
**OFFICE OF
THE INSPECTOR GENERAL**

**U.S. NUCLEAR
REGULATORY COMMISSION**

SENIOR MANAGEMENT
SUPPORT NEEDED TO ENSURE TIMELY
IMPLEMENTATION OF THE LSN

OIG/99A-07 February 17, 2000

AUDIT REPORT





UNITED STATES
NUCLEAR REGULATORY COMMISSION
WASHINGTON, D.C. 20555-0001

February 17, 2000

OFFICE OF THE
INSPECTOR GENERAL

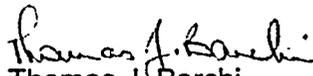
MEMORANDUM TO:

Stuart Reiter
Acting Chief Information Officer

William D. Travers
Executive Director for Operations

G. Paul Bollwerk
Chief Administrative Judge
Atomic Safety and Licensing Board Panel

FROM:


Thomas J. Barchi
Assistant Inspector General for Audits

SUBJECT:

SENIOR MANAGEMENT SUPPORT NEEDED TO ENSURE
TIMELY IMPLEMENTATION OF THE LSN

Attached is the Office of the Inspector General's audit report titled "Senior Management Support Needed to Ensure Timely Implementation of the LSN."

On February 15, 2000, you responded to a draft of this report which contained two recommendations regarding the Licensing Support Network (LSN). The first addressed the need for enhancing the frequency and content of LSN information provided to the Commission by the Atomic Safety and Licensing Board Panel. The second identified the need for NRC and the Department of Energy (DOE) to reach agreement on how to ensure participation for parties/potential parties to the LSN process. Your response disagreed with our first recommendation, and agreed in part with the second. It is our belief that the recommendations are still valid. We do not believe keeping the Commission informed on LSN progress at least quarterly would create an additional burden. Additionally, our review of representative monthly status reports referred to in your response does not contain information on cost, schedule, and performance which we believe should be reported to the Commission. Because the same problems exist today as we had previously reported, and there is limited time left to meet current scheduling needs, we believe the Commission being fully informed is significantly important. Additionally, we believe that the need for NRC and DOE to reach agreement on a strategy to make the LSN available to all parties/potential parties is critical. Although we recognize the legal question you provided in your response, we believe this issue has gone unresolved for too long. As we identified, this matter must be resolved so that parties/potential parties can explore alternative funding methods as may be necessary. We intend to keep both recommendations open until we determine that corrective actions have been implemented.

Please contact me on 415-5915, if we can assist you further in this matter.

Attachment: As stated

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REPORT SYNOPSIS

The Nuclear Waste Policy Act of 1982 (NWPA) requires the Nuclear Regulatory Commission (NRC) to issue a final decision on the issuance of a construction authorization for a high-level radioactive waste repository within 3 years (with a possible 1-year extension) of receiving a Department of Energy (DOE) application. Effective January 1999, the Code of Federal Regulations, Title 10, Part 2, Subpart J, "Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository" (LSN Rule), among other provisions, renamed the Licensing Support System (LSS) the Licensing Support Network (LSN). Like the LSS, the LSN is an electronic information management system to house documentary material to facilitate the licensing process. The LSN allows the parties to take advantage of advances in information technology since the enactment of the original rule in 1989. Based on the LSN Rule requirements and DOE's time line, the LSN must be deployed by August 2001 to facilitate NRC's ability to complete the licensing process in the time frame mandated by the NWPA.

Funding uncertainties and technical design issues are among the key obstacles that delayed progress on the LSS. Interestingly, more than 10 years after the effective date of the LSS Rule, these very same obstacles continue to exist and threaten the timely and effective implementation of the LSN. Since placing the role of the LSN business sponsor with the Atomic Safety and Licensing Board Panel (ASLBP) in July 1999, NRC has taken several positive actions regarding the design and development of the LSN. Despite the aggressive approach, much remains to be done within a fixed and relatively short time frame. Areas in which significant work remains to be performed include reaching LSN Advisory Review Panel consensus on the technical design solution, obtaining LSN approval through NRC's Capital Planning and Investment Control process, conducting public outreach to promote the availability of documentary material, and resolving key funding issues. Several NRC offices will have to work quickly and harmoniously to ensure successful implementation of the LSN Rule. The challenging time constraints within which the LSN must be deployed leave little to no room for mistakes, reversals of key decisions, or inefficiencies.

Because NRC is mandated to conduct a timely licensing proceeding, senior management needs to take a strong leadership role to ensure this mandate is met. We believe it is crucial for the ASLBP to keep the Commission informed of LSN progress on a regular basis in order for the program to obtain the benefit of the

Commission's guidance and support. Additionally, adequate funding must be provided to implement the LSN Rule. Therefore, we recommend that the LSN Administrator/ASLBP: (1) report to the Commission on the status of LSN progress at least quarterly and (2) aggressively pursue reaching agreement with DOE to provide parties/potential parties with the opportunity to effectively participate in the LSN process.

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Senior Management Support Needed to Ensure Timely Implementation of the LSN

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INTRODUCTION

We have completed an audit on the status of the Nuclear Regulatory Commission's (NRC) implementation of the Licensing Support Network (LSN). Our audit objective was to determine whether NRC is taking adequate measures to ensure all aspects of the Code of Federal Regulations (CFR), Title 10, Part 2, Subpart J, "Procedures Applicable to Proceedings for the Issuance of Licenses for the Receipt of High-Level Radioactive Waste at a Geologic Repository" will be implemented within the time constraints imposed by the rule. This is the Office of the Inspector General's (OIG) third review of the Licensing Support System (LSS)/LSN. The first report,⁽¹⁾ dated March 1995, disclosed that the LSS had been stalled for years due to delays in the Department of Energy's (DOE) license application schedule, personnel changes in DOE and NRC, changes in program direction, and lack of agreement over funding. Many of these delays were attributed to a lack of clear definition and agreement on the roles and responsibilities between and within DOE and NRC. As part of that report, NRC's OIG made three recommendations to strengthen the LSS program.

OIG followed up on the agency's implementation of the recommendations about a year later. One of the actions taken by the Executive Director for Operations was to establish a Senior Management Team (SMT) to reevaluate the purpose and need for the LSS and to address the issues raised by OIG's report. In its followup report,⁽²⁾ OIG endorsed the SMT's support for continuing the LSS. However, OIG's recommendation regarding the need for a Memorandum of Understanding (MOU) between DOE and NRC on their respective roles and responsibilities remained open. This report provides the results of OIG's recent review of the status of NRC's implementation of the LSN. See Appendix I for further details on our objective, scope, and methodology.

BACKGROUND

To put in perspective pertinent requirements and provisions, this section provides expanded background information on the Nuclear Waste Policy Act of 1982 (NWPAct), as amended, the LSS, and the LSN.

¹ OIG/95A-01, March 17, 1995, titled *NRC Needs to Provide Strong Direction for the Licensing Support System*.

² OIG/96A-01, February 12, 1996, titled *Survey of the Nuclear Regulatory Commission's Information Management Needs for Current and Future Licensing Demands for Disposal of High-Level Nuclear Waste*.

Nuclear Waste Policy Act

The NWPA requires that DOE construct, operate, and, ultimately, permanently close a high-level nuclear waste (HLW) storage and disposal facility. The Act was amended in 1987 to focus DOE's site characterization activities to Yucca Mountain in Nevada. If the site is approved by the President and Congress, the NWPA requires NRC to approve or disapprove DOE's license application for construction authorization for a HLW repository within 3 years of receiving the application. The NWPA also provides for a possible 12-month extension to the licensing process for sufficient cause. This 3-year time limit is critical because, by comparison, NRC took, on average, 5 years to complete a typical reactor licensing proceeding and 9 years for a highly contested case. Since this is a first-of-its-kind facility, it will also likely be highly contested.

Licensing Support System

To help meet the 3-year construction authorization deadline, NRC enacted 10 CFR, Part 2, Subpart J, in 1989 (LSS Rule), which governs the procedure for application for a license to receive and possess HLW at a geologic repository. The LSS Rule required the development of an electronic information management system containing the documentary material of DOE and its contractors, other parties, interested government participants, and potential parties and their contractors. This system was expected to provide for document discovery⁽³⁾ and electronic transmission of (i) the filings by the parties during the HLW proceedings and (ii) orders and decisions by the Commission and its adjudicatory boards related to the proceedings. The LSS Rule required DOE to design and develop the computer system necessary to implement the LSS, including the procurement of hardware and software, plus follow-on redesign. The LSS Rule also required NRC to manage and administer the LSS.

Additionally, the LSS Rule required NRC to establish an LSS Advisory Review Panel (LSSARP) chartered to advise DOE on the design and development of the LSS and to advise NRC's LSS Administrator (LSSA) on the operation and maintenance of the LSS. LSSARP membership included representatives of the State of Nevada, DOE, NRC, affected units of local government, the National Congress of American Indians, a coalition of national environmental groups, and a coalition of industry groups. The LSSARP reported to the LSSA.

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Discovery is part of the pre-hearing process during which each party requests relevant information and documents from the other parties in an attempt to "discover" pertinent facts. Generally, discovery devices include depositions, document production requests, and requests for inspection.

Licensing Support Network

In January 1999, NRC published a revision to 10 CFR, Part 2, Subpart J (LSN Rule). The LSN Rule was intended to allow application of technological developments that occurred after the original LSS Rule was adopted in 1989, while accomplishing the following goals originally established for the LSS: facilitate NRC's ability to comply with the schedule for a decision on the construction authorization for the repository, provide for a thorough technical review of the license application, and provide equitable access to information for the parties to the hearing. As part of the LSN Rule, the LSS was renamed the LSN.

As stated earlier, OIG carried from the first audit of the LSS an open recommendation for an MOU between DOE and NRC to resolve issues of roles and responsibilities of the two agencies. OIG closed this recommendation after the rule revision because under the LSN Rule, NRC will, with the advice of the LSN Advisory Review Panel (LSNARP), design, develop, maintain, and operate the centralized LSN. The LSN Administrator (LSNA) explained that NRC may outsource a portion of these functions. The LSN Rule also makes each party responsible for converting, loading, and maintaining its own documents in a web server. NRC has no control over each party's progress in carrying out these responsibilities.

The LSN will be the combined system that makes documentary material available electronically to all parties to the proceeding for a license to receive and possess HLW at a geologic repository beginning in the pre-license application phase. Pre-license application phase means the time period before the license application to receive and possess HLW at a geologic repository operations area is docketed. Under the LSN Rule, this period begins 30 days after the date on which DOE submits the site recommendation to the President. DOE is currently scheduled to send the site recommendation to the President in July 2001. Based on the LSN Rule and DOE's schedule, NRC and DOE are required to make their documentary material available electronically beginning August 2001.

LSNARP membership is drawn from those interests that will be affected by the use of the LSN. The LSNARP was chartered to provide advice to (i) the NRC in deciding on the type of computer system necessary to access the LSN, (ii) the Secretary of the Commission on the operation and maintenance of the electronic docket, and (iii) the LSNA on solutions to improve the functioning of the LSN. The LSNARP reports to the Chief Administrative Judge of the Atomic Safety and Licensing Board Panel (ASLBP).

The LSNA is required to coordinate the LSN. The LSNA has the responsibility to (1) identify technical and policy issues, (2) address consensus advice of the LSNARP, (3) coordinate the resolution of problems experienced by participants regarding LSN availability, (4) coordinate the resolution of problems regarding the integrity of the documentary material, and (5) provide periodic reports to the Commission on the status of the LSN functionality and operability.

Appendix II of this report provides a "Chronology of Significant LSS/LSN Events" leading up to the release of this audit. Also, Appendix III provides a "Prospective Time Line of 10 CFR, Part 2, Subpart J, Events."

RESULTS OF REVIEW

Funding uncertainties and technical design issues are among the key obstacles that delayed progress on the LSS. These same obstacles continue to exist and threaten the timely and effective implementation of the LSN, even though it has been over 10 years since the effective date of the LSS Rule.

SENIOR MANAGEMENT SUPPORT NEEDED TO ENSURE TIMELY IMPLEMENTATION OF THE LSN

Since placing the role of the LSN business sponsor with the ASLBP in July 1999, NRC has taken an aggressive approach regarding the design and development of the LSN. However, much work remains to be done in order for the LSN to be implemented by August 2001. The LSN Rule places a challenging deadline on DOE; the other parties/potential parties, and the NRC in particular, to deploy an LSN that will house relevant documentary material to facilitate discovery in support of the licensing on the HLW license application. The ability of NRC to complete the licensing process in the 3- to 4-year time frame mandated by the NWPA is largely contingent upon the successful, timely deployment of the LSN.

Positive actions recently taken by NRC indicate the agency has initiated a good start in implementing the LSN Rule. These actions include the appointment of the LSNARP Chairman in August 1999; appointment of the LSNA in September 1999; appointment of a Senior Computer Systems Analyst to assist the LSNA; development of a preliminary project schedule; conduct of a pilot electronic information exchange program to institute business processes that will enable the NRC and external parties to electronically interact and communicate in a secure manner via the Internet; conduct of a survey of potential LSN participants to learn about their intention to participate and obtain specific information concerning the technical framework of their Internet interoperability; and conduct of the first LSNARP meeting and associated Technical Working Group (TWG) meetings held this past October.

Despite the aggressive approach, much remains to be done to design, develop, and implement the LSN within a fixed and relatively short time frame. Areas in which significant work remains to be performed include reaching LSNARP consensus on the technical design solution, obtaining LSN approval through NRC's Capital Planning and Investment Control (CPIC) process, conducting public outreach to promote the availability of documentary material, and resolving key funding issues. Several NRC offices will have to work quickly and harmoniously to ensure successful implementation of the LSN Rule. The challenging time constraints within which the LSN must be deployed leave little to no room for mistakes, reversals of key decisions, or inefficiencies. The following sections of this report provide additional details on the issues that must be overcome to successfully deploy the LSN.

Tight Time Constraints Pose a Significant Challenge to the Design, Development, and Implementation of the LSN

The LSN must be deployed by August 2001 based on the LSN Rule and DOE's schedule. The Secretary of the Commission (SECY) paper, SECY-99-114, "Responsibility for the Licensing Support Network," dated April 14, 1999, recommended to the Commission that the ASLBP become the LSN business sponsor and assume responsibility for the LSNA. In early July 1999, OIG was particularly concerned about the need for prompt and aggressive action to move the LSN project forward. Due to the time-critical nature of the LSN project, we issued a July 2, 1999, memorandum to the Chairman (Appendix IV) expressing our concerns regarding the LSN's status and calling for decisive action regarding LSN responsibilities, resources, and support. On July 9, 1999, the Commission issued a Staff Requirements Memorandum (SRM) which approved the Executive Council's (EC) recommendation included in the above referenced SECY paper.

The LSNARP Needs To Reach Consensus on the LSN Technical Design Solution

NRC's preliminary project schedule calls for the LSNARP to provide its recommendations for the preliminary LSN design to NRC during the period January 11, 2000, through February 8, 2000. Some of the many issues to be considered by the LSNARP and its TWG are highly technical and require adequate time to perform careful analysis and allow for LSNARP deliberation to reach consensus.

Section 2 of the LSNARP's charter explains that the LSNARP is to provide advice on format standards for providing electronic access to documentary material that will be included in the LSN and on procedures and standards pertaining to the electronic transmission of filings, orders, and decisions. The LSNARP is assisted

by a TWG which draws its membership from technical support personnel who work with the various LSNARP members. The TWG will assist the LSNARP with research, evaluation, and analysis of web-based technologies and will provide recommended technical solutions to the LSNARP for consideration.

NRC and Labat-Anderson, Incorporated, an NRC contractor, identified a wide variety of technical issues that were sent to the LSNARP members in advance of their October 1999 meeting. The issues were presented for consideration and discussion during the October LSNARP and TWG meetings. Selection of the best technical alternative for LSN implementation is a key issue, and three different conceptual descriptions of an LSN web site configuration were outlined for deliberation. The LSNA explained that LSNARP advice will be requested regarding any LSN effort that may be outsourced.

The LSNARP plans to meet on February 23, 2000, to discuss the findings and conclusions of the TWG and to develop recommendations for the NRC.

The LSN Must Be Approved Through the NRC's CPIC Process

The LSNARP's advice and recommendations to the LSNA regarding the preliminary LSN design will be a significant part of the analysis to be included in the LSNA's CPIC document used to support design authorization in February/March 2000. A great deal of coordination and cooperation is needed to reach agreement on the LSN technical design and advance it through the detailed and highly structured CPIC process which requires various levels of review and approval. Accordingly, the scheduled time frame for design authorization may be optimistic because of the complexity of the technical design solution and the involved CPIC process.

NRC Management Directive 2.2, "Capital Planning and Investment Control," dated May 27, 1999, explains the agency's policy to ensure that information resource investments are planned, selected, managed, and evaluated to maximize the value and minimize the risks of those investments in accordance with Federal statutes and regulations. The Clinger-Cohen Act of 1996 requires each Federal agency to have a CPIC process to evaluate information technology (IT) projects. Management Directive 2.2 includes Handbook 2.2 which describes the process and procedures for planning and controlling IT investments. The NRC's CPIC process consists of three phases in the life cycle of an IT investment. They are the selection or planning phase, the control or project phase, and the evaluation or operations phase. Each phase is discussed below.

The Selection or Planning Phase

After favorable project screening by the Information Technology Business Council (composed of senior NRC Managers), the sponsor prepares a business case which provides the justification for developing the project. The sponsor is assisted by Office of the Chief Information Officer (OCIO) staff and may also require contractor support in preparing the business case. The business case must include requirements identification and definition, cost/benefit/risk analysis of alternatives, and the project management plan. Handbook 2.2 explains, "Requirements should be firm and not likely to change during the project. If requirements change significantly, it is very unlikely that the project can be completed within budget and on schedule." The cost/benefit/risk analysis serves as the primary basis for judging the business case or justifying the proposed project. It requires the presentation and analysis of three alternatives including the identification of the sponsor's recommended alternative and course of action. The project management plan includes, among other things, the project schedule and spending and staffing plans. It provides the basis for judging the readiness of the sponsor to successfully execute the proposed project.

Dependencies and critical path information are incorporated in the LSN preliminary project management plan. At our suggestion, the LSNA agreed to include fixed baseline start and finish dates and revised start and finish dates in the LSN schedule. Such a practice should help promote accountability and serve as a useful management tool to help monitor and control LSN progress.

After review and approval by the Chief Information Officer (CIO) and the Information Technology Business Council, the proposed IT project is presented to the EC for approval to begin the project phase. Upon receipt of EC approval, project funding is requested through the normal budget process. NRC representatives expressed concern about accurately estimating LSN funding requirements prior to the scheduled time frame for LSN design authorization.

Control or Project Phase

An IT investment proposal becomes a project once its functional requirements are identified, it is approved to proceed, it is funded with a project team in place, and a project work plan is defined. An IT investment continues as a project until it is an installed operational system. Handbook 2.2 explains that IT project sponsors are required to closely monitor progress on cost, schedule, and performance goals and outlines the various

reporting requirements during this phase. Other requirements of the project phase include the development of a security plan and, if appropriate, a business continuity plan. Preparation of these plans is required as part of the development effort and the plans must be implemented at the beginning of the operations phase.

Evaluation or Operations Phase

This phase of the CPIC process requires the sponsor to prepare and submit a lessons learned paper to the CIO 6 months after the system becomes operational. The OCIO incorporates lessons learned into the CPIC process as warranted.

It is clear that it will be a significant challenge for the ASLBP to obtain LSN approval through the involved CPIC process, particularly under such a tight deadline.

Public Outreach Efforts Are Needed To Promote the Availability of Documentary Material

The public should have ready access to the documentary material included in the LSN. With the implementation of the Agencywide Documents Access and Management System (ADAMS), NRC may no longer furnish paper and microfiche copies of its publicly available records to the various Local Public Document Rooms (LPDRs) and to the NRC Public Document Room, presently located in Washington, D.C. However, the public will have access to the LSN via the Internet. These developments and the need for public outreach efforts were discussed during the October 1999 LSNARP meeting. The discussion resulted in the following action items:

- The TWG is to address LSN access, by studying alternatives for making LSN materials available to the public, in light of LPDRs being discontinued.
- The NRC is to explore an outreach program to educate Nevada participants on NRC's role and mission, as distinct from DOE's role and mission, and also on the licensing and adjudicatory process, including the basic minimum requirements for participation.
- The NRC is to explore using the State Librarian's Association in Nevada to facilitate local availability of the LSN.

A concern that was raised to us underscored the fact that economic discrimination must be avoided to effectively resolve the above action items. Since not all members of the general public can afford or possess personal computers, an

appropriate strategy must be developed and implemented to ensure that the public is provided with knowledge of and access to the LSN and the adjudicatory process. Economics should not be a potential barrier to the accessibility of this important information. The LSNARP is still assessing the options for ensuring adequate public access to the LSN.

Not All Of NRC's Documentary Material Is LSN Ready

NRC must ensure that its documentary material is in the proper format (LSN ready) and included in the LSN in time for the scheduled LSN deployment. Office of Nuclear Material Safety and Safeguards (NMSS) representatives explained that NRC's documentary material for the LSN consists of approximately 16,850 documents comprising approximately 188,500 pages. They believe that more than 95 percent of the HLW documents that need to be in NRC's portion of the LSN are LSN ready. The NMSS representatives further explained, "The documents are already in the [Nuclear Documents System] NUDOCS, in either full text or header form with a link to a microfiche copy of the document, and will be converted into ADAMS in full text format." A representative of the OCIO stated that as of November 10, 1999, the large majority of the data in NUDOCS had been copied into ADAMS. NMSS estimates that NRC has about 850 documents representing LSN documentary material that are not in NUDOCS in any form. Regarding this latter category of documents, NMSS representatives said, "Our principal task will be to complete the examination of files...so that all relevant documents in our possession which are not already in ADAMS in full text form will be scanned and captured as a proper agency record....assuming there are no major problems with the implementation of ADAMS, this is a manageable task." NMSS estimates the cost of the remaining effort to be less than one full-time employee. While NMSS believes this task to be manageable, it is still one more task to be accomplished before NRC can fully implement the LSN Rule.

Parties'/Potential Parties' Concerns Must Be Addressed

During the course of our fieldwork, we interviewed several parties/potential parties to the hearing process on the HLW repository license application. We talked with representatives/officials from the DOE, the State of Nevada, various affected units of local government, industry, and public interest groups. We gained insights regarding their concerns pertaining to implementation of the LSN Rule. Upon completion of the interviews, we communicated these concerns to the ASLBP for their prompt consideration and possible action. Concerns expressed by two or more separate interviewees are summarized in a matrix of "Common 10 CFR, Part 2, Subpart J, Concerns" presented as Appendix V to this report. The concern most

commonly expressed to the OIG dealt with funding because the LSN Rule places responsibility for converting and loading documents, and maintaining and operating a web server on each of the individual parties/potential parties. The parties/potential parties noted that sufficient funding is needed to fulfill these responsibilities and to participate in the LSNARP meetings.

Funding Issues Need To Be Resolved

In addition to the requirement for adequate funding by the affected parties, NRC needs funding for LSN design, development, implementation, and maintenance. The amount of funding needed by NRC and other parties/potential parties will be clearer upon project authorization of the LSN under NRC's CPIC process. In the past, however, the lack of agreement over funding contributed to delays associated with the LSS. Continued funding uncertainties and unresolved funding issues can place the timely and successful deployment of the LSN program in jeopardy.

Representatives for the State of Nevada and several affected units of local government stated that they need Federal assistance to participate fully in the LSN process. The LSNA requested LSNARP participants to provide input on various funding issues to assist the LSNA in developing an appropriate strategy to help ensure effective participation opportunities for all those interested. While funding was discussed during the October 1999 LSNARP meeting, it remains unclear whether and how Federal assistance can be made available to these entities. Relevant issues that were explored during the above referenced LSNARP meeting include DOE's interpretation of the limitations on the use of scientific oversight funding and whether participation in the NRC repository licensing process could be interpreted as constituting participation in litigation against the United States. The DOE will report back to the LSNARP regarding the use of scientific oversight funding for the LSN.

Our March 17, 1995, report, OIG/95A-01, recommended that NRC and DOE establish an MOU regarding funding and other key issues pertaining to the LSS. The recommendation was never implemented and eventually we closed it out with the advent of the LSN Rule. However, based on our discussions with officials from NRC, DOE, and other parties/potential parties, it is clear that an agreement between the NRC and DOE would facilitate resolution of outstanding funding issues external to NRC.

Furthermore, the NRC depends on the Nuclear Waste Fund (NWF) to support the overall development of the LSN. NRC representatives expressed concern that the January 2000 mid-year budget review and the FY 2001 budget request precede the scheduled time frame (February/March 2000) for LSN design authorization via the CPIC process. Accordingly, the amount of funding needed for the LSN may be difficult to accurately estimate in January 2000. NRC representatives expressed

further concern that sufficient NWF dollars be provided for the LSN so as not to require a reallocation of NWF dollars already budgeted for other important NRC work. In light of these matters, it is imperative that the ASLBP maintains close coordination with the Office of the Chief Financial Officer (OCFO) to help ensure adequate and timely funding for the LSN program.

Effective Internal NRC Coordination Needed

Several NRC offices must work expediently and collaboratively to ensure that adequate funding and other resources are provided to facilitate LSN design, development, and implementation. These offices include, but are not limited to, the Commission, ASLBP, NMSS, SECY, Office of the General Counsel, OCFO, and OCIO.

Under NRC's CPIC process, every project must have a business sponsor. For the LSN, the ASLBP is that sponsor. However, for the ASLBP to be successful in this role, it will require substantial ongoing cooperation and support from various NRC offices. We emphasize the vital contribution that can be made by OCIO. The Commission recognized the complex IT requirements involved in implementing the LSN Rule in the July 9, 1999, SRM on SECY-99-114, which states, "The CIO will retain 1 [Full Time Equivalent] FTE in FY 2000 through FY 2002 to provide continuing technical support" for the LSN. We firmly believe that to minimize the risk of inadequate or untimely LSN implementation, OCIO must be actively involved in providing IT guidance and business counsel. Such effort should be coordinated with senior management to ensure that adequate IT support is provided to the LSN program. Because of the importance of the CIO's role in providing technical support, it should be clearly articulated and documented, and incorporated into periodic Commission briefings.

Furthermore, the LSN Rule requires the LSNA to "provide periodic reports to the Commission on the status of LSN functionality and operability" and a January 1992 SRM called for semiannual status reporting to the Commission on the LSS. However, the significant amount of work to be performed within tight time constraints, unresolved technical design issues, the vast amount of coordination needed, and funding uncertainties all potentially place the successful, timely deployment of the LSN program at risk. Therefore, we believe a stricter reporting requirement is warranted.

CONCLUSION

While NRC has taken aggressive action to implement the LSN Rule, much remains to be done. It is crucial that top management provide direction and support to ensure the successful, timely implementation of the LSN. Therefore, we believe a strict quarterly reporting on LSN progress to the Commission is necessary. Additionally, the development of an agreement between NRC and DOE would serve to facilitate the resolution of outstanding funding issues.

RECOMMENDATIONS

To keep the Commission informed of LSN progress on a regular basis and promote the resolution of outstanding funding issues, we recommend that the LSNA/ASLBP:

1. Report to the Commission on the status of LSN progress at least quarterly. The briefing should cover cost, schedule, and performance. Additionally these reports should reflect the joint efforts of all offices involved and, particularly, the role of the CIO.
2. Aggressively pursue the development of an agreement with DOE to provide parties/potential parties with the opportunity to effectively participate in the LSN process.

OIG COMMENTS ON AGENCY RESPONSE

On February 15, 2000, the Chief Administrative Judge, ASLBP, responded to our draft report. The response is included in its entirety, in Appendix VI. In addition to addressing our recommendations, the response provides additional comments on our draft report. We gave careful consideration to the additional comments and revised/updated our report as appropriate.

Each of our recommendations, the ASLBP response to them, and our analysis of the response follow.

Recommendation 1:

To keep the Commission informed of LSN progress on a regular basis, we recommend the LSNA/ASLBP report to the Commission on the status of LSN progress at least quarterly. The briefing should cover cost, schedule, and performance. Additionally these reports should reflect the joint efforts of all offices involved and, particularly, the role of the CIO.

ASLBP response: Disagree.

As we indicated during the December 29, 1999, exit interview, we believe such an additional reporting requirement would entail an unnecessary expenditure of limited LSN resources, particularly in light of the establishment of an internal working group, as is outlined in additional comments [in] paragraph four below, (**OIG Note:** Paragraph 4 can be located in Appendix VI, page 3 of this report.) and the fact that the Chief Administrative Judge provides LSN status information as part of his monthly report to the Commission on the agency's adjudicatory caseload.

OIG Analysis:

In reviewing the ASLBP response, we determined that it does not adequately address the intent of the recommendation. We believe specific progress on the LSN program warrants at least quarterly reporting to the Commission. Such reporting would enable the Commission to promptly take whatever action may be necessary to ensure that this important program is properly implemented and on time. In our opinion, ASLBP's monthly reports to the Commission on the agency's adjudicatory caseload can be expanded to delineate, on a quarterly basis, the cost, schedule, and performance status of the LSN program. Such periodic, comprehensive reporting would serve as a critical internal control to keep the program on track. This is particularly important given the limited progress that has occurred over the past years and the relatively short time frame in which much remains to be accomplished. Additionally, in order that we might track the resolution of this recommendation, we request that our office be placed on the distribution list for all LSN status reports.

During the December 29, 1999, exit conference, we addressed the need for effective internal NRC coordination and stressed the importance of OCIO's role in providing technical support. These issues are discussed in our report. We are pleased that NRC established an internal working group comprised of the directors of the Office of the Secretary, the Office of Commission Appellate Adjudication, OGC, OCIO, OCFO, and NMSS, to provide a forum for interaction among agency offices having an interest in the design, development, and operation of the LSN.

Recommendation 2:

To promote the resolution of outstanding funding issues, we recommend that the LSNA/ASLBP aggressively pursue the development of an agreement with DOE to provide parties/potential parties with the opportunity to effectively participate in the LSN process.

ASLBP response: Agree in part.

We agree that, in consultation with OGC, we should continue to look into the matter of effective party/potential party participation. Indeed, this subject is on the agenda of the upcoming LSN Advisory Review Panel meeting as a DOE action item. Nonetheless, any "agreement" with DOE will need to address the statutory prohibition on "pay[ing] the expenses of, or otherwise compensat[ing], parties intervening in regulatory or adjudicatory proceedings funded" by any Energy and Water Development Appropriations Act. 5 U.S.C. §504 note.

OIG Analysis:

Our review of the ASLBP response determined that it does not go far enough to adequately address the intent of the recommendation. Additionally, the response should include the date by which corrective action will be implemented. As we have reported in the past, such an agreement between NRC and DOE needs to contain a strategy to provide parties/potential parties with the opportunity to effectively participate in the LSN process. Parties/potential parties need to know the amount and/or type of Federal assistance that is available to them as soon as possible. Prompt receipt of this information will enable them to determine whether or not they need to pursue other means of funding.

OBJECTIVE, SCOPE, AND METHODOLOGY

The objective of our audit was to determine whether the Nuclear Regulatory Commission (NRC) is taking adequate measures to ensure all aspects of the Code of Federal Regulations, Title 10, Part 2, Subpart J, will be implemented within the time constraints imposed by the rule. We conducted our audit between May and November 1999 at NRC Headquarters and surrounding areas as well as the area in and around Las Vegas, Nevada.

To accomplish our objective, we reviewed documentation which dated from 1983 to the present relating to the history and current status of the Licensing Support Network (LSN). In NRC headquarters, we interviewed cognizant personnel in the Atomic Safety and Licensing Board Panel, Office of Nuclear Material Safety and Safeguards, Office of the Secretary of the Commission, Office of the General Counsel, Office of the Chief Information Officer, and various other offices that could provide information concerning the development of the LSN and the implementation of the LSN Rule. We also interviewed personnel from the Department of Energy, various members of the LSN Advisory Review Panel including representatives from Nye, Clark, and Lincoln counties in Nevada, the State of Nevada, and public interest groups. In June 1999, we attended public meetings conducted by NRC in the following Nevada locations: Amargosa Valley, Las Vegas, and Caliente. Additionally, we observed the October 1999 LSN Advisory Review Panel meeting that was held in Las Vegas, Nevada.

We conducted our audit in accordance with Generally Accepted Government Auditing Standards and reviewed the management controls over implementation of the LSN Rule.

CHRONOLOGY OF SIGNIFICANT LSS/LSN EVENTS

| Date | Activity |
|---------------|--|
| 1983 | <p>Nuclear Waste Policy Act of 1982 (NWP) codified the Federal Government's responsibility to provide for the permanent disposal of the Nation's civilian spent fuel.</p> <p>NWPA requires the Nuclear Regulatory Commission (NRC) to license a geologic repository within 3 years. (Possible 12-month extension for cause.)</p> |
| January 1989 | NRC established the Office of the Licensing Support System Administrator (LSSA) which reported to the Commission on policy issues and to the Chairman for administrative purposes. |
| May 1989 | Effective date of Licensing Support System (LSS) rule. |
| December 1989 | First Licensing Support System Advisory Review Panel (LSSARP) meeting conducted. |
| 1989-Present | Setbacks, funding problems, changes to Department of Energy's (DOE) high level waste program and continuing uncertainties delay LSS/Licensing Support Network (LSN). |
| November 1992 | LSSA's Office reconstituted into an organizational unit within the Office of Information Resource Management (IRM). A new Deputy Director, IRM/LSSA position was established. |
| March 1995 | Office of the Inspector General (OIG) issued 95A-01 recommending a (1) Memorandum of Understanding with DOE, (2) management plan for the LSS, and (3) contingency plan for LSS. |
| March 1995 | Senior Management Team established to provide a more focused and coordinated agency management direction of the LSS program. |
| February 1996 | OIG/96A-01 - OIG concluded that NRC should continue working toward achieving the goals of the LSS. |
| May 1996 | LSSARP meeting held. |
| February 1998 | LSSARP meeting held. |
| December 1998 | Licensing Support Network Advisory Review Panel (LSNARP) chartered. |
| December 1998 | Labat-Anderson issued report on issues related to the establishment of the LSN and the LSN Administrator's (LSNA) Compliance Assessment Program. |
| January 1999 | Revised Title 10, Code of Federal Regulations, Part 2, Subpart J, in effect. Amendments were intended to allow application of technological developments that have occurred after the original rule was adopted in 1989. |

Appendix II
 Senior Management Support Needed to Ensure Timely Implementation of the LSN

| Date | Activity |
|----------------|--|
| April 1999 | Secretary of the Commission (SECY) paper, SECY-99-114, "Responsibility for the Licensing Support Network," issued to resolve the organizational placement of the LSN and the LSNA. |
| July 1999 | NRC's OIG issued early alert memo communicating concern regarding the status of the LSN and calling for action regarding LSN responsibility, resources, and support. |
| July 1999 | Staff Requirements Memorandum on SECY-99-114 issued. Commission approved Executive Council's recommendation that the Atomic Safety and Licensing Board Panel (ASLBP) become the business sponsor for the LSN and assume responsibility for the LSNA. |
| August 1999 | Chief Administrative Judge concluded that there is no longer a role for a Senior Management Team for the LSN. |
| August 1999 | LSNARP Charter amended. LSNARP reports to the Chief Administrative Judge, ASLBP, and no longer reports to the Secretary, NRC. |
| August 1999 | LSNARP Chairman appointed. |
| September 1999 | LSNA appointed. |
| October 1999 | First LSNARP meeting and Technical Working Group meetings held. |
| October 1999 | LSNARP approved charter for Technical Working Group. |

PROSPECTIVE TIME LINE OF 10 CFR, PART 2, SUBPART J, EVENTS

| Date | Activity |
|--------------------------|---|
| | Pre-license application presiding officer shall be designated before the Licensing Support Network is available. |
| July 2001 ⁽¹⁾ | Site recommendation will be sent to the President from Department of Energy (DOE). |
| | Pre-license application phase begins. DOE and Nuclear Regulatory Commission (NRC) shall make their documentary material available in electronic form beginning in the pre-license application phase. Each other potential party, interested governmental participant, or party shall make their documentary material available in electronic form no later than 30 days after the date the repository site selection decision becomes final after review by Congress. |
| | The designation of the site shall be effective at the end of the 60-day period beginning on the date the President recommends the site to Congress, unless . . . Governor and State Legislature or Indian Tribe submit a notice of disapproval to Congress. Congress has 90 calendar days of continuous session of Congress to pass a resolution. |
| March 2002 | DOE Secretary shall submit to the Commission an application for a construction authorization for a repository at such site not later than 90 days after the date on which the recommendation of the site designation is effective. |
| March 2005/6 | Commission shall issue a final decision approving or disapproving the issuance of a construction authorization not later than 3 years after the application submission, with a possible extension of up to 12 months. |
| 2005 | Earliest date repository construction could begin. |
| 2008 | Update license application. |
| 2010 | Earliest date repository could begin operation. |

¹ Prospective dates are based on DOE's schedule.

OIG EARLY ALERT MEMORANDUM TO NRC

July 2, 1999

MEMORANDUM TO: Chairman Dicus

FROM: [original signed by]
 Hubert T. Bell
 Inspector General

SUBJECT: LICENSING SUPPORT NETWORK.

As you know, the agency has been working toward the development of a Licensing Support System (LSS) / Licensing Support Network (LSN) for more than 10 years. The Office of the Inspector General (OIG) has followed this issue during that time and has identified critical issues that needed to be addressed for an LSS to actually materialize.⁽¹⁾

Our keen interest in this area continues. Therefore, we are concerned that many of the impediments to the development of an LSS that we identified in past audit reports still exist as impediments to the development of an LSN. These issues pertain to funding; intra-agency coordination; the ability to reach consensus on key issues among NRC, DOE, and other parties; and the myriad of technical considerations, identified in the December 1998 Labat-Anderson report,⁽²⁾ that need to be addressed before an LSN design can be implemented. We believe the agency must ensure that these issues, which were not resolved in the past, do not impede the successful implementation of the LSN.

¹ See *NRC Needs to Provide Strong Direction for the Licensing Support System*, OIG/95A-01, March 17, 1995, and *Survey of the Nuclear Regulatory Commission's Information Management Needs for Current and Future Licensing Demands for Disposal of High-Level Nuclear Waste*, OIG/96A-01, February 12, 1996.

² *Issues Related to the Establishment of the Licensing Support Network and the Licensing Support Network Administrator's Compliance Assessment Program*

Given that the deadline for implementing the LSN is just 2 years away (August 2001), we reiterate the importance of overcoming these issues so that the agency can meet its responsibility to develop and operate the LSN in the required time frame. We strongly support NRC's goal to get the LSN operational at the earliest possible date, prior to the required date, to give LSN users time to ensure that it meets their needs.

While we acknowledge that the agency is working to overcome some initial hurdles to the LSN, we feel it necessary to mention them here because they are so critical to the success of the project. Although the Commission is working toward the approval of a Staff Requirements Memorandum (SRM) assigning responsibility for the LSN to a specific NRC office, this SRM has yet to be signed. Given that this critical document has not been finalized, the agency has not appointed a Chairperson for the LSN Advisory Review Panel (LSNARP) or an LSN Administrator. Therefore, the agency has not conducted a kickoff LSNARP meeting to initiate the system planning and development process. Furthermore, the agency needs to resolve key budgetary issues before the work of developing an LSN can begin in earnest.

We feel it is imperative that the Commission ensure that the office to which LSN responsibility is assigned has the necessary resources and support to make the LSN project a success. The need to put the LSN project on a fast track may necessitate that the agency conduct matters differently than in the past. As part of our ongoing audit, OIG will continue to follow the progress of the LSN and identify issues that need to be resolved for the LSN work to succeed. As we have done in the past (for example, on the Year 2000 issue, which was also time-critical), we will keep your staff informed of key issues as they arise so they may be addressed as quickly as possible. If we may be of further assistance, please contact Tom Barchi (415-5915) or Ren Kelley (415-5977) of my staff.

cc: Commissioner Diaz
Commissioner McGaffigan
Commissioner Merrifield
W. Travers, EDO
J. Funches, CFO
S. Reiter, OCIO
K. Cyr, OGC
A. Vietti-Cook, SECY
C. Paperiello, NMSS
P. Bollwerk III, ASLBP
A. Levin, OCIO

COMMON 10 CFR, PART 2, SUBPART J, CONCERNS

| Potential Issues/Concerns | Former Chief Admin Judge | DOE | NNWTF | NIRS | Lincoln Cnty | Clark Cnty | Nye Cnty | State of Nevada | NEI | Total |
|--|--------------------------|-----|-------|------|--------------|------------|----------|-----------------|-----|-------|
| Insufficient time to decide issuance of construction authorization in 3 years with a possible 12-month extension | X | | | | | | | X | X | 3 |
| Inadequate funding to adequately implement the Licensing Support Network (LSN) Rule | X | X | | | X | X | X | X | | 6 |
| Department of Energy's unwillingness to effectively interact with county officials and consider their views regarding the Yucca Mountain project | | | | | | X | X | | | 2 |
| Transportation (1) | | | | | | X XX | X | | | 4 |
| Desire for Nuclear Regulatory Commission controlled search engine and central database of headers | | | | | X | X | | | | 2 |
| Bounding of time frame for LSN documents | X | X | | | | | | | | 2 |
| Public access to all information | | | X | X | | | | X | | 3 |

LEGEND:

- Former Chief Admin Judge - Former Chief Administrative Judge at the Nuclear Regulatory Commission
- DOE - Department of Energy
- NNWTF - Nevada Nuclear Waste Task Force
- NIRS - Nuclear Information and Resource Service
- Lincoln Cnty - Lincoln County Nevada
- Clark Cnty - Clark County Nevada
- Nye Cnty - Nye County Nevada (Host county of the proposed repository at Yucca Mountain)
- State of Nevada - State of Nevada
- NEI - Nuclear Energy Institute

(1) Transportation concerns:
Clark County: County government's refusal to allow trucks hauling high-level nuclear waste to use county roads, negative impact on tourism (i.e., concern over media attention that could result from a transportation problem), County government's vulnerability to litigation resulting from impact of repository on private citizens and their property (i.e., impact on property values of transportation of high-level nuclear waste). Nye County: Transportation through an area without communications capability.

AGENCY RESPONSE TO DRAFT REPORT

February 15, 2000

MEMORANDUM TO: Hubert T. Bell
 Inspector General

FROM: [original signed by]
 G. Paul Bollwerk, III
 Chief Administrative Judge

SUBJECT: COMMENTS ON OFFICE OF THE INSPECTOR GENERAL (OIG)
 DRAFT AUDIT REPORT -- SENIOR MANAGEMENT SUPPORT
 NEEDED TO ENSURE TIMELY IMPLEMENTATION OF THE LSN

In response to the January 27, 2000 memorandum, we have reviewed the attached Office of the Inspector General (OIG) draft audit report. Overall, we found the report presents a thorough and balanced view of the history and status of the agency's Licensing Support Network (LSN) program. With respect to your specific recommendations, we submit the following:

Recommendation 1

Report to the Commission on the status of LSN progress at least quarterly. The briefing should cover cost, schedule, and performance. Additionally, these reports should reflect the joint efforts of all offices involved and, particularly, the role of the CIO.

Response

Disagree. As we indicated during the December 29, 1999 exit interview, we believe such an additional reporting requirement would entail an unnecessary expenditure of limited LSN resources, particularly in light of the establishment of an internal working group, as is outlined in additional comments paragraph four below, and the fact that the Chief Administrative Judge provides LSN status information as part of his monthly report to the Commission on the agency's adjudicatory caseload.

Recommendation 2

Aggressively pursue the development of an agreement with DOE to provide parties/potential parties with the opportunity to effectively participate in the LSN process.

Response

Agree in part. We agree that, in consultation with the Office of the General Counsel (OGC), we should continue to look into the matter of effective party/potential party participation. Indeed, this subject is on the agenda of the upcoming LSN Advisory Review Panel meeting as a DOE action item. Nonetheless, any "agreement" with DOE will need to address the statutory prohibition on "pay[ing] the expenses of, or otherwise compensat[ing], parties intervening in regulatory or adjudicatory proceedings funded" by any Energy and Water Development Appropriations Act. 5 U.S.C. § 504 note.

Additional Comments on the OIG Draft Audit Report

1. On page three of the draft report, there is a reference to the fact that "NWPAs also provides for a possible twelve-month extension to the hearing process for sufficient cause." The following sentence then provides time frames for the reactor operating license "hearings." There is a similar reference to the "hearing" process on page seven. We would suggest that, to more accurately reflect the nature of the agency's licensing process, OIG consider substituting the terms "licensing" and "licensing process" for the terms "hearing" and "hearing process." In the case of the high-level waste repository proceeding, as is spelled out in Appendix D to 10 C.F.R. Part 2, of the three years allocated to the agency for action on the Department of Energy application, the actual hearing process is to take approximately eighteen months. The other eighteen months are allocated to the NRC staff's review of the application. A similar allocation often occurred in reactor operating license proceedings as well.
2. On page seven of the draft report, OIG notes that we have posted a Senior Computer Analyst position to aid the LSN Administrator (LSNA). For your information, that position has been filled and the selected individual began work on February 14, 2000.
3. The draft report makes several statements regarding the Capital Planning and Investment Control (CPIC) process. These included:

Page 11: "Accordingly, the scheduled time frame for design authorization may be optimistic because of the complexity of both the technical design solution and the CPIC process."

Page 14: "It is clear that it will be a significant challenge for the ASLBP to obtain LSN approval through the complicated CPIC process, particularly under such a tight deadline."

In our discussions with the Office of the Chief Information Officer (OCIO) regarding the OIG draft report, OCIO noted that the CPIC process is designed to ensure that information resource investments are planned, selected, managed, and evaluated to maximize the value and minimize the risks of those investments. OCIO also noted that the components of the process

(a justification, requirements identification and definition, a cost/benefits/risk analysis, and a project management plan) are fundamental requirements for any successful project, whether there is a CPIC process or not. Further, according to OCIO, while the CPIC process is thorough and detailed, it is not especially complicated. OCIO thus suggested that the phrase "and the CPIC process" be deleted from page eleven and that the phrase "complicated" be deleted from page fourteen.

Also regarding the CPIC process, the draft report contains the following statement:

Page 19: "NRC representatives expressed concern that the January 2000 mid-year budget review and the FY 2001 budget request precede the scheduled time frame (February/March 2000) for LSN design authorization via the CPIC process."

In connection with this sentence, OCIO suggests that the report should make it clear that the issue of the timing for defining the budget requirements for the LSN revolves around the tight schedule for the project schedule and the need for the LSNA to coordinate activities with the LSN Advisory Review Panel. According to OCIO, the LSNA can submit a budget request prior to CPIC approval based on information available at the time of budget formulation. CPIC approval is only needed prior to funds being actually committed to a project.

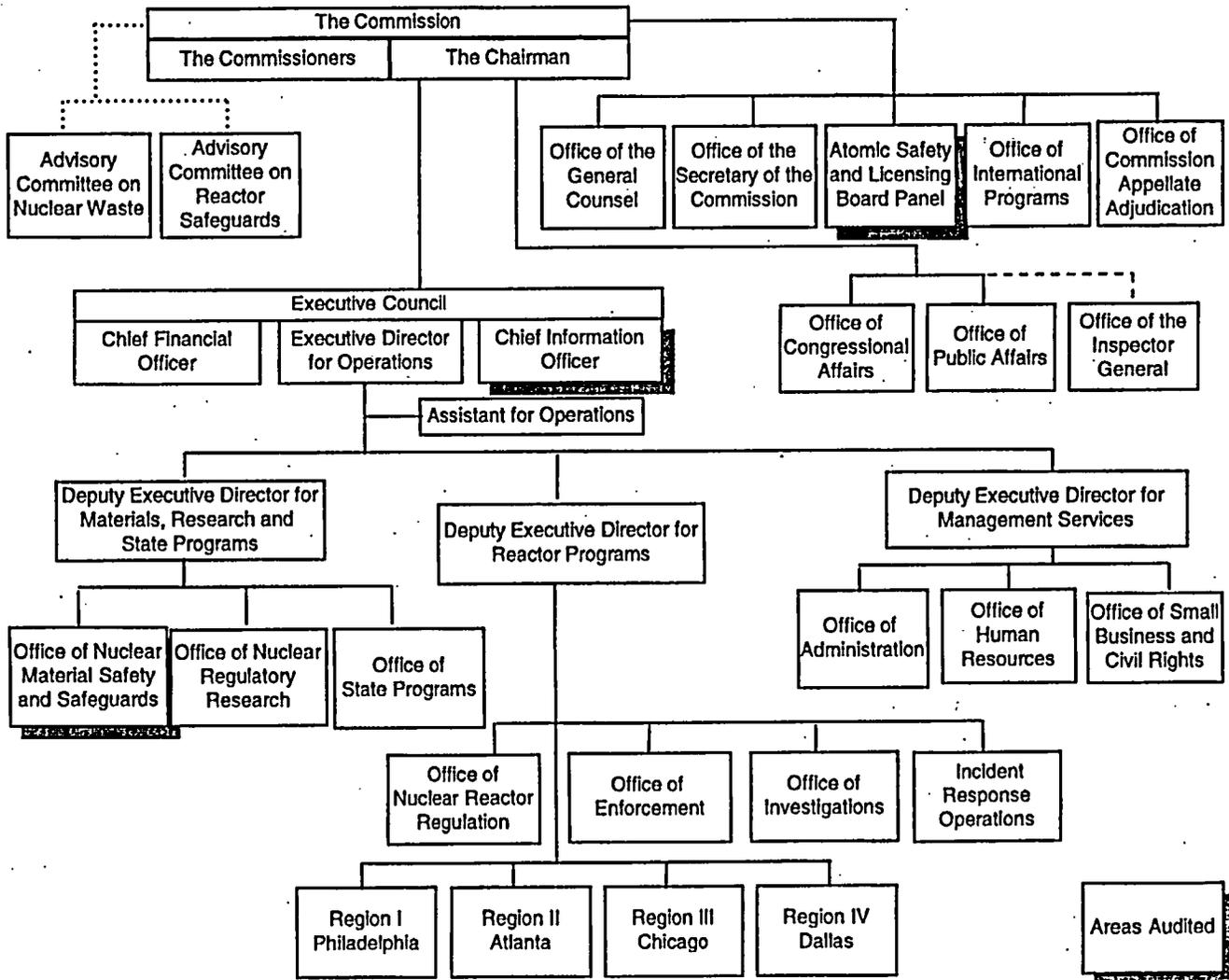
Additionally, OCIO suggests that the paper should note that while the CPIC process has three stages, and all three are discussed at length in the paper, only the first stage, "selection," must be completed before the project is approved.

4. On pages nineteen and twenty of the draft report, OIG discusses the need for greater coordination with other Commission offices that have an interest in the LSN. In his January 19, 2000 semi-annual report to the Commission, the LSNA indicated that we would be establishing an internal working group to provide better intra-agency coordination on LSN-related matters. See SECY-00-0015, at 4-5. By memorandum dated February 8, 2000, a copy of which was provided to OIG, we have requested that the directors of the Office of the Secretary, the Office of Commission Appellate Adjudication, OGC, OCIO, the Office of the Chief Financial Officer, and the Office of Nuclear Material Safety and Safeguards (NMSS), appoint representatives to such an internal working group to be chaired by the LSNA.

These comments have been coordinated with the Deputy Executive Director for Materials, Research and State Programs (DEDMRS), OCIO, OGC, and NMSS.

cc: DEDMRS
OCIO
OGC
NMSS

NRC ORGANIZATIONAL CHART



MAJOR CONTRIBUTORS TO THIS REPORT

Corenthis Kelley
Team Leader

Steven Zane
Audit Manager

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GLOSSARY: OFFICE OF THE INSPECTOR GENERAL PRODUCTS

INVESTIGATIVE

1. ***INVESTIGATIVE REPORT - WHITE COVER***

An Investigative Report documents pertinent facts of a case and describes available evidence relevant to allegations against individuals, including aspects of an allegation not substantiated. Investigative reports do not recommend disciplinary action against individual employees. Investigative reports are sensitive documents and contain information subject to the Privacy Act restrictions. Reports are given to officials and managers who have a need to know in order to properly determine whether administrative action is warranted. The agency is expected to advise the OIG within 90 days of receiving the investigative report as to what disciplinary or other action has been taken in response to investigative report findings.

2. ***EVENT INQUIRY - GREEN COVER***

The Event Inquiry is an investigative product that documents the examination of events or agency actions that do not focus specifically on individual misconduct. These reports identify institutional weaknesses that led to or allowed a problem to occur. The agency is requested to advise the OIG of managerial initiatives taken in response to issues identified in these reports but tracking its recommendations is not required.

3. ***MANAGEMENT IMPLICATIONS REPORT (MIR) - MEMORANDUM***

MIRs provide a "ROOT CAUSE" analysis sufficient for managers to facilitate correction of problems and to avoid similar issues in the future. Agency tracking of recommendations is not required.

AUDIT

4. ***AUDIT REPORT - BLUE COVER***

An Audit Report is the documentation of the review, recommendations, and findings resulting from an objective assessment of a program, function, or activity. Audits follow a defined procedure that allows for agency review and comment on draft audit reports. The audit results are also reported in the OIG's "Semiannual Report" to the Congress. Tracking of audit report recommendations and agency response is required.

5. ***SPECIAL EVALUATION REPORT - BURGUNDY COVER***

A Special Evaluation Report documents the results of short-term, limited assessments. It provides an initial, quick response to a question or issue, and data to determine whether an in-depth independent audit should be planned. Agency tracking of recommendations is not required.

REGULATORY

6. ***REGULATORY COMMENTARY - BROWN COVER***

Regulatory Commentary is the review of existing and proposed legislation, regulations, and policies so as to assist the agency in preventing and detecting fraud, waste, and abuse in programs and operations. Commentaries cite the IG Act as authority for the review, state the specific law, regulation or policy examined, pertinent background information considered and identifies OIG concerns, observations, and objections. Significant observations regarding action or inaction by the agency are reported in the OIG Semiannual Report to Congress. Each report indicates whether a response is required.