



OFFICE OF THE INSPECTOR GENERAL

U.S. NUCLEAR REGULATORY COMMISSION
DEFENSE NUCLEAR FACILITIES SAFETY BOARD

Audit of NRC's Process for Reimbursing Agreement State Personnel Training Expenses

OIG-18-A-18
September 12, 2018



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

**OFFICE OF THE
INSPECTOR GENERAL**

September 12, 2018

MEMORANDUM TO: Margaret Doane
Executive Director for Operations

Maureen Wylie
Chief Financial Officer

FROM: Dr. Brett M. Baker */R/*
Assistant Inspector General for Audits

SUBJECT: AUDIT OF NRC'S PROCESS FOR REIMBURSING
AGREEMENT STATE PERSONNEL TRAINING
EXPENSES (OIG-18-A-18)

Attached is the Office of the Inspector General's (OIG) audit report titled *Audit of NRC's Process for Reimbursing Agreement State Personnel Training Expenses*.

The report presents the results of the subject audit. Following the July 25, 2018, exit conference, agency staff indicated they had formal comments for inclusion in this report. These comments and OIG's analysis of the comments are included as report appendixes.

Please provide information on actions taken or planned on the recommendation within 30 days of the date of this memorandum. Actions taken or planned are subject to OIG followup as stated in Management Directive 6.1.

We appreciate the cooperation extended to us by members of your staff during the audit. If you have any questions or comments about our report, please contact me at (301) 415-5915 or Sherri Miotla, Team Leader, at (301) 415-5914.

Attachment: As stated



Office of the Inspector General

U.S. Nuclear Regulatory Commission
Defense Nuclear Facilities Safety Board

OIG-18-A-18
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Results in Brief

Why We Did This Review

The Nuclear Regulatory Commission (NRC) fully funds the training and associated travel costs for Agreement State staff to attend NRC-sponsored training. The funding is intended to help Agreement States enhance their programs' performance and foster national consistency among Agreement State and NRC inspectors and license reviewers.

When Agreement State staff attend NRC-sponsored training, NRC reimburses the staff at the Federal per diem rate for lodging and meals and incidentals.

Some Agreement States have policies in place that require employees to surrender their Federal per diem travel reimbursement to the State. The State then reimburses the employee at the State per diem rate, which is typically lower than the Federal per diem rate. These States normally keep the difference between the Federal and State per diem.

The audit objective was to assess the effectiveness and efficiency of NRC's process for reimbursing Agreement State staff who attend NRC-sponsored training.

Audit of NRC's Process for Reimbursing Agreement State Personnel Training Expenses

What We Found

OIG found that NRC has a process in place for reimbursing Agreement State staff who attend NRC-sponsored training; however, opportunities for improvement exist with regard to its efficiency. Specifically, NRC should conduct a cost-benefit analysis to evaluate alternative Agreement State reimbursement options.

There is a delta between the Federal per diem rate and most State per diem rates. As a responsible regulatory agency, NRC should use its resources efficiently. Because there is no process in place for NRC to reimburse Agreement States at their State per diem rate, NRC's funds are potentially not being used as efficiently as possible.

What We Recommend

This report makes one recommendation to improve the efficiency of NRC's process for reimbursing Agreement State staff who attend NRC-sponsored training.

Agency management does not entirely agree with the recommendation. Agency comments are included in Appendix B of this report.

TABLE OF CONTENTS

<u>ABBREVIATIONS AND ACRONYMS</u>	i
I. <u>BACKGROUND</u>	1
II. <u>OBJECTIVE</u>	4
III. <u>FINDING</u>	4
A. <u>There is a Delta Between the Federal Per Diem Rate and Most State Per Diem Rates</u>	4
<u>Recommendation</u>	8
IV. <u>AGENCY COMMENTS</u>	9
 APPENDIXES	
A. <u>OBJECTIVE, SCOPE, AND METHODOLOGY</u>	10
B. <u>AGENCY FORMAL COMMENTS</u>	12
C. <u>OIG ANALYSIS OF AGENCY FORMAL COMMENTS</u>	17
 <u>TO REPORT FRAUD, WASTE, OR ABUSE</u>	 20
<u>COMMENTS AND SUGGESTIONS</u>	20

ABBREVIATIONS AND ACRONYMS

ASPB	Agreement State Program Branch
ETS2	eTravel System
FTR	Federal Travel Regulation
MSST	Division of Materials Safety, Security, State, and Tribal Programs
NMSS	Office of Nuclear Material Safety and Safeguards
NRC	Nuclear Regulatory Commission
OCFO	Office of the Chief Financial Officer
OIG	Office of the Inspector General
STC	State and Tribal Communications
U.S.	United States

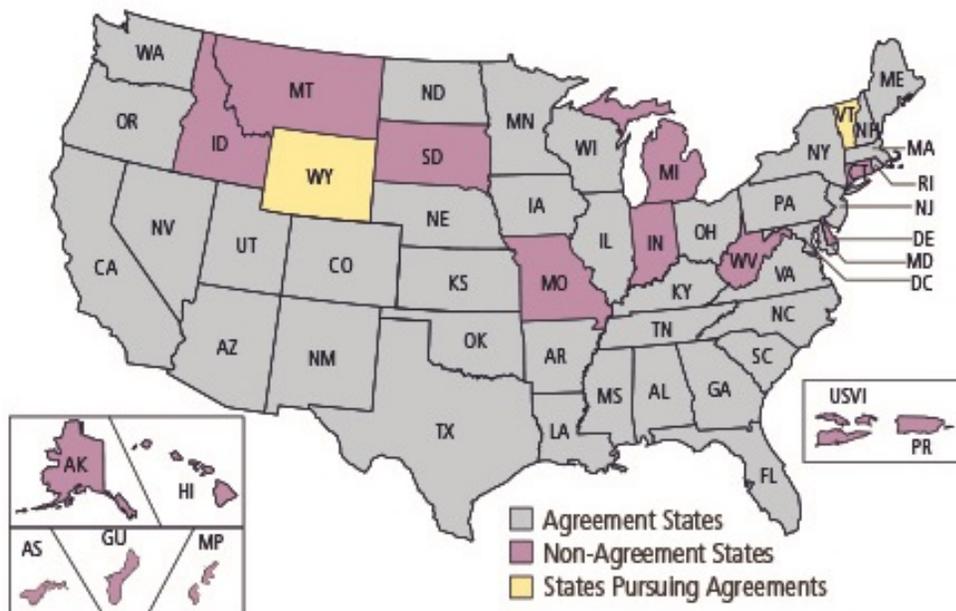
I. BACKGROUND

Agreement State Program

The U.S. Nuclear Regulatory Commission (NRC) provides assistance to States expressing interest in establishing programs to assume NRC regulatory authority under the Atomic Energy Act of 1954, as amended. Section 274 of the act provides a statutory basis under which NRC relinquishes to the States portions of its regulatory authority to license and regulate byproduct materials (radioisotopes); source materials (uranium and thorium); and certain quantities of special nuclear materials. States that enter into agreements with NRC under Section 274 of the *Atomic Energy Act of 1954*, as amended, are known as Agreement States.

Currently, 37 States have entered into Agreements with NRC. The States of Wyoming and Vermont are currently pursuing Agreements with NRC. (See Figure 1).

Figure 1: Agreement States



As of July 1, 2018

Source: NRC.

Funding of Training and Associated Travel Costs for Agreement State Personnel

Section 274i of the *Atomic Energy Act of 1954*, as amended, authorizes NRC to provide training, with or without charge, to employees of any Agreement State as the Commission deems appropriate. After a 10 year period of discontinued funding, in 2007, the Commission approved the resumption of fully funding the training and associated travel costs for Agreement State staff to attend NRC-sponsored training. The funding is intended to help Agreement States enhance their programs' performance and foster national consistency among Agreement State and NRC inspectors and license reviewers.

NRC establishes a budget and associated funding for Agreement State travel. NRC's Fiscal Year 2018 budget for Agreement State travel is \$1.159 million. The travel budget is used for travel related expenses, such as payment of airfare, lodging, per diem, and gas for travel related to

- NRC-sponsored training.
- The annual Organization of Agreement States/Conference of Radiation Control Program Directors, Inc. briefing with the Commission.
- Management Review Board meetings.
- The Organization of Agreement States annual meeting.
- Integrated Materials Performance Evaluation Program reviews.

NRC Offices Involved with the Agreement State Reimbursement Process

The Office of Nuclear Material Safety and Safeguards (NMSS), specifically the Agreement State Program Branch (ASPB) within the Division of Materials Safety, Security, State, and Tribal Programs (MSST), provides invitational travel for Agreement State travelers to participate in NRC-sponsored training, among other activities. In accordance with the *Federal Travel Regulation (FTR)*, travel allowances authorized for invitational travelers by NRC are the same as those normally authorized for employees in connection with temporary duty travel. Staff in ASPB are responsible for establishing a budget and funding for MSST invitational travel, developing the annual training schedule, selecting course attendees, issuing acceptance letters, reviewing and processing training

and travel applications, and reviewing and processing vouchers for reimbursement, among other responsibilities.

The Travel and Financial Operations Branch, within the Division of the Controller in the Office of the Chief Financial Officer (OCFO), provides oversight and formulates policies, standards, and procedures for travel-related services. It also manages the development of centralized travel policy, travel administration, travel support functions, and travel funds certification and allocation. Responsibilities of staff in the Travel and Financial Operations Branch include creating new user accounts in the eTravel System (ETS2) for invitational travelers and reviewing vouchers and signing them on behalf of the invitational traveler.

State and Tribal Communications Letters

State and Tribal Communications (STC) letters are standard letters sent from NMSS to the Agreement States with information that is expected to be of more than casual interest to the recipients. STC letters are typically distributed by email and are posted on the NMSS public Web site. Examples of STC letters include notices of training course offerings and notices of selection for a training course, commonly referred to as "acceptance letters." Acceptance letters include per diem information for lodging and meals and incidentals so Agreement State personnel are made aware of the reimbursement rates prior to attending training. NRC reimburses Agreement State staff at the Federal per diem rate for lodging and meals and incidentals.

II. OBJECTIVE

The audit objective was to assess the effectiveness and efficiency of NRC's process for reimbursing Agreement State staff who attend NRC-sponsored training. Appendix A contains information on the audit scope and methodology.

III. FINDING

NRC has a process in place for reimbursing Agreement State staff who attend NRC-sponsored training; however, opportunities for improvement exist with regard to its efficiency. Specifically, NRC should conduct a cost-benefit analysis to evaluate alternative Agreement State reimbursement options.

A. There is a Delta Between the Federal Per Diem Rate and Most State Per Diem Rates

There is a delta between the Federal per diem rate and most State per diem rates. As a responsible regulatory agency, NRC should use its resources efficiently. Because there is no process in place for NRC to reimburse Agreement States at their State per diem rate, NRC's funds are potentially not being used as efficiently as possible.

What Is Required

NRC Should Use its Resources Efficiently

NRC's Principles of Good Regulation state that where several effective alternatives are available, the option which minimizes the use of resources should be adopted, and agency positions should be readily understood.

What We Found

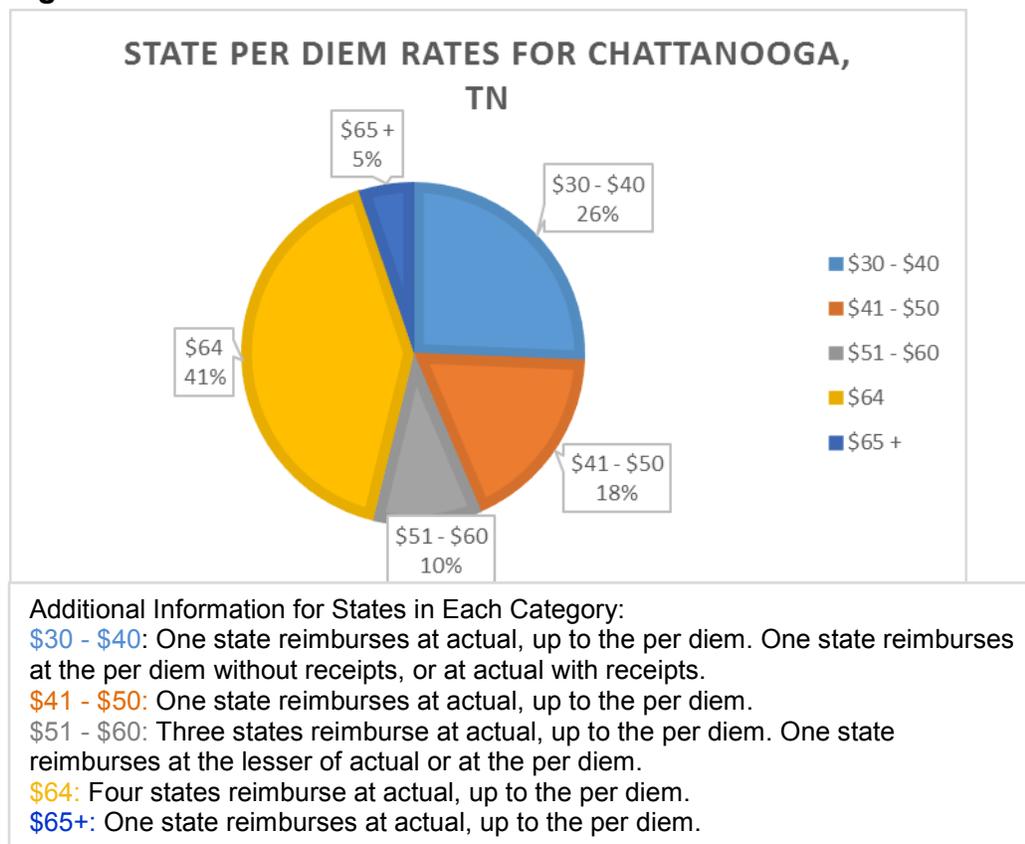
There is a Delta Between the Federal Per Diem Rate and Most State Per Diem Rates

In Fiscal Year 2018, NRC will provide approximately 500 training slots (both in-class and online training) to Agreement State personnel. Currently, about 75 percent¹ of the training slots are for in-class training and involve travel. Agreement State travelers can choose to be reimbursed either through check or direct deposit, with the majority of travelers choosing to get reimbursed through direct deposit. Since March 22, 2018, NRC has been using its eTravel system to process travel reimbursements for all Agreement State staff who attended NRC-sponsored training.

State per diem rates vary widely among the Agreement States. Figure 2 shows the 2018 State per diem rates for the 37 Agreement States (as well as Vermont and Wyoming) for travel to Chattanooga, Tennessee, the location of NRC's Technical Training Center. The Fiscal Year 2018 Federal per diem rate for Chattanooga, Tennessee is \$64. In 2018, 54 percent of Agreement States had State per diem rates for Chattanooga, TN that were less than the Federal per diem rate of \$64.

¹ That percent is expected to decrease in future years as more training courses will be offered online.

Figure 2: 2018 State Per Diem Rates



Source: OIG Generated.

Agreement State Policies

In accordance with the FTR, NRC reimburses Agreement State travelers at the Federal per diem rate. Some Agreement States have policies in place that require employees to surrender their Federal per diem travel reimbursement to the State. The State then reimburses the employee at the State per diem rate, which is typically lower than the Federal per diem rate. This creates a delta between the Federal per diem reimbursement and State per diem reimbursement. This practice is legally permitted. States, as sovereign entities, can require their employees to surrender their Federal per diem reimbursement to the State.

Moreover, in some instances, the State keeps the delta between the Federal and State per diem rates. NRC cannot legally require an Agreement State to give back those funds.

Why This Occurred

There is No Process in Place for NRC To Reimburse Certain Agreement States at Their State Per Diem Rate

NRC does not have a process in place through which it can reimburse certain Agreement States at their State per diem rate, which is typically less than the Federal per diem rate.

Reimbursement Via Contract

OIG reached out to officials from another Federal agency for benchmarking purposes. Similar to NRC, this Federal agency pays for State employees to travel for Federal agency-sponsored training. The Federal agency contracts with each individual State agency and reimburses the State, rather than the employee, through a contract. If the State has a travel policy outlining a State per diem rate, the Federal agency reimburses at the State per diem rate. If the State does not have a travel policy outlining a State per diem, the Federal agency reimburses at the Federal per diem rate set by the General Services Administration. The Federal agency deposits funds to a bank account the State agency has set up. The State then reimburses the employee for travel-related expenses.

Why This Is Important

NRC's Funds Are Potentially Not Being Used as Efficiently as Possible

In accordance with the FTR, NRC is paying out all Agreement State travelers at the Federal per diem rate. Because NRC does not have a process to reimburse Agreement States at their State per diem rate, it is possible NRC's funds are not being used as efficiently as possible.

The potential for budget cuts highlights the need for NRC to use its funds as efficiently as possible. According to NRC's Report on Project Aim 2020, the agency's budget is expected to decline. The reduction is

dependent upon policy decisions by the Commission, the President, and Congress. Moreover, in June 2018, the House approved the President's proposal to revoke \$15 billion in appropriated funds from Federal agencies. This proposal is part of a larger effort the White House is taking to cut Federal appropriations.

NRC's Agreement State travel budget is already at risk of being reduced due to impending budget cuts. Inefficient use of NRC's funds puts the travel budget at risk of even further reduction. If the Agreement State travel budget is reduced, this would, in turn, decrease the number of Agreement State personnel that NRC could fund to travel for training.

By conducting a cost-benefit analysis to evaluate alternative Agreement State reimbursement options, NRC may determine that an alternative reimbursement option exists which minimizes the use of agency resources.

Recommendation

OIG recommends that the Executive Director for Operations in coordination with the Chief Financial Officer

1. Conduct a cost-benefit analysis to evaluate alternative Agreement State reimbursement options, such as establishment of contracts with individual Agreement States to facilitate reimbursement at the State per diem rate not to exceed the Federal per diem rate.

IV. AGENCY COMMENTS

An exit conference was held with the agency on July 25, 2018. Prior to this meeting, after reviewing a discussion draft, agency management provided comments that have been incorporated into this report, as appropriate. Agency management also provided supplemental comments subsequent to the exit conference that have been incorporated into this report, as appropriate.

On August 28, 2018, agency management provided formal comments to the draft report that indicated disagreement with part of the recommendation contained in the audit report. Appendix B contains a copy of the agency's formal comments. Appendix C contains OIG analysis of the agency's formal comments.

OBJECTIVE, SCOPE, AND METHODOLOGY

Objective

The audit objective was to assess the effectiveness and efficiency of NRC's process for reimbursing Agreement State staff who attend NRC-sponsored training.

Scope

This audit focused on evaluating NRC's process for reimbursing Agreement State staff's travel expenses for NRC-sponsored training. We conducted this performance audit at NRC headquarters (Rockville, Maryland) from April 2018 to June 2018. Internal controls related to the audit objective were reviewed and analyzed.

Methodology

OIG reviewed relevant criteria and guidance documents for this audit including

- The *Atomic Energy Act of 1954*, as amended.
- *Federal Travel Regulation*.
- NRC SA-600, "Training Selection Process and Criteria for Agreement State Personnel."
- NRC AD-200, "Format for STC and RCPD Letters."
- NRC AD-500, "Agreement State Invitational Travel Training Applications, Travel Authorizations, and Vouchers."
- NRC Management Directive 14.1, "Official Temporary Duty Travel."
- Commission Paper and Staff Requirements Memorandum.
- State Accounting Procedures.

OIG interviewed NMSS and OCFO staff and management to gain an understanding of NRC's process for reimbursing Agreement State personnel travel expenses related to NRC-sponsored training. Auditors also consulted with a staff member from the Office of the General Counsel

and interviewed NRC's ETS2 system administrators. Furthermore, auditors reached out to officials from an Agreement State as well as to officials from another Federal agency for benchmarking purposes. OIG also conducted an online search of the Agreement States', as well as Vermont's and Wyoming's, websites to identify each State's travel policy and associated per diem rates.

Throughout the audit, auditors considered the possibility of fraud, waste, and abuse in the program.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

The audit was conducted by Sherri Miotla, Team Leader, and Regina Revinzon, Senior Auditor.

AGENCY FORMAL COMMENTS



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

August 28, 2018

MEMORANDUM TO: Dr. Brett M. Baker
Assistant Inspector General for Audits
Office of the Inspector General

FROM: Daniel H. Dorman *Daniel H. Dorman*
Acting Deputy Executive Director for Materials, Waste,
Research, State, Tribal, Compliance, Administration,
and Human Capital Programs
Office of the Executive Director for Operations

SUBJECT: FORMAL COMMENTS ON THE OFFICE OF THE INSPECTOR
GENERAL FINAL DRAFT REPORT: "AUDIT OF THE NRC'S
PROCESS FOR REIMBURSING AGREEMENT STATE
PERSONNEL TRAINING EXPENSES"

This memorandum and its enclosure respond to the August 15, 2018, correspondence from the Office of the Inspector General (OIG) providing the Final Draft Report: "Audit of the NRC's Process for Reimbursing Agreement State Personnel Training Expenses." In its interactions with the OIG during, and subsequent to, the July 25, 2018, exit meeting for the audit, the U.S. Nuclear Regulatory Commission (NRC) staff identified that certain options for reimbursement of Agreement State personnel training expenses cannot be legally pursued. This memorandum is being provided to communicate that the staff disagrees, in part, with the OIG recommendation to "Conduct a cost-benefit analysis to evaluate alternative Agreement State reimbursement options, such as establishment of contracts with individual Agreement States to facilitate reimbursement at the State per diem rate." Specifically, as elaborated in the enclosure, the NRC staff has considered a range of "alternative Agreement State reimbursement options," and concluded that there is only one viable option for which the NRC staff can perform a cost-benefit analysis, namely, the option of establishing contracts with individual Agreement States to facilitate reimbursement at the State per diem rate. Thus, the NRC staff disagrees that the NRC is able to conduct a cost-benefit analyses of multiple options in the interest of using NRC funds more efficiently, as suggested by the OIG in its final draft report. As described further in the enclosure, the NRC staff will perform a cost-benefit analysis of the option of establishing contracts with individual Agreement States to facilitate reimbursement at the State per diem rate.

The NRC staff appreciates your staff's efforts to improve the NRC's process to reimburse Agreement State personnel for expenses incurred during NRC-sponsored training. In addition, the NRC staff concluded that the draft report does not contain any sensitive unclassified information.

Enclosure:
Comments on Draft Audit Report

CONTACT: Paul Michalak, NMSS/MSST
301-415-5804

FORMAL COMMENTS ON THE OFFICE OF THE INSPECTOR GENERAL FINAL DRAFT REPORT: "AUDIT OF THE NRC'S PROCESS FOR REIMBURSING AGREEMENT STATE PERSONNEL TRAINING EXPENSES"

The U.S. Nuclear Regulatory Commission (NRC) staff is providing formal comments to the Office of the Inspector General (OIG) on its August 15, 2018, draft report: "Audit of the NRC's Process for Reimbursing Agreement State Personnel Training Expenses." The OIG audit objective was to assess the effectiveness and efficiency of NRC's process for reimbursing Agreement State staff who attend NRC-sponsored training. In its report, the OIG noted that in most States, the State per diem rate is lower than the Federal per diem rate. Although the NRC reimburses travelers at Federal per diem rates for NRC-sponsored travel, the OIG identified that some States do not permit their employees to receive travel per diem payments above the state-specified per diem rate, and States with this rule, regulation, or policy collect the difference in per diem amounts from their employee. In its final draft report dated August 15, 2018, the OIG recommended that the NRC:

Conduct a cost-benefit analysis to evaluate alternative Agreement State reimbursement options, such as establishment of contracts with individual Agreement States to facilitate reimbursement at the State per diem rate.

In its report, the OIG noted that, "Because NRC does not have a process to reimburse Agreement States at their State per diem rate, it is possible NRC's funds are not being used as efficiently as possible." Similarly, in previous versions of the report, the OIG had offered recommendations that the NRC:

1. Develop and implement a process through which NRC can collect refunds from Agreement States following an overpayment of a travel reimbursement.¹
2. Develop and implement a process through which NRC can reimburse Agreement State travelers at their respective State per diem rate.²

In its interactions with the OIG during, and subsequent to, the July 25, 2018, exit meeting for the audit, the NRC staff identified that the options for accepting reimbursements from States and reimbursing travelers at State per diem rates are not feasible as a result of statutory limitations on the circumstances under which the NRC can accept funds from the States, and the need to conform with policies in the *Federal Travel Regulations*. As a result, the NRC staff is providing this comment on the report in order to confirm that the only option the NRC staff can evaluate in response to the recommendation contained in the OIG's final report, is to perform a cost-benefit analysis of establishing contracts between the NRC and Agreement States to enable States to reimburse travelers at State per diem rates. Pending the outcome of this cost-benefit analysis, the NRC staff may choose to communicate with the Agreement States to inform them that funds collected from their personnel due to the differences in Federal and State per diem rates can be returned to the U.S. Treasury (although the NRC cannot require the return of such funds). Specifically, should the NRC staff determine that the fiscal benefit of establishing individual contracts with Agreement States to reimburse the States for NRC-sponsored travel conducted by State personnel is not outweighed by the cost of establishing such a process, the NRC will

¹ From draft report provided to the NRC staff on July 11, 2018.

² From draft report provided to the NRC staff on July 27, 2018. In the July 11, 2018, version of the report, a similar recommendation was identified for the NRC to: "Identify and evaluate options where ETS2 could be used to pay Agreement State staff at their respective State per diem rates."

Enclosure

consider issuing a letter to the States to ensure that they are aware of the option to return funds to the U.S. Treasury in the interest of increasing the efficiency of Federal government expenditures.

The NRC staff's rationale for not agreeing with the first two recommendations developed by the OIG is described below.

NRC Recovery of the Difference in Per Diem Rates

As identified by the NRC staff during the exit meeting and subsequent interactions with the OIG staff, Federal agencies are funded by appropriations from Congress, and the agency cannot accept money from any entity (e.g., an Agreement State) unless there is a statute that specifically permits this approach (statutory exception), or there is a Government Accountability Office (GAO)-recognized exception. If an entity other than Congress does provide the agency money and there is no exception for it, then the agency must turn that money over to the Treasury as a miscellaneous receipt. Per *31 U.S. Code § 3302(b) - Custodians of money* (also known as the miscellaneous receipts statute):

Except as provided in section 3718(b) of this title, an official or agent of the Government receiving money for the Government from any source shall deposit the money in the Treasury as soon as practicable without deduction for any charge or claim.

The NRC staff determined that there are no statutes or GAO-recognized exceptions that would allow the NRC to collect funds related to Agreement State travel reimbursements. While GAO-recognized exceptions permit the collection of repayments, there are only two types of receipts that are authorized in conjunction with this exception: reimbursements and refunds. Amounts that qualify as reimbursements are limited to amounts collected from outside sources for commodities or services furnished, which by law may be credited directly to an appropriation. Refunds are paid to restore to the appropriation amounts that should not have been paid from the appropriation. Refunds are defined as amounts collected from outside sources for payments made in error, overpayments,³ or adjustment for previous amounts disbursed. In the present case, the funds collected by some Agreement States from their employees due to State rules that do not allow their employees to recover per diem payments above the State-specified per diem rate, are not eligible to be returned to the agency because those funds do not meet the criteria to be defined as either reimbursements or refunds. Specifically: (1) the funds would not be collected for commodities or services furnished, and (2) the funds are not associated with payments that were made in error, overpayments, or otherwise adjustments to amounts previously disbursed. On the contrary, payments for NRC-sponsored training are budgeted in accordance with the Federal Travel Regulations and are properly made from an appropriation that is available for incurring costs for such expenses. As such, any per diem funds collected by Agreement States related to NRC-provided Agreement State personnel travel for training would not be returned to the NRC, but could be deposited in the U.S. Treasury. As such, the NRC concluded that the

³ "Overpayments" would not include cases in which an Agreement State requires an employee to turn over his or her reimbursement for NRC-sponsored travel to the State and then the State reimburses the employee at a lower, State per diem rate. Because the *Federal Travel Regulations* establish requirements for how per diem rates are paid to travelers, and the NRC cannot legally provide a reduced per diem directly to invitational travelers (see next Section, *Reimbursing Travelers at State Per Diem Rates*), any funds held by a State as a result of the difference in State and Federal per diem rates cannot be considered an overpayment (i.e., the NRC is not authorized to pay travelers at a rate lower than the Federal per diem rate, so the scenario is not an overpayment).

previously-recommended action to develop and implement a process through which the NRC could collect refunds from Agreement States following an overpayment of a travel reimbursement, could not be pursued as a means to allow the NRC to use its funds more effectively and efficiently, as originally proposed by the OIG.

Reimbursing Travelers at State Per Diem Rates

As identified by the NRC staff in its interactions with the OIG staff subsequent to the July 25, 2018, exit meeting, the option of the NRC directly reimbursing Agreement State travelers at the State per diem rate is in conflict with the provisions of the *Federal Travel Regulations*. Specifically, the *Federal Travel Regulation* states:

Subpart C—Reduced Per Diem

§301-11.200 Under what circumstances may my agency prescribe a reduced per diem rate lower than the prescribed maximum?

Under the following circumstances:

- a) When your agency can determine in advance that lodging and/or meal costs will be lower than the per diem rate; and
- b) The lowest authorized per diem rate must be stated in your travel authorization in advance of your travel.

Per §301-11.200, in order to set a lower per diem rate, the NRC would be required to “determine in advance that lodging and/or meal costs will be lower than the per diem rate.” However, the determination of the lodging and/or meal costs cannot be tied to a State’s reimbursement rate, because the fact that an Agreement State may have a lower per diem rate than the Federal per diem rate does not necessarily mean that the traveler’s lodging and/or meal costs will be lower than the Federal per diem rate. Cost is defined as the amount that has to be paid or spent to buy or obtain something. In order to assign per diem reimbursements based on State-specific rates, the NRC would have to make multiple, conflicting determinations at once; that with respect to employees from State X, we determine that the lodging/meal costs will be the amount that is reimbursed by State X, and with respect to employees from other States who are going to the same event at the same location at the same time, we determine that the lodging/meal costs will be some other amount. It is a fact that local business will not charge an Agreement State traveler more because they are from State X and charge Agreement State travelers from other States less. Rather, the lodging/meals costs will be the same for all the travelers attending a training course.

Moreover, the difference in Federal and State per diem rates may indicate that there is a lack of alignment between the governments as to what the lodging/meals costs will be. Given these circumstances, it is not necessarily true that the Agreement State with the lowest reimbursement rate more accurately reflects the lodging and/or meal costs than the FTR rate, or that the NRC should adopt those rates as a basis for a determination that lodging and/or meal costs will be lower than the Federal per diem rate.

As a result, the option of the NRC directly reimbursing the Agreement State traveler at a reduced rate based on their State’s per diem rate does not meet the §300-11.200 criteria to provide a reduced per diem amount to Agreement State travelers.

Conclusion

With the options of accepting reimbursement funds from the Agreement States, and the NRC directly reimbursing Agreement State travelers at alternate rates (i.e., State per diem rates) eliminated from consideration, the NRC staff has identified only two remaining options for Agreement State traveler reimbursement:

- (1) maintain the status quo and inform the Agreement States that funds collected from their personnel due to the differences in Federal and State per diem rates can be returned to the U.S. Treasury, or
- (2) perform a cost-benefit analysis to evaluate the option of establishing contracts with individual Agreement States to facilitate reimbursement at the State per diem rate.

Of note, the NRC cannot require States to return funds related to the difference in Federal and State per diem rates (i.e., where States collect NRC per diem funds paid to the traveler and disperse per diem reimbursement at a lower rate to the traveler). As such, any cost-benefit analysis related to maintaining the status quo and informing the Agreement States that funds collected from their personnel due to the differences in Federal and State per diem rates can be returned to the U.S. Treasury, would be based on highly speculative information with respect to benefits obtained by the U.S. Government. Accordingly, the NRC staff does not plan to conduct a cost-benefit analysis related to the NRC potentially informing Agreement States that they can provide funding related to differences in Federal and State per diem rates for NRC-sponsored travel to the U.S. Treasury.

As such, the NRC disagrees that cost-benefit analyses of multiple options can be performed, as recommended by the OIG. The NRC staff intends to perform a cost-benefit analysis of only one option – namely, establishing contracts with individual Agreement States to facilitate reimbursement at the State per diem rate. Notwithstanding, should the NRC staff determine, after performing its cost-benefit evaluation, that the establishment of contracts with Agreement States should not be pursued, the NRC staff will consider transmitting a letter to the Agreement States to inform them that funds collected from their personnel due to the differences in Federal and State per diem rates, can be returned to the U.S. Treasury in order to improve the efficiency of the Federal government.

OIG ANALYSIS OF AGENCY FORMAL COMMENTS

Recommendation 1: Conduct a cost-benefit analysis to evaluate alternative Agreement State reimbursement options, such as establishment of contracts with individual Agreement States to facilitate reimbursement at the State per diem rate.

Agency Comments

In its report, the OIG noted that, "Because NRC does not have a process to reimburse Agreement States at their State per diem rate, it is possible NRC's funds are not being used as efficiently as possible." Similarly, in previous versions of the report, the OIG had offered recommendations that the NRC:

1. Develop and implement a process through which NRC can collect refunds from Agreement States following an overpayment of a travel reimbursement.¹
2. Develop and implement a process through which NRC can reimburse Agreement State travelers at their respective State per diem rate.²

In its interactions with the OIG during, and subsequent to, the July 25, 2018, exit meeting for the audit, the NRC staff identified that the options for accepting reimbursements from States and reimbursing travelers at State per diem rates are not feasible as a result of statutory limitations on the circumstances under which the NRC can accept funds from the States, and the need to conform with policies in the *Federal Travel Regulations [sic]*.

OIG Response

OIG agrees that the options for accepting reimbursements from States and reimbursing travelers at State per diem rates are not feasible as a result of statutory limitations on the circumstances under which the NRC can accept funds from the States, and the need to conform with policies in the *Federal Travel*

¹ From draft report provided to the NRC staff on July 11, 2018.

² From draft report provided to the NRC staff on July 27, 2018. In the July 11, 2018, version of the report, a similar recommendation was identified for the NRC to: "Identify and evaluate options where ETS2 could be used to pay Agreement State staff at their respective State per diem rates."

Regulation. Subsequent to providing staff with the July 11, 2018, and July 27, 2018, versions of the draft report and recognizing staff's concerns with regard to the recommendations, OIG communicated to the staff that OIG is no longer pursuing either of the aforementioned recommendations. Therefore, OIG is not asking NRC to conduct a cost-benefit analysis to evaluate either of these options.

Agency Comments

As a result, the NRC staff is providing this comment on the report in order to confirm that the only option the NRC staff can evaluate in response to the recommendation contained in the OIG's final report, is to perform a cost-benefit analysis of establishing contracts between the NRC and Agreement States to enable States to reimburse travelers at State per diem rates.

OIG Comments

OIG disagrees that the only option the NRC staff can evaluate in response to the recommendation contained in the OIG's final report, is to perform a cost-benefit analysis of establishing contracts between the NRC and Agreement States to enable States to reimburse travelers at State per diem rates.

NRC is not the only Federal agency that pays for State employees to travel for Federal agency-sponsored training. As per the audit methodology, OIG conducted benchmarking and reached out to one Federal agency that pays for State employees to travel for Federal agency-sponsored training. OIG reached out to one Federal agency for the sake of efficiency; however, OIG believes that there are additional agencies that also reimburse State employees for federally-sponsored travel. OIG strongly believes that there are other options employed by other Federal agencies that NRC can evaluate, in addition to establishing contracts between the NRC and Agreement States to enable States to reimburse travelers at State per diem rates. OIG believes it is reasonable to request that the NRC staff reach out to other Federal agencies and conduct additional research with regard to State employee reimbursement options for the benefit of future cost savings. OIG believes NRC will discover additional reimbursement options that the agency can evaluate if it reaches out to other Federal agencies.

Agency Comments

Pending the outcome of this cost-benefit analysis, the NRC staff may choose to communicate with the Agreement States to inform them that funds collected from their personnel due to the differences in Federal and State per diem rates can be returned to the U.S. Treasury (although the NRC cannot require the return of such funds). Specifically, should the NRC staff determine that the fiscal benefit of establishing individual contracts with Agreement States to reimburse the States for NRC-sponsored travel conducted by State personnel is not outweighed by the cost of establishing such a process, the NRC will consider issuing a letter to the States to ensure that they are aware of the option to return funds to the U.S. Treasury in the interest of increasing the efficiency of Federal government expenditures.

OIG Comments

Subsequent to the agency's cost-benefit analysis of alternative reimbursement options – meaning evaluating the feasibility of the establishment of contracts as well as *at least one additional reimbursement option* – if NRC finds that the benefits of other reimbursement options do not outweigh the costs, OIG has no objection to NRC issuing a letter to the States informing them of the option of returning funds to the U.S. Treasury. Additionally, OIG would like to note it is not asking NRC to conduct a cost-benefit analysis related to maintaining the status quo and informing the Agreement States that funds collected from their personnel due to the differences in Federal and State per diem rates can be returned to the U.S. Treasury.

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