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United States Senate

COMMITTEE ON
HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

WASHINGTON, DC 20510-6250

September 12, 2016

CHRISTOPHER R. HIXON, STAFF DIRECTOR
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The Honorable Ernest Moniz
Secretary
U.S. Department of Energy
1000 Independence Ave. SW
Washington, DC 20585

Dear Mr. Secretary:

The Government Accountability Office (GAO) recently released a report regarding the Department of Energy's use of management and operating (M&O) contracts.¹ The report highlights the central role that M&O contracts play at the Department of Energy (DOE), with these contracts representing almost three-quarters of DOE's spending in fiscal year 2015. The report also raises a number of concerns, including the limited competitive environment for these contracts, instances of overreliance on M&O contractors for oversight and planning, and the failure to consider other alternatives for many M&O contracts. I am concerned about whether DOE's reliance on M&O contracts constitutes good acquisition practice and provides a good value to taxpayers.

The report makes two recommendations: (1) that acquisition planning documents discuss alternatives to M&O contracts and (2) that DOE establish a process to review, identify, and apply lesson learned through the use of alternatives to M&O contracts. I request that you provide information on how DOE plans to address these recommendations. In addition, I request that you provide answers to the following questions:

- (1) Given that mission support-activities make up 25-50% of M&O contract costs and are not necessarily complex or unique, what is the rationale for using M&O contracts for mission-support activities?
- (2) GAO reports that 30-50% of M&O contract costs are subcontracted. How does DOE ensure that M&O subcontracting provides good value to the taxpayer? What visibility into subcontracts, and what management controls over M&O subcontracting decisions does DOE have?

¹ Government Accountability Office, *Department of Energy: Actions Needed to Strengthen Acquisition Planning for Management and Operating Contracts* (July 2016) (GAO-16-529).

- (3) The 2014 National Defense Authorization Act recognized that costs are not comparable across National Nuclear Security Administration (NNSA) sites, which makes it difficult to determine how efficiently different sites within the NNSA complex are carrying out similar activities.² The NDAA required that NNSA develop a plan to improve financial integration. GAO's findings suggest that this problem is not limited to NNSA. Given that DOE data on costs currently are not comparable across M&O contractor sites, how does DOE evaluate contractor performance and ensure contractors are delivering cost-effectively?
- a. What steps is DOE taking or considering taking to improve cost comparability across all of its sites?
 - b. What, if any, benchmarking does DOE carry out to ensure that the costs to acquire goods and services through its M&O contracts provide a good value to the government compared with costs under different contracting models across DOE, with other federal agencies, or with relevant private sector enterprises?
- (4) DOE concurred in principle with GAO's recommendation to establish a process to periodically analyze DOE's experiences with alternatives to the single M&O contract approach. However, DOE provided an estimated completion date of July 15, 2017. I am concerned that date implies that needed analysis may not be ready in time to inform acquisition planning for many of the 10 M&O contracts that expire by 2020. What plans does DOE have to ensure that relevant analysis is completed in time to inform critical acquisition planning decisions for M&O contracts expiring in the next few years?
- (5) GAO highlights evidence suggesting that unbundling M&O contracts into several smaller contracts may increase competition and contract outcomes. How does DOE ensure that opportunities for unbundling are sufficiently explored?
- (6) GAO cites a 2013 DOE acquisition workforce study that found significant disparities in the workload of DOE procurement employees compared with other federal agencies.³ That study suggests that at DOE, because of resource constraints resulting from high volumes of work and relatively low acquisition staffing levels, "critical pre-award processes of planning and requirements development are not addressed as effectively as possible." What has DOE done to ensure it has the acquisition workforce in place to effectively support its reliance on contracts?

Thank you for your attention to this matter. I request that the Department respond on or before **October 7, 2016**. Please have your staff contact Sarah Garcia with my Subcommittee

² Pub. L. 113-66, Sec. 3128 (2013).

³Golden Key Group, LLC, *Department of Energy: DOE Acquisition Human Capital Staffing Model* (July 18, 2013).

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staff at (202) 224-5602 with any questions. Please send any official correspondence relating to this request to Kelsey_Stroud@hsgac.senate.gov.

Sincerely,



Claire McCaskill
Ranking Member
Permanent Subcommittee on Investigations

cc: Rob Portman
Chairman
Permanent Subcommittee on Investigations