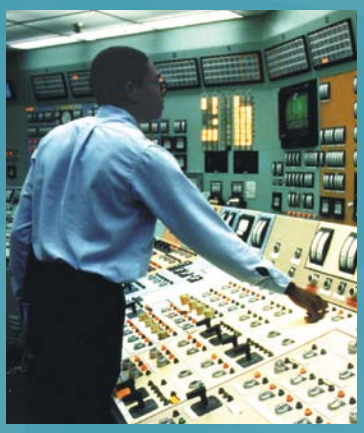
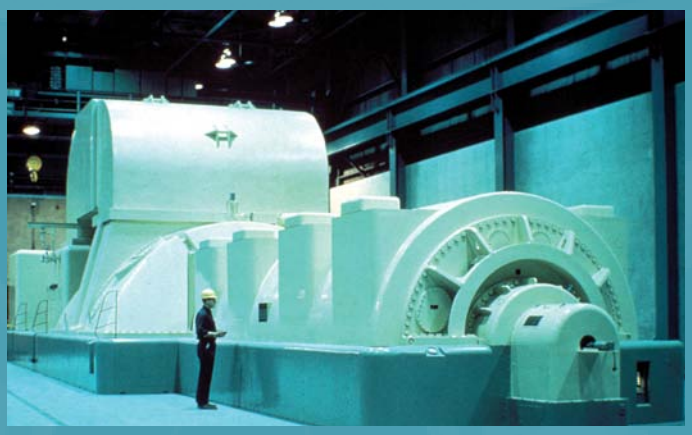
U.S.NRC

United States Nuclear Regulatory Commission

Protecting People and the Environment





Semiannual Report to Congress

April 1, 2009-September 30, 2009

OIG VISION

"We are agents of positive change striving for continuous improvement in our agency's management and program operations."

NRC-OIG MISSION

NRC-OIG's mission is to (1) independently and objectively conduct and supervise audits and investigations relating to NRC's programs and operations; (2) prevent and detect fraud, waste, and abuse, and (3) promote economy, efficiency, and effectiveness in NRC's programs and operations.

Cover photos (clockwise from top left): Reactor fuel assembly unit, Prairie Island nuclear power plant near Red Wing, MN (photo courtesy of Nuclear Management Co.), nuclear turbine, and control room at a nuclear power plant.

A MESSAGE FROM THE INSPECTOR GENERAL

I am pleased to present this *Semiannual Report to Congress* on the activities and accomplishments of the Nuclear Regulatory Commission (NRC) Office of the Inspector General (OIG) from April 1, 2009, to September 30, 2009.

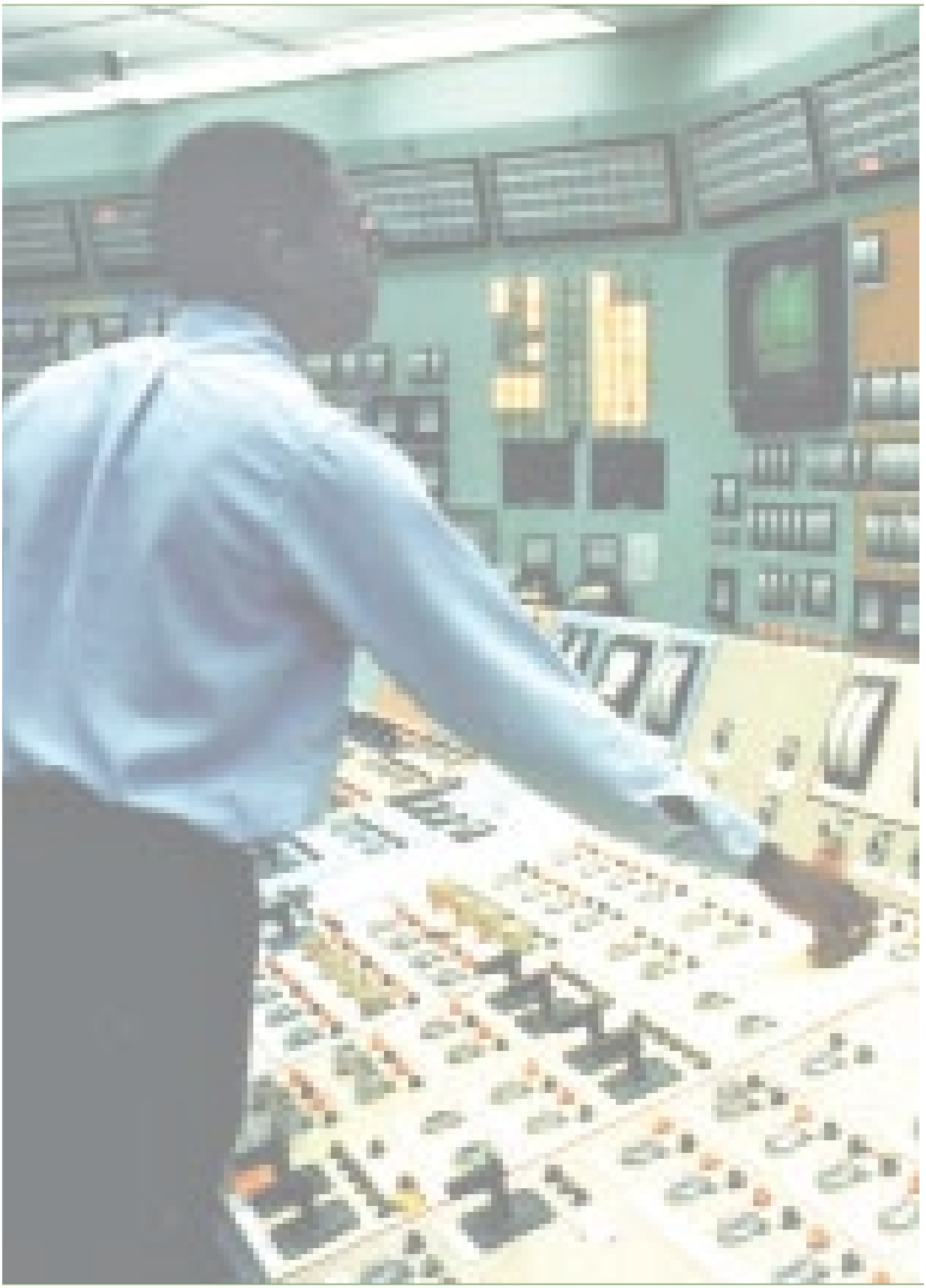
Our work reflects the legislative mandate of the Inspector General Act, which is to identify and prevent fraud, waste, and abuse through the conduct of audits and investigations relating to NRC programs and operations. The audits and investigations highlighted in this report demonstrate our commitment to ensuring integrity and efficiency in NRC's programs and operations.

During this semiannual reporting period, we issued 12 program audit reports and 2 contract audit reports. As a result of this work, OIG made a number of recommendations to improve the effectiveness and efficiency of NRC's safety, security, and corporate management programs. OIG also opened 28 investigations, and completed 26 cases. Nine of the opened cases were referred to the Department of Justice, and 21 allegations were referred to NRC management for action.

My office is dedicated to maintaining the highest possible standards of professionalism and quality in its audits and investigations. I would like to acknowledge our auditors, investigators, and support staff for their superior work and commitment to the mission of our office.

Finally, the success of the NRC OIG would not be possible without the collaborative work between my staff and agency managers to address OIG findings and implement the recommendations made by my office. I thank them for their dedication and support and look forward to their continued cooperation as we work together to ensure the integrity of agency operations.

Hubert T. Bell
Inspector General



CONTENTS

Highlights v

Overview of the NRC and the OIG 1

NRC's Mission 1

OIG History, Mission, and Goals 2

Inspector General History 2

OIG Mission and Goals 3

OIG Programs and Activities 4

Audit Program 4

Investigative Program 5

General Counsel Activities 6

Regulatory Review 6

Other Activities 8

Training Support for the Inspector General Community 8

Management and Performance Challenges 9

Audits 10

Audit Summaries 10

Audits in Progress 26

Investigations 33

Investigative Case Summaries 33

Summary of OIG Accomplishments 40

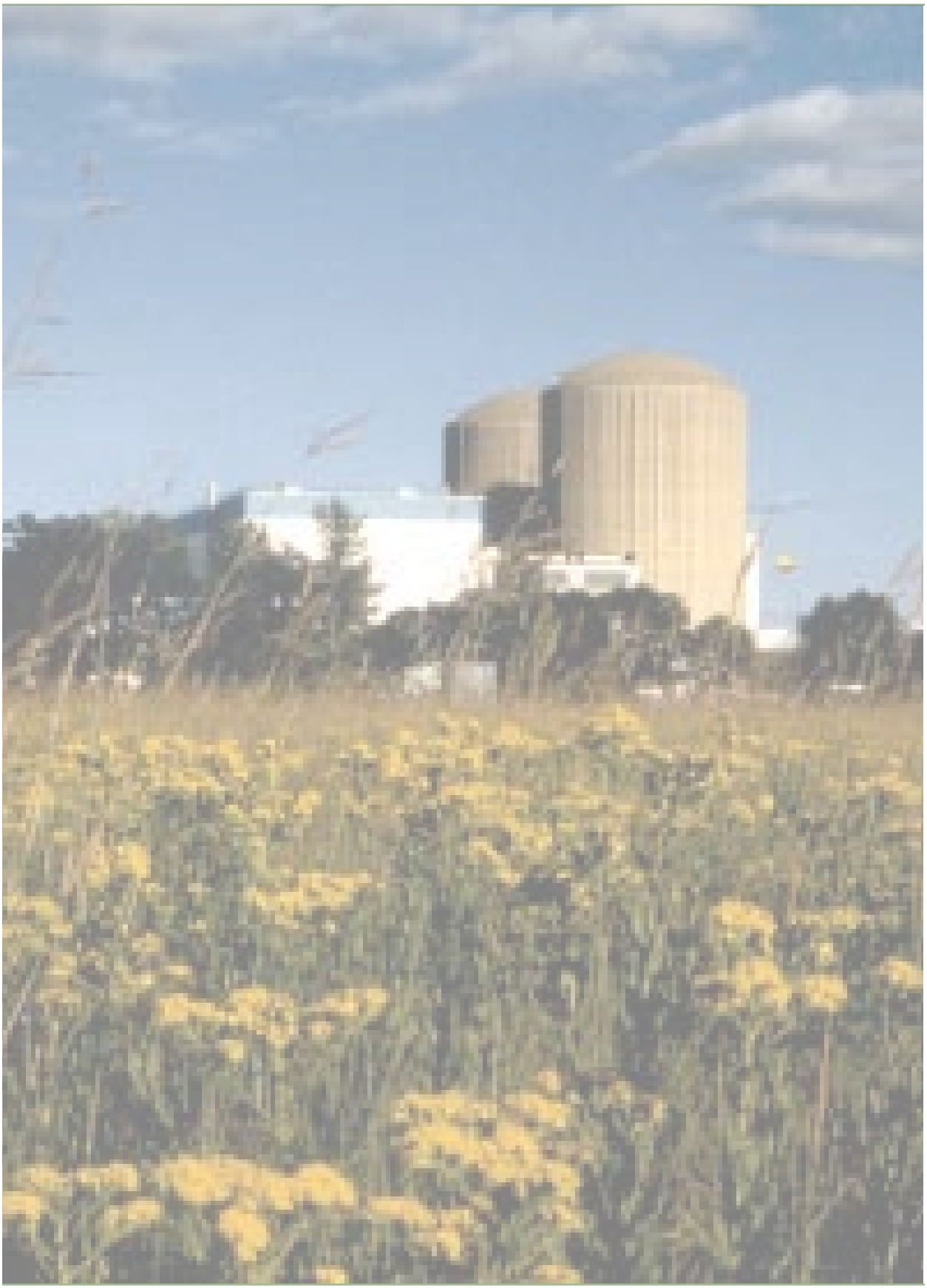
Investigative Statistics 40

Audit Listings 42

Audit Resolution Activities 44

Abbreviations and Acronyms 47

Reporting Requirements 48



HIGHLIGHTS

The following two sections highlight selected audits and investigations completed during this reporting period. More detailed summaries appear in subsequent sections of this report.

AUDITS

- NRC conducts Force-on-Force inspections at each of the Nation's nuclear power plants on at least a triennial basis in accordance with the 2005 Energy Policy Act. A Force-on-Force inspection is a performance-based inspection designed to assess the ability of licensees' security organizations to protect their facilities against sabotage. Teams of headquarters-based inspectors and security risk analysts conduct inspections with support from physical security inspectors based in NRC's four regional offices. U.S. military personnel serve as technical advisors to the NRC teams and assist with some inspection tasks. NRC began the second triennial Force-on-Force inspection cycle in January 2008 and planned to conduct 25 Force-on-Force inspections during FY 2009. The audit objective was to evaluate NRC's Force-on-Force inspection program to determine if design and implementation of the program are thorough, consistent, and in accordance with NRC standards.

- In recent years, there has been renewed worldwide interest in constructing nuclear facilities. In 2006, NRC reorganized in response to the anticipated new reactor licensing and construction inspection workload. The Office of New Reactors (NRO) was created in headquarters with the primary responsibility for developing the Construction Inspection Program (CIP) and its associated program guidance. The CIP was designed to ensure that plants are built in accordance with the approved design and licensing requirements and will operate in compliance with NRC regulations. The agency continues to revise the CIP. In March 2009, NRO issued NRO-REG-112, New Reactor Construction Experience Program, to better inform the CIP. NRO-REG-112 provides guidance for a new construction lessons learned process that is informed by domestic and international experiences, past lessons learned, and construction inspection activities. The audit objective was to determine if and how NRC is identifying and incorporating lessons learned in its new CIP.

- NRC is authorized to grant licenses for the possession and use of special nuclear material (SNM) and establish regulations to govern the possession and use of such material. SNM is used for such purposes as (1) fuel

for nuclear reactors; (2) industrial, academic, and medical applications; and (3) the manufacture of industrial gauging devices. NRC's regulations require that SNM license holders have material control and accounting (MC&A) systems to protect against the loss or misuse of SNM. Licensees must allow NRC to inspect the materials, controls, and premises where SNM is used or stored. The primary goal of the NRC MC&A inspection program at fuel cycle facilities is to ensure that licensee systems adequately detect and protect against the loss, theft, or diversion of SNM in the licensee's possession. The audit objective was to assess the effectiveness of NRC's MC&A inspection program over the accounting and control of SNM at Category I fuel cycle facilities.

- The Reports Consolidation Act of 2000 requires the Inspector General (IG) of each Federal agency to annually summarize what he or she considers to be the most serious management and performance challenges facing the agency and to assess the agency's progress in addressing those challenges. In accordance with the act, the IG at NRC updated what he considers to be the most serious management and performance challenges facing NRC. As part of the evaluation, OIG staff sought input from NRC's Chairman, Commissioners, and management to obtain their views on what challenges the agency is facing and what efforts the agency has taken to address previously identified management challenges.

- A grant is a legal instrument for transferring money, property, or services to a recipient to support programs with a public purpose that the Government wishes to encourage. Grants differ significantly from contracts, which are used to acquire supplies or services for the direct benefit or use of the Government. While contracts are associated with specific types of oversight, requirements for grants oversight are less prescriptive. NRC's grant program has grown more than 36-fold since Fiscal Year (FY) 2005 in response to legislation authorizing the agency to increase its nuclear education grants to universities for course and curricula development, fellowships, scholarships, and faculty development. The audit objective was to determine whether NRC has established and implemented an effective system of internal controls for grants management.

- On December 17, 2002, the President signed the E-Government Act of 2002, which included the Federal Information Security Management Act (FISMA) of 2002. FISMA outlines the information security management requirements for agencies, which include an annual independent evaluation of an agency's information security program and practices to

determine their effectiveness. This evaluation must include testing the effectiveness of information security policies, procedures, and practices for a representative subset of the agency's information systems. OIG conducted FISMA evaluations of NRC's four regional offices and Technical Training Center. The evaluation objectives were to (1) evaluate the adequacy of NRC's information security program and practices for NRC automated information systems as implemented, (2) evaluate the effectiveness of agency information security control techniques as implemented, and (3) evaluate corrective actions planned and taken as a result of previous OIG evaluations.

- NRC's enforcement program is directed by the Office of Enforcement in headquarters, but is implemented primarily in the regional offices, where staff conduct inspections and investigations of licensees to identify violations and assess their significance so that appropriate enforcement actions can be determined. In three of NRC's four regional offices, a dedicated enforcement staff supervisor oversees the work of the regional enforcement staff and another individual serves as the region's attorney, or Regional Counsel. In the remaining region, however, the Regional Counsel serves both as the region's attorney and as the enforcement staff supervisor. A recent OIG audit found that differences in the ways the regional offices implement the enforcement program can significantly impact the enforcement process, leaving enforcement decisions vulnerable to challenge and potentially compromising public confidence in NRC's enforcement program. The audit objective was to determine whether combining the roles of regional counsel and enforcement supervisor is a workable approach for regional enforcement programs.

- During FY 2009, OIG engaged an independent contractor to assess NRC's safety culture and climate as well as other aspects of employee experience such as employee engagement. This was the fourth time that OIG has facilitated such an assessment. For purposes of this study, safety culture refers to the complex sum (or whole) of the mission, characteristics, and policies of an organization, and the thoughts and actions of its individual members, which establish and support nuclear safety and security as overriding priorities. Climate refers to the current work environment of the agency. A better understanding of NRC's safety culture and climate will facilitate identification of agency strengths and opportunities for improvement. Agency program and support offices can use this information to develop action plans, as warranted. In addition, the OIG plans to use the survey results in connection with risk assessments to facilitate annual audit planning.

INVESTIGATIONS

- OIG conducted an investigation involving NRC's process for reviewing security related allegations in the four NRC regional offices. Specifically, OIG examined security related allegations that were reported to NRC Regions I, II, III, and IV from October 2004 through August 2007 and interviewed staff members involved in the allegation process.

- OIG conducted an investigation into an allegation that NRC manipulated the agency's Reactor Oversight Process (ROP).[1] The allegation specifically referred to the way in which NRC processed an issue for Kewaunee Nuclear Power Plant (Kewaunee) that prevented moving the plant from Column 3 to Column 4 of the ROP's action matrix, allegedly because NRC lacked or did not want to devote the additional resources to complete additional inspections.

- OIG conducted an investigation into an allegation that an NRC contractor overbilled the agency for a contract deliverable. OIG reviewed the contract and learned that it was for review of a license application. The contract was a 5-year cost-reimbursement plus fixed fee, indefinite quantity, task ordering contract that contained numerous task orders, some of which contained subtask orders.

- OIG completed an investigation into an allegation that NRC afforded the Nuclear Energy Institute an exclusive opportunity to comment on and edit two NRC regulatory issue summaries (RIS), and that the draft RISs were not published in the *Federal Register* or made available on *NRC's Documents for Comment* Web page.

- OIG conducted an investigation into an allegation that a former NRC Commissioner's post-NRC employment with a nuclear industry vendor constituted a conflict of interest.

[1] The NRC ROP is a procedural framework that provides a means by which licensee performance is evaluated and measured and a means by which NRC determines the level of oversight for each reactor. A key element of the ROP is the action matrix from which appropriate regulatory response, licensee actions, and communications are determined based on a composite measure of licensee performance.

OVERVIEW OF THE NRC AND THE OIG

NRC'S MISSION

NRC was formed in 1975, in accordance with the Energy Reorganization Act of 1974, to regulate the various commercial and institutional uses of nuclear materials. The agency succeeded the Atomic Energy Commission, which previously had responsibility for both developing and regulating nuclear activities.

NRC's mission is to regulate the Nation's civilian use of byproduct, source, and special nuclear materials to ensure adequate protection of public health and safety, promote the common defense and security, and protect the environment. NRC's regulatory mission covers three main areas:

- **Reactors** - Commercial reactors that generate electric power and research and test reactors used for research, testing, and training.
- **Materials** - Uses of nuclear materials in medical, industrial, and academic settings and facilities that produce nuclear fuel.
- **Waste** - Transportation, storage, and disposal of nuclear materials and waste, and decommissioning of nuclear facilities from service.

Under its responsibility to protect public health and safety, NRC has three principal regulatory functions: (1) establish standards and regulations, (2) issue licenses for nuclear facilities and users of nuclear materials, and (3) inspect facilities and users of nuclear materials to ensure compliance with the requirements. These regulatory functions relate both to nuclear power plants and other uses of nuclear materials – like nuclear medicine programs at hospitals, academic activities at educational institutions, research, and such industrial applications as gauges and testing equipment.

The NRC maintains a current Web site and a public document room in Rockville, Maryland (NRC headquarters), and holds public hearings, public meetings in local areas and at NRC offices, and discussions with individuals and organizations.

OIG HISTORY, MISSION, AND GOALS

Inspector General History

In the 1970s, Government scandals, oil shortages, and stories of corruption covered by newspapers, television, and radio stations took a toll on the American public's faith in its Government. The U.S. Congress knew it had to take action to restore the public's trust. It had to increase oversight of Federal programs and operations. It had to create a mechanism to evaluate the effectiveness of Government programs. And, it had to provide an independent voice for economy, efficiency, and effectiveness within the Federal Government that would earn and maintain the trust of the American people.

Inspector General Hubert T. Bell presents a plaque to departing Commissioner Peter B. Lyons in appreciation of his support to the mission of the Office of the Inspector General. Pictured from left to right are David C. Lee, Deputy Inspector General; Hubert T. Bell; Peter B. Lyons; Stephen D. Dingbaum, Assistant Inspector General for Audits; and Maryann L. Grodin, General Counsel to the Inspector General.

In response, Congress passed the landmark legislation known as the Inspector General Act (IG Act), which President Jimmy Carter signed into law in 1978. The IG Act created independent Inspectors General, who would protect the integrity of Government; improve program efficiency and effectiveness; prevent and detect fraud, waste, and abuse in Federal agencies; and keep agency heads, Congress, and the American people fully and currently informed of the findings of IG work.

Today, the IG concept is a proven success. The IGs continue to deliver significant benefits to our Nation. Thanks to IG audits and inspections, billions of dollars have been returned to the Federal Government or have been better spent based on recommendations identified through those audits and inspections. IG investigations have also contributed to the prosecution of thousands of wrongdoers. In addition, the IG concept of good governance, accountability, and monetary recoveries encourages foreign governments to seek advice from Inspectors General with the goal of replicating the basic IG principles in their own governments.

OIG Mission and Goals

NRC's OIG was established as a statutory entity on April 15, 1989, in accordance with the 1988 amendment to the IG Act. NRC OIG's mission is to (1) independently and objectively conduct and supervise audits and investigations relating to NRC programs and operations; (2) prevent and detect fraud, waste, and abuse; and (3) promote economy, efficiency, and effectiveness in NRC programs and operations.

OIG is committed to ensuring the integrity of NRC programs and operations. Developing an effective planning strategy is a critical aspect of accomplishing this commitment. Such planning ensures that audit and investigative resources are used effectively. To that end, OIG developed a *Strategic Plan*[2] that includes the major challenges and critical risk areas facing NRC.

The plan identifies the priorities of OIG and establishes a shared set of expectations regarding the goals OIG expects to achieve and the strategies that will be employed to do so. OIG's *Strategic Plan* features three goals, which generally align with NRC's mission and goals:

1. **Strengthen NRC's efforts to protect public health and safety and the environment.**

2. **Enhance NRC's efforts to increase security in response to an evolving threat environment.**

3. **Increase the economy, efficiency, and effectiveness with which NRC manages and exercises stewardship over its resources.**

[2] OIG's current Strategic Plan covers the period FY 2008 through FY 2013.

OIG PROGRAMS AND ACTIVITIES

AUDIT PROGRAM

The OIG Audit Program focuses on management and financial operations; economy or efficiency with which an organization, program, or function is managed; and whether the programs achieve intended results. OIG auditors assess the degree to which an organization complies with laws, regulations, and internal policies in carrying out programs, and they test program effectiveness as well as the accuracy and reliability of financial statements. The overall objective of an audit is to identify ways to enhance agency operations and promote greater economy and efficiency. Audits comprise four phases:

- **Survey phase**–An initial phase of the audit process is used to gather information, without detailed verification, on the agency's organization, programs, activities, and functions. An assessment of vulnerable areas determines whether further review is needed.

- **Verification phase**–Detailed information is obtained to verify findings and support conclusions and recommendations.

- **Reporting phase**–The auditors present the information, findings, conclusions, and recommendations that are supported by the evidence gathered during the survey and verification phases. Exit conferences are held with management officials to obtain their views on issues in the draft audit report. Comments from the exit conferences are presented in the published audit report, as appropriate. Formal written comments are included in their entirety as an appendix in the published audit report.

- **Resolution phase**–Positive change results from the resolution process in which management takes action to improve operations based on the recommendations in the published audit report. Management actions are monitored until final action is taken on all recommendations. When management and OIG cannot agree on the actions needed to correct a problem identified in an audit report, the issue can be taken to the NRC Chairman for resolution.

Each September, OIG issues an *Annual Plan* that summarizes the audits planned for the coming fiscal year. Unanticipated high priority issues may arise that generate audits not listed in the *Annual Plan*. OIG audit staff continually monitor specific issues areas to strengthen OIG's internal coordination and overall planning process. Under the OIG Issue Area Monitor (IAM) program, staff designated as IAMs are assigned responsibility for keeping abreast of major agency programs and activities. The broad IAM areas address

nuclear reactors, nuclear materials, nuclear waste, international programs, security, information management, and financial management and administrative programs.

INVESTIGATIVE PROGRAM

OIG's responsibility for detecting and preventing fraud, waste, and abuse within NRC includes investigating possible violations of criminal statutes relating to NRC programs and activities, investigating misconduct by NRC employees, interfacing with the Department of Justice on OIG-related criminal matters, and coordinating investigations and other OIG initiatives with Federal, State, and local investigative agencies and other OIGs. Investigations may be initiated as a result of allegations or referrals from private citizens; licensee employees; NRC employees; Congress; other Federal, State, and local law enforcement agencies; OIG audits; the OIG Hotline; and IG initiatives directed at areas bearing a high potential for fraud, waste, and abuse.

Because NRC's mission is to protect the health and safety of the public, the Investigation unit directs much of its resources and attention on investigations of alleged conduct by NRC staff that could adversely impact matters related to health and safety. These investigations may address allegations of:

- Misconduct by high ranking NRC officials and other NRC officials, such as managers and inspectors, whose positions directly impact public health and safety.
- Failure by NRC management to ensure that health and safety matters are appropriately addressed.
- Failure by NRC to appropriately transact nuclear regulation publicly and candidly and to openly seek and consider the public's input during the regulatory process.
- Conflicts of interest involving NRC employees and NRC contractors and licensees, including such matters as promises of future employment for favorable or inappropriate treatment and the acceptance of gratuities.
- Fraud in the NRC procurement program involving contractors violating Government contracting laws and rules.

OIG has also implemented a series of proactive initiatives designed to identify specific high-risk areas that are most vulnerable to fraud, waste, and abuse. A primary focus is electronic-related fraud in the business environment. OIG is committed to improving the security of the constantly changing electronic business environment by investigating unauthorized intrusions and computer-related fraud, and by conducting computer forensic examinations. Other proactive initiatives focus on determining instances of procurement fraud, theft of property, Government credit card abuse, and fraud in Federal programs.

GENERAL COUNSEL ACTIVITIES

Regulatory Review

Pursuant to the Inspector General Act, 5 U.S.C. App. 3, Section 4(a)(2), OIG reviews existing and proposed legislation, regulations, policy, and new and revised Management Directives (MD), and makes recommendations to the agency concerning their impact on the economy and efficiency of agency programs and operations.

OIG comments derived from its regulatory review activities are an objective analysis of the language of proposed agency statutes, directives, regulations, and policies that identify vulnerabilities potentially resulting from these agency documents. Regulatory review is intended to provide assistance and guidance to the agency prior to the concurrence process. OIG does not concur in the agency actions reflected in the regulatory documents, but rather offers comments and requests responsive action within specified timeframes.

From April 1, 2009, through September 30, 2009, OIG reviewed more than 300 agency documents, including approximately 110 Commission papers (SECYs) and Staff Requirements Memoranda, and 200 Federal Register Notices, regulatory actions, and statutes.

To effectively track the agency's response to OIG regulatory review comments, OIG requests written replies within 90 days, with either a substantive reply or status of issues raised by OIG.

The following are summaries of comments developed concerning a Management Directive and an agency ethics update.

MD 13.1 - Property Management. The OIG provided substantive comments regarding revisions to Management Directive and Handbook 13.1, *Property Management*. This directive establishes standards and procedures for the use and control of agency property in accordance with Federal Management Regulations, the Federal Acquisition Regulation, and guidance from the Office of Management and Budget, General Services Administration, and Government Accountability Office. The changes to the directive moved the property function to the NRC Directorate for Space Planning and Consolidation, changed the authority for control of property and added a certification requirement to document Personally Identifiable Information issues, added an independent verification requirement, and provided for reporting lost property to the OIG.

OIG comments noted the need for additional dollar thresholds for specified authority and more specificity in describing the Property Manager Authority (PMA). In addition, OIG identified the need to include in the directive the OIG General Property Survey Board for property under OIG responsibility. The agency adopted OIG's suggestion, with the exception of the additional specificity for the PMA regarding authority to establish property accounts; the agency asserted this was implicit and adequate when viewed in the context of the overall directive.

Annual Update to the NRC Prohibited Securities List. It is NRC's policy to prohibit certain employees with substantive regulatory responsibilities, as well as their spouses and or minor children, from owning stocks, bonds, and other security interests issued by entities in the commercial nuclear field in accordance with NRC Supplemental Regulation, "Prohibited Securities," 5 CFR 5801.102. To assure that the list of prohibited interests is complete, the agency Ethics Official solicits input from offices as to needed changes in an annual update. This year, OIG identified entities that have submitted applications for NRC licenses, in addition to those actually holding an NRC license, for inclusion in the list. NRC has agreed to add these entities to the list.

OTHER ACTIVITIES

Training Support for the Inspector General Community

- The OIG General Counsel supported the Inspector General Community in training and presentations. The Attorney General guidelines for statutory law enforcement authority for 1811 Criminal Investigators within the Inspector General community include the requirement for periodic training on specified legal issues. The Inspector General Criminal Investigator Academy was tasked with formulating the syllabus for the training and identifying of appropriate teaching staff. The NRC OIG General Counsel was part of a group of attorneys from several Inspector General offices who constructed a model 3-hour course and participated in training a cadre of attorney-trainers. During this period, the OIG General Counsel presented this course in Chicago, Illinois, providing this mandatory training to almost 50 OIG criminal investigators from more than a dozen Federal agencies.

- The Council of Counsels to Inspectors General sponsors annual training for law students working as summer interns in Inspector General offices in the Washington, DC, area. In June, the NRC OIG General Counsel provided a 1-hour presentation on the "History and Concept of the Inspector General" as part of this training.

- The OIG General Counsel served as a guest speaker for the annual Space and Warfare Command Inspector General Conference. During that 3-day meeting, the General Counsel provided presentations to more than 30 Inspector General criminal investigators, auditors, and attorneys from field offices nationwide. The presentations, titled, "Fraud and Reform," covered four matters of significance to the Inspector General community: the Supreme Court decision in Allison Engine Co., Inc., et al. v. United States ex rel Sanders, et al.; the Fraud Enforcement and Recovery Act of 2009; the Inspector General Reform Act, and the recently enacted Federal Acquisition Regulation 3.1003, "Debarment and Suspension." During the General Counsel's lectures, she related statutory and regulatory authority and standards applicable to each of the topics, and illustrated each discussion area with examples from practice and evolving case law.

MANAGEMENT AND PERFORMANCE CHALLENGES

Most Serious Management and Performance Challenges Facing the Nuclear Regulatory Commission* as of September 30, 2008[3] *(as identified by the Inspector General)*	
Challenge 1	*Protection of nuclear material used for civilian purposes.*
Challenge 2	*Managing information to balance security with openness and accountability.*
Challenge 3	*Implementation of a risk-informed and performance-based regulatory approach.*
Challenge 4	*Ability to modify regulatory processes to meet a changing environment, to include the licensing of new nuclear facilities.*
Challenge 5	*Oversight of radiological waste.*
Challenge 6	*Implementation of information technology and information security measures.*
Challenge 7	*Administration of all aspects of financial management.*
Challenge 8	*Managing human capital.*
**The most serious management and performance challenges are not ranked in any order of importance.*	

The eight challenges are distinct, yet interdependent relative to the accomplishment of NRC's mission. For example, the challenge of managing human capital affects all other management and performance challenges.

[3] These management and performance challenges were used by the audit and investigative staff for work completed during Fiscal Year 2009. The Inspector General's updated list of challenges (September 30, 2009) appears on page 17 of this report. Audits reported as "in progress" are associated with the 2009 list.

AUDITS

To help the agency improve its effectiveness and efficiency during this period, OIG completed 12 financial and performance audits or evaluations that resulted in numerous recommendations to NRC management. OIG also analyzed 2 contract audit reports.

AUDIT SUMMARIES

Audit of NRC's Force-on-Force Inspection Program

OIG Strategic Goal: Security

Licensee security personnel preparing for a Force-on-Force exercise.
Source: NRC

NRC conducts Force-on-Force inspections at each of the Nation's nuclear power plants on at least a triennial basis in accordance with the 2005 Energy Policy Act.[4] A Force-on-Force inspection is a performance-based inspection designed to assess the ability of licensee security organizations to protect their facilities against sabotage.[5] Any potentially significant deficiencies identified during these inspections are to be promptly corrected by the licensee.

The Office of Nuclear Security and Incident Response (NSIR) manages the Force-on-Force inspection program. Force-on-Force inspections are part of NRC's baseline physical protection inspection program, and are the only baseline inspections managed at the headquarters level.[6] Teams of headquarters-based inspectors and security risk analysts conduct inspections with support from physical security inspectors based in NRC's four regional offices. These regional inspectors provide site-specific knowledge and represent their respective offices while on site with headquarters staff and licensee employees. U.S. military personnel serve as technical advisors to the NRC teams and assist with some inspection tasks.

The Force-on-Force program budget for FY 2009 was approximately $3.5 million, and composed about 6 percent of NSIR's FY 2009 budget. NRC began the second triennial Force-on-Force inspection cycle in January 2008. NRC planned to conduct 25 Force-on-Force inspections during FY 2009.

---

[4] Pub L. No. 109-58, "The 2005 Energy Policy Act," §651, August 8, 2005.

[5] NRC also conducts Force-on-Force inspections at other facilities that handle special nuclear materials, such as nuclear fuel cycle facilities. However, this audit focused on inspections at nuclear power plants.

[6] Inspection Procedure 71130, "Baseline Physical Protection Program."

The audit objective was to evaluate NRC's Force-on-Force inspection program to determine if design and implementation of the program are thorough, consistent, and in accordance with NRC standards. The audit focused on the program's development from the first triennial inspection cycle through the current second triennial inspection cycle.

Audit Results:

NRC conducts Force-on-Force inspections to evaluate licensees' ability to protect nuclear power plants against Design Basis Threat (DBT) type adversaries.[7]

NRC meets its 2005 Energy Policy Act requirement to conduct Force-on-Force inspections on a triennial basis, and the program has adequate management controls to ensure that inspections are thorough and comply with NRC standards. In particular, OIG found that:

- NSIR management assessed the Force-on-Force program early in the second inspection cycle, and subsequently undertook organizational and procedural changes to improve internal controls and program performance. These changes included standardization of training requirements, increased recruitment and training of Force-on-Force personnel, and revised target set review procedures and standards.

- Improved coordination of headquarters and regional inspection activities would result from a shared understanding of policies and procedures, and open communication among staff. NSIR and regional staff differ over interpretation of some inspection guidance, and over approaches to conducting Force-on-Force inspections. For example, the majority of regional staff interviewed characterized these inspections as excessively adversarial and attributed this to what they perceive as an overly aggressive mentality among headquarters staff and the composite adversary force that plays the role of an adversary force attacking the power plant. Yet, headquarters-based staff who expressed an opinion felt the exercises fairly test licensee security programs and appropriately fulfill NRC's regulatory and statutory requirements to evaluate licensees.

- Regional-headquarters differences in understanding have occurred in part because the program has undergone substantial changes in a short period of time, but procedural changes have not been effectively communicated

[7] The DBT reflects NRC's intelligence analysis of the type, composition, and capabilities of potential adversaries.

to regional staff in a systematic fashion. Differences among headquarters and regional staff with respect to professional backgrounds and skillsets are an additional factor. These issues have not compromised Force-on-Force inspections; however, disagreements between headquarters and regional staff regarding procedures and policy can undermine NRC's credibility with licensees and degrade staff morale.

By taking steps to reach agreement between headquarters and regional staff regarding Force-on-Force inspection program guidance, objectives, and best practices, NRC can better ensure its credibility with licensees and foster positive working relationships among staff involved in the Force-on-Force inspection program.

(Addresses 2008 Management and Performance Challenges #1 and #8)

Audit of NRC's Oversight of Construction at New Nuclear Facilities

OIG Strategic Goal: Safety

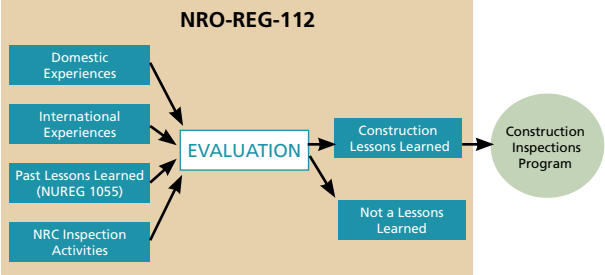
In recent years, there has been renewed worldwide interest in constructing nuclear facilities. NRC is responsible for licensing and inspecting construction activities of new civilian-use nuclear reactor and fuel cycle facilities built in the United States. The nuclear industry is responsible for ensuring that the design and construction of these facilities are in accordance with applicable NRC regulations.

During the 1970s and 1980s, NRC and its predecessor, the Atomic Energy Commission, oversaw the industry's construction of the first generation of U.S. nuclear plants. Several of the construction projects experienced significant problems related to design and construction quality resulting in the cancellation of several plants in various stages of construction. Congress, at that time, questioned NRC's ability to provide effective regulatory oversight of the construction activities and directed the agency to study ways to improve quality in the construction of future plants. In response to the congressional directive, NRC issued, in May 1984, NUREG-1055, *Improving Quality and the Assurance of Quality in the Design and Construction of Nuclear Power Plants: A Report to Congress.* The report concluded that NRC's inspection practices were inadequate and offered several recommendations to improve NRC programs.

In 2006, NRC reorganized in response to the anticipated new reactor licensing and construction inspection workload. NRO was created in headquarters with the primary responsibility for developing the CIP and its associated program guidance. The CIP was designed to ensure that plants are built in accordance

with the approved design and licensing requirements and will operate in compliance with NRC regulations. The agency continues to revise the CIP. In March 2009, NRO issued NRO-REG-112, *New Reactor Construction Experience Program,* to better inform the CIP. NRO-REG-112 provides guidance for a new construction lessons learned process that is informed by domestic and international experiences, past lessons learned, and construction inspection activities.

Construction Lessons Learned Process



Source: OIG analysis

The audit objective was to determine if and how NRC is identifying and incorporating lessons learned in its new CIP.

Audit Results:

NRC's process for identifying construction lessons learned contains some, but not all, of the key elements of a successful program. Key elements include support from upper management, a definition of the term "lessons learned," a well-defined work process for submitting and collecting potential lessons learned, and screening by qualified personnel.

NRO-REG-112 lays out the foundation for gathering lessons learned data related to construction, however, it does not comprehensively contain all the key elements identified as important to the success of an organization's lessons learned program. For example:

- The agency has not formally identified a lessons learned definition, presuming that the definition is commonly understood. Yet, all have different understandings and expectations for what it might include with most believing that lessons learned are negative events and not allowing for the possibility of including a positive event.
- While the agency has incorporated guidance for maintaining and improving its lessons learned process, it lacks formal criteria to help identify which issues must be brought forward for management consideration.
- The agency does not have a procedure that documents how a lessons learned is implemented through the Construction Inspection Program.
- The agency does not identify the level of expertise required for staff involvement in the construction lessons learned evaluation process.

The lack of well-developed guidance could jeopardize the CIP's goal to prevent recurrences of construction-related problems and may compromise the public's confidence in NRC's ability to effectively oversee new nuclear construction projects. *(Addresses 2008 Management and Performance Challenge #4)*

Audit of NRC's Material Control and Accounting Security Measures for Special Nuclear Materials at Fuel Cycle Facilities

OIG Strategic Goal: Security

Fuel cycle facility employee processing uranium.
Source: Babcock and Wilcox Nuclear Operations Group

NRC is authorized to grant licenses for the possession and use of SNM[8] and establish regulations to govern the possession and use of those materials. SNM is used for such purposes as (1) fuel for nuclear reactors; (2) industrial, academic, and medical applications; and (3) the manufacture of industrial gauging devices.

NRC's regulations require that SNM license holders have MC&A systems to protect against the loss or misuse of SNM. Licensees must allow NRC to inspect the materials, controls, and premises where SNM is used or stored. The primary goal of the NRC MC&A inspection program at fuel cycle facilities is to ensure that licensee systems adequately detect and protect against the loss, theft, or diversion of SNM in the licensee's possession.

The Office of Nuclear Material Safety and Safeguards is currently responsible for the MC&A Inspection Program. The inspection program staff is composed of one fully qualified inspector and three inspectors who are at various stages in their 2-year training and qualification program. This current staff is split between NRC headquarters in Rockville, Maryland, and NRC's Region II office in Atlanta, Georgia.

NRC requires MC&A inspections at Category I[9] fuel cycle facilities[10] twice per calendar year, and these inspections require approximately 128 hours per site. Upon completion of an inspection, staff return to their assigned offices and write an inspection report. NRC's MC&A Branch Chief reviews and approves the report.

The audit objective was to assess the effectiveness of NRC's MC&A inspection program over the accounting and control of SNM at Category I fuel cycle facilities.

---

[8] SNM is mildly radioactive, but includes uranium-233, uranium-235, and plutonium-239 -- which, in concentrated form, can be the primary ingredients of nuclear explosives. These materials, in amounts greater than formula quantities, are defined as "strategic special nuclear material." The uranium-235 content of low-enriched uranium can be concentrated (i.e., enriched) to make highly enriched uranium, the primary ingredient of an atomic bomb).

Audit Results:

The primary goal of NRC's MC&A inspection program is to ensure that licensee MC&A systems adequately detect the loss, theft, or diversion of SNM. However, the MC&A Inspection Program is at risk from the following conditions:

- Procedures lack prioritized direction and detailed sampling instruction.
- Qualified staff are limited.
- Specialized training that could enhance management knowledge has not been taken.

Procedures Lack Prioritized Direction and Detailed Sampling Instruction

NRC requires up-to-date, detailed procedures that provide guidance on setting inspection priorities. Currently, inspectors must choose their MC&A inspection activities without the benefit of prioritized procedures containing detailed sampling instruction. Additionally, the staff has established an "unwritten procedure" or practice of limiting sample selection size in favor of expediency, regardless of the size of the universe under review. Management stated that they had not been made aware of any need for procedure revisions by the inspectors. The result is that there is no assurance that NRC's relatively inexperienced inspection MC&A inspection staff can conduct MC&A inspections in a consistent, thorough manner.

Qualified Staff Are Limited

Management is responsible for ensuring that NRC's workforce has the skills necessary to achieve the agency's goals. The MC&A inspection program is currently operating with only one fully qualified inspector. In addition to conducting inspections and writing inspection reports, this inspector provides on-the-job training to three inspectors-in-training. Limited availability of required Department of Energy MC&A classes restricts the ability of NRC MC&A inspectors-in-training to complete their qualifications within the required 2-year timeframe. The result of these training delays is an inspection program that does not have a sufficient number of qualified inspectors to assure that inspections are conducted in a consistent, thorough manner.

---

[9] Category I fuel cycle facilities are authorized to possess highly enriched uranium. Highly enriched uranium is fuel in which the weight percent of U-235 in the uranium is 20 percent or greater.

[10] A fuel cycle facility is a facility involved in the processing and fabrication of uranium ore into reactor fuel.

Specialized Training That Could Enhance Management Knowledge Has Not Been Taken

NRC branch chiefs play an important role in overseeing inspection activities and should have a level of MC&A understanding that enables them to ensure effective performance of their branch. However, the branch chief responsible for approving MC&A fuel cycle facility inspection reports lacks specialized classroom training in this area. Specialized MC&A training is not required as a prerequisite to meet the qualifications to become an MC&A branch chief. However, without specialized classroom training, NRC lacks assurance that its branch chief has expertise for thorough and independent assessment of inspectors' work, increasing the risk that inspector errors will go undetected. *(Addresses 2008 Management and Performance Challenges #1, 3, and 8)*

Inspector General's Assessment of the Most Serious Management and Performance Challenges Facing NRC

OIG Strategic Goal: Corporate Management

The Reports Consolidation Act of 2000 requires the IG of each Federal agency to annually summarize what he or she considers to be the most serious management and performance challenges facing the agency and to assess the agency's progress in addressing those challenges.

In accordance with the act, the IG at NRC updated what he considers to be the most serious management and performance challenges facing NRC. The IG evaluated OIG's overall work, the OIG staff's general knowledge of agency operations, and other relevant information to develop and update his list of management and performance challenges. As part of the evaluation, OIG staff sought input from NRC's Chairman, Commissioners, and management to obtain their views on what challenges the agency is facing and what efforts the agency has taken to address previously identified management challenges.

Evaluation Results:

The IG identified seven challenges that he considers the most serious management and performance challenges facing NRC as of September 30, 2009. The challenges identified represent critical areas or difficult tasks that warrant high-level management attention. The 2009 list of challenges reflects one change from the 2008 list in that prior challenge 3, *Implementation of a risk-informed and performance-based regulatory approach*, was removed as a standalone challenge. This challenge was included in the IG's first list of management challenges, issued

to Congress in January 1998,[11] and has remained on the list each year since, with slight variations in wording. Although this regulatory approach – which incorporates risk analysis into regulatory decisions so that NRC and licensee attention can be focused on areas of highest risk – is expected to continue evolving in the years ahead, the approach is now mature and reflected throughout the agency's regulatory framework. Therefore, the IG removed the challenge from the 2009 list and, instead, addresses the issue in narrative about the other challenges, as appropriate.

The chart that follows provides an overview of the seven most serious management and performance challenges as of September 30, 2009.

Most Serious Management and Performance Challenges Facing the Nuclear Regulatory Commission * as of September 30, 2009[12] ***(as identified by the Inspector General)***	
Challenge 1	*Protection of nuclear material used for civilian purposes.*
Challenge 2	*Managing information to balance security with openness and accountability.*
Challenge 3	*Ability to modify regulatory processes to meet a changing environment, to include the licensing of new nuclear facilities.*
Challenge 4	*Oversight of radiological waste.*
Challenge 5	*Implementation of information technology and information security measures.*
Challenge 6	*Administration of all aspects of financial management.*
Challenge 7	*Managing human capital.*
**The most serious management and performance challenges are not ranked in any order of importance.*	

[11] In December 1997, prior to the Reports Consolidation Act of 2000, Congressman Armey requested that Inspectors General independently identify the most serious management problems in their respective agencies to help Congress target key problem areas for attention. NRC's IG complied with the request in January 1998. For subsequent lists, congressional members changed the word "problems" to "challenges." The Reports Consolidation Act of 2000 made this an annual reporting requirement for Federal Inspectors General.

[12] These management and performance challenges will be used by the audit and investigative staff for work performed during Fiscal Year 2010.

Audit of NRC's Grant Management Program

OIG Strategic Goal: Corporate Management

Pursuant to the Atomic Energy Act of 1954, as amended, and in conjunction with the Federal Grant and Cooperative Agreement Act of 1977, NRC may enter into arrangements to provide financial assistance to support programs with a public purpose that the Government wishes to encourage. Such assistance may be provided through grants to educational institutions, nonprofit organizations, State and local governments, and professional organizations.

A grant is a legal instrument for transferring money, property, or services to a recipient. Grants differ significantly from contracts, which are used to acquire supplies or services for the direct benefit or use of the Government. While agencies must monitor contractor performance closely to ensure work is performed satisfactorily and in a timely manner, the standards for monitoring grantees are less prescriptive. In large part, it is left to agencies to develop their own specific monitoring expectations for grantees.

NRC's grant program has grown more than 36-fold since FY 2005 in response to legislation authorizing the agency to increase its nuclear education grants to universities for course and curricula development, fellowships, scholarships, and faculty development. In FY 2005, NRC provided approximately $564,000 in financial assistance to outside entities, whereas in FY 2008, this figure was about $20 million.

The audit objective was to determine whether NRC has established and implemented an effective system of internal controls for grants management.

Audit Results:

Although the agency recently achieved compliance with a Federal requirement to post monthly data on its grant spending on a Federal Government Web site (USASpending.gov), NRC (1) lacks overarching guidance concerning the current grant program, (2) does not require grants staff to have grant-specific training, (3) has incomplete and inconsistent grant files, and (4) has not issued a Federal regulation on debarment and suspension of irresponsible grantees.

[13] NRC administers two types of grants: competitive and noncompetitive. Competitive grants are awarded – after an NRC review and evaluation process – to applicants who responded to an NRC funding opportunity announcement for a grant award. Noncompetitive grants are awarded to entities that write to NRC at any given time and propose a project that NRC determines aligns with its mission, provided money is available to fund the effort.

NRC Lacks Comprehensive Grants Program Guidance

NRC lacks a comprehensive guidance document describing the agency's grant policy and process to ensure the program functions as intended and that staff fulfill their responsibilities. Before such guidance can be written, the agency needs to complete its effort to define the competitive[13] grant process. In October 2008, NRC initiated a Lean Six Sigma[14] review of the agency's grant process. One of the team's efforts has been to define the competitive and noncompetitive grant processes; however, as of July 2009, the team had not reached agreement on the competitive process and the process remains undocumented.

Without comprehensive guidance that includes options for managing grants, staff employ inconsistent approaches to managing grants. For example, while some project officers use site visits routinely to monitor grantees, another was unaware that site visits were an option available for monitoring. Additionally, NRC staff lack a clear understanding of the roles and responsibilities of the various individuals and offices involved in the grant process.

NRC Does Not Require Grants Training

NRC employees responsible for awarding and managing grants need to be trained in order to adequately perform their assigned duties. Currently, there are varying degrees of training and experience among these staff because management does not require training for those administering the grant program. Auditors reviewed electronic agency training records for the 26 staff (15 grant project officers and 11 Division of Contracts staff) who either (1) awarded and provided oversight for the agency's FY 2007 and FY 2008 grants or (2) are working on the agency's FY 2009 grants. Training records showed that 7 of 11 Division of Contracts staff have not had any specific grant training and none of the 15 project officers have had any specific grant training.[15] As a result, the NRC lacks assurance of adequate oversight of the grant program, which can adversely affect the proper use of grant funds.

Grant Files Are Inconsistent and Incomplete

NRC grant files need to be complete and uniformly organized to facilitate informed decisionmaking by staff involved in the grant process. However,

[14] Lean Six Sigma is a methodology that facilitates the review of processes, both technical and administrative, to identify opportunities for process improvements. The results are intended to enhance efficiency, effectiveness, and knowledge management.

[15] Records reviewed reflect only training that occurred between October 1, 2004, and July 1, 2009. Training received prior to NRC employment and informal, in-house training provided to staff was not included in the recordkeeping system.

NRC official grant files are inconsistently organized and often incomplete. OIG reviewed official grant files for 36 (approximately 29 percent) of 126 grants awarded in FY 2007 and FY 2008 to assess whether they contained key award and monitoring documentation. Only one grant file reviewed contained all relevant and significant documentation. Grant files are inconsistent and incomplete because agency management has not established standards or requirements for the content and organization of these files. Without timely and easy access to all relevant information on each grant award, NRC decisionmakers cannot always make fully informed decisions about awarding and managing grants.

NRC Has Not Issued Regulation on Debarment and Suspension

Executive Order 12549, "Debarment and Suspension," requires Federal agencies with grant programs to issue regulations establishing their policies and procedures for debarment and suspension of irresponsible grantees. NRC has not issued such a regulation because agency officials were unaware of the requirement. Without issuing a regulation, NRC risks non-compliance with Federal requirements and may not be adequately protected if an irresponsible grantee misuses agency grant funds. *(Addresses 2008 Management and Performance Challenge #7).*

Information System Security Evaluations of NRC's Regional Offices and Technical Training Center

OIG Strategic Goal: Security

On December 17, 2002, the President signed the E-Government Act of 2002, which included the FISMA of 2002. FISMA outlines the information security management requirements for agencies, which include an annual independent evaluation of an agency's information security program[16] and practices to determine their effectiveness. This evaluation must include testing the effectiveness of information security policies, procedures, and practices for a representative subset of the agency's information systems. FISMA also requires an assessment of compliance with FISMA requirements and related information security policies, procedures, standards, and guidelines.

OIG issued FISMA evaluation reports prepared by an external auditor on NRC's four regional offices and the Technical Training Center (TTC) in FY 2009. The agency's regional offices conduct inspection, enforcement, investi-

[16] For the purposes of FISMA, the agency uses the term "information system security program."

gation, licensing, and emergency response programs for nuclear reactors, fuel facilities, and materials licensees. NRC's TTC, which has four onsite reactor simulators, was established in Chattanooga in 1980 as part of an expanded program of training based primarily on lessons learned from the Three Mile Island incident. Information security policies, procedures, and practices at the regional offices and the TTC were last assessed in 2003 and 2006.

The objectives for each of the information system security evaluations were to (1) evaluate the adequacy of NRC's information security program and practices for NRC automated information systems as implemented, (2) evaluate the effectiveness of agency information security control techniques as implemented, and (3) evaluate corrective actions planned and taken as a result of previous OIG evaluations.

Although OIG issued separate reports on each of the five entities evaluated, results from the publicly released versions of the reports are consolidated below. More specific information than that which follows could not be provided in the publicly released reports, or in this publicly available document.

Evaluation Results for Regions I, II, III, and IV and TTC:

Regions I, II, III, and IV and the TTC have each made improvements in their implementation of NRC's information system security program and practices since the previous evaluations in 2003 and 2006. All corrective actions from the previous evaluations have been implemented. However, the information system security program and practices are not always consistent with the NRC's automated information systems security program as defined in Management Directive and Handbook 12.5, *NRC Automated Information Systems Security Program,* other NRC policies, FISMA, and National Institute of Standards and Technology guidance. Areas needing improvement at one or more of the entities evaluated included physical and environmental controls, continuity of operations and emergency planning, and configuration management. *(Addresses 2008 Management and Performance Challenge #6)*

Audit of the Regional Counsel Role in the Enforcement Process

OIG Strategic Goal: Safety

The NRC is authorized to enforce its regulatory requirements by imposing sanctions against licensees who violate those requirements. NRC's enforcement program is directed by the Office of Enforcement in headquarters, but is implemented primarily in the regional offices, where staff conduct inspections

and investigations of licensees to identify violations and assess their significance so that appropriate enforcement actions can be determined.

In three of NRC's four regional offices, a dedicated enforcement staff supervisor oversees the work of the regional enforcement staff and another individual serves as the region's attorney, or Regional Counsel. In Region II, however, the Regional Counsel serves both as the region's attorney and as the enforcement staff supervisor (dual role approach). As enforcement supervisor, this individual is to ensure that the region adheres to the agency's enforcement policy, oversees the preparation of escalated enforcement packages, and performs other enforcement related tasks. As Regional Counsel, this individual provides legal advice to the region, including advice on the legal sufficiency of escalated enforcement packages.

The OIG audit found that differences in the ways the regional offices implement the enforcement program can significantly impact the enforcement process, leaving enforcement decisions vulnerable to challenge and potentially compromising public confidence in NRC's enforcement program.

The audit objective was to determine whether combining the roles of regional counsel and enforcement supervisor is a workable approach for regional enforcement programs.

Audit Results:

NRC uses the dual role position in Region II, but did not implement management controls to ensure that legal advice provided by the dual-role holder is readily distinguishable from non-legal advice nor follow human resources requirements to formally establish a dual role position in Region II.

Management Controls Were Not Implemented To Ensure Distinction Between Legal and Non-Legal Advice

Agency managers have not implemented management controls to ensure that legal advice provided by an agency attorney with a dual role is readily distinguishable from non-legal advice.

Distinguishing legal from non-legal advice is particularly important in connection with attorney-client and attorney work product privilege and in light of the agency's goal for openness and clarity in its regulation of the nuclear industry.

NRC's Sensitive Unclassified Non-Safeguards Information policy requires agency attorneys to mark their documents as containing legal advice when appropriate, and the agency's General Counsel expects such marking to occur; however, the Region II dual role holder did not make such notations. Furthermore, there is no parallel requirement to provide similar clarification about legal advice provided during oral discussions.

Management controls were not implemented because they were not deemed necessary. However, without such clarification, the dual role arrangement could lead to public misunderstanding or legal challenge related to the issue of attorney-client privilege. Conversely, making such distinctions can help ensure that NRC is able to protect legal advice it seeks to properly protect.

Human Resource Requirements Were Not Followed

Region II did not (1) develop a position description for the job or (2) evaluate the position to ensure it was properly classified or included the necessary background requirements. Instead, the region simply assigned the enforcement supervisor duties to the Regional Counsel without changing this individual's job title or assessing whether the Regional Counsel possessed the background requirements listed in the enforcement supervisor position description. Agency managers did not follow the required human resources steps because they were unaware such steps were necessary. Without following human resource requirements to formally establish a dual role position, the dual role holder could be subject to unfair rating criteria, and the enforcement program might not be adequately supported. *(Addresses 2008 Management and Performance Challenges #1, 2, and 8)*

NRC Safety Culture and Climate Survey

OIG Strategic Goal: Safety, Security, and Corporate Management

During FY 2009, OIG engaged an independent contractor to assess NRC's safety culture and climate as well as other aspects of employee experience such as *employee* engagement. This was the fourth time that OIG has facilitated such an assessment. The *2009 Safety Culture and Climate Survey* study comprised several distinct areas: a review of the existing research on safety culture and climate; an evaluation of the 1998, 2002, and *2005 Safety Culture and Climate Survey* results and interviews of a random sample of NRC employees and managers - both of these activities served as the basis for designing the 2009 questionnaire; and a quantitative component consisting of administering the survey to all NRC employees.

For purposes of this study, *safety culture*, as it relates to the agency, refers to the complex sum (or whole) of the mission, characteristics, and policies of an organization, and the thoughts and actions of its individual members, which establish and support nuclear safety and security as overriding priorities. *Climate* refers to the current work environment of the agency. Climate is like a snapshot in time and can affect culture.

This research initiative was undertaken by OIG in anticipation of achieving a better understanding of NRC's safety culture and climate that would identify areas of agency strengths and opportunities for improvement. Agency program and support offices can use this information to develop action plans, as warranted. In addition, the OIG plans to use the survey results in connection with risk assessments in order to facilitate annual audit planning.

Percentage of Employees Responding Favorably

NRC Overall 2009 (N=3,404)

Source: OIG contractor analysis

Survey Results:

The *Safety Culture and Climate Survey* was administered from May 4 – May 29, 2009. All NRC employees and managers were eligible to participate. Of the 3,935 employees asked to participate, 3,404 completed surveys, for an overall return rate of 87 percent. This return is significantly higher than previous survey administrations (most recently, 71 percent participation in 2005) and is more than sufficient to provide a reliable and valid measure of the current attitudes and perceptions of NRC employees and managers.

The 2009 survey results were more favorable in all 15 comparable categories[17] when compared to the U.S. National Norm,[18] and in all 15 comparable categories when compared to the U.S. Research and Development Norm.[19]

The 2009 survey also provided a new external benchmark comparison, the U.S.

[17] The 15 categories assessed were (1) NRC mission and strategic plan, (2) training and development, (3) workload and support, (4) communication, (5) empowerment, (6) performance management, (7) working relationships, (8) management leadership, (9) engagement, (10) continuous improvement commitment, (11) supervision, (12) NRC image, (13) job satisfaction, (14) clarity of responsibilities, and (15) quality focus.

[18] The U.S. National Norm is composed of organizations representing a broad spectrum of industries across the United States and has been updated in the last 12 months. Employees in the norm are Hourly, Salaried, Exempt and Non-Exempt up to and including Executives. Organizations in the norm are weighted to ensure proper proportionality.

[19] The U.S. Research and Development Norm is a representative sample of the U.S. research and development workforce weighted according to Bureau of Labor Statistics data. This norm contains a representative sample of organizations throughout the U.S. and from research and development functions.

High Performance Norm. This norm is composed of organizations that have exceptional financial and employee opinion survey results, and companies in the norm are often cited for being extremely well managed. When compared to this rigorous norm, the NRC is more favorable in 13 of the 14 comparable categories.[20]

The 2009 survey shows significant improvements over the 2005 results, with 16 of 17 categories significantly more favorable. The largest increases were in NRC Mission and Strategic Plan, NRC Image, and Performance Management. The results also demonstrated that employee engagement at the NRC is highly affected by attitudes toward Management Leadership, Continuous Improvement Commitment and Training and Development.

The survey provided certain strengths for the NRC to maintain and opportunities for improvement.

Key Strengths To Maintain

- **Workload and Support**–work schedules, prioritization, and computer systems viewed favorably.
- **Quality Focus**–excellent quality, and improvement on sacrificing quality for metrics or personal/political needs.
- **Training and Development–**training opportunities; personal growth and development; talent management.
- **Performance Management**–performance evaluated fairly; performance reviews are helpful.
- **Open, Collaborative Working Environment**–much greater awareness and acceptance of programs and processes.

Key Opportunities For Improvement

- **NRC Image–**holding all employees to the same ethical standards.
- **Training and Development–**availability of classes and personal workload interfering with ability to attend training.
- **Communication**–NRC public Web site, Agencywide Documents Access and Management System (ADAMS), not viewed as favorably as in 2005.
- **Organizational Change**–concern about the future of the nuclear industry and frequent changes of one's supervisor.
- **Empowerment** –management trusting employees' judgment.

(Addresses 2008 Management and Performance Challenges #1, 2, 3, and 8)

[20] Same categories as listed in footnote 15 except for continuous improvement commitment, which was not assessed as part of the High-Performance Norm.

AUDITS IN PROGRESS

Audit of NRC's Personnel Security for Employees

OIG Strategic Goal: Security

The Atomic Energy Act of 1954, as amended, requires all NRC employees to have a security clearance, but allows employees to begin working for NRC prior to their clearance — provided the Commission determines that such employment is in the national interest and the employee does not have access to classified information. Today, nearly all NRC employees are permitted to begin work before receiving a security clearance, but only after the Division of Facilities and Security (DFS) conducts an in-house review of the prospective employee's background information as reported by the individual, credit history, and criminal history; evaluates the results; and determines there are no factors that constitute a security risk to the agency. Based on this review, NRC grants an initial approval for the employee to begin work. This approval is referred to as a preappointment investigation waiver.

After NRC grants this initial approval to begin work (with no access to classified information), the agency requests a full background investigation, appropriate for either an L or Q clearance, from the Office of Personnel Management (OPM). After the OPM background investigation is returned to NRC, DFS staff evaluate the subject in light of the OPM investigative report information. Based on the issues raised, it may take DFS several months to more than a year to complete this review and make a recommendation to the DFS Director to grant or deny a security clearance. As a result, some NRC employees work for up to 2 years at NRC before receiving a security clearance.

The audit objectives are to determine whether (1) NRC is in compliance with external and internal personnel security requirements and (2) NRC's personnel program is efficiently managed. *(Addresses 2009 Management and Performance Challenges #2 and #7)*

Audit of NRC's Quality Assurance Planning for New Reactors

OIG Strategic Goal: Safety

Chapter 10, Part 50, of the Federal Code of Regulations (10 CFR 50) requires every applicant for a construction permit to include in its preliminary safety analysis report a description of the quality assurance program to be applied to the design, fabrication, construction, and testing of the structures, systems,

and components of the facility. This quality assurance program includes the managerial and administrative controls to be used to assure safe operation. These requirements also apply to holders of, and applicants for, combined licenses issued under 10 CFR 52. Current applications for new nuclear power plants pending before the NRC were submitted under 10 CFR 52.

As part of its regulatory responsibilities, NRC reviews and evaluates the description of the quality assurance program for the design and construction phases in each application for an early site permit, a combined license, or a standardized design approval. After docketing a combined license application, NRC performs a substantive review of the applicant's quality assurance program description relative to ongoing design and procurement activities. NRC also conducts an inspection to determine that a satisfactory quality assurance program was established and is being implemented.

The audit objective is to determine how NRC has identified and incorporated quality assurance lessons learned into its preparations for the next generation of nuclear plants. *(Addresses 2009 Management and Performance Challenge #3)*

Audit of NRC Management Directive 6.8 – Lessons Learned Programs

OIG Strategic Goal: Safety

In 2002, NRC created the Davis-Besse Lessons Learned Task Force to evaluate the agency's regulatory processes used during the Davis-Besse event.[21] The Davis-Besse Lessons Learned Task Force recommended, among other things, that NRC conduct an effectiveness review of the actions taken in response to past lessons learned reviews. Consequently, the Office Nuclear Reactor Regulation (NRR) established the Effectiveness Review Lessons Learned Task Force (ERLLTF). This task force found that some corrective actions implemented prior to the Davis-Besse event had not been effective. In response, the Executive Director for Operations (EDO) assigned the ERLLTF to establish a program to institutionalize significant agencywide lessons learned.

On August 1, 2006, the agency issued MD 6.8 to establish the formal and structured process needed to manage corrective actions for significant agencywide lessons learned. The EDO has primary oversight of the program, but has delegated this responsibility to a Lessons Learned Program Manager (the

[21] In March 2002, plant workers at the Davis-Besse Nuclear Power Station found significant damage to a reactor vessel while conducting a routine repair. This problem led to a leakage of reactor cooling water, which contains boric acid and can damage other areas of the nuclear reactor.

program manager) and a Lessons Learned Oversight Board (the Oversight Board). The Oversight Board is composed of deputy office directors from NRR, the Office of New Reactors, the Office of Nuclear Material Safety and Safeguards (NMSS), the Office of Federal and State Materials and Environmental Management Programs, the Office of Nuclear Regulatory Research, NSIR, and a representative from one of the four NRC regions.

The objective of this audit is to determine whether NRC's agencywide Lessons Learned Program meets its intended purpose to ensure that knowledge gained from significant lessons learned is retained and disseminated in a manner that will maximize its benefit and usefulness to the staff. *(Addresses 2009 Management and Performance Challenges #1 and #3)*

Audit of NRC's Management Controls Over the Placement and Monitoring of Work With Department of Energy Laboratories

OIG Strategic Goal: Corporate Management

NRC obligated approximately $67 million and $65 million during FY 2007 and FY 2008 (October 1, 2007, through August 4, 2008), respectively, for agreements with Department of Energy (DOE) laboratories. NRC MD 11.7, *NRC Procedures for Placement of Work With the U.S. Department of Energy,* states, "It is the policy of the U.S. Nuclear Regulatory Commission that work placed with the U.S. Department of Energy be managed effectively."

The MD and associated handbook specify the interagency responsibilities, authorities, and procedures for placement and monitoring of work with DOE and its contractors. The objectives of MD 11.7 are to ensure (1) that procedures for negotiating and managing agreements with DOE are consistent with sound business practices and contracting principles; (2) uniform application of an agencywide standard of contract management for projects placed with DOE; and (3) that a framework exists for program management control, administration, monitoring, and closeout of projects placed with DOE.

This area was last reviewed in FY 1997. As a result of the workload associated with new reactors, the number of DOE lab agreements has increased.

The audit objective is to determine whether NRC has established and implemented an effective system of internal control over the placement and monitoring of work with DOE laboratories. *(Addresses 2009 Management and Performance Challenge #7)*

Audit of Electronic Submissions from Licensees

OIG Strategic Goal: Corporate Management

NRC developed an enhancement to the existing software and procedures to facilitate the receipt and loading of combined license applications into ADAMS. This effort included working with an industry task force to ensure that the applications would be formatted consistently and that the submitters and NRC staff had a common understanding of how applications would be structured. The system has been used for applications for combined licenses (including major documents such as the final safety analysis reports, emergency plans, and environmental reports) and design certifications. Guidance on the electronic submittal of applications related to new reactors is provided in Chapter 8 of "Guidance for Electronic Submissions to the NRC," which is posted on NRC's public Web site.

Although the initiative appears generally successful, there have been some implementation issues and suggested improvements. The most notable problems identified have included (1) delays in processing applications because some files provided did not meet NRC expectations for loading into ADAMS, and (2) the means used to make the electronic versions of the applications available to the public (via NRC public Web site). Favorable comments have been received related to the ease of use (e.g., use of hyperlinks between major documents) and efficiencies gained from previous processing of paper applications.

The audit objective will be to evaluate NRC's use of electronic submissions in NRO and its applicability to other NRC's activities such as in NRR. *(Addresses 2009 Management and Performance Challenge #2)*

FY 2009 Financial Statement Audit

OIG Strategic Goal: Corporate Management

Under the Chief Financial Officers Act and the Government Management and Reform Act, the OIG is required to audit NRC's financial statements. OIG will measure the agency's improvements by assessing corrective action taken on prior audit findings. The report on the audit of the agency's financial statements is due on November 15, 2009. In addition, the OIG will issue reports on:

- Special Purpose Financial Statements.
- Implementation of the Federal Managers' Financial Integrity Act.
- Condensed Financial Statements.

The audit objectives are to:

- Express opinions on the agency's financial statements and internal controls.
- Review compliance with applicable laws and regulations.
- Review the performance measures included in the agency's Performance and Accountability Report as required by Office of Management and Budget guidance.
- Review the controls in NRC's computer systems that are significant to the financial statements.
- Assess the agency's compliance with Office of Management and Budget Circular A-123, Revised, Management's Responsibility for Internal Control.

(Addresses 2009 Management and Performance Challenge #6)

Audit of NRC's Protections Against Social Engineering Attacks

OIG Strategic Goal: Security

Effective security is multifaceted and must include integrated protections provided by various components of a defense-in-depth strategy. Recent examples where Federal agency and private corporate data became publicly available highlight the necessity to provide and ensure protections in all areas. Unless agency technical, management, and operation security controls work in concert, there is potential for an attacker to exploit a weakness in a faulty security construct. Accordingly, an organization's security posture is only as strong as its weakest link, which more often than not is the result of human error.

Social engineers seek to exploit weakness in a facility's security posture to gain access to the facility and its critical information systems and data. Therefore, it is important for Government agencies to identify their most critical personnel and operational weaknesses so they may improve the mechanisms on which their security posture depends.

The audit objective will be to assess the effectiveness and adequacy of the agency's security control measures used to protect the security and integrity

of sensitive information technology systems and data in the event of a social engineering attack. *(Addresses 2009 Management and Performance Challenges #2 and #5)*

Audit of NRC's Telework Program

OIG Strategic Goal: Corporate Management

Public Law 106-345, Section 359, states, "Each executive agency shall establish a policy under which employees of the agency may participate in telecommuting to the maximum extent possible without diminishing employee performance." Telework benefits employers and employees through reduced costs and increased productivity. Telework can also play a critical role in Continuity of Operations activities. Recent events have necessitated a need for Continuity of Operations planning. This planning is intended to ensure that essential functions can continue during and after a disaster. A social benefit is also gained from telework with the reduction of traffic and pollution. The agency expects to grow from about 3,600 employees in FY 2008 to more than 4,000 by FY 2010. This growth will place a premium on office space and equipment.

NRC has a Flexible Workplace Program (Flexiplace) that allows employees in eligible positions to apply for a fixed-schedule telework arrangement. Under Flexiplace, employees may work at home or at an offsite location, for up to 3 days per week, with the approval of their office director or regional administrator. Alternatively, employees can request to participate in the Flexiplace Program under a project-based schedule.

The audit objectives are to determine:

- If NRC's telework program complies with relevant law and OPM guidance.
- The adequacy of internal controls associated with the telework program.
- NRC's readiness to have staff telework under emergency situations.

(Addresses 2009 Management and Performance Challenge #7)

Audit of NRC's Physical Security Inspection Program for Fuel Cycle Facilities

OIG Strategic Goal: Security

NSIR manages the overall development and implementation of policies and programs for security at fuel cycle facilities. NSIR also manages contingency

planning and emergency response activities for safeguards events at fuel cycle facilities and assesses fuel cycle facility reports. Additionally, the staff provides inspection program oversight for fuel cycle security inspection programs. With respect to MC&A, the branch conducts safeguards technical and regulatory reviews of physical protection and MC&A programs and revised the MC&A Manual Chapter and Inspection Procedures.

Over the past several years the responsibility for security inspections of fuel cycle facilities has been moved between NMSS and NSIR numerous times. Currently, NMSS' MC&A Branch and NSIR's Fuel Cycle Safeguards and Security Branch share overlapping inspection responsibilities.

The audit objective will be to assess the effectiveness of the physical security inspection program at fuel cycle facilities. *(Addresses 2009 Management and Performance Challenge #1)*

FY 2009 Evaluation of FISMA

OIG Strategic Goal: Security

FISMA was enacted on December 17, 2002. FISMA permanently reauthorized the framework laid out in the Government Information Security Reform Act, which expired in November 2002. FISMA outlines the information security management requirements for agencies, including the requirement for an annual review and annual independent assessment by agency inspectors general. In addition, FISMA includes new provisions such as the development of minimum standards for agency systems, aimed at further strengthening the security of the Federal Government information and information systems. The annual assessments provide agencies with the information needed to determine the effectiveness of overall security programs and to develop strategies and best practices for improving information security.

The audit objectives will be to evaluate the (1) adequacy of NRC's information security programs and practices for NRC major applications and general support systems of record for FY 2009, (2) effectiveness of agency information security control techniques, and (3) implementation of the NRC's corrective action plan created as a result of the 2008 FISMA program review. *(Addresses 2009 Management and Performance Challenge #5)*

INVESTIGATIONS

During this reporting period, OIG received 82 allegations, initiated 28 investigations, and closed 26 cases. In addition, OIG made 21 referrals to NRC management and 9 to the Department of Justice.

INVESTIGATIVE CASE SUMMARIES

NRC's Process for Reviewing Security Related Allegations

OIG Strategic Goal: Security

OIG conducted an investigation into NRC's process for reviewing security related allegations in the four NRC regional offices. Specifically, OIG examined security related allegations that were reported to NRC Regions I, II, III, and IV from October 2004 through August 2007, and interviewed staff involved in the allegation process.

The NRC Allegation Management Program establishes a process by which concerns regarding nuclear power plant safety and security received by the NRC will be assessed and addressed. MD 8.8, *Management of Allegations,* states that there is no threshold for NRC to accept an allegation and that the type and amount of effort required to bring an allegation to closure is a decision made by a regional or office allegation review board on a case-by-case basis. MD 8.8 encourages the NRC staff to refer "as many allegations as possible" to NRC licensees and provides criteria for doing so. The MD also clearly instructs staff not to refer allegations made against licensee management or against those parties who would normally receive and address allegations. MD 8.8 also requires NRC staff to review reports submitted by licensees following their evaluation of the allegation to ensure they are adequate. MD 8.8 states that if NRC staff has questions about the licensee's response, staff may contact the licensee for clarification and/or reconvene an allegation review board to discuss what followup is needed.

During this investigation, OIG reviewed 318 allegation files associated with security allegations received by the four regions between October 2004 and August 2007. The 318 allegations contained 658 security related concerns and the regions referred 257, or 39.1 percent, of the 658 concerns to licensees for evaluation. Licensees concluded that 45, or 17.5 percent, of the security related concerns referred to them were substantiated. NRC handled the remaining 401 concerns through (1) region-based inspections or other types of regional follow-up, (2) referral to NRC's Office of Investigations, or (3) referral to other Federal agencies. Of the 401 concerns addressed by the NRC, 103, or 25.7 percent, were substantiated.

OIG found that the regions generally acted in accordance with the guidance in MD 8.8 for receipt and processing of allegations. However, OIG noted several shortcomings in NRC's review process. For example, the regional staffs did not routinely verify information provided in the licensee evaluations. Instead, regional staffs typically accepted, at face value, the licensee's methodology for reviewing a particular concern and trusted the accuracy of the information provided. Further, the NRC staff did not typically request supporting documentation to allow an independent assessment of the effectiveness or relevance of policies and procedures that licensees may cite in their evaluation reports.

OIG noted that while MD 8.8 includes suggested questions for staff to use in judging the adequacy of the licensee's response, these questions were subjective in nature, and the agency has not provided staff with criteria to assist them in assessing licensee responses. For example, OIG noted that licensee evaluations often cite interviews conducted with a sample of staff to assess the validity of a particular concern; yet, NRC staff lack guidance on how to evaluate whether the sampling methodology was appropriate for reaching conclusions based on the number of interviews conducted. *(Addresses 2008 Management and Performance Challenge #2)*

Alleged Manipulation of Reactor Oversight Process

OIG Strategic Goal: Safety

Kewaunee Nuclear Power Plant
Photo courtesy of NRC

OIG conducted an investigation into an allegation that NRC manipulated the agency's ROP. The allegation specifically referred to the way in which NRC processed an issue for Kewaunee Nuclear Power Plant (Kewaunee), that prevented moving the plant from Column 3 to Column 4 of the ROP's action matrix, allegedly because NRC lacked or did not want to devote the additional resources to complete additional inspections.

NRC uses the ROP to evaluate licensee performance and determine what, if any, additional regulatory actions (including inspections) are required for increased regulatory oversight as plant performance declines. Specifically, there are four columns in NRC's action matrix, the tool used to categorize licensees into groups warranting different levels of NRC inspection and oversight based on plant performance. In Column 1, plants receive the standard baseline regulatory oversight program of inspections and reviews; the level of oversight increases incrementally in Columns 2, 3, and 4.

This investigation did not substantiate that NRC manipulated the ROP to prevent Kewaunee from moving to a higher column in the ROP action matrix because of a lack of resources.

OIG learned that the licensee first documented a diesel generator fuel leak on June 28, 2006, and attempted to repair the deficiency. On August 17, 2006, during a 2-hour surveillance test, the fuel leak worsened, causing the diesel generator to be declared inoperable by the licensee. On August 18, 2006, the licensee repaired the diesel generator and declared it operable. There were a total of 51 days from the time when the leak was first discovered until the diesel generator was declared operable after the failed surveillance test. When NRC reviewed this event as an inspection finding, the diesel generator was characterized as inoperable for 51 days and given a white finding color.

The licensee disagreed with NRC's assessment of the period of inoperability and appealed the NRC decision. An appeal hearing, which included oral presentations and written summaries, was conducted by the Director, Division of Inspection and Regional Support (DIRS). However, this DIRS Director was promoted to a different position before a decision was made. A new DIRS Director later reviewed available documents and consulted with NRC staff members, including the former DIRS Director, regarding the issue, and ultimately ruled in favor of the licensee.

Five NRC headquarters and regional staff members told OIG that they disagreed with the ruling, but acknowledged there were reasonable arguments on both sides. None of the staff members could cite specific evidence of NRC ever having prevented a plant from moving columns due to resource issues, including in this case. Six senior level NRR managers, including the Director and Deputy Director, told OIG that resources are not an issue when a licensee moves columns within the action matrix because the additional resources needed for inspections are always available from other regions and from headquarters. *(Addresses 2008 Management and Performance Challenges #1 and #4)*

Possible Overcharging of Hours by an NRC Contractor

OIG Strategic Goal: Corporate Management

OIG conducted an investigation into an allegation that an NRC contractor overbilled the agency for one of the contract deliverables. OIG reviewed the contract and learned that it was for review of a license application. The contract was a 5-year cost-reimbursement plus fixed fee, indefinite quantity,

task ordering contract[22] that contained numerous task orders (TO), some of which contained subtask orders. The contractor was expected not to exceed the allocated budget for each TO. However, the contract allowed the contractor flexibility in how hours are billed between subtask orders, provided the hours did not exceed the total number of hours dedicated to the TO.

The NRC technical monitor reviewed the TO and subtask, and determined that it reflected very little effort by the subcontractor. The technical monitor also questioned the hours billed by the subcontractor (104 billable hours for $11,960), and felt that too many hours were billed to the subtask based on his assessment of the quality of the subtask deliverable, and the number of hours the contractor initially estimated it would take to complete the subtask.

The NRC technical monitor placed a stop payment on the voucher, which resulted in NRC's Division of Contracts withholding payment on the voucher until the disputed hours were resolved with the contractor. The technical monitor also raised his concerns to the NRO project manager for this contract. The project manager consulted with an independent NRC engineer to review the deliverable. The engineer said that while the deliverable was not of the best quality, it was acceptable. The project manager explained that under this cost-reimbursement contract, it is permissible for the contractor to bill higher than the contractor's initial cost estimate for subtasks, provided the overarching task cost estimate is not exceeded, which was the case with this TO.

OIG determined that the contractor's billing was consistent with the contract vehicle. OIG also determined that the NRC contract project manager took appropriate steps to assess the adequacy of the deliverable after learning of the technical monitor's concern and that prior to payment, the project manager determined the work was acceptable. The project manager's determination was based on the fact that the contractor did the work even though it was not of the high quality expected by the technical monitor. *(Addresses 2008 Management and Performance Challenge #7)*

[22] A cost-plus-fixed-fee contract is a cost-reimbursement contract that provides for payment to the contractor of a negotiated fee that is fixed at the inception of the contract. The fixed fee does not vary with actual cost, but may be adjusted as a result of changes in the work to be performed under the contract. This contract type permits contracting for efforts that might otherwise present too great a risk to contractors, but it provides the contractor an incentive to control costs.

NRC Allows the Nuclear Energy Institute Opportunity to Review and Edit Regulatory Issue Summary Documents

OIG Strategic Goal: Security

OIG completed an investigation into an allegation that NRC afforded the Nuclear Energy Institute (NEI) an exclusive opportunity to comment on and edit two NRC regulatory issue summaries (RIS), and that the draft RISs were not published in the Federal Register or made available on NRC's Documents for Comment Web page.

OIG determined that NRC provided both the public and NEI equal access to the draft RISs on the agency's Web site in accordance with Commission policy. OIG also determined that there was no requirement to post the RISs in the Federal Register.

NRC's policy statement on Enhancing Public Participation in NRC Meetings states that public notice of meetings will be posted on the NRC Web site and will include background documents or other materials that could be helpful to meeting attendees. Also, MD 3.5, *Attendance at NRC Sponsored Meetings,* Part III, Part (C), Procedures for Noticing a Meeting, states that staff should ensure that documents available for public comment are posted on the Documents for Comment Web page on NRC's public Web site, and that notices of meetings are posted on the Public Meeting Schedule Web page, also located on the public Web site.

OIG determined that although NRC posted notification of the meetings and the draft RISs on the agency's Public Meeting Schedule Web page in accordance with the Commission policy, NRC deviated from MD 3.5 in that the two draft RISs were not posted on the Documents for Comment Web page. OIG also determined that the staff did not publish the draft RISs in the Federal Register for public comment because these two generic communications did not communicate new policy, and therefore there was no requirement to post the RISs in the Federal Register. *(Addresses 2008 Management and Performance Challenge #2)*

Alleged Conflict of Interest by a Former NRC Commissioner

OIG Strategic Goal: Corporate Management

OIG conducted an investigation into an allegation that a former NRC Commissioner's post-NRC employment with a nuclear industry vendor constituted a conflict of interest.

The criminal conflict-of-interest law, Title 18 United States Code 208(a) prohibits, in part, Federal employees from participating personally and substantially in any Government matter that the employee knows could have a direct and predictable effect on the financial interest of the employee, or anyone with whom the employee is negotiating, or has an arrangement for employment. This law requires employees to disqualify themselves from participating in any Government matter if the matter could affect any of these prohibited interests. The Ethics in Government Act of 1978, as amended, and Title 5, Code of Federal Regulations, part 2634, requires that each year, Federal Government employees whose positions are classified as GS-15 or above file a Standard Form (SF) 278. The SF 278, requires, in part, employees to report travel-related reimbursements that exceed $260, and requires individuals to report information on negotiations for future employment from the point at which the employee and potential non-Federal employer have agreed to the employee's future employment by the employer, regardless of whether all terms have been settled.

By way of background, prior to the termination of his term, the former NRC Commissioner advised his staff and an NRC Office of the General Counsel attorney of an arrangement he had made with an attorney to serve as an intermediary between himself and potential future employers. Under this arrangement, the intermediary would field all prospective employment offers for the Commissioner and the Commissioner would not discuss employment with anyone except the intermediary until the Commissioner completed his term. In the event that the NRC Commissioner's staff received any potential employment inquiries, the NRC Commissioner's staff were to forward the inquiries to the intermediary.

OIG determined that the NRC Commissioner did not take effective measures to prevent a potential conflict of interest during the last 2 months of his term. Although the NRC Commissioner set up an arrangement to pursue post-Government employment via a third party while serving as Commissioner, the Commissioner stopped following this arrangement prior to the end of his term and began negotiating directly with potential employers. At this point, the NRC Commissioner did not establish a process to ensure a thorough screening of and recusal from matters before the Commission. Although the NRC Commissioner was ultimately responsible for exercising his recusal, he also relied on his staff to screen matters that involved potential employers with whom he was negotiating employment. However, the NRC Commissioner did not provide his staff with necessary details of his job search or establish a process for evaluating matters before the Commission to ensure he disqualified himself from involvement with potential conflict-of-interest issues. Moreover, his staff did not effectively screen matters to assist him in exercising his recusal option.

OIG determined that the NRC Commissioner was directly involved in employment negotiations with a nuclear vendor and two other nuclear companies that could have potentially benefitted financially from his votes on two separate internal policy proposals from the NRC staff (known as SECY papers). These votes occurred during the specific timeframes in which the NRC Commissioner was negotiating with the three companies.

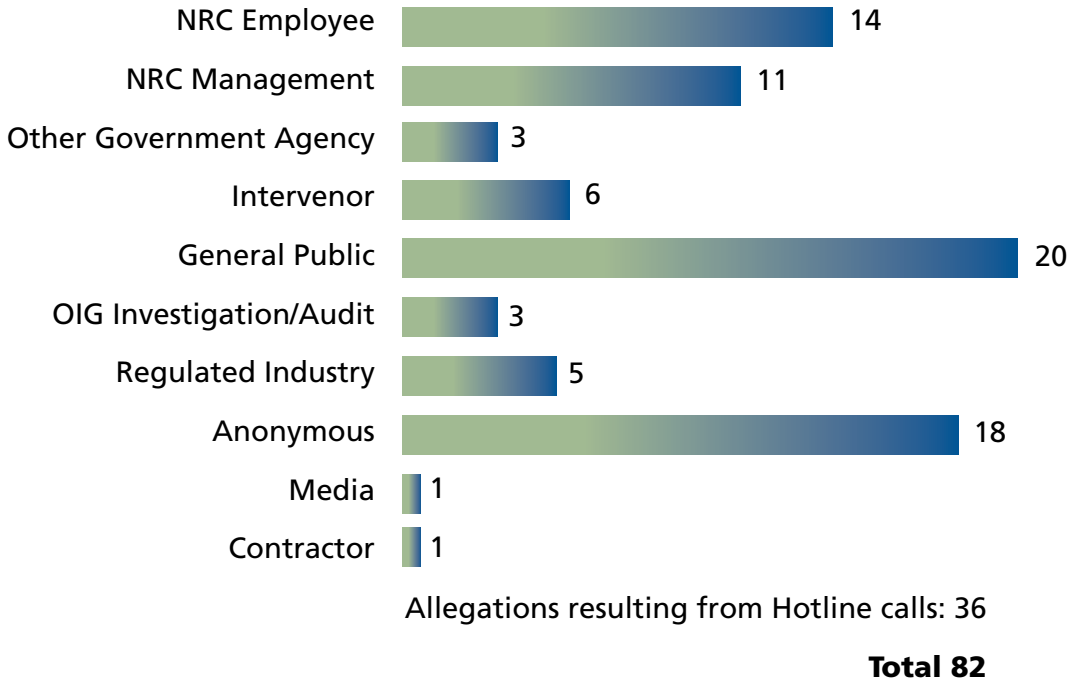
OIG also found that the NRC Commissioner did not report on his final SF 278, which he was required to complete prior to the end of his term, the information related to his acceptance of the nuclear vendor's job offer. The NRC Commissioner also did not timely report his non-Government travel related reimbursements totaling $3,552.47, in connection with potential post-NRC employment discussions with the nuclear vendor and another nuclear company.

OIG referred this investigation to the Department of Justice, U.S. Attorney's Office, District of Maryland, which declined prosecution. *(Addresses 2008 Management and Performance Challenge #2)*

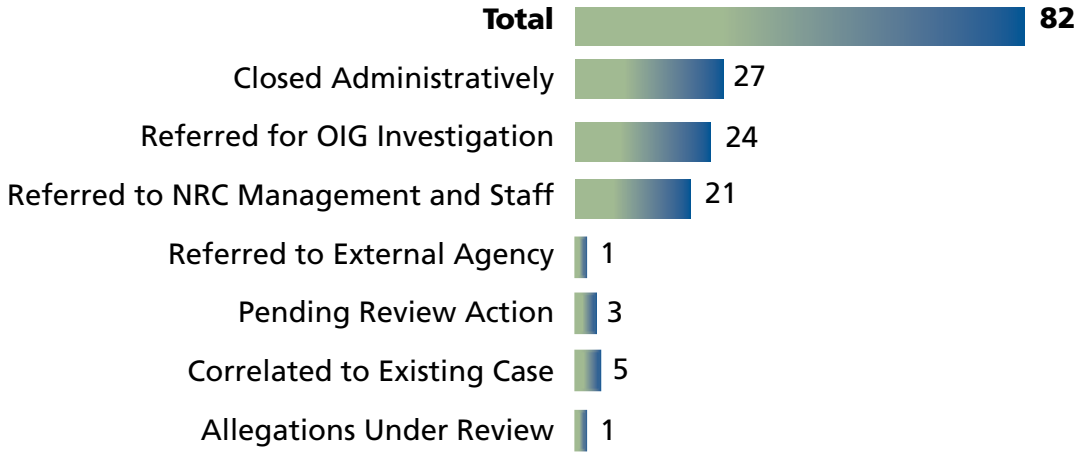
SUMMARY OF OIG ACCOMPLISHMENTS

INVESTIGATIVE STATISTICS

Source of Allegations — April 1, 2009, through September 30, 2009



Disposition of Allegations — April 1, 2009, through September 30, 2009



Status of Investigations

DOJ Acceptance	1
DOJ Referrals	9
DOJ Pending	1
DOJ Declinations	7
NRC Administrative Actions:	
Terminations and Resignations	1
Suspensions and Demotions	1

Summary of Investigations

Classification of Investigations	*Carryover*	*Opened Cases*	*Closed Cases*	*Cases In Progress*
Conflict of Interest	1	0	1	0
External Fraud	3	5	4	4
False Statements	1	0	1	0
Misuse of Government Property	1	3	2	2
Employee Misconduct	11	7	8	10
Management Misconduct	4	2	4	2
Mishandling of Technical Allegations	10	1	4	7
Whistleblower Reprisal	2	1	0	3
Proactive Initiatives	3	0	1	2
Miscellaneous	0	3	0	3
Technical Allegations	0	3	0	3
Projects	7	1	1	7
Management Implication Report	0	1	0	1
Event Inquiries	1	1	0	2
Total Investigations	**44**	**28**	**26**	**46**

AUDIT LISTINGS

Internal Program Audit and Special Evaluation Reports

Date	*Title*	*Audit Number*
09/30/2009	Inspector General's Assessment of the Most Serious Management and Performance Challenges Facing NRC	OIG-09-A-21
09/30/2009	Office of the Inspector General Information System Security Evaluation of Region I - King of Prussia, PA	OIG-09-A-20
09/30/2009	Audit of NRC's Material Control and Accounting Security Measures for Special Nuclear Materials at Fuel Cycle Facilities	OIG-09-A-19
09/30/2009	NRC Safety Culture and Climate Survey	OIG-09-A-18
09/29/2009	Audit of NRC's Oversight of Construction at Nuclear Facilities	OIG- 09-A-17
09/29/2009	Audit of NRC's Grant Management Program	OIG-09-A-16
09/28/2009	Office of the Inspector General Information System Security Evaluation of Region III – Lisle, IL	OIG-09-A-15
09/28/2009	Office of the Inspector General Information System Security Evaluation of Region IV – Arlington, TX	OIG-09-A-14
09/28/2009	Office of the Inspector General Information System Security Evaluation of Region II – Atlanta, GA	OIG-09-A-13
07/30/2009	Audit of NRC's Force-on-Force Inspection Program	OIG-09-A-12
07/22/2009	Information System Security Evaluation of the Technical Training Center – Chattanooga, TN	OIG-09-A-11
05/11/2009	Audit of the Regional Counsel Role in the Enforcement Process	OIG-09-A-10

Contract Audit Reports

OIG Issue Date	*Contractor/ Contract Number*	*Questioned Costs*	*Unsupported Costs*
5/26/09	Beckman and Associates		
	NRC-04-07-112	0	0
04/08/09	Engineering Mechanics Corp. of Columbus		
	NRC-04-02-074	0	0
	NRC-04-03-046	0	0
	NRC DR-04-07-072	0	0

AUDIT RESOLUTION ACTIVITIES

TABLE I

OIG Reports Containing Questioned Costs[23]
April 1, 2009, through September 30, 2009

Reports	*Number of Reports*	*Questioned Costs (Dollars)*	*Unsupported Costs (Dollars)*
A. For which no management decision had been made by the commencement of the reporting period	0	0	0
B. Which were issued during the reporting period	0	0	0
Subtotal (A + B)	0	0	0
C. For which a management decision was made during the reporting period:			
(i) dollar value of disallowed costs	0	0	0
(ii) dollar value of costs not disallowed	0	0	0
D. For which no management decision had been made by the end of the reporting period	0	0	0
E. For which no management decision was made within 6 months of issuance	0	0	0

[23] Questioned costs are costs that are questioned by the OIG because of an alleged violation of a provision of a law, regulation, contract, grant, cooperative agreement, or other agreement or document governing the expenditure of funds; a finding that, at the time of the audit, such costs are not supported by adequate documentation; or a finding that the expenditure of funds for the intended purpose is unnecessary or unreasonable.

TABLE II

OIG Reports Issued with Recommendations That Funds Be Put to Better Use[24]

Reports	*Number of Reports*	*Dollar Value of Funds*
A. For which no management decision had been made by the commencement of the reporting period	0	0
B. Which were issued during the reporting period	0	0
C. For which a management decision was made during the reporting period:		
(i) dollar value of recommendations that were agreed to by management	0	0
(ii) dollar value of recommendations that were not agreed to by management	0	0
D. For which no management decision had been made by the end of the reporting period	0	0
E. For which no management decision was made within 6 months of issuance	0	0

[24] A "recommendation that funds be put to better use" is a recommendation by the OIG that funds could be used more efficiently if NRC management took actions to implement and complete the recommendation, including: reductions in outlays; deobligation of funds from programs or operations; withdrawal of interest subsidy costs on loans or loan guarantees, insurance, or bonds; costs not incurred by implementing recommended improvements related to the operations of NRC, a contractor, or a grantee; avoidance of unnecessary expenditures noted in preaward reviews of contract or grant agreements; or any other savings which are specifically identified.

TABLE III

Significant Recommendations Described in Previous Semiannual Reports on Which Corrective Action Has Not Been Completed

Date	*Report Title*	*Number*
05/26/03	Audit of NRC's Regulatory Oversight of Special Nuclear Materials	OIG-03-A-15
	Recommendation 1: Conduct periodic inspections to verify that material licensees comply with material control and accountability (MC&A) requirements, including, but not limited to, visual inspections of licensees' special nuclear material (SNM) inventories and validation of reported information.	
09/26/06	Evaluation of NRC's Use of Probabilistic Risk Assessment in Regulating the Commercial Nuclear Power Industry	OIG-06-A-24
	Recommendation 3: Conduct a full verification and validation of SAPHIRE version 7.2 and GEM.	
09/06/07	Audit of NRC's License Renewal Program	OIG-07-A-15
	Recommendation 4: Establish requirements and management controls to standardize the conduct and depth of license renewal operating experience reviews.	
	Recommendation 7: Establish a review process to determine whether or not Interim Staff Guidance meets the provisions of 10 CFR 54.37(b), and document accordingly.	

ABBREVIATIONS AND ACRONYMS

ADAMS	Agencywide Documents Access and Management System
CFR	Code of Federal Regulations
CIP	Construction Inspection Program
DBT	Design Basis Threat
DFS	Division of Facilities and Security (NRC)
DIRS	Division of Inspection and Regional Support (NRC)
DOE	U.S. Department of Energy
EDO	Executive Director for Operations
ERLLTF	Effectiveness Review Lessons Learned Task Force
FISMA	Federal Information Security Management Act
FY	Fiscal Year
IAM	Issue Area Monitor
IG	Inspector General
MC&A	Material Control and Accounting
MD	Management Directive
NEI	Nuclear Energy Institute
NMSS	Office of Nuclear Material Safety and Safeguards (NRC)
NRC	U.S. Nuclear Regulatory Commission
NRO	Office of New Reactors (NRC)
NRR	Office of Nuclear Reactor Regulation (NRC)
NSIR	Office of Nuclear Security and Incident Response (NRC)
OIG	Office of the Inspector General (NRC)
OPM	Office of Personnel Management
PMA	Property Manager Authority
ROP	Reactor Oversight Process
RIS	regulatory issue summary
SF	Standard Form
SNM	special nuclear material
TO	task order
TTC	Technical Training Center (NRC)

REPORTING REQUIREMENTS

The Inspector General Act of 1978, as amended, specifies reporting requirements for semiannual reports. This index cross-references those requirements to the applicable pages where they are fulfilled in this report.

Citation	Reporting Requirements	Page
Section 4(a)(2)	Review of Legislation and Regulations	6-7
Section 5(a)(1)	Significant Problems, Abuses, and Deficiencies	10-25, 33-39
Section 5(a)(2)	Recommendations for Corrective Action	10-25
Section 5(a)(3)	Prior Significant Recommendations Not Yet Completed	45
Section 5(a)(4)	Matters Referred to Prosecutive Authorities	41
Section 5(a)(5)	Information or Assistance Refused	none
Section 5(a)(6)	Listing of Audit Reports	42
Section 5(a)(7)	Summary of Significant Reports	10-25, 33-39
Section 5(a)(8)	Audit Reports — Questioned Costs	44
Section 5(a)(9)	Audit Reports — Funds Put to Better Use	45
Section 5(a)(10)	Audit Reports Issued Before Commencement of the Reporting Period for Which No Management Decision Has Been Made	46
Section 5(a)(11)	Significant Revised Management Decisions	None
Section 5(a)(12)	Significant Management Decisions With Which OIG Disagreed	None

NRC OIG's STRATEGIC GOALS

1. Strengthen NRC's efforts to protect public health and safety and the environment.
2. Enhance NRC's efforts to increase security in response to an evolving threat environment.
3. Increase the economy, efficiency, and effectiveness with which NRC manages and exercises stewardship over its resources.

The NRC OIG Hotline

The Hotline Program provides NRC employees, other Government employees, licensee/utility employees, contractors and the public with a confidential means of reporting suspicious activity concerning fraud, waste, abuse, and employee or management misconduct. Mismanagement of agency programs or danger to public health and safety may also be reported. We do not attempt to identify persons contacting the Hotline.

What should be reported:

- Contract and Procurement Irregularities
- Conflicts of Interest
- Theft and Misuse of Property
- Travel Fraud
- Misconduct
- Abuse of Authority
- Misuse of Government Credit Card
- Time and Attendance Abuse
- Misuse of Information Technology Resources
- Program Mismanagement

Ways to Contact the OIG

Call:
OIG Hotline
1-800-233-3497
TDD: 1-800-270-2787
7:00 a.m. – 4:00 p.m. (EST)
After hours, please leave a message

Submit:
On-Line Form
www.nrc.gov
Click on Inspector General
Click on OIG Hotline

Write:
U.S. Nuclear Regulatory Commission
Office of the Inspector General
Hotline Program, MS O5 E13
11555 Rockville Pike
Rockville, MD 20852-2738

NUREG-1415, Vol. 22, No. 1
September 2009