



U.S. Department of Energy
Office of Inspector General

Special Inquiry

Operations at Los Alamos National
Laboratory

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January 2003



Department of Energy

Washington, DC 20585

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MEMORANDUM FOR THE SECRETARY

FROM:

Greg Friedman
Gregory H. Friedman
Inspector General

SUBJECT:

Special Inquiry Regarding Operations at
Los Alamos National Laboratory

BACKGROUND

On November 18, 2002, the Office of Inspector General began a fact finding inquiry into allegations that senior management of the Los Alamos National Laboratory engaged in a deliberate cover-up of security breaches and illegal activities, in particular, with respect to reported instances of property loss and theft. The Acting Administrator of the National Nuclear Security Administration requested this inquiry based, in part, on media reports that Los Alamos employees had misused the Government purchase order system to buy millions of dollars worth of goods for personal use and that Los Alamos management had attempted to hide these events from the Department of Energy and the public.

Shortly after our review began, Los Alamos terminated the employment of two security officials who had been vocal in criticizing Los Alamos management's handling of property loss and theft issues. We expanded our review to evaluate the circumstances surrounding those terminations.

This inquiry did not include a case-by-case validation of whether individual items of property had been lost or stolen. Ongoing reviews by the Office of Inspector General, the Federal Bureau of Investigation, and others will address a number of those reported instances.

RESULTS OF INQUIRY

Our inquiry disclosed a series of actions by Laboratory officials that had the effect of obscuring serious property and procurement management problems and weakened or overrode relevant internal controls. These actions created an atmosphere in which Los Alamos employees were discouraged from, or had reason to believe they were discouraged from, raising concerns to appropriate authorities. In short, management's actions – whether intended as a cover-up or not – resulted in delayed identification and resolution of the underlying property and procurement weaknesses, and related security concerns. Although our inquiry did not substantiate the allegation that Laboratory management deliberately hid criminal activity, we found that Laboratory management:



- Failed to take appropriate or timely action with respect to a number of identified property control weaknesses, and related security concerns. There was: (1) inadequate or untimely analysis of, and inquiry into, property loss or theft and security issues; (2) lack of personal accountability for property; (3) a substantial degree of dysfunction in the Laboratory's communication and assignment of responsibilities for the handling of property loss and theft concerns; and (4) inadequate controls over procurement and property systems.
- Had inadequate Laboratory policies that governed when and under what circumstances Laboratory activities must be reported to law enforcement.
- Issued, then immediately rescinded without adequate explanation, a memorandum requiring corrective actions to address "disturbing negative trends regarding Laboratory management of Government property."
- Published certain materials emphasizing loyalty to the Laboratory at the possible expense of full disclosure of identified problems. This included materials distributed to Laboratory employees, in advance of a November-December 2002, Department cyber security review, containing such guidance as "Resist the temptation to 'spill your guts'"; "Handwritten notes can be especially damaging....They are not easily disavowed"; and "Finger pointing will just make the program look bad."

Our inquiry corroborated a number of the concerns expressed by the terminated security officials related to weak internal controls and other property management issues. The Laboratory's decision to terminate the two security officials during ongoing external reviews that were addressing some of the very same issues raised by these officials, and which were later corroborated, was, in our judgment, incomprehensible. These events raise doubt about Los Alamos' commitment to solving noted problems, had the potential to have a chilling effect on employees who may have been willing to speak out on matters of concern, and were inconsistent with Laboratory and University of California obligations under its contract with the Department of Energy. As you know, the University recently announced that the two security officials had been re-hired.

Our report of inquiry contains recommendations for corrective action. In particular, responsible Department officials must ensure that the University of California and the Laboratory's management is held accountable for implementing and executing corrective actions resulting from the current situation at the Laboratory.

Attachment

cc: Deputy Secretary
Acting Administrator, National Nuclear Security Administration

**SPECIAL INQUIRY REGARDING OPERATIONS AT LOS ALAMOS
NATIONAL LABORATORY**

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BACKGROUND

For 60 years, the University of California (University) has operated the Los Alamos National Laboratory for the Department of Energy and its predecessor agencies. Among its many important missions and functions, Los Alamos has critical national security responsibilities, including helping to ensure the safety, security, and reliability of the nation's nuclear weapons stockpile.

In recent years, Los Alamos has been the subject of intense scrutiny during a number of controversies regarding allegations of espionage, lax security, and related internal control failures. The Department and Los Alamos initiated actions intended to ensure that the Laboratory was carrying out its missions with a heightened emphasis on protecting national security interests. Realignment of Los Alamos' security function, or "S" Division, was one such action. On a broader scale, Congress and the President created the National Nuclear Security Administration (NNSA) as a semi-autonomous agency within the Department.

In 2001, Los Alamos undertook a nationwide search to recruit an experienced leader for the Office of Security Inquiries within the "S" Division. In addition to various security responsibilities, the job announcement for this position provided, in part, that the person hired would conduct investigations into theft and property protection. Given the sensitive nature of much of the work at Los Alamos, imbuing this position with a sense of urgency for the protection of property – especially computers and other technology that may store classified and other national security information – was consistent with the Laboratory's stated goal to heighten national security awareness. The nationwide search culminated with the hiring of a new Security Inquiries Team Leader (Security Inquiries Leader) who took office in January 2002.

On November 5, 2002, anonymous sources were quoted in the news media alleging that Los Alamos leadership was attempting to deliberately hide major criminal activity, administrative mismanagement, and high-level corruption from the public, the Department, law enforcement agencies and others. On November 6, 2002, NNSA's Acting Administrator requested that the Office of Inspector General conduct an inquiry into the anonymous allegations.

We commenced this inquiry on November 18, 2002. On November 25, 2002, Los Alamos terminated the employment of the Security Inquiries Leader and another security official. The timing of this action raised the specter that the terminations could be retaliatory in nature. We, therefore, incorporated an examination of the terminations into our inquiry.

During the course of the inquiry, we interviewed over 60 Laboratory officials and other parties, including the two terminated security officials. We also reviewed thousands of pages of pertinent records. We did not validate, on a case-by-case basis, whether individual items of property had been lost or stolen. Other ongoing Office of Inspector

General reviews and investigations, further requests for follow up actions, Department initiatives, as well as matters under the purview of the Federal Bureau of Investigation (FBI), are continuing to address a number of those reported instances.

In light of the serious nature of these charges, the personal attention and concern the Secretary has brought to bear on these matters, and the substantial and understandable public concern that the Laboratory's actions have generated, we provided the Secretary with a memorandum on December 24, 2002. That memorandum contained our preliminary observations.

RESULTS OF INQUIRY

A. Allegations of Cover-up/Questionable Management Actions

Laboratory officials took a number of actions that, in our judgment, obscured serious property management and security problems. These actions contributed to an atmosphere where Los Alamos employees were discouraged from, or had reason to believe they were discouraged from, raising concerns about property loss and theft, or other concerns, to appropriate authorities. Our inquiry, however, did not substantiate the anonymous allegations, reported in the media on November 5, 2002, that Laboratory management deliberately hid criminal activity.

Management's actions – whether intended as a cover-up or not – made successful identification and resolution of the underlying property, procurement, and security weaknesses problematic. The most overt action Los Alamos took was firing the security officials. This action, taken amidst ongoing reviews of allegations of lax security controls, was clearly and predictably controversial. Moreover, the officials were fired soon after they spoke with the Office of Inspector General. It is impossible to imagine that this action would not have had a chilling effect on other employees who might have contemplated speaking out about problems at the Laboratory. In our judgment, the terminations undermined management's actions to address the core issue: identifying and correcting weaknesses in controls over national security assets.

In addition to the firings, our inquiry disclosed that Laboratory management:

- Issued, then immediately rescinded, a memorandum requiring corrective actions to address problems regarding the management of Government property.
- Published Laboratory documents that could be interpreted as discouraging Los Alamos employees from reporting on the extent or severity of control weaknesses.

Rescinded Memorandum

In an April 2002, memorandum, addressed to all Laboratory "Leaders," the Laboratory's Office of the Chief Financial Officer (CFO Office) cited the need to "call your attention to disturbing negative trends regarding Laboratory management of Government property

and to engage your support in taking corrective action.” According to the CFO Office, the concerns were that the amount of property missing during the Fiscal Year 2001 inventory had nearly tripled from the previous year, to \$723,000; and, that substantial amounts of property, valued at \$533,000, had been reported lost or stolen during Fiscal Year 2001.

The CFO Office’s memorandum further stated that neither Los Alamos nor the Department could accept \$1.3 million (the total of the two categories listed previously) in unaccounted property. The CFO Office noted that the issue would negatively impact the Laboratory’s rating in property management. Attached to this memorandum was organization-specific listings reflecting property losses.

To address these concerns, the CFO Office described four new quarterly tracking and trend reports that this office would be responsible for issuing. The memorandum requested that each Los Alamos division develop a corrective action plan to raise awareness of property accountability and safeguards. The memorandum also suggested the initiation of a root cause analysis and planned training, and recommended review of instances of multiple losses or lack of accountability by the same individual. On December 18, 2002, we asked the CFO Office to provide us copies of each of these reports, including copies of each division’s corrective action plan.

In a memorandum dated December 19, 2002, we were informed that the April 10, 2002, memorandum had actually been rescinded the day after it was distributed. Los Alamos management decided that it would be more appropriate to provide each division leader only the information relevant to his or her division and that it served no purpose and was insensitive to people’s privacy to publish the entire list. Thus, an e-mail was sent asking division leaders to disregard the memo of the previous day. Given that the guidance was rescinded, there was no requirement to provide the corrective action plans, and a number of the other new reporting mandates were never fully effectuated.

This chain of events raised doubts as to management’s commitment to address identified control weaknesses.

Laboratory Documents

During our inquiry, two other significant documents came to our attention that could be interpreted as discouraging Los Alamos employees from reporting on the extent or severity of control weaknesses.

We reviewed briefing materials for a training course to be attended by Los Alamos employees in anticipation of a November/December 2002 Department of Energy Inspection & Evaluation (I&E) review on Laboratory cyber security. The briefing materials, which were prepared by the Laboratory’s Office of Chief Information Officer (CIO Office), were titled, “Surviving the [I&E] Audit,” and included the following suggestions:

- “Resist the temptation to ‘spill your guts’.”
- “Handwritten notes can be especially damaging... They are not easily disavowed.”
- “Finger pointing will just make the program look bad.”

When shown these materials, a senior Los Alamos management official said that he had not previously seen them and that they were “stupid.” Subsequently, on December 16, 2002, a memorandum was sent to certain employees clarifying the purpose of these materials in light of their “potential for misinterpretation.” Nevertheless, it was difficult to conceive of any legitimate purpose for such guidance in anticipation of a routine Department of Energy review of security issues.

A second document, which Los Alamos internal auditors have been required to sign, was titled a Code of Ethical Conduct statement. This document was based on the Institute of Internal Auditors (IIA) Code of Ethics, but departed from the IIA code by requiring auditors not to use information in a manner that could be perceived as “...detrimental to the University of California, the Los Alamos National Laboratory, or the Audits and Assessments Office.” While it may not have been the intent of the document, reporting erroneous payments or surfacing other internal control weaknesses – traditional responsibilities of internal auditors – could be perceived as “detrimental” to Los Alamos. Los Alamos auditors were also asked to “exhibit loyalty in all matters pertaining to the affairs of the University of California, the Los Alamos National Laboratory, and the Audits and Assessments Office....” The document in question created, in our opinion, the appearance of a lack of independence for Los Alamos auditors.

B. Security Officials’ Terminations

We endeavored to evaluate the Laboratory’s decision to terminate the two security officials consistent with the Department’s standards for protecting contractor employees from retaliatory termination. Based on our evaluation, we believe it will be difficult for the University of California to sustain its burden under the prevailing standard for adjudicating these matters.

Specifically, under the Department’s procedures, once an initial case of retaliatory termination is established, the burden shifts to the contractor entity to demonstrate, by clear and convincing evidence, that the contractor entity would have taken the same action without the contractor employee’s disclosure or other protected activity.

In this regard, our inquiry disclosed that:

- The two terminated security officials were vocal in their criticisms of the Laboratory’s management of property loss and theft concerns.
- Laboratory management acknowledged that prior to the arrival of the Security Inquiries Leader, Laboratory efforts to inquire into these matters were inadequate.

- Recent external reviews, including this inquiry, corroborated a number of the fundamental concerns previously expressed by the two terminated security officials relating to property and management systems.
- As late as October 2002, the Security Inquiries Leader had received a favorable performance evaluation.

The timing of the terminations was, itself, suspect. A memorandum documenting the Laboratory's stated rationale for the terminations is dated the same day (November 20, 2002) as the Office of Inspector General's interview of one of the two security officials. We were advised by the Security Inquiries Leader, and Laboratory documentation confirmed, that he had informed his management, in advance, that he and his staff were to be interviewed by the Office of Inspector General inquiry team.

In the November 20, 2002, memorandum cited above, a senior Los Alamos official documented what he believed to be valid reasons for the terminations. We evaluated these reasons, and concluded that a substantial number of them do not withstand scrutiny.

C. Internal Control Weaknesses

In a March 26, 2002, memorandum to Los Alamos management, the Security Inquiries Leader expressed significant concern with the manner in which Los Alamos addressed property loss and potential theft. Our inquiry corroborated a number of those concerns. Specifically, we found: (1) inadequate or untimely analysis of, and inquiry into, property loss or theft and security issues; (2) lack of personal accountability for property; (3) a substantial degree of dysfunction in the Laboratory's communication and assignment of responsibilities for the handling of property loss and theft concerns; and (4) inadequate controls over procurement and property systems.

Property and Security Issues

We noted that property loss and theft issues, and related security considerations, were not subject to thorough and consistent analysis. For example, in 2001, the report documenting the loss of a security radio was inadequate. It did not provide information concerning what frequencies might have been compromised.

The Security Inquiries Leader expressed this and related concerns in his March 2002 memorandum, including those with respect to the entry into a law enforcement tracking system of Laboratory property theft reports. Although he noted that such reports were being provided to the Los Alamos Police Department and the FBI, the Security Inquiries Leader asserted that those agencies were not entering the property information into the National Crime Information Center records because the reports were of poor quality.

As noted by a counterintelligence official, the theft of Laboratory property can have national security implications. In this vein, with respect to previous Laboratory property reports he reviewed, the Security Inquiries Leader observed:

The reports indicate that no questions were asked pertaining to the type of data that may have been on stolen computers, laptops, PDAs¹, and digital cameras. It is possible that they may have had sensitive or proprietary materials on those systems, but inquiry personnel failed to explore that potential; at least one can assume this view based on the data contained in the inquiry reports.

Based on these concerns, we requested that Los Alamos explain the steps taken to account for lost computers and other sensitive equipment. We also inquired as to any efforts made to evaluate whether classified or other protected information had been compromised as a result. The Laboratory produced a draft memorandum, dated December 18, 2002, in which the CIO Office concluded that none of the lost, stolen, or unlocated computers identified by Los Alamos contained classified information. The CIO's memorandum also concluded that there were at least 258 computers lost, 44 computers stolen, and 61 computers unlocated for the Fiscal Years 1999, 2000, 2001, and 2002². We did not validate these numbers, or the CIO's conclusion concerning the non-compromise of classified information. In fact, a CIO official told us that there were inconsistencies between these numbers and previous reports provided by the CFO and the Office of Security Inquiries.

A CIO official acknowledged that the Laboratory's processes for reporting lost, stolen, and unlocated computers are "fragmented." He noted inconsistencies between computers reported lost and stolen to the Office of Security Inquiries and data available to property management officials. Another Laboratory official confirmed that these reporting mechanisms are not integrated throughout the Laboratory, and both of these key officials asserted that they have recently recommended corrective action to ensure that appropriate systems are integrated.

The timing of the Laboratory's effort to reconcile these important questions is, in and of itself, troubling. It was not until the November-December 2002 timeframe that there was intensive effort in this regard.

Property Accountability

According to a Los Alamos official, Laboratory employees have not been routinely held liable or accountable for lost property under their control. This official explained that when an employee first takes custody of an item of property, the employee signs an "accountability" statement. However, Los Alamos management generally chose not to enforce the statements, according to this official, but rather chose to "write off" the missing property at the end of an inventory cycle. An accounts receivable official could not recall ever receiving any restitution from any Los Alamos employee for a lost or stolen item for which he or she was responsible. The Security Inquiries Leader made a similar point in his March 2002 memorandum.

¹ "Personal Digital Assistants."

² The CIO's memorandum identified an additional 75 computers requiring follow up and resolution as to their status.

Based on these assertions, we reviewed electronic records of “Unlocated,” “Lost,” and “Stolen” property for Fiscal Years 2000, 2001, and 2002. A judgmental selection disclosed the following types of property categorized as “Lost,” “Stolen,” or “Unlocated”:

Item	Quantity	Acquisition Value ³
Desktop Computers	204	\$694,938
Laptop Computers	42	\$151,821
Analyzers	8	\$ 99,225
Cameras	12	\$ 11,318
Computer Printers	127	\$177,141
Oscilloscopes	17	\$207,620
Power Supplies	5	\$ 51,843
Radio Transceivers	27	\$ 35,596
Video Recorders	18	\$ 47,293
Telephones (including cell phones)	80	\$ 27,208
Scanners	12	\$ 10,475

These records did not contain sufficient information to fully assess the nature and extent of property losses. Nevertheless, the results of our judgmental selection raise additional questions about the Laboratory’s property controls and accountability.

Another issue we identified relates to Los Alamos’ use of “drop points” for the delivery of new equipment. Under the drop point system, Laboratory property is not delivered, uniformly, to a central, secure location. At such a secure central location, the equipment can be tagged, inventoried, and consistently tracked. We were told that many of these Laboratory drop points are in open spaces with little or no security. A number of key officials advised that there have been insufficient Laboratory efforts to ensure that equipment delivered to Laboratory drop points is safeguarded. We were also told that property would be left at these locations for inordinate amounts of time, without being checked by property administrators.

Communication and Responsibilities

Our inquiry disclosed a substantial degree of dysfunction in Los Alamos’ communication and assignment of responsibilities and authorities for the handling of property loss and theft concerns. For example, there was organizational inconsistency between the roles of

³ The “Acquisition” value of these sampled items amounts to \$1,514,478.

the Office of Audits and Assessments and the Office of Security Inquiries. The Office of Audits and Assessments was tasked with the internal review of Laboratory “waste, fraud, and abuse” concerns, whereas the Office of Security Inquiries was responsible for reviewing alleged “theft.” This left not only the potential for “overlap” in responsibilities, but “underlap,” as one senior security official characterized this condition to our inquiry team.

There were also mixed messages sent to the two former security officials with respect to the scope of their authorities and responsibilities. For example, Security Inquiries officials were told that they were not “investigators.” At the same time, our inquiry disclosed that one of the terminated security officials was directed by a senior Los Alamos official to travel off site, to another state to interview a private citizen, to obtain information concerning a matter (the alleged improper purchase of a Mustang automobile), which included the possibility that it was criminal in nature. This appeared inconsistent with previous direction, and other management communications to these officials, about the scope of their responsibilities and authorities.

Further, Laboratory management acknowledged that there were inadequate Laboratory policies that governed when and under what circumstances Laboratory activities must be reported to law enforcement. Laboratory officials had been drafting such a policy since the spring of 2002, but the policy remained in draft at the time of our inquiry.

Procurement and Property Systems

As we completed our inquiry fieldwork, the final report of the Laboratory’s external review team was completed. That report noted a number of Laboratory “programmatic weaknesses” with respect to Los Alamos’ controls over purchase cards, including:

- Failure to reconcile and approve monthly statements;
- Failure to resolve disputed transactions;
- Failure to properly account for controlled property;
- Purchase of restricted items in violation of Laboratory policies;
- Insufficient documentation of items purchased;
- Inadequate or ineffective sanctions for non-compliance;
- Insufficient training, especially for approvers;
- Insufficient program audit and review procedures;
- Failure to properly manage cardholder spending limits; and,

- Failure to safeguard card information.

The external review team recommended a number of corrective actions, and noted that they had not validated the Laboratory's implementation of recent corrective actions.

We also noted during our inquiry that NNSA had completed an assessment of the Laboratory's "Personal Property Management" and "Procurement Management," in December 2002, and rated the Laboratory as "excellent" in both categories. Although we did not evaluate the process by which these or earlier ratings were issued, the facts disclosed during our inquiry suggest that the Department's process for arriving at such ratings warrants review by appropriate Department officials.

RECOMMENDATIONS

In light of these facts, we are making the following recommendations for corrective action. Specifically, it is incumbent upon responsible Department officials to ensure that:

1. Recently announced corrective actions are fully implemented and executed;
2. Additional follow-up and corrective action is taken with respect to the matters disclosed in this report, including:
 - (i) inadequate or untimely analysis of, and inquiry into, property loss or theft and security issues;
 - (ii) lack of personal accountability for property;
 - (iii) substantial degree of dysfunction in the Laboratory's communication and assignment of responsibilities for the handling of property loss and theft concerns; and,
 - (iv) inadequate controls over procurement and property systems;
3. The Department processes to evaluate the Laboratory's procurement and property accountability systems for fee purposes are reviewed and improved based on the current experience at the Laboratory;
4. Concrete steps are taken to communicate to Laboratory employees that they are encouraged to identify and disclose waste, vulnerabilities, and other concerns in an atmosphere free of reprisal; and,
5. The Department does not bear the costs incurred by the University in conducting its own inquiries into these matters, or in otherwise effectuating remedial action, including the costs associated with any monetary settlements deemed just and proper, and which may be extended to the two terminated security officials.

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