 20, 2007, hearing entitled "The Department of Energy's Response to Ongoing Mismanagement at the Los Alamos National Labs." As Mr. Sandy Parnes of my staff discussed with Mr. Kyle Chapman of your office, our office received the letter on Friday, September 7, 2007.

You requested that I submit responses to additional questions raised by Chairman Stupak and Congresswoman Blackburn. Enclosed are my responses for the official hearing record. Please do not hesitate to contact me if I may be of further assistance.

Sincerely,

Gregory H. Friedman  
Inspector General

## **The Honorable Bart Stupak**

1. Did your office investigate the Internet posting of names and social security numbers by Los Alamos National Security, LLC (LANS) subcontractor, Lujan Software Services?

We conducted an Inspection on how the Los Alamos National Laboratory (LANL) handled the incident, as well as departmental reporting of the incident. We also reviewed whether the subcontractor complied with the terms of its contract regarding the handling of Privacy Act-protected information. We are in the process of finalizing our report.

2. What are the findings from this investigation, and what accountability measures should be taken with respect to this breach of private employee information? Were there violations of law arising out the posting of this information on the Internet?

As stated above, we are in the process of finalizing our report.

3. What are your specific objections to the Los Alamos National Labs (LANL) pilot project as outlined in the memo from Linton Brooks to Ed Wilmot from 2006? Please list the specific objections that were communicated to the Department of Energy or the National Nuclear Security Administration regarding this pilot project.

Our general concerns regarding self-governance are based on the Department's historical contract administration problems. Specifically, we have reported that:

- Effective performance measures have not been in place;
- Contractors have been reluctant to report deficiencies in their operations;
- Sufficient funds have not been provided for oversight; and
- The Department has been reluctant to hold contractors and personnel accountable for poor performance.

4. To whom did your office raise objections regarding the LANL pilot? On what dates(s) were the objections raised? Were these objections put in writing?

In addition to our testimony, we communicated our concerns about the self-governance model to the Department on numerous occasions, including the following:

- Meeting with the Acting Deputy Administrator of the National Nuclear Security Administration (NNSA) in 2002;
- Memorandum for the Acting Administrator, NNSA, expressing concern about the Sandia National Laboratory Self-Governance Agreement, dated August 6, 2002;
- Meeting with the NNSA Chief Operating Officer in 2005;
- Meetings with the Deputy Secretary in 2005 and 2006; and
- Memorandum to the DOE Director, Office of Management, dated June 6, 2007.

5. Should the LANL Pilot project, which involves increased contractor self-assurance and third party verification, be revoked, and should a more robust Federal oversight model be reinstated?

As noted in my testimony, we have concerns regarding the self-governance model and have long advocated a more robust Federal contract administration. However, based on NNSA's decisions to implement the pilot program at LANL and Kansas City, we plan to review, in Fiscal Year 2008, NNSA's progress in implementing its pilot program. Our emphasis will be on whether contractor assurance systems are ensuring compliance with applicable requirements, providing for the timely identification and correction of deficient conditions, and verifying the effectiveness of corrective actions.

### **The Honorable Marsha Blackburn**

1. Last year, there were cases of federal contractors hiring illegal immigrants for sensitive sites. Have there been any recent cases of illegal immigrants working at Los Alamos? Follow up: Are current security background checks sufficient to prevent this from happening?

The Office of Inspector General is not aware of any recent cases of illegal immigrants working at LANL. However, in a June 2005 report on "Security Access Controls at the Y-12 National Security Complex," we found that illegal alien construction workers, using false documents, had accessed the Y-12 site on multiple occasions. We determined that access control procedures at Y-12, which might have prevented unauthorized access, either were not implemented or were not effective. Because of our concern that the process shortcomings that allowed this situation to occur might exist at other Department sites, we recommended that Department site management take steps to review access controls throughout the complex.

We have not conducted any specific reviews of whether current security background checks are sufficient to prevent illegal immigrants from working at Department sites.

2. Has Los Alamos established a timeline to correct deficiencies cited by the IG and the task forces?

It is our understanding that LANL established a timeline to correct the deficiencies identified in the Inspector General report. We initially planned to conduct a follow-up review. However, at the Subcommittee's direction, the Government Accountability Office is currently conducting an examination of this subject.

3. Does the current contract with Los Alamos National Security, LLC (LANS) have performance measures and liability provisions based on adequate management and security safeguards?

During Fiscal Year 2007, LANS had the opportunity to earn a maximum fee of approximately \$73 million. The Department's Los Alamos Site Office (LASO) prepared

a Performance Evaluation Plan that defined the performance measures and expectations that would be used to determine the amount of fee to be paid to LANS. In Fiscal Year 2008, we will review the performance-based incentives to determine whether LASO defined clear measures and expectations and achieved desired performance results.

Although we have not specifically reviewed the contract's liability provisions, traditionally Department and NNSA contracts have included a number of remedies that are available to address management and security problems. However, when the most recent LANL contract was awarded, it did not include the so called "824 liability provision." We understand that the contract has since been modified to incorporate this provision.

4. One concern that keeps recurring is the difficulty to change the site culture. Please describe the site culture at Los Alamos to this subcommittee and if it interferes with improvements.

Los Alamos has had a 60-year history of service to the Nation, but has experienced recurring problems, including recent examples of serious security violations. The cultural problems appear to be: the lack of effective implementation and follow-through on action plans; lack of personal and contractor accountability; and strong resistance to change.

5. Poor facility management has been a serious problem for many years. Has DOE, NNSA, or LANS acted to your satisfaction to remedy this problem?

As I have testified previously, the Department needs to intensify its efforts to address recurring challenges. It must:

- Establish schedules with specific implementation timelines and performance metrics to facilitate corrective action;
- Ensure that all actions and recommendations for remedial action are formalized into policy and adopted as practice; and
- Examine its Federal contract management function to determine whether it is adequately staffed and that its skill mix is appropriate.

6. Should the lab be closed until adequate security and management measures are implemented?

Multiple factors must be considered, many of which go beyond the scope of our reviews.