

February 2006

ENERGY EMPLOYEES COMPENSATION

Adjustments Made to Contracted Review Process, But Additional Oversight and Planning Would Aid the Advisory Board in Meeting Its Statutory Responsibilities



Contents

Letter		1
	Summary of Findings	3
	Conclusions	5
	Recommendations for Executive Action	6
	Agency and Other Comments and Our Evaluation	6
Appendix I	Briefing Slides	10
Appendix II	Comments from the Department of Health & Human Services	48
Appendix III	Comments from S. Cohen & Associates	50
Appendix IV	GAO Contact and Staff Acknowledgments	52
Related GAO Products		53

Abbreviations

CDC	Centers for Disease Control and Prevention
EEOICPA	Energy Employees Occupational Illness Compensation Program Act
FACA	Federal Advisory Committee Act
HHS	Department of Health and Human Services
NIOSH	National Institute for Occupational Safety and Health
OCAS	Office of Compensation Analysis and Support
ORAU	Oak Ridge Associated Universities
PGO	Procurement and Grants Office
SC&A	Sanford Cohen & Associates

This is a work of the U.S. government and is not subject to copyright protection in the United States. It may be reproduced and distributed in its entirety without further permission from GAO. However, because this work may contain copyrighted images or other material, permission from the copyright holder may be necessary if you wish to reproduce this material separately.



United States Government Accountability Office
Washington, DC 20548

February 10, 2006

The Honorable F. James Sensenbrenner, Jr.
Chairman
Committee on the Judiciary
House of Representatives

Dear Mr. Chairman:

For the last several decades, the Department of Energy and its predecessor agencies and contractors have employed thousands of individuals in secret and dangerous work in the atomic weapons industry. In 2000, Congress enacted the Energy Employees Occupational Illness Compensation Program Act to compensate those individuals who have developed cancer or other specified diseases related to on-the-job exposure to radiation and other hazards at these work sites. Under Subtitle B, determining the eligibility of claimants for compensation is a complex process, involving several federal agencies and a reconstruction of the historical evidence available. The Department of Labor must consider a claimant's case based on records of his or her employment and work activities, which are provided by the Department of Energy. Labor considers the compensability of certain claims by relying on estimates of the likely radiation levels to which particular workers were exposed. These "dose reconstructions" are developed by the National Institute for Occupational Safety and Health (NIOSH) under the Department of Health and Human Services (HHS). NIOSH also compiles information in "site profiles" about the radiation protection practices and hazardous materials used at various plants and facilities, which helps complete the dose reconstructions. Because certain facilities are known to have exposed employees to radiation while keeping few records of individuals' exposure, their employees have been designated under the law as members of a "special exposure cohort," and their claims may be paid without individual dose reconstructions. The law also allows the Secretary of HHS to add additional groups of employees to the special exposure cohort.

For quality control and to raise public confidence in the fairness of the claims process, the compensation act also created a citizen's advisory board of scientists, physicians, and employee representatives—the President's Advisory Board on Radiation and Worker Health. Members of the board serve part-time and the board has limited staff support. The

advisory board is tasked to review the scientific validity and quality of NIOSH's dose reconstructions and advise the Secretary of HHS. The board has the flexibility to determine the scope and methodology for this review. In addition, the advisory board is tasked with reviewing NIOSH's evaluation of petitions for special exposure cohort status and recommending whether such status should be granted. To facilitate the advisory board's review, HHS awarded a 5-year \$3 million contract to Sanford Cohen & Associates (SC&A) in October 2003 to perform a variety of tasks, such as examining selected site profiles and a sample of dose reconstructions. The contract awarded was an indefinite-delivery, indefinite-quantity type of contract, which establishes the basic terms of the contract but then allows the advisory board to develop specific task orders requiring the contractor to complete certain tasks within specified time frames and budgets. SC&A is to be reimbursed for its costs and receive an additional fixed fee. However, this effort has been marked by delays and higher than originally anticipated costs and some concerns over the roles of the federal officials assigned by the Secretary of HHS to oversee this work. Because citizen advisory bodies do not have direct authority to spend federal monies, the government is responsible for awarding and managing support contracts. Insofar as the charge of the advisory board has been not merely to advise but to review the scientific validity and quality of NIOSH's work, there could potentially be a conflict of roles for agency officials responsible for the program under review if they also oversee the contract work or assist the advisory board. In addition, there are congressional concerns about whether the advisory board is using the contractor's expertise as the board evaluates special exposure cohort petitions.

There is another contractor—Oak Ridge Associated Universities (ORAU)—that also plays an important role in the Energy Employees Occupational Illness Compensation Program. In September 2002, NIOSH awarded a 5-year contract to ORAU to support NIOSH in performing its responsibilities related to the program, such as developing site profiles and performing dose reconstructions. About \$70 million was originally allocated to this contract, but this figure had increased to over \$200 million by 2004.

We assessed how well the advisory board's review and the contracted work with SC&A are proceeding. We focused on three questions: (1) Are the roles of key federal officials involved in the review of NIOSH's dose reconstructions sufficiently independent to assure the objectivity of the review? (2) Have the agency's management controls and the advisory board's oversight been sufficient to ensure that the contract to review site

profiles and dose reconstructions is adequately carried out? and (3) Is the advisory board using the contractor's expertise in reviewing special exposure cohort petitions?

To perform our review, we analyzed pertinent contract-related materials, including the contract; monthly progress reports submitted by the contractor; minutes of advisory board meetings; special exposure cohort regulations; and correspondence between the contractor, agency, and advisory board. In addition, we interviewed agency officials, contractor officials, and advisory board members, and also attended meetings of the advisory board. The scope of our work did not include examining NIOSH's contract with ORAU. We conducted our review from March 2005 to November 2005 in accordance with generally accepted government auditing standards. On December 13, 2005, we briefed your office on the results of our work (see app. I). This report conveys the information provided at that briefing, as updated to reflect changes we made in response to comments received on a draft of this report.

Summary of Findings

The roles of certain key federal officials initially involved in the advisory board's review of the dose reconstructions may not have been sufficiently independent and actions were taken to replace these officials. Nonetheless, continued diligence by HHS is required to prevent such problems from recurring as new candidates are considered for these roles. Initially, the project officer assigned responsibility for reviewing the monthly progress reports and monitoring the technical performance of the contractor was also a manager of the NIOSH dose reconstruction program being reviewed. In addition, the designated federal officer for the advisory board, who is responsible for scheduling and attending board meetings, was the director of the dose reconstruction program being reviewed. In response to concerns about the appearance of conflicting roles, the director of NIOSH replaced both of these officials in December 2004 with a senior NIOSH official not involved in the NIOSH program under review. The contractor and members of the board told us that implementation of the contract improved after these replacements were made. With regard to structural independence, we found it appropriate that the contracting officers, who are responsible for managing the contract on behalf of the advisory board, have been federal officials with the Centers for Disease Control and Prevention (CDC), NIOSH's parent agency. The contracting officers do not have responsibilities for the NIOSH program under review and are not accountable to its managers. Members of the advisory board helped facilitate the independence of the contractor's work by playing the

leading role in developing and approving the initial statement of work for the contractor and the independent cost estimate for the contract.

The progress of the contracted review of NIOSH's site profiles and dose reconstructions has been hindered by the complexity of the work. Specifically, in the first 2 years, the contractor spent almost 90 percent of the \$3 million that had been allocated to the contract for a 5-year undertaking. Various adjustments have been made in the review approach in light of the identified complexities, which were not initially understood. However, further improvements could be made in the oversight and planning of the review process. First, the contractor's expenditure levels were not adequately monitored by the agency in the initial months and the contractor's monthly progress reports did not provide sufficient details on the level of work completed compared to funds expended. The monthly report for each individual task order was subsequently revised to provide more details but developing more integrated data across the various tasks could further improve the board's ability to track the progress of the overall review. Second, while the advisory board has made mid-course adjustments to the contractor's task orders and review procedures, the board has not comprehensively reexamined its long-term plan for the overall project. The board revised the task orders for the contractor several times, in part to reflect adjustments made as the board gained a deeper understanding of the needs of the project. Nonetheless, the board has not reexamined its original plan for the total number of site profile and dose reconstruction reviews needed, and the time frames and funding levels for completing them. Third, there is still a gap with regard to management controls for the resolution of the findings and recommendations that emerge from SC&A's review. The advisory board developed a six-step resolution process to help resolve technical issues between the contractor and NIOSH, and this process uses matrices to track the findings and recommendations of the contractor and advisory board. However, NIOSH currently lacks a system for documenting that changes it agrees to make as part of this resolution process are implemented.

With regard to reviewing special exposure cohort petitions, the advisory board has asked for and received the contractor's assistance, expanded its charge, and acknowledged the need for the board to review the petitions in a timely manner. The board has reviewed eight petitions as of October 2005, and the contractor assisted with six of these by reviewing the site profiles associated with the facilities. The contractor will play an expanded role by reviewing some of the other submitted petitions and NIOSH's evaluation of those petitions and recommending to the advisory

board whether the petitioning group should be added to the special exposure cohort. The contractor will also develop procedures for the advisory board to use when reviewing petitions. While NIOSH is generally required by law to complete its review of a petition within 180 days of determining that the petition has met certain initial qualification requirements, the advisory board has no specified deadline for its review of petitions. However, the board has discussed the fact that special exposure cohort petition reviews have required more time and effort than originally estimated and that the advisory board needs to manage its workload in order to reach timely decisions.

Conclusions

Credibility is essential to the work of the advisory board and the contractor, and actions were taken in response to initial concerns about the independence of federal officials in certain key roles. Nonetheless, it is important for HHS to continue to be diligent in avoiding actual or perceived conflicts of roles as new candidates are considered for these roles over the life of the advisory board.

The advisory board's review of site profiles and dose reconstructions has presented a steep learning curve for the various parties involved. These experiences have prompted the board to make various adjustments to the contractor's work that are intended to better meet the needs of the review, such as the establishment of a formal six-step resolution process that increases transparency. Nonetheless, further improvements could be made to the oversight and planning of the contracted review. Even though the advisory board has made numerous midcourse adjustments to the work of the contractor, the board has not comprehensively reexamined its long-term plan for the project to determine whether the plan needs to be modified in light of the knowledge gained over the past few years. In addition, while the contractor's monthly reports were modified to provide more detailed expenditure data, the lack of integrated and comprehensive data across the various tasks makes it more difficult for the advisory board to track the progress of the overall review or make adjustments to funding or deliverables across tasks. Finally, without a system to track the actions taken by NIOSH in response to the findings and recommendations of the advisory board and contractor, there is no assurance that any needed improvements are being made.

Recommendations for Executive Action

We are making three recommendations to the Secretary of HHS.

To assist the advisory board meet its statutory responsibilities, we recommend that the Secretary of HHS

(1) direct the contracting and project officers to develop and share with the advisory board more integrated and comprehensive data on contractor spending levels compared to work completed and

(2) consider the need for providing HHS staff to collect and analyze pertinent information that would help the advisory board comprehensively reexamine its long-term plan for assessing the NIOSH site profiles and dose reconstructions.

To ensure that the findings and recommendations of the advisory board and the contractor are promptly resolved, we recommend that the Secretary of HHS direct the Director of NIOSH to establish a system to track the actions taken by the agency in response to these findings and recommendations and update the advisory board periodically on the status of such actions.

Agency and Other Comments and Our Evaluation

We provided a draft of this report to HHS, the contractor, and all the members of the advisory board for comment. We received comments from HHS, the contractor, and four individual members of the advisory board. The comments from the four members of the board represent the views of these individuals and not an official position of the advisory board. HHS agreed with GAO's recommendations to provide more integrated and comprehensive data to the advisory board and said that it will consider the need to provide staff to help the advisory board reexamine its overall plan for assessing NIOSH site profiles and dose reconstructions. With regard to the third recommendation, HHS stated that a system is already in place to track actions taken by the agency in response to advisory board recommendations in letters from the board to the Secretary of HHS. HHS added that matrices used in conjunction with the six-step resolution process outline the contractor's concerns, NIOSH's response, and the actions to be taken. However, we believe that these matrices do not provide sufficient closure with regard to tracking the actions NIOSH has actually implemented in response to advisory board and contractor findings and recommendations. For example, in some of the matrices, the advisory board has made numerous recommendations that NIOSH perform certain actions to resolve various issues, but there is

no system in place to provide assurance that these actions have in fact been taken. Thus, we continue to see a need for this recommendation.

Some individual advisory board members who provided comments expressed concerns about our recommendations, although differing in their reasons. One individual board member expressed concern about the recommendations to provide more integrated and comprehensive data to the advisory board or to provide staff to help in reexamining the overall review plan, suggesting that these changes might not be very helpful. We still believe that these recommendations are necessary to ensure that the advisory board has more complete information to better oversee the review as well as a long-term plan for completing the review; hence we did not revise the recommendation. Another individual board member suggested that a system be established to track the advisory board's recommendations rather than the contractor's recommendations since it is these that should be of greater concern. While GAO believes it is important to track the resolution of the board's recommendations, it also important to track the resolution of the contractor's recommendations, and we therefore revised the wording of our recommendation to reflect this position.

HHS, the contractor, and individual advisory board members took issue with statements in the report about the contractor being over budget and behind schedule. While they agreed with GAO's assessment that the review process got off to a slow start, they thought that the report did not provide sufficient information about the various factors that complicated or led to an expansion of work for the contractor, the revisions to the contractor's task orders, and the performance of the contractor with respect to the revised task orders. For example, commenters pointed out that in some instances, the contractor had to review a site profile more than once after NIOSH had revised the site profile to include additional information. Commenters added that the contractor's work also had to shift to accommodate changing priorities. For instance, NIOSH's increased reliance on using the site profiles to complete dose reconstructions prompted a shift in contractor priorities to devote more time and resources to site profile reviews than originally anticipated. The commenters added that since the task orders were revised, the contractor has been meeting the time frames and budgets specified in the task orders. We therefore revised the report to incorporate additional information on factors that complicated or led to an expansion in the work of the contractor, the revisions that were made to the task orders, and the contractor's progress in meeting the terms of the revised task orders.

HHS, the contractor, and some of the individual members of the advisory board maintained that the advisory board has taken actions to reexamine and adjust its strategy for reviewing site profiles and dose reconstruction cases. For instance, HHS stated that during the advisory board's meetings in 2005, the board regularly discussed the future of contract activities and altered the review schedule and scope of work several times. For example, the contractor was asked to perform site profile reviews for sites not originally anticipated in order to facilitate the advisory board's review of related special exposure cohort petitions. Other commenters pointed out the board's development of a six-step resolution process for use by NIOSH and the contractor to resolve differences on technical issues. We revised the report to more fully reflect actions taken by the advisory board to reexamine and adjust its strategy for the review. We also changed the report title to reflect changes made in the report in this regard. However, we continue to see a need for the advisory board to build on its actions by comprehensively reexamining whether its original long-term plan for the overall project is still appropriate.

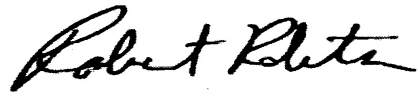
Several individual advisory board members commented that they remain concerned about the independence of the board and its contractor. Although acknowledging that replacement of the original officials appointed as the designated federal officer and project officer has helped reduce possible challenges to independence, the members pointed out that NIOSH officials remain involved in managing the contract and could still potentially influence the work of the contractor. These individual board members also emphasized that the board has no independent budgetary authority and that it relies on NIOSH to obtain funding. Our review suggests that the contractor has been able to demonstrate its independence during the review. For instance, our report notes that the contractor's reports have criticized numerous aspects of NIOSH site profiles and dose reconstructions. Further, contractor officials told us that they believe relations with NIOSH are thoroughly professional and board members told us that they are satisfied with the information provided by the contractor. We acknowledge that the potential for impairment of the contractor's efforts remains. In fact, our draft report concluded that there is a need for continued diligence in avoiding actual or perceived conflicts of roles as new candidates are considered for certain positions over the life of the advisory board. We have further highlighted this point in the final report.

HHS's comments are provided in appendix II, and the contractor's comments are provided in appendix III. HHS, the contractor, and individual board members also provided technical comments, which we have incorporated as appropriate.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days from the issue date. At that time, we will send copies of this report to the Secretary of Health and Human Services, interested congressional committees, and other interested parties. We are also sending copies to the Chair and members of the advisory board. We will make copies available to others upon request. In addition, the report will be available at no charge on GAO's Web site at <http://www.gao.gov>.

If you have any questions about this report, please contact me at (202) 512-7215. Contact points for our Offices of Congressional Relations and Public Affairs may be found on the last page of this report. GAO staff that made major contributions to this report are listed in appendix III.

Sincerely yours,

A handwritten signature in black ink, appearing to read "Robert Robertson". The signature is written in a cursive style with a large initial "R".

Robert E. Robertson
Director, Education, Workforce,
and Income Security Issues

Appendix I: Briefing Slides



Energy Employees Compensation: Adjustments Made to Contracted Review Process, But Additional Oversight and Planning Would Aid the Advisory Board in Meeting Its Statutory Responsibilities

Briefing for Staff of
Congressman F. James Sensenbrenner, Jr.
Chairman, House Committee on the Judiciary
December 13, 2005

1



Introduction

- For the last several decades, the Department of Energy and its predecessor agencies and contractors have employed thousands of individuals in secret and dangerous work in the atomic weapons industry.
 - The Energy Employees Occupational Illness Compensation Program Act (EEOICPA) of 2000 compensates individuals who have developed cancer or other specified diseases related to on-the-job exposure to radiation and other hazards at these work sites.
 - Under Subtitle B, determining a claimant's eligibility for compensation involves developing estimates of the likely radiation levels a worker was exposed to based on information such as exposure records. These estimates are referred to as "dose reconstructions" and are developed by the National Institute for Occupational Safety and Health (NIOSH) under the Department of Health and Human Services (HHS).
-



Introduction (cont.)

- NIOSH also compiles information in “site profiles” about the radiation protection practices and hazardous materials used at various plants and facilities, which assist NIOSH in completing the dose reconstructions.
 - Employees at certain facilities were designated under the law as members of a “special exposure cohort” because it was believed that exposure records were insufficient and the reasonable likelihood was that the workers’ radiation exposure caused their cancers. Their claims are paid without completing exposure estimates.
 - The law also allows the Secretary, HHS, to designate additional groups of employees as members of the special exposure cohort.
-



Introduction (cont.)

- For quality control and to raise public confidence in the fairness of the claims process, EEOICPA created a citizen’s advisory board of scientists, physicians, and employee representatives—the President’s Advisory Board on Radiation and Worker Health (advisory board). Members of board serve part-time, and the board has limited staff support.
 - The advisory board is tasked with reviewing the scientific validity and quality of NIOSH’s dose reconstructions and advising the Secretary of HHS. The board has the flexibility to determine the scope and methodology for this review. In addition, the advisory board is tasked with reviewing NIOSH’s evaluation of petitions for special exposure cohort status and recommending whether such status should be granted.
 - To facilitate the advisory board’s review, HHS awarded a 5-year, \$3-million contract to Sanford Cohen & Associates (SC&A) in October 2003 to examine a sample of dose reconstructions and particular site profiles and to perform a variety of other tasks.
-



Introduction (cont.)

-
- NIOSH awarded a 5-year contract to Oak Ridge Associated Universities to assist NIOSH in developing site profiles and in performing dose reconstructions. Originally, about \$70 million was allocated to the contract, but this figure had increased to over \$200 million by 2004.



Key Questions

We focused our work on three questions:

- Are the roles of key federal officials involved in the review of NIOSH's dose reconstructions sufficiently independent to assure the objectivity of the review?
- Have the agency's management controls and the advisory board's oversight been sufficient to ensure that the contract to review site profiles and dose reconstructions is adequately carried out?
- Is the advisory board using the contractor's expertise in reviewing special exposure cohort petitions?



Scope and Methodology

We reviewed pertinent contract-related materials and correspondence among key officials and interviewed these officials to document their roles. We used the broad principles specified in various criteria, including those specified in the Federal Acquisition Regulation and Government Auditing Standards, to assess the independence of key officials' roles.

We analyzed the contract provisions, including the specific task orders and monthly progress reports as well as the actions taken by officials to manage the contract. We assessed whether the management controls were adequate, considering criteria such as the Federal Acquisition Regulation.



Scope and Methodology (cont.)

We analyzed the special exposure cohort regulations and advisory board meeting minutes as well as interviewed key officials and attended advisory board meetings, to determine the process the advisory board has used and plans to use to evaluate petitions.

The scope of our work did not include examining the contract NIOSH awarded to Oak Ridge Associated Universities.

We conducted this review from March 2005 through November 2005 in accordance with generally accepted government auditing standards.



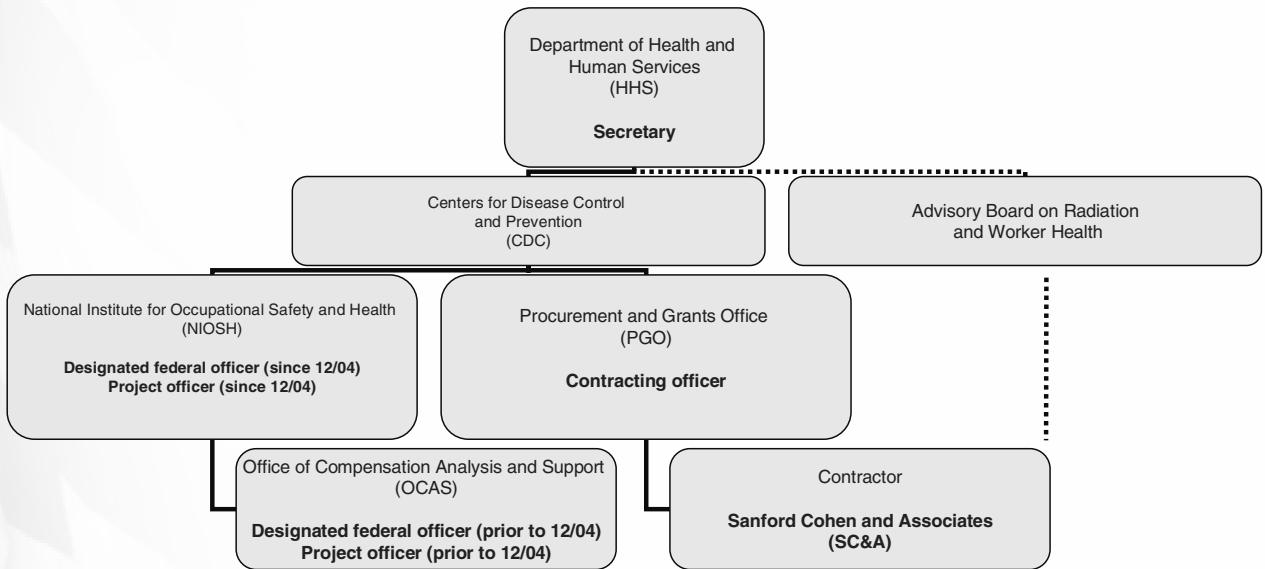
Summary of Findings

- The roles of certain key federal officials initially involved in the review of dose reconstructions may not have been sufficiently independent and these officials were replaced. However, continued diligence by HHS is required to prevent such problems from recurring as new candidates are considered for these roles.
 - The progress of the contracted review of site profiles and dose reconstructions has been hindered, largely by the complexity of the work. Some adjustments have been made, but further improvements could be made to the oversight and planning of the review.
 - The advisory board is using the contractor's work in reviewing special exposure cohort petitions and has acknowledged the need to review the petitions in a timely manner.
-



Background

Multiple Entities and Officials Involved in the Review of NIOSH's Dose Reconstructions



Background



Roles of HHS and CDC

HHS

- The Secretary of HHS has overall responsibility for the advisory board, as delegated by the President, and is tasked by executive order with providing administrative services, funds, facilities, staff, and other necessary support services to assist the advisory board in carrying out its responsibilities.

CDC

- NIOSH's parent agency awarded the contract on behalf of the advisory board.
- A CDC Procurement and Grants Office (PGO) official serves as the contracting officer.
 - The **contracting officer** is responsible for administering and providing management of the contract on the advisory board's behalf. This includes reviewing the monthly progress reports and paying the contractor for its approved costs.

Background (cont.)



Role of NIOSH

NIOSH

- The Office of Compensation Analysis and Support (OCAS) is responsible for preparing the site profiles and completing the dose reconstructions.
- NIOSH officials serve as the project officer for the contract and the designated federal officer for the advisory board.
 - The **project officer** is responsible for reviewing the monthly progress reports and monitoring the technical performance of the contractor.
 - The **designated federal officer** schedules and attends meetings of the advisory board.



Background (cont.)

Roles of Advisory Board and Contractor

Advisory Board

- Required to (1) review the scientific validity and quality of NIOSH's dose reconstructions and (2) review NIOSH's evaluation of special exposure cohort petitions and recommend whether such status should be granted.
- Operates under Federal Advisory Committee Act (FACA) requirements such as conducting its meetings in public.

Contractor - SC&A

- Under contract, assists the advisory board in meeting its statutory responsibilities by reviewing a sample of dose reconstructions and their associated site profiles and providing assistance with special exposure cohort petitions.
- Provides monthly progress reviews to the contracting officer, project officer, and advisory board.

Background (cont.)



Contract Initiated in October 2003 for 5 years and \$3 Million Maximum

Task Orders for contractor now include:

- Dose Reconstructions
 - Task 1: Review selected NIOSH-developed site profiles.
 - Task 2: Develop automated system to track NIOSH dose reconstruction cases.
 - Task 3: Review NIOSH dose reconstruction procedures.
 - Task 4: Review a sample of NIOSH dose reconstruction cases.
- Special Exposure Cohort Petitions
 - Review NIOSH's special exposure cohort petition procedures and individual petitions.
- Other
 - Provide administrative (logistical) support to advisory board (monthly progress reports, attendance at advisory board meetings, etc.).



Finding 1

Two Federal Officials Were Replaced to Protect Independence of Review

- Two officials were replaced by the Director of NIOSH because of concerns about the appearance of conflicting roles:
 - **project officer**
 - **designated federal officer**
- Initially, certain officials performing key roles did not appear to be sufficiently independent of the review and actions were taken to replace these officials. Advisory board members and the contractor have said that the implementation of the contract has improved as a result. Nonetheless, continued diligence is required to prevent such problems from recurring as new candidates may be considered for these roles.
- The contracting officer is a CDC employee whose organization is independent of the NIOSH program under review.



Finding 1: Independence of Roles cont.

Two Federal Officials Were Replaced

Replacement of Project Officer

- In 2003-2004, the project officer also served as a NIOSH program manager of the program under review.
- In December, 2004, a senior NIOSH official, who does not have responsibilities for the program under review, took over this role.

Replacement of Designated Federal Officer

- In 2002-2004, the designated federal officer also served as the NIOSH director of the program under review.
 - In December 2004, a senior NIOSH official, who does not have responsibilities for the program, took over this role.
-

Finding 1: Independence of Roles cont.



Other Officials Are Independent of the Program under Review

- The contracting officers have been CDC officials in the Procurement and Grants Office. They do not have responsibilities for the NIOSH program under review and are not accountable to its managers.
- Members of the advisory board played the leading role in developing and approving the initial statement of work for the contractor and the independent government cost estimate for the contract, actions which helped facilitate the independence of the contractor's work.

Finding 2



Adjustments Were Made to SC&A's Review But Further Improvements in Oversight and Planning Could be Made

- The project officer did not adequately monitor contract spending relative to overall project performance in the initial months. More detailed expenditure data were subsequently provided to facilitate monitoring but developing more comprehensive data would be useful.
- While the advisory board has made various adjustments to the contractor's task orders and work processes after the contractor encountered initial difficulties, the board has not comprehensively reexamined its long-term plan for the project.
- Additionally, NIOSH lacks a process for documenting actions it has taken in response to the contractor's findings that are reported to the advisory board and the advisory board's recommendations to HHS.

Finding 2: Contract Monitoring



CDC Did Not Adequately Monitor Contract Spending Compared to Work Completed

- The contractor's expenditure levels were not adequately monitored in the initial months.
- Although the contractor's reports indicated that costs were higher than anticipated, the project officer was caught by surprise in October 2004 when the contractor announced a need for work stoppage because expenditures on a specific task order had approached budget ceilings. The contracting officer noted that during this period the contractor's reports did not reflect the actual percent of work completed, making it very difficult to identify the actual cost of performance.
 - Work was suspended on the site profile review task and a smaller task for several days in November until additional funds were authorized.
- Separate monthly progress reports are submitted for each task order. However, there is no single comprehensive report on overall contract performance, which could facilitate tracking the progress of the overall review or making strategic adjustments where needed.



Finding 2: Initial Task Orders

Initial Task Order Budgets and Schedules Proved Unrealistic

- Initial task orders called for the contractor to complete:
 - 12 to 16 site profile reviews by February 2005 for \$426,000
 - 60 dose reconstruction reviews by August 2004 for \$467,000
- These tasks cost more or took longer to complete than originally estimated.
 - At the end of January 2005, the contractor had completed 2 site profile reviews and partially completed 2 others while spending \$481,000.
 - The contractor completed the first 60 dose reconstruction reviews by September 2005 while spending about \$1.0 million. (According to SC&A, the cost increase consisted of costs related to overall contract management, not to increased dose reconstruction review costs.)
 - Overall, in the first 2 years, the contractor spent almost 90 percent of the \$3 million allocated for a 5-year undertaking.



Finding 2: Initial Task Orders

Several Factors Hindered Contractor from Meeting Original Task Order Goals and Budgets

- Complexity of work was much greater than originally anticipated.
 - Both the contractor and NIOSH officials involved in the review reported that reviews of site profiles and dose reconstructions have proven considerably more complex than originally anticipated; thus the original cost estimates for the project (based on very limited information and experience) were not realistic.

- Contractor encountered initial delays in obtaining information.
 - The contractor's progress was initially hindered by substantial delays it encountered in obtaining necessary security clearances and access from NIOSH to various technical documents. These early implementation issues have generally been resolved, according to the contractor.



Finding 2: Task Order Revisions

The Advisory Board Has Significantly Revised Major Task Orders during First 2 Fiscal Years

- Site profile review task modified 5 times
 - Completion date extended from Feb. 2005 to Oct. 2005
 - Number of site reviews reduced from 12-16 to 9
 - Funding increased from \$426,000 to \$1.6 million

- Dose reconstruction review task modified 4 times
 - Completion date extended from Aug. 2004 to Dec. 2005
 - Number of reviews (60) remained constant
 - Funding increased from \$467,000 to \$1 million

- Contractor has met these revised task order requirements.



Finding 2: Task Order Revisions (cont.)

Task Order Revisions In Part Reflect Board’s Changing Needs for Contractor Support As Operations Matured

- Board shifted more contractor resources to site profile reviews in response to NIOSH’s increased reliance on site profiles.
 - Site profiles were originally seen as one of numerous resources to be used in developing dose reconstructions. However, as site profiles became the primary resource used by NIOSH, the advisory board wanted assurance that these site profiles were credible.

- NIOSH revisions to site profiles required the contractor to complete multiple reviews in some instances.
 - For example, the contractor completed four reviews of the Mallinckrodt site profile as a result of NIOSH’s changes. NIOSH views the site profiles as “living documents” that can be added to as new information is identified or changes need to be made. In addition, as NIOSH worked to complete many of the site profiles within an 18-month time frame, many “loose ends” remained in the site profiles, according to the contractor.



Finding 2: Task Order Revisions (cont.)

Task Order Revisions In Part Reflect Board's Changing Needs for Contractor Support As Operations Matured (cont.)

- Board developed a six-step process for use by NIOSH and contractor to resolve their differences of views on technical issues. This process expanded the time and resources needed for reviews.
- Unanticipated site profile reviews (e.g., Iowa Army Ammunition Plant) were needed to facilitate the advisory board's review of special exposure cohort petitions.



Finding 2: Next Steps for Board

While the Advisory Board Has Authorized Contractor Work for Fiscal Year 2006...

- Congress provided \$4.5 million in fiscal year 2006 for use by, or in support of, the advisory board.
 - The advisory board has authorized a new set of contractor reviews for fiscal year 2006.
 - An additional 6 site profile reviews, 60 dose reconstruction case reviews, and 6 special exposure cohort petition reviews.
-

Finding 2: Next Steps for Board (cont.)



... the Advisory Board Has Not Comprehensively Reassessed Its Long-Term Plan for the Project

- Contract with SC&A included estimates of total work to be performed:
 - 22 site profile reviews: 5 per year in each of the first 3 years, 4 in the fourth year, and 3 in the fifth year
 - 600 dose reconstruction reviews: 150 in each of the first 3 years, 100 cases the fourth year, and 50 the fifth year
- In August 2005, the designated federal officer pointed out that at the current rate of progress, the original plan to review a total of 600 dose reconstructions would require about 10 years to complete.
- But the advisory board has not comprehensively reexamined its original long-term plan for the project to determine if it needs to be modified.
 - Total number of site profile reviews needed?
 - Total number of dose reconstruction case reviews needed?
 - Time frames for completion and funding levels required?



Finding 2: Tracking Process

NIOSH Lacks Processes to Track Actions Taken in Response to Contractor’s Findings and Board’s Recommendations

- The contractor’s reports have criticized various aspects of NIOSH’s site profiles and dose reconstructions, such as NIOSH’s failure to consider information provided by site experts in its site profiles and certain assumptions NIOSH used to calculate dose reconstructions.
- As part of the six-step resolution process, the contractor and NIOSH develop matrices that specify NIOSH’s response and any planned actions for each of the contractor’s findings and recommendations. In some matrices, space is provided for the board to recommend that NIOSH take certain actions to resolve issues.
- However, there is no system in place to track NIOSH’s implementation of these actions or advisory board recommendations. Procedures for prompt resolution and implementation of audit findings and other reviews should be part of all federal agencies’ internal controls.



Finding 3

The Advisory Board Is Using the Contractor's Work in Reviewing Special Exposure Cohort Petitions

- The advisory board is using the contractor's work in reviewing special exposure cohort petitions.
- A recent task order expands the contractor's role for this facet of the board's work.
- A potentially large increase in the board's petition review workload did not occur because many petitions did not meet initial qualification requirements.
- The advisory board has acknowledged the need to review the petitions in a timely manner.



Finding 3: Use of Contractor

The Advisory Board Is Using the Contractor's Work in Reviewing Petitions

Advisory Board's Efforts as of October 31, 2005:

- The advisory board has reviewed eight petitions representing five sites.
 - For six of these petitions, the contractor reviewed the site profiles (though not the actual petitions associated with the named facilities).
 - For the other two petitions, the advisory board did not request the contractor's assistance.



Finding 3: Task Order

Recent Task Order Expands the Contractor's Role in Reviewing Petitions

Specifics of the Task Order include:

- The contractor will review some of the submitted petitions and NIOSH's evaluations of these petitions to recommend to the advisory board whether the petitioning group should be added to the special exposure cohort.
- The contractor will also develop the procedures for the advisory board to use when reviewing petitions.



Finding 3: Future Workload

A Potentially Large Increase in the Board's Petition Review Workload Did Not Occur

- **Many petitions did not meet the initial qualification requirements and thus did not need to be reviewed by the board.**
 - As of October 2005, NIOSH had determined that 18 of the submitted petitions did not meet the qualification requirements.
- **The advisory board may have to review five to eight more petitions filed as of October 2005:**
 - **One** petition is ready for the advisory board to review.
 - NIOSH is completing its evaluation of **four** more petitions that will be sent to the board for review.
 - NIOSH is assessing **three** other petitions to determine if they meet the qualification requirements.



Finding 3: Timeliness of Petition Reviews

The Advisory Board Has Acknowledged the Need for Timely Review of Petitions

- The number of new petitions that may be submitted and that may qualify for evaluation is unknown.
- While NIOSH is generally required by law to complete its review of a petition within 180 days of the petition's being qualified, there is no specified time frame for the advisory board's review of petitions.
- Nonetheless, the advisory board has discussed the fact that special exposure cohort petition reviews have required more time and effort to reach a recommended decision than originally estimated and that the advisory board needs to manage its workload in order to reach timely decisions.



Conclusions

Independence of Roles

- After concerns were raised about the independence of certain federal officials performing key roles, actions were taken to replace these officials.
- Credibility is essential to the work of the advisory board and the contractor. Thus, it is important to continue to be diligent in avoiding actual or perceived conflicts of roles as new candidates are considered for certain positions over the life of the advisory board.

Management and Oversight of the Review of Site Profiles and Dose Reconstructions

- The advisory board's review has presented a steep learning curve for the various parties involved. Despite some adjustments, further improvements could be made:
 - reassessing the long-term plan for the project
 - integrating data on contractor expenditures
 - tracking resolution of board and contractor findings and recommendations.



Conclusions (cont.)

Reassessing the long-term plan for the project

- The advisory board has made numerous midcourse adjustments to the work of the contractor as operations have matured.
- It would thus be appropriate for the advisory board to comprehensively reexamine its long-term plan for the overall project to determine whether this plan needs to be modified.

Integrated data on contractor expenditures

- Contractor's monthly reports were modified to provide more detailed data for individual tasks on expenditures compared to work completed.
 - However, the lack of integrated and comprehensive data across the various tasks makes it more difficult for the advisory board to track the progress of the overall review or make strategic adjustments to funding or deliverables across tasks.
-



Conclusions (cont.)

Tracking resolution of findings and recommendations

- The advisory board developed a six-step resolution process that uses matrices to track the findings and recommendations of the contractor and board. However, without a system for documenting the actions NIOSH has taken in response, there is no assurance that any needed improvements are being made.



Recommendations

To assist the advisory board meet its statutory responsibilities, we recommend that the Secretary of HHS:

- direct the contracting and project officers to develop and share with the advisory board more integrated and comprehensive data on contractor's spending levels compared to work completed and
- consider the need for providing HHS staff to collect and analyze pertinent information that would help the advisory board comprehensively reexamine its long-term plan for assessing the NIOSH site profiles and dose reconstructions.



Recommendations (cont.)

To ensure that the findings and recommendations of the advisory board and the contractor are promptly resolved, we recommend that the Secretary of HHS

- direct the Director of NIOSH to establish a system to track the actions taken by the agency in response to these findings and recommendations and update the advisory board periodically on the status of such actions.



Related GAO Products

- *Energy Employees Compensation: Even with Needed Improvements in Case Processing, Program Structure May Result in Inconsistent Benefit Outcomes.* GAO-04-516. Washington, DC: May 28, 2004.
 - *Energy Employees Compensation: Many Claims Have Been Processed, but Action Is Needed to Expedite Processing of Claims Requiring Radiation Exposure Estimates.* GAO-04-958. Washington, DC: Sept. 10, 2004.
-

Appendix II: Comments from the Department of Health & Human Services



DEPARTMENT OF HEALTH & HUMAN SERVICES

Office of Inspector General

Washington, D.C. 20201

JAN 13 2006

Mr. Robert E. Robertson
Director, Education, Workforce,
and Income Security Issues
U.S. Government Accountability Office
Washington, DC 20548

Dear Mr. Robertson:

Enclosed are the Department's comments on the U.S. Government Accountability Office's (GAO's) draft report entitled, "ENERGY EMPLOYEES COMPENSATION: More Strategic Oversight Is Needed to Assist Advisory Board in Meeting Its Statutory Responsibilities" (GAO-06-177). These comments represent the tentative position of the Department and are subject to reevaluation when the final version of this report is received.

The Department appreciates the opportunity to comment on this draft report before its publication.

Sincerely,

A handwritten signature in cursive script that reads "Daniel R. Levinson".

Daniel R. Levinson
Inspector General

Enclosure

The Office of Inspector General (OIG) is transmitting the Department's response to this draft report in our capacity as the Department's designated focal point and coordinator for U.S. Government Accountability Office reports. OIG has not conducted an independent assessment of these comments and therefore expresses no opinion on them.

**COMMENTS OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES
ON THE U.S. GOVERNMENT ACCOUNTABILITY OFFICE'S DRAFT
REPORT ENTITLED, "ENERGY EMPLOYEES COMPENSATION: MORE
STRATEGIC OVERSIGHT IS NEEDED TO ASSIST ADVISORY BOARD IN
MEETING ITS STATUTORY RESPONSIBILITIES" (GAO-06-177)**

General Comments

The Department of Health and Human Services (HHS) appreciates the opportunity to comment on the Government Accountability Office's (GAO) draft report.

To address the recommendations for executive action as noted in the draft, HHS will develop and share with the Advisory Board on Radiation and Worker Health (the Board) more integrated and comprehensive data on contractor spending levels compared to work completed. HHS also will consider the need to provide HHS staff to collect and analyze pertinent information that would help the Board reexamine its overall strategy for assessing the Centers for Disease Control and Prevention's (CDC), National Institute for Occupational Safety and Health (NIOSH) site profiles and dose reconstructions.

Regarding the recommendation to have the Secretary of HHS direct CDC's NIOSH Director to establish a system to track the actions taken by the agency in response to findings and recommendations of the contractor, an established system is in place to track recommendations of the Board. Letters from the Board to the Secretary of HHS are entered into a database system and responses and/or follow-up actions are noted in the system. NIOSH will continue to track Board recommendation letters to the Secretary of HHS using this system, and NIOSH also will continue to post letters from the Board to the Secretary of HHS on the NIOSH website.

As noted in the draft, a six-step process is in place to address technical issues raised by the contractor. NIOSH currently utilizes a matrix to outline the concerns of the contractor, the NIOSH response, and the action to be taken. The matrix allows user-friendly tracking of the status of each contractor recommendation, and NIOSH plans to continue using the system, information from which is shared with the advisory board upon request.

Appendix III: Comments from S. Cohen & Associates



January 3, 2006

Mr. Andrew Sherrill
Government Accountability Office
441 G Street NW
Room 5E35
Washington, DC 20548

Re: Draft GAO Report, GAO-06-177

Dear Mr. Sherrill:

In accordance with your e-mail request dated December 21, 2005, I have reviewed the Draft GAO Report, GAO-06-177, and respectfully offer below my comments. A more detailed discussion of my comments and recommendations is contained in the attachment to this letter.

I am primarily concerned about the repeated statements made in the draft report that SC&A is behind schedule and over budget in its work for the Advisory Board. Although this may have been the case in the early months of our work (the first Task Order was issued in February 2004), it is not correct for the work performed subsequent to the "shutdown" (in November 2004), after which the work was reorganized, and the project officer and designated Federal officer were replaced, because of concerns about the appearance of conflict of interest. The early work was behind schedule and over budget because the government's "original cost estimates for the project were based on very limited information and experience and were not realistic." The words in quotation marks in the previous sentence, which are attributed to NIOSH officials, come directly from the briefing slide on page 25 of your draft report entitled, "The Project Has Had a Steep Learning Curve." On that same page, you state that "reviews of site profiles and dose reconstructions have been considerably more complex than originally anticipated," and that "addressing differences of views between the contractor and NIOSH on numerous technical issues has required adding a resolution process that has added substantial time to the project."

As amply discussed in the attachment, the reviews and audits were more complex than originally envisioned, additional work was needed above and beyond that envisioned in the original scope of work, and new and time-consuming processes were added in order for the results of our work to be useful to NIOSH and the Board.

Notwithstanding this recognition within the draft report that there are valid reasons why our costs might have been in excess of the original budget, the draft report continues to harp on SC&A's cost overruns and schedule slippage (see the briefing slides on pages 26 and 27, entitled "Consequently the Project is Over Budget and Behind Schedule" and "Site Profile Reviews Have Fallen Behind While Expenditures Have More Than Tripled," respectively). Why does GAO need to put a spotlight on costs that initially exceeded an unrealistic budget, completely overlooking the reorganization of the project after the shutdown in November 2004 with new

6858 OLD DOMINION DRIVE • SUITE 301 • McLEAN, VIRGINIA • 22101 • 703.893.6600 • FAX 703.821.8236

scopes of work, budgets, and schedules (all of which have been met). To make matters worse, the draft report incorrectly states that the budget slippage and cost overruns are current ("Currently, the contractor's work is behind schedule and over budget...", page 3 of the Draft Report).

It is interesting to note that the issue of potential NIOSH conflict of interest is treated in the draft report quite differently than the issue of contractor performance. The draft report states that initial problems relating to potential NIOSH conflict of interest have been resolved, and so it does not dwell on the early problems in this respect. However, the draft report does not approach the issue of cost overruns in the same manner, even though these were also resolved after the shutdown in November 2004. Instead, the draft report makes it seem like contractor performance is a current problem.

Please forgive me for the potentially zealous tone of my foregoing objections to the treatment of SC&A's performance under the NIOSH contract. You must recognize, however, that the excellence of our past performance is our most valuable asset, and the inaccuracies and misleading statements contained in the current draft of the report could be very damaging to our reputation. It is not difficult to correct these statements, possibly by adding significantly more context to the history of the contract performance. Although this might result in a more tedious document, it would also be more accurate in describing what actually happened.

Thank you for providing me with the opportunity to comment on the Draft GAO Report.

Most respectfully yours,



Project Manager and Senior Vice President
SC&A, Inc.

Attachment

Appendix IV: GAO Contact and Staff Acknowledgments

GAO Contact:

Robert E. Robertson, (202) 512-7215 or robertsonr@gao.gov

Staff

Acknowledgements:

Andy Sherrill, Assistant Director; Margaret Armen, Richard Burkard, Susan Bernstein, Sandra Chefitz, Mary Nugent, and Robert Sampson made significant contributions to this report.

Related GAO Products

Energy Employees Compensation: Many Claims Have Been Processed, but Action Is Needed to Expedite Processing of Claims Requiring Radiation Exposure Estimates. [GAO-04-958](#). Washington, D.C.: Sept. 10, 2004.

Energy Employees Compensation: Even with Needed Improvements in Case Processing, Program Structure May Result in Inconsistent Benefit Outcomes. [GAO-04-516](#). Washington, D.C.: May 28, 2004.

GAO's Mission

The Government Accountability Office, the audit, evaluation and investigative arm of Congress, exists to support Congress in meeting its constitutional responsibilities and to help improve the performance and accountability of the federal government for the American people. GAO examines the use of public funds; evaluates federal programs and policies; and provides analyses, recommendations, and other assistance to help Congress make informed oversight, policy, and funding decisions. GAO's commitment to good government is reflected in its core values of accountability, integrity, and reliability.

Obtaining Copies of GAO Reports and Testimony

The fastest and easiest way to obtain copies of GAO documents at no cost is through GAO's Web site (www.gao.gov). Each weekday, GAO posts newly released reports, testimony, and correspondence on its Web site. To have GAO e-mail you a list of newly posted products every afternoon, go to www.gao.gov and select "Subscribe to Updates."

Order by Mail or Phone

The first copy of each printed report is free. Additional copies are \$2 each. A check or money order should be made out to the Superintendent of Documents. GAO also accepts VISA and Mastercard. Orders for 100 or more copies mailed to a single address are discounted 25 percent. Orders should be sent to:

U.S. Government Accountability Office
441 G Street NW, Room LM
Washington, D.C. 20548

To order by Phone: Voice: (202) 512-6000
TDD: (202) 512-2537
Fax: (202) 512-6061

To Report Fraud, Waste, and Abuse in Federal Programs

Contact:

Web site: www.gao.gov/fraudnet/fraudnet.htm

E-mail: fraudnet@gao.gov

Automated answering system: (800) 424-5454 or (202) 512-7470

Congressional Relations

Gloria Jarmon, Managing Director, JarmonG@gao.gov (202) 512-4400
U.S. Government Accountability Office, 441 G Street NW, Room 7125
Washington, D.C. 20548

Public Affairs

Paul Anderson, Managing Director, AndersonP1@gao.gov (202) 512-4800
U.S. Government Accountability Office, 441 G Street NW, Room 7149
Washington, D.C. 20548