



**OFFICE OF INSPECTOR GENERAL**

U.S. Department of Energy

# AUDIT REPORT

DOE-OIG-23-10

November 2022

**PERFORMANCE MANAGEMENT  
PROCESS AT THE  
IDAHO NATIONAL LABORATORY**



**Department of Energy**  
Washington, DC 20585

November 28, 2022

MEMORANDUM FOR THE MANAGER, IDAHO OPERATIONS OFFICE

SUBJECT: Audit Report on Performance Management Process at the Idaho National Laboratory

The attached report discusses our review of whether the performance management process provided assurance that award fees correlated with performance for the Idaho National Laboratory contract. This report contains four recommendations that, if fully implemented, should help ensure that award fees correlate with contractor performance at the Idaho National Laboratory. Management concurred with our recommendations.

We conducted this performance audit from May 2021 through February 2022 in accordance with generally accepted government auditing standards. We appreciated the cooperation and assistance received during this audit.

A handwritten signature in black ink that reads "Earl Omer".

Earl Omer  
Assistant Inspector General  
for Audits  
Office of Inspector General

cc: Deputy Secretary  
Chief of Staff



## Department of Energy Office of Inspector General

### Performance Management Process at the Idaho National Laboratory (DOE-OIG-23-10)

#### WHY THE OIG PERFORMED THIS REVIEW

The Department of Energy spends about 90 percent of its annual budget on site facility management contracts, which includes the management and operation of its scientific laboratories using a performance-based contracting approach which focuses on the evaluation of actual performance goals and progress toward those goals as measured through a set of objectives. Each objective's success is measured based on demonstrated performance. Given challenges identified in prior reporting on contract and project oversight, we initiated this audit to determine if the performance management process at the Idaho National Laboratory provides assurance that award fees correlated with contractor performance.

#### What Did the OIG Find?

We found that the Idaho Operations Office's performance management process was unclear in how it awarded fees that correlated with contractor performance at the Idaho National Laboratory. Specifically, documentation of the Federal oversight activities was not always recorded in the official oversight repository or maintained outside the system. Additionally, the Idaho Operations Office lacked a document that included the elements of a quality assurance surveillance plan that would facilitate the assessment of contractor performance and ensure the appropriateness of award fees.

We attributed these issues to several factors, including a lack of a standardized approach as to how oversight was conducted, the level of documentation to substantiate oversight activities that took place throughout the course of the year to support the final grades and associated award fee, and a high turnover of Federal oversight personnel conducting and documenting oversight to support the final evaluation and fee determination.

#### What Is the Impact?

The performance management process at the Idaho National Laboratory did not provide assurance that the award fees correlated with the contractor performance. Without adequate documentation and the absence of elements of a quality assurance surveillance plan, the Idaho Operations Office was unable to adequately support the contractor's performance and associated award fee of approximately \$15 million. Supporting effective performance management requires a culture of commitment to strong oversight. In support of that culture, future OIG audits of performance awards will analyze supporting documentation and evaluations to determine if the award fees are reasonable, while questioning any costs that are determined to be unreasonable or not fully supported.

#### What Is the Path Forward?

To address the issues identified in this report, we have made four recommendations that, if fully implemented, should help improve the performance management process.

## BACKGROUND

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The Department of Energy is the largest civilian contracting agency in the Federal Government. It spends about 90 percent of its annual budget on site facility management contracts, which include the management and operation (M&O) of its scientific laboratories. Well-performing and reliable contractors are essential to the success of the Department's many missions. Since fiscal year (FY) 2005, Battelle Energy Alliance, LLC (BEA) has managed and operated the Idaho National Laboratory (INL) under a 20-year contract, valued at \$17.18 billion. INL is part of the Department's Office of Nuclear Energy.

The Office of Nuclear Energy follows the Office of Science's approach to evaluate its M&O contractor, using broad, office-wide performance criteria that are primarily qualitative versus quantitative. However, qualitative measures alone do not lend themselves to readily measured metrics or data and should not be used as a substitute for quantitative measures. According to the Department's *Acquisition Guide*, using subjective fee components are less desirable than objective components because there is no clear link between the performance and the reward; therefore, only when it is unfeasible to use objective measures of performance should subjective fee components be used. In this case, the subjective fee components should also be tied to identifiable interim outcomes, discrete events, or milestones to the maximum extent practical. Further, qualitative analysis should answer why quantitative measures represented in an evaluation occurred, but evaluations without sufficient data and facts do not effectively measure performance. The INL M&O contract is a cost-plus-award-fee (CPAF) contract, which includes a performance-based fee that is intended to motivate a contractor to at least meet performance goals related to contract deliverables. A CPAF contract is a cost-reimbursable contract that provides a fee amount that may be awarded, in whole, or in part, based upon the result of periodic evaluations of ongoing contractor performance. The award amount acts as a scalable incentive to reward innovation and positive results based on the Department's evaluation of the contractor's performance as it relates to technical, schedule, management, and cost objectives.

The Department of Energy Acquisition Regulation (DEAR) 970.5215-1, *Total Available Fee*, states that the Government shall establish a Performance Evaluation and Measurement Plan (PEMP) upon which the determination of total available fee amount earned shall be based. The Department uses the significant activity and requirement criteria set forth in the PEMP to evaluate BEA's performance. Through a set of objectives, the performance-based approach focuses the evaluation of the M&O's performance against performance goals and progress toward these goals. Each objective's success should be measured in accordance with BEA's demonstrated performance at INL. This contract structure is intended to reduce the risk of cost overruns, delays, and performance failures by providing well-performing contractors the opportunity to earn a fee. On an annual basis, and prior to the evaluation period, the PEMP is mutually agreed upon by the Office of Nuclear Energy, the Idaho Operations Office, and BEA.

The PEMP also provides the blueprint for how evaluations determine award fees. The Department evaluates each objective and provides a letter grade, numerical score, adjectival rating, description, and award fee pool available, which are used to calculate the total fee earned. From FY 2017 through FY 2020, BEA was awarded an average of 96.25 percent of the total available fee per FY.

<b>FY</b>	<b>Total Available Fee</b>	<b>Fee Awarded</b>	<b>Percentage of Total Available Fee Awarded</b>
2017	\$16M	\$15.52M	97%
2018	\$16M	\$15.04M	94%
2019	\$16M	\$15.52M	97%
2020	\$16M	\$15.52M	97%

Improving the efficiency and effectiveness of contract management continues to be a challenge area for the Department. Specifically, the U.S. Government Accountability Office has consistently designated the Department’s contract management, which includes contract and project oversight, as a high-risk area. Given the challenges to improve the Department’s contract oversight process, we initiated this audit to determine if the performance management process at INL provides assurance that award fees correlated with contractor performance.

## **PERFORMANCE MANAGEMENT PROCESS**

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We found that the performance management process in place for the M&O contract at INL did not allow an independent reviewer to confirm that award fees correlated with contractor performance. Specifically, we could not confirm the support for the grades provided to the contractor because the documentation of Federal oversight activities was not always recorded in the official oversight repository or maintained outside the system. Additionally, the Idaho Operations Office lacked a document that included the elements of a quality assurance surveillance plan to facilitate the assessment of contractor performance and ensure the appropriateness of award fee payment.

## **FEDERAL OVERSIGHT AND DOCUMENTATION**

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Despite the significant award fee earned by the contractor, 97 percent of the total available fee in FY 2020, the Idaho Operations Office often did not provide adequate support to demonstrate that the grades and associated payments were warranted. For four of the seven objectives we reviewed, oversight documentation did not always exist to support the performance evaluations and ratings. After several requests from the Office of Inspector General to access all oversight documentation, the Idaho Operations Office determined it could not provide the support necessary to corroborate the performance evaluation and fee determination for the FY 2020 PEMP.

For the PEMP objectives we reviewed, the oversight groups within the Idaho Operations Office did not implement a consistent approach on how oversight documentation was maintained, despite clear guidance from its own office requiring that results of all oversight activities be documented in the official oversight repository system, the Zeus system. In some cases, oversight officials created weekly summary reports of oversight activities rather than documenting oversight in Zeus, as required by Idaho Operations Office’s internal procedures. For example, some oversight officials maintained weekly summary reports in Word documents, while others communicated results of weekly oversight activities through email. Given the consistent lack of detail in the weekly summaries we reviewed, it was unclear whether the

weekly reports were a comprehensive listing of the oversight activities conducted or only the highlights. Additionally, weekly reports for a particular objective in FY 2020 were no longer available when we requested the documentation just over a year later, in June of 2021. Federal<sup>1</sup> and Department<sup>2</sup> records management policies require maintaining adequate and proper documentation demonstrating actions taken to finalize a decision, which includes documentation of oversight activities supporting the final award fee. Without a complete record of the day-to-day oversight activities provided by the Idaho Operations Office to support its final evaluation of the contractor, we could not perform an analysis to confirm that contractor performance correlated with the final letter grade of “A”<sup>3</sup> for FY 2020.

Additionally, the Department’s performance evaluation and fee determination did not always evaluate the contractor’s performance for each significant activity and requirement in accordance with the PEMP, as required by DEAR 970.5215-1. For the seven objectives we reviewed,<sup>4</sup> there was no evidence for three objectives that the Idaho Operations Office evaluated the contractor against all the significant activities and requirements included in the PEMP to determine the award fee. For example, in one of the objectives, the PEMP states that a quality process should be used to allocate facility time to internal and external users. In assessing this objective’s performance, the PEMP states that the quality of the process used to allocate facility time to users should be considered. However, the performance evaluation and fee determination failed to address this requirement when assessing performance, making it impossible for a third-party to determine if these areas were considered during the final evaluation; this subsequently put into question whether enough information had been collected through oversight activities and documented by officials to make a fully informed determination. A failure to provide for measurable metrics and data, first, as part of the PEMP details, and second, to assess those measures in the evaluation documentation, inhibits an independent review of the determination and casts doubt on the veracity of the grade assigned.

Despite the lack of documented support to justify the final evaluation and fee determination, and in some instances, the apparent failure to evaluate the contractor against all the significant activities and requirements for the PEMP objectives reviewed, the Idaho Operations Office gave the contractor a grade of excellent performance and awarded the contractor 97 percent of the total available fee for FY 2020. In the performance evaluation and fee determination, each objective was given a letter grade that should have been supported by a summary of the Idaho Operations Office’s assessment of the contractor’s degree of effectiveness and performance in meeting each of the objectives with specific examples and details to justify the determination. However, given the lack of documented support of the oversight activities that took place throughout the year to justify the final evaluation and fee determination, as well as the failure to

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<sup>1</sup> Title 36 Code of Federal Regulations, Subchapter B, *Records Management*. Under 44 United States Code 3101, the head of each Federal agency must make and preserve records containing adequate and proper documentation of the organization, functions, policies, decisions, procedures, and essential transactions of the agency.

<sup>2</sup> Department Order 243.1B, *Records Management Program*. Department records will be managed in accordance with all prescribed laws, regulations, directives, and processes to ensure adequate and proper documentation of the Department’s organizations, missions, functions, policies, and decisions.

<sup>3</sup> Per the INL PEMP, the contractor can earn a final letter grade ranging from A+ to F.

<sup>4</sup> The seven objectives reviewed were based on selecting the performance objective with the highest weight from each of the seven performance goals included in the FY 2020 PEMP.

evaluate the contractor against all the significant activities and requirements<sup>5</sup> listed for the PEMP objectives that we reviewed, it was not evident how the Idaho Operations Office determined that the contractor had performed at a level of excellence. Performance evaluations that are not adequately supported may be indicative of a performance management process that functions as a post hoc justification of the award fee and does not incentivize achievement of established goals.

The Federal oversight and documentation issues occurred, in part, because the Idaho Operations Office had not followed its own guidance by implementing a standardized approach on how to provide oversight and the level of documentation required to support the grades and associated award fees. Specifically, for five of the seven objectives reviewed, oversight activities were not regularly captured in the Zeus system, as required by local procedures. While the Idaho Operations Office's Process Description (PD), *Contract Oversight*, highlights the need to document pre-planned assessments and day-to-day operational awareness activities in Zeus, performance evaluators stated that Zeus was not always used to document day-to-day oversight activities. In discussions with performance evaluation officials responsible for overseeing performance objectives, we noted inconsistencies with the implementation of the requirement to document oversight activities in Zeus. For example, various performance evaluators stated that Zeus was used only for formal assessments and that daily operational oversight activities, such as the results of site visits and walkthroughs, would not be included in Zeus. Further, the oversight official that provided us a demonstration of the Zeus system indicated that the expectation was that all assessments and operational awareness activities, including daily oversight activities, be documented in Zeus. Performance monitoring by oversight officials needs to be conducted and documented regularly to ensure contractors understand the emphasized areas for the contract or project. Further, regular oversight increases the likelihood that deviations from such areas are identified early and corrective actions applied in a timely manner.

We also attributed documentation issues to a lack of Federal oversight personnel to conduct and document the oversight necessary to support the Idaho Operations Office's final evaluation and fee determination. Under the terms of the M&O contract and its oversight procedures, the Idaho Operations Office is responsible for overseeing the contractor and ensuring award fees correlated with contractor performance. However, Federal oversight personnel explained that performing and documenting oversight activities was limited due to staffing constraints. According to oversight officials, previous operational awareness activities had been documented in the official oversight repository. However, significant turnover limited the ability to perform oversight activities and, subsequently, document the results in Zeus. For example, for one of the objectives reviewed, the group conducting day-to-day oversight activities in FY 2020 had 3 full-time equivalents down from 13 full-time equivalents in 2019. Since FY 2020, the oversight group has continued to fluctuate with full-time equivalents because of competition with private industry and the lengthy process for filling positions. Additionally, one of the Division Directors noted that if or when staffing returns to appropriate levels, performing and documenting oversight activities should increase.

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<sup>5</sup> Each of the objectives identifies significant activities and/or requirements, including, but not limited to, Notable Outcomes, important to the success of the corresponding PEMP goal and shall be used as the primary means of determining the contractor's success in meeting the desired goals.

Further, supervisors responsible for oversight of this objective also indicated that the lack of staffing has contributed to the inability to physically interact with the principal investigators and perform hands-on validation. Officials told us that with over 400 work packages to oversee and currently only 5 employees to perform oversight, they have had to focus on issues self-identified by the contractor instead of performing their own in-depth assessments. For another objective, a supervisor stated that while previously there had been three staff members overseeing the objective, that due to retirements and the lack of authorization to rehire for those positions, only one staff member was overseeing the objective.

A commitment to maintaining a robust oversight function through adequate staffing is essential for Federal officials to ensure they have full visibility into contractor performance as that is essential in producing accurate performance evaluations and resulting fee awards. Further, any performance management process should include documented evidence of periodic meetings with stakeholders to ensure accurate updates are provided, and forward-looking expectations are understood by everyone. Without personnel fully documenting oversight activities, the Idaho Operations Office cannot consistently track and record daily project management activities, milestones, performance measures, deliverables, or requirements upon which the total available fee amount earned shall be based. Additionally, without being able to trace the final evaluation and fee determination back to supporting documentation for all the oversight activities conducted by the Federal oversight officials, it was not evident how the Idaho Operations Office confirmed that the final determination fully represented the contractor's performance and whether it was commensurate with earning 97 percent of the available fee for FY 2020.

## **QUALITY ASSURANCE SURVEILLANCE PLAN**

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We found that the Idaho Operations Office did not develop a separate Quality Assurance Surveillance Plan (QASP)<sup>6</sup> or implement the elements of a QASP into the PEMP for the INL M&O contract. DEAR 970.1100-1, *Performance-based contracting*, requires the development of a QASP to facilitate the assessment of contractor performance and ensure the appropriateness of award fee payment. Useful performance evaluations rely on essential quantitative metrics and facts established in the PEMP and QASP to facilitate objective measurements of contractor efforts. The Idaho Operations Office officials stated that instead of developing a separate QASP, the PEMP meets the objective of the QASP; however, for the seven objectives reviewed, the PEMP does not provide necessary details, such as a method of surveillance, to measure the contractor's performance on all significant activities and requirements as required in a QASP. Although the PEMP contains an adjectival rating and definition for each letter grade at the objective level, the PEMP does not define all work requiring surveillance and the method of surveillance for each of the significant activities and requirements.<sup>7</sup> As mentioned, the Department's *Acquisition Guide* states that when using subjective fee components, it is

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<sup>6</sup> DEAR 970.1100-1, *Performance-based contracting*, states that “[q]uality assurance surveillance plans shall be developed to facilitate the assessment of contractor performance and ensure the appropriateness of any award or incentive fee payment. Such plans shall be tailored to the contract performance objectives, criteria, and measures, and shall, to the maximum extent practicable, focus on the level of performance required by the performance objectives rather than the methodology used by the contractor to achieve that level of performance.”

<sup>7</sup> Under Federal Acquisition Regulation 46.401, *Government Contract Quality Assurance – General*, quality assurance plans should be prepared in conjunction with the statement of work and specify all work requiring surveillance and the method of surveillance.

especially important to ensure that the contract/award fee plan clearly defines how the contractor's performance will be measured and should be tied to identifiable interim outcomes, discrete events, or milestones.

However, the PEMP does not define how the Idaho Operations Office would assess the contractor's performance against requirements as well as the expected level of performance. For example, one requirement in the PEMP is to "[l]ead and implement relevant, high-impact research, development, demonstration and deployment (RDD&D) programs [and] [c]ontinue to build on the INL's position as the preeminent, internationally-recognized Laboratory in nuclear energy technologies." The PEMP states that in determining the level of performance for INL against the goal that included this objective, one of the areas to consider is the impact of research, development, demonstration, and deployment results on the field, as measured primarily by peer review or feedback from customer, industry, university, or national laboratories. Although the PEMP identifies this as a requirement for the contractor, it fails to define how the Idaho Operations Office would provide surveillance and what level of performance is acceptable for this significant activity. For example, the final evaluation states that INL researchers made significant contributions to nuclear energy literature and published 205 peer-reviewed articles. However, as an outside reviewer, without an acceptable level of performance or baseline standard defined in the PEMP, the significance of this number and its impact on the performance evaluator's determination that the requirement was met is not evident. Additionally, because the PEMP does not define performance standards for the significant activities and requirements outlined in the objectives we reviewed, performance evaluators told us that they had to rely on professional judgment, a qualitative aspect, when evaluating performance. For example, one performance evaluator stated that it was a "challenge" to distinguish good from bad performance because there was no "magic number" or objective measure to guide a decision. Further, for one of the objectives we reviewed, the PEMP only lists the significant activities and requirements needed to meet the objective and does not list actions, such as safety metrics or timeliness of completion, for the Idaho Operations Office evaluators to consider when measuring the performance. For this objective, the PEMP did not define all work requiring surveillance and the method of surveillance to use when evaluating the contractor. Articulating specific forward-looking expectations and milestones early and often provide clarity to both contractors and oversight officials, which establishes a basis for metrics and measurement when determining award fees.

The absence of a QASP, or including the QASP requirements in the PEMP, occurred because per the Idaho Operations Office officials, the QASP was not required for the evaluation of the M&O contractor's performance. In consultation with the Contracting Officer Representative, the Idaho Operations Office's Contract Management Division Director, Head of Contracting Authority, and Chief Counsel provided a written response with an interpretation of DEAR 970.1100-1(d) addressing contracts in general. Per the Idaho Operations Office's response, DEAR 970.5215-1 states that when the contract structure is an M&O CPAF, the Government shall establish a PEMP upon which the determination of the total available fee amount earned shall be based. Further, the PEMP will address all the requirements of contract performance specified in the contract directly or by reference. Accordingly, the Idaho Operations Office's written response states that the requirement to have a PEMP supersedes the general requirement to have a QASP.

The Department's Office of Acquisition Management Field Assistance and Oversight Division, which belongs to the Office of Management, coordinated with the Office of Policy and provided a written response that the QASP and PEMP clauses are applicable to the INL M&O contract. After further discussion with Idaho officials, the Idaho Operations Office revised its stance on the INL M&O contract QASP exemption to state that the PEMP meets the elements of the QASP and is used as a consolidated document to assess contractor performance and ensure appropriateness of award fee payment. Specifically, officials stated that the PEMP meets the objective of the QASP and indicated that it would be redundant and possibly conflicting if implemented separately from the PEMP. Additionally, as a result of our work, Idaho Operations Office officials stated that language was added to the FY 2022 PEMP to clarify that the PEMP serves as the QASP for the INL contractor's evaluation. Although no requirement exists in regulations or Department policy that the QASP and PEMP be written as separate documents, our analysis determined that the language added to the FY 2022 PEMP does not fully address the level of performance required to meet the performance objectives; therefore, the FY 2022 PEMP does not meet the intent of a QASP.

Without the details necessary to measure contractor performance for each of the significant activities and requirements, the current process has made it difficult for performance evaluators to consistently justify ratings for the contractor's performance and to minimize subjectivity in final determinations. Excessive reliance on qualitative statements without supporting data and facts reduces the assessment value of performance evaluations. Therefore, additional context is needed in the PEMP, or a separate QASP should be developed, that would identify all work requiring surveillance and the type of surveillance to be performed; minimize subjectivity; and allow outside reviewers to understand the specific oversight conducted for each significant activity and requirement, while also understanding how the results of that oversight are used to evaluate the contractor's performance against established baselines. Further, when subjective fee components are used, they must be tied to interim outcomes, discrete events, or milestones to the maximum extent possible.

## **IMPROVEMENTS NEEDED IN PERFORMANCE MANAGEMENT PROCESS**

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Based on our audit, the performance management process at INL did not provide reasonable assurance that award fees correlated with contractor performance. Without adequate documentation and a defined performance standard, the Idaho Operations Office was unable to support the contractor's performance score and associated award fee of approximately \$15 million. The U.S. Government Accountability Office also found similar issues in a 2019 report, *Department of Energy: Performance Evaluations Could Better Assess Management and Operating Contractor Costs* (GAO-19-5, February 2019). Specifically, the report states that the Department needed to improve the quality of information and evaluations conducted to enable an overall assessment of the components describing the contractor's cost performance. The recommendation specific to the Office of Nuclear Energy has since been implemented and closed. External reviewers should be able to understand the basis used by the Department to determine the award fee. Utilizing foundational documents such as the PEMP and QASP, as the Department intended, can result in relevant and supportable performance evaluations. Further, the feedback these documents provide can help build a strong, accountable, and more effective contractor corps across the entire Department. Supporting effective performance management

requires a culture of commitment to strong oversight that includes meeting periodically with stakeholders, articulating forward-looking expectations and milestones, and not permitting evaluations to function in a post hoc manner. In support of that culture, future Office of Inspector General audits of performance awards will analyze supporting documentation and evaluations to determine if the award fees are reasonable, while questioning any costs determined to be unreasonable or not fully supported.

## **RECOMMENDATIONS**

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To address the issues in this report and help improve the performance management process at INL, we recommend that the Manager, Idaho Operations Office, in coordination with responsible officials:

1. Evaluate the performance management process to ensure that it facilitates the assessment of contractor performance and ensures the appropriateness of any award fee payment.
2. Seek formal guidance from the Office of Acquisition Management and from relevant program offices regarding how to use the Department federally funded research and development centers M&O CPAF PEMP processes to address Federal and Department QASP elements.
3. Review internal Idaho Operations Office procedures to address any inconsistencies and ensure oversight documentation is in accordance with Idaho Operations Office Process Descriptions. Also, review procedures to ensure that all oversight activities are documented, as required, including, but not limited to: oversight plans, assessments, reviews, operational awareness activities, and walkthroughs.
4. Re-evaluate staffing levels for the Idaho Operations Office to ensure that resources are appropriately allocated and meet the needs of providing adequate contract oversight.

## **MANAGEMENT RESPONSE**

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The Idaho Operations Office concurred with our recommendations. Specifically:

- Recommendation 1. The Idaho Operations Office stated it has a robust, benchmark PEMP process with goals, objectives, and notable outcomes that is consistent with Department policy and has been validated with external reviews by experts in both contract administration and research and development enterprises. According to the Idaho Operations Office, it has fully adopted the Department's Office of Science approach, as recommended by the National Academy of Public Administration and the Commission to Review the Effectiveness of the National Energy Laboratories. Further, the Idaho Operations Office stated that the PEMP is reviewed and approved by the Department's Senior Procurement Executive in the Office of Acquisition Management on an annual basis.

Additionally, the Idaho Operations Office stated that it follows a formal process established for triannual performance evaluations, as documented in 03.PD.02, *Idaho National Laboratory PEMP and Fee Administration*, which defines the process to evaluate BEA based on specific technical, schedule, management and/or cost objectives. The Idaho Operations Office stated that the oversight of the 22 objectives and 12 notable outcomes is properly documented in the BEA PEMP Database System for FY 2020, as required by 03.PD.02. The Idaho Operations Office noted that statements in the report erroneously imply that the performance management process functions as a post hoc justification. The Idaho Operations Office stated that support for performance evaluation is documented in the triannual progress reports and the final performance evaluation and fee determination, in accordance with DEAR 970.5215-1. The Idaho Operations Office also noted that the final performance evaluation and fee determination adequately document accomplishment of the objectives, notable outcomes, and fee earned in the Fee Determination Official letter and its attachments, on an annual basis, and are also located in Zeus.

- Recommendation 2. The Idaho Operations Office stated the evaluation of contractor performance is in accordance with the PEMP requirements, as evidenced by the Annual Fee Determination Official letter documenting performance evaluation and fee determination, in accordance with DEAR 970.5215-1(c) and the PEMP, which are located in Zeus. The CPAF contract includes a PEMP for contract evaluation, as required by DEAR 970.1504-5(a) *Solicitation provision and contract clauses*, which states that DEAR 970.5215-1 *Total Available Fee: Base Fee Amount and Performance Fee Amount* be included in M&O contracts with CPAF arrangements. This clause requires that the Government, at the conclusion of each specified evaluation period, evaluate the contractor's performance of all requirements and determine the total available fee amount earned. The Office of Acquisition Management clarified that contracting officers must insert DEAR 970.5215-1 in CPAF M&O contracts, which requires establishment of a PEMP to determine the fee M&O contractors earn. Idaho Operations Office asserted that the INL PEMP satisfied the requirements of a QASP and that this position was concurred on by the Department's Senior Procurement Executive.

The Idaho Operations Office stated that the award fee earned by the contractor directly correlates with contractor performance and that the Fee Determination Official letter provides the final performance evaluation and final fee determination with 111 pages describing the final detailed evaluations for objectives and notable outcomes.

- Recommendation 3. The Idaho Operations Office stated that documentation is in the official database required for PEMP, as required by local 03.PD.02, *Idaho National Laboratory Performance Evaluation Measurement Plan and Fee Administration*. Additionally, the Idaho Operations Office stated that the triannual status reports and the annual fee determination reports are entered into the access-controlled BEA PEMP Database System, as required by 03.PD.02, as well as documented in Zeus.
- Recommendation 4. The Idaho Operations Office stated that it will review staffing levels by June 30, 2023.

Management comments are included in Appendix 3.

## **AUDITOR COMMENTS**

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The Idaho Operations Office agreed to take action in response to our recommendations. However, we disagree with the comment received from the Idaho Operations Office on the overall report. Specifically, the Idaho Operations Office incorrectly indicates that there are numerous mischaracterizations throughout the report, including assumptions, opinions, statements, and arguments that are not supported by references, facts, or requirements. The auditors reviewed Federal and Department regulations applicable to the audit objective, and obtained sufficient, appropriate evidence to support the report's findings and conclusions in accordance with generally accepted government auditing standards. As noted in the report, Idaho Operations Office was unable to provide written documentation supporting its evaluation of the contractor's performance. Therefore, management's assertion that they have a robust process in place is inaccurate. It is critical for management to be able to justify its assessment of contractor performance to protect taxpayer dollars and support any fees paid to the contractor.

While the Idaho Operations Office concurred with our recommendations, we disagree with the comments we received for Recommendations 1, 2, and 3.

### Response to Recommendation 1

The Idaho Operations Office concurred with Recommendation 1, though officials stated that it has a robust, benchmark PEMP process with goals, objectives, and notable outcomes, consistent with Department Policy and validated by external reviews. As noted in the report, after several requests to access all oversight documentation, the Idaho Operations Office determined that it could not provide the support necessary to corroborate the performance evaluation and fee determination for the FY 2020 PEMP. Given the lack of documented support of the oversight activities that took place throughout the year to justify the final evaluation and fee determination, and the failure to evaluate the contractor against all the significant activities and requirements established for the PEMP objectives that we reviewed, we maintain that an evaluation of the performance management process should be conducted to ensure that it documents periodic meetings with parties to the contract, articulates specific expectations and milestones, and operates in a forward-looking manner. Overall, the performance management process in place for the contract at the Idaho National Laboratory was not a robust process and did not allow an independent reviewer to confirm that award fees correlated with contractor performance. The Idaho Operations Office agreed to evaluate the performance management process by June 30, 2023.

### Response to Recommendation 2

The Idaho Operations Office concurred with Recommendation 2, but officials stated that it has and follows a formal process, established for triannual and year-end performance evaluations, as documented in its procedures. Further, Idaho Operations Office asserted that its PEMP satisfies the requirements of a QASP. While we acknowledge and agree with Idaho Operations Office and the Office of Acquisition Management's interpretation that there is no requirement that the

PEMP and QASP be written as separate documents and the PEMP can be an all-encompassing document meeting the requirements of a QASP, we stand by our finding that the PEMP did not meet or satisfy the intent of a QASP. As noted in the report, the PEMP lacked the necessary details to measure performance on all the significant activities and requirements. Specifically, the PEMP did not include necessary details, such as defining all work requiring surveillance and the method of surveillance, to measure the contractor's performance on all significant activities and requirements as required in a QASP. Without the details necessary to measure contractor performance for each significant activity and requirements, the current process has made it difficult for performance evaluators to consistently justify ratings for the contractor's performance and to minimize subjectivity in final determinations. Utilizing foundational documents such as the PEMP and QASP, as intended, can result in relevant and supportable performance evaluations. The Idaho Operations Office agreed to seek formal guidance from the Office of Acquisition Management and other relevant program offices on how to use PEMP processes to address Federal and Department QASP elements by June 30, 2023.

### Response to Recommendation 3

The Idaho Operations Office concurred with Recommendation 3. While the Idaho Operations Office claimed that documentation is in the official database, as required, the Idaho Operations Office could not provide documentation supporting the Federal oversight, including day-to-day monitoring used to support or justify the final award fee and fee determination. Specifically, the oversight groups within the Idaho Operations Office did not implement a consistent approach on how or what oversight documentation was maintained. After several requests to access all oversight documentation, the Idaho Operations Office determined it could not provide the support necessary to corroborate the performance evaluation and fee determination for FY 2020. Performance evaluations that are not adequately supported may be indicative of a performance management process that functions as a post hoc justification of the award fee and does not incentivize achievement of established goals. Without personnel fully documenting oversight activities, the Idaho Operations Office cannot consistently track and record daily project management activities, milestones, performance measures, deliverables, or requirements upon which the total available fee amount earned is justified. The Idaho Operations Office agreed to review internal procedures to address inconsistencies and ensure that all oversight activities are documented, as required, by June 30, 2023.

### Response to Recommendation 4

The Idaho Operations Office concurred with Recommendation 4 and agreed to review staffing levels by June 30, 2023.

## **Appendix 1: Objective, Scope, and Methodology**

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### **OBJECTIVE**

We initiated this audit to determine if the performance management process at the Idaho National Laboratory provides assurance that award fees correlated with contractor performance.

### **SCOPE**

The audit was remotely performed from May 2021 through February 2022 with officials working at the Idaho National Laboratory in Idaho Falls, Idaho. The audit scope was limited to the performance management process and award fee for fiscal year (FY) 2020. All information was obtained via remote-access techniques. The audit was conducted under Office of Inspector General project number A21PT011.

### **METHODOLOGY**

To accomplish our audit objective, we:

- Reviewed applicable policies, procedures, laws, and regulations to identify those relevant to the audit objective.
- Reviewed relevant reports issued by the Office of Inspector General and the U.S. Government Accountability Office, as well as a 2015 Final Report of the Commission to Review the Effectiveness of the National Energy Laboratories.
- Interviewed Federal officials from the Idaho Operations Office responsible for management and oversight of contractor performance.
- Reviewed the Performance Evaluation and Measurement Plan for FY 2020 and its associated Performance Evaluation and Fee Determination.
- Judgmentally selected a sample of 7 performance objectives from a universe of 22 performance objectives included in Idaho National Laboratory's Performance Evaluation and Measurement Plan for FY 2020. A nonstatistical sample design was chosen because of the relatively small size of the universe. This selection was based on selecting the performance objective with the highest weight from each of the seven performance goals included in the FY 2020 Performance Evaluation and Measurement Plan. Because a judgmental sample of the performance objectives was used, results are limited to the performance objectives selected.
- Obtained and reviewed documentation to support the performance evaluation and fee determination.

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 the evidence obtained provides a reasonable basis for

## **Appendix 1: Objective, Scope, and Methodology**

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our findings and conclusions based on our audit objective. We assessed internal controls and compliance with laws and regulations necessary to satisfy the audit objective. In particular, we assessed elements of the monitoring, information and communication, control activities, and control environment components, as well as the underlying principles of implementation of control activities, establishment of structure, responsibility and authority, internal communication, performance of monitoring activities, and enforcing accountability. However, because our review was limited to these internal control components and underlying principles, it may not have disclosed all internal control deficiencies that may have existed at the time of this audit. We did not rely on computer-processed data to satisfy our audit objective; therefore, we did not conduct a reliability assessment of computer-processed data.

Management officials waived an exit conference on October 27, 2022.

## Appendix 2: Related Reports

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- Audit Report on [\*Actions Needed to Strengthen Subcontract Oversight\*](#), (GAO-19-107, March 2019). As the largest Federal civilian contracting agency, in 2016, 28 entities participated in the Department of Energy's and its National Nuclear Security Administration's 24 largest prime contracts, which totaled about \$23.6 billion of the Department's fiscal year obligations. The contractors awarded about \$6.9 billion of those obligations to thousands of subcontractors. The U.S. Government Accountability Office's (GAO) review of data about these contracts and subcontracts identified complex ownership relationships among the contractors and subcontractors. For example, the GAO found that almost all of the 28 parties to the prime contracts in its review were also subcontractors to some prime contracts. The GAO found that it can be difficult to track changes in the ownership of parties to the contracts and to understand the relationship between parties. The GAO found that the Department and the National Nuclear Security Administration did not always ensure that contractors audited subcontractors' incurred costs as required in their contracts. The GAO's review of 43 incurred-cost assessment and audit reports identified more than \$3.4 billion in subcontract costs incurred over a 10-year period that had not been audited, as required, and some subcontracts remained unaudited or unassessed for more than 6 years. The GAO made six recommendations including that the Director of the Department's Office of Acquisition Management should require contracting officers to include assessments of the contractors' management of subcontractors as part of annual Performance Evaluation and Measurement Plans, as appropriate. In June 2020, Department officials said they had reviewed existing Federal and Department policies, procedures, and available tools and determined sufficient guidance exists for contracting officers to make informed decisions on whether to include contractor management of subcontractors in annual Performance Evaluation and Measurement Plans. As of April 2022, the Department had not changed its requirements and does not plan to take additional actions. Although the GAO recognizes the value in deferring to contracting officers to determine whether the factor is appropriate based on the characteristics, circumstances, and requirements of the contract, the GAO continues to maintain that the Department should place additional emphasis on the contractors' oversight of subcontracts by assessing the contractors on this factor.
- Audit Report on [\*Performance Evaluations Could Better Assess Management and Operating Contractor Costs\*](#) (GAO-19-5, February 2019). The GAO was asked to review the Department's performance management of its management and operating contracts and determined that six offices within the Department generally used one of three approaches to evaluate management and operating contractor performance. Specifically, the GAO found that the Performance Evaluation Reports provided less information on management and operating contractors' cost performance than on contractors' technical and administrative performance. Further, the information is of limited use for acquisition decision making, such as deciding whether to extend the length of a contract, because it does not permit an overall assessment of cost performance. Based on the GAO's review, the Department generally provided high performance ratings and more than 90 percent of available performance incentives.

## Appendix 3: Management Comments

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**Department of Energy**  
**Idaho Operations Office**

October 25, 2022

MEMORANDUM FOR TERI L. DONALDSON  
OFFICE OF INSPECTOR GENERAL

FROM: ROBERT BOSTON   
MANAGER

SUBJECT: Office of the Inspector General Draft Audit Report on  
Performance Management Process at the Idaho National  
Laboratory (A21PT011) (CLN230094)

Thank you for the opportunity to review and comment on the subject revised draft report. The Idaho Operations Office (DOE-ID) appreciates the auditors' audit work and provides comments in the Enclosure.

DOE-ID concurs with the recommendations. Additional details and planned corrective actions are provided in the Enclosure.

If you have any questions regarding this response, please contact Emily Clemens, DOE-ID Audit Coordinator at (208) 526-1739.

Enclosure

## Appendix 3: Management Comments

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**Recommendation 1:** Evaluate the performance management process to ensure that it facilitates the assessment of contractor performance and ensures the appropriateness of any award fee payment.

**DOE Response: Concur - DOE-ID will evaluate the performance management process by June 30, 2023.**

DOE-ID has a robust, benchmark Performance Evaluation and Measurement Plan (PEMP) process with goals, objectives, and notable outcomes. The same PEMP format and methodology have been utilized since 2007 when NE adopted elements of the DOE Office of Science PEMP approach, which is consistent with DOE policy and has been validated through expert external reviews in contract administration and research and development enterprises. The National Academy of Public Administration (NAPA) and the Commission to Review the Effectiveness of the National Energy Laboratories (CRENEL) recommended that the PEMP process be adopted by the other DOE program offices. DOE-ID has fully adopted the DOE Office of Science approach, as recommended by NAPA and CRENEL. The DOE-ID PEMP is reviewed and approved on an annual basis by the DOE Senior Procurement Executive in the Office of Acquisition Management.

DOE-ID follows a formal process established for triannual performance evaluations as documented in Process Description (PD) 03.PD.02, *INL PEMP and Fee Administration*. This PD defines the process to evaluate Battelle Energy Alliance, LLC (BEA) (Contractor) based on specific technical, schedule, management and/or cost objectives. The PEMP establishes performance-based incentives with fee allocations and is the basis for the determination of total fee earned by the Contractor. This PD defines roles and responsibilities for reporting, reviewing, and evaluating performance at the end of each period of performance and making the final fee determination.

Oversight of the 22 objectives and 12 notable outcomes is properly documented in the BEA PEMP Database System for FY 2020 as required by 03.PD.02. Subjective fee evaluation is acceptable in accordance with FAR 16.305, *Cost-Plus-Award-Fee Contracts*, which includes "...an award amount, based upon a judgmental evaluation by the Government, sufficient to provide motivation for excellence in contract performance." DOE Acquisition Guide, Chapter 16.405, *Award-Fee Plans and PEMPs*, states "DOE has many contracts with a combination of fee structures within the contract. For example, the contract may have elements of both incentive fee (objective, formula-based fee) and award fee (subjective evaluation of fee)." In accordance with DOE's established formal process, approved by DOE Office of Acquisition Management, award fee contracts appropriately use both subjective and objective evaluations for fee determination. Notable Outcomes are objective, measurable, and results-oriented, enabling a definitive determination of whether or not the specific outcome was achieved. The PEMP includes defined levels of performance, performance standards, and evaluation methods. The acceptable level of performance to meet DOE's expectations is defined as the grade of B+ as described in the PEMP. All other standards of performance are defined in Figure 3 of the PEMP, *General Letter Grade, Adjectival Rating, Numeric Range, Definitions, and Award-Fee Pool Available to be Earned*. The Department of Energy Acquisition Regulations (DEAR) allows subjective evaluation and professional judgment as the accepted process for evaluating R&D performance. "

Statements in the report erroneously imply that the performance management process functions as a post hoc justification. The support for performance evaluation is documented in the triannual progress reports and the final performance evaluation and fee determination, in accordance with DEAR 970.5215-1. The final performance evaluation and fee determination adequately document accomplishment of the objectives, notable outcomes, and fee earned in the Fee Determination Official (FDO) letter and its attachments, on an annual basis. In addition, the FY 2020 INL FDO Letter (with a six-page summary of the evaluation and fee determination); Enclosure 1: FY 2020 INL PEMP – Final Grade Calculation (three pages); and Enclosure 2: PEMP – Detailed Evaluations (111 pages), are also located in Zeus (CLN 210186).

**Recommendation 2:** Seek formal guidance from the Office of Acquisition Management and from relevant program offices regarding how to use the Department's federally funded research and development centers M&O cost-plus-award-fee PEMP processes to address Federal and Department QASP elements.

**DOE Response: Concur - DOE-ID will seek formal guidance by June 30, 2023.**

Evaluation of Contractor performance is in accordance with the PEMP requirements, as evidenced by the annual Fee Determination Official (FDO) letter documenting performance evaluation and fee determination in accordance with

## Appendix 3: Management Comments

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DEAR 970.5215-1(c) and the PEMP, which are located in Zeus. The CPAF contract includes a PEMP for Contractor evaluation as required by DEAR 970.1504-5(a) *Solicitation provision and contract clauses*, which requires DEAR 970.5215-1 *Total Available Fee: Base Fee Amount and Performance Fee Amount*, be included in management and operating contracts that include CPAF arrangements. This clause requires the Government, at the conclusion of each specified evaluation period, to evaluate the Contractor's performance of all requirements and determine the total available fee amount earned. The Office of Acquisition Management (OAM) clarified that contracting officers must insert DEAR 970.5215-1 in CPAF M&O contracts, which requires establishment of a PEMP to determine the fee M&O contractors earn. OAM further elaborated that DEAR 970.5215-1 is required for M&O contracts, as the PEMP is all encompassing, meeting and going beyond the requirements of a QASP. The INL PEMP satisfies the requirements of a QASP. This position was concurred on by the DOE Senior Procurement Executive and the Office of Science.

Award fee earned by the Contractor directly correlates with Contractor performance. Refer to the FDO letter which provides the final performance evaluation and final fee determination, which describes the grade earned, numerical score, weight, and weighted score for each of the 22 objectives. The FDO letter also includes 111 pages describing the final detailed evaluations for objectives and notable outcomes.

**Recommendation 3:** Review internal Idaho Operations Office procedures to address any inconsistencies and ensure oversight documentation is in accordance with Idaho Operations Office Process Descriptions. Also, review procedures to ensure that all oversight activities are documented, as required, including, but not limited to: oversight plans, assessments, reviews, operational awareness activities, and walkthroughs.

**DOE Response: Concur - DOE-ID will review internal procedures by June 30, 2023.**

Documentation is in the official database required for PEMP, as required by local procedure 03.PD.02. The triannual Status Reports and the final performance and annual fee determination reports are entered into the access-controlled BEA PEMP Database System, as required by 03.PD.02, as well as documented in Zeus.

**Recommendation 4:** Re-evaluate staffing levels for the Idaho Operations Office to ensure that resources are appropriately allocated and meet the needs of providing adequate contract oversight.

**DOE Response: Concur - DOE-ID will review staffing levels by June 30, 2023.**

### Overall Report

There are numerous mischaracterizations throughout the report, including assumptions, opinions, statements, and arguments that are not supported by references, facts, or requirements. These mischaracterizations include misstating broad narrative statements in goals as required objectives; attributing a sampling of factors to be considered for a goal as actual objectives; stating that DOE-ID could not provide necessary support when an overview of the PEMP database was provided; and stating that qualitative evaluations are not acceptable. The INL contract is a CPAF contract and is evaluated, per FAR 16.305, "based upon a judgmental evaluation by the Government, sufficient to provide motivation for excellence in contract performance." The report implies that oversight was not performed due to turnover even though each objective had a technical monitor assigned to provide oversight and input triannual reports; stating that periodic meetings with stakeholders are mandatory requirements for oversight; and stating that subjective measures should be minimized when DOE recognizes that both subjective and objective measure of performance are required to effectively evaluate the Contractor. The PEMP provides a standard to determine whether the Contractor is acting in a managerially and operationally responsible manner and is meeting the mission requirement and performance expectations/objectives of DOE as stipulated in the contract. Refer to the DOE-ID comments provided in response to the draft report.

More generally, the report does not reflect accepted practices for managing Research and Development contracts. R&D oversight is referred to in FAR Part 35. RESEARCH AND DEVELOPMENT CONTRACTING, § 35.002 which states in part: "*Unlike contracts for supplies and services, most R&D contracts are directed toward objectives for which the work or methods cannot be precisely described in advance. It is difficult to judge the probabilities of success or required effort for technical approaches, some of which offer little or no early assurance of full success. The contracting process ... must provide an environment in which the work can be pursued with reasonable flexibility and minimum administrative burden.*" The INL PEMP meets this requirement with its combination of objective and subjective evaluation and is consistent with best practices for managing R&D.

## FEEDBACK

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Department of Energy  
Washington, DC 20585

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