



Report on

**Inspection of the  
Secretary of Energy's  
Foreign Travel**

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# memorandum

DATE: October 7, 1996

REPLY TO: IG-1  
ATTN OF:

SUBJECT: INFORMATION: Report on "Inspection of the Secretary of Energy's Foreign Travel"

TO: The Secretary

## BACKGROUND:

The subject final report is provided to inform you of our findings and recommendations concerning our review of your 16 foreign trips from June 1993 to December 1995. On December 9, 1995, you requested that this office conduct a thorough examination of all Secretarial foreign travel from 1993 to December 1995. Our objectives were to, among other things, evaluate the Department's procedures for planning and for controlling the execution of each of the 16 trips; identify trip participants; identify sources of funding and determine total costs of each trip; evaluate the Department's procedures for acquiring aircraft for foreign travel; evaluate the Department's process for identifying and reporting outcomes from the four trade missions; and follow-up on the status of the suggestions in the Office of Inspector General November 7, 1994, audit report regarding the India and Pakistan trips and the related December 20, 1994, memorandum to the then Deputy Secretary. This report focuses on the four trade missions conducted during that period because of their extent and cost.

## DISCUSSION:

The Secretary traveled overseas on 16 occasions between June 1993 and December 1995. We identified \$4.58 million, excluding salaries and overtime, spent for these trips. Four of the 16 trips, costing \$3.42 million, were trade missions to India, Pakistan, China, and South Africa. According to Department officials, the purpose of these trade missions was to help advance important U.S. international economic and policy objectives, and help create business for U.S. firms. Although the Department has identified numerous non-monetary outcomes resulting from the trade missions, the Department has not always been clear in describing the monetary outcomes. The monetary outcomes reported by the Department include the signing of 143 business agreements, with a potential value of \$19.7 billion. However, these agreements are not all firm contracts and they do not represent the actual dollars going to U.S. companies. The more accurate description is that the Department helped move many of these agreements forward and accelerated the signing of many of these agreements. We also identified a number of internal control deficiencies regarding the administration of the Secretary's foreign trips in such areas as embassy support costs, overtime costs, and chartering aircraft.

We found that the Department lacked written internal control procedures for planning, coordinating, and executing international trade missions. As a result, the roles and

responsibilities of those Department employees involved in planning and executing the trade missions were not always clearly defined. In addition, no one in the Department was assigned responsibility for all the planning, coordination, and execution of the trade missions.

Specifically, we found that the process used for the trade missions resulted in a lack of control, primarily in the areas of administrative and logistical support.

We also found that the Department could not accurately account for who actually participated in the Secretary's 16 foreign trips. No one in the Department could provide an accurate list of trip participants and none of the available records from the Department could individually identify who actually participated in the Secretary's foreign trade missions.

We found that Department procedures for invitational travel were not followed. Based on information and documentation provided by the Department, the Department extended invitational travel to participants in association with the Secretary's foreign trips. We determined that on some of these occasions invitational travel was inappropriately extended, and that on other occasions the required prior written approval and justification had not been prepared by a principal Department official.

We determined that for the travel vouchers that we reviewed, which had been filed as a result of the four trade missions, almost all the Department participants claimed full per diem. Based on interviews and a review of official itineraries for the trade missions, we identified a number of functions in which breakfast, lunch, or dinner was provided. We found, however, that only one person had reduced their per diem costs as required by Federal travel regulations.

We identified several internal control weaknesses in the process used by Department officials to obtain support from U.S. Embassies and to control embassy support costs. Department officials were unable, in some instances, to validate the appropriateness of specific embassy support costs for the trade missions or provide records to support all the costs incurred for these missions. Also, for the trade mission to India, Department officials incurred embassy support costs prior to obligating funds. In addition, the Department did not identify a single individual who would be responsible for ordering goods or services. As a result, funds were obligated and costs incurred without adequate internal controls.

Our review also disclosed that Department funds were used for "reception and representation" type expenditures from the Departmental Administration appropriation when specific funding for such activities was not available. On July 31, 1996, the Office of General Counsel issued an opinion regarding "reception and representation" fund issues that concluded that "reception and representation" funds were not "one-year" funds, despite the Department having treated them as such in prior years. Thus, unexpended "reception and representation" funds from prior years would be available to cover the "reception and representation" expenses on the trade missions. Based on this, the Office of General Counsel concluded that the Department's "reception and representation" expenditures would not constitute either a misuse of appropriated funds or a violation of the Antideficiency Act. The Office of Inspector General has requested a Comptroller General opinion concerning the issue of whether the Department's "reception and

representation" funds are "no-year" funds, available until expended, or whether the annual expenditures are limited by the stated appropriations act amount.

We also identified a possible procurement integrity issue regarding the August 23, 1995, reception for the Secretary in South Africa hosted by the I Can Foundation. At the time the Department agreed to accept the reception from the I Can Foundation, the Department was initiating a procurement to pay them for activities in support of the Secretary's South Africa trip. We recommended that the Office of General Counsel determine whether the procurement integrity provisions of the Office of Federal Procurement Policy Act were violated by the acceptance of the reception by the Department and the attendance of Department personnel at the reception. On October 1, 1996, the Office of General Counsel issued an opinion that concluded that there was not a violation of procurement integrity prohibitions.

Our report contains 31 recommendations for corrective actions. We recommended, among other things, that the Secretary assign a senior official the responsibility for developing and implementing written international travel procedures for planning, coordinating, and executing all facets of international travel. We also recommended that the Chief Financial Officer develop policies and procedures which ensure that embassy support costs are appropriate, properly approved, and correctly applied; ensure that prior to initiation of a trip, sufficient funds are obligated for foreign trips that require embassy support; and ensure that the Department's policies and procedures for aircraft acquisition for international travel are formally issued and are consistent with the results of our inspection. Further, we recommended that the Assistant Secretary for Policy establish policy and procedures for measuring accomplishments claimed as a result of trade promotion activities. Management concurred with our recommendations and has made significant progress in implementing corrective actions.



John C. Layton  
Inspector General

Attachment

cc: Deputy Secretary  
Under Secretary  
General Counsel  
Assistant Secretary for Policy  
Assistant Secretary for Environment, Safety and Health  
Acting Chief Financial Officer  
Assistant Secretary for Human Resources and Administration  
Director, Office of Public and Consumer Affairs  
Director, Office of Scheduling and Logistics

**U.S. DEPARTMENT OF ENERGY  
OFFICE OF INSPECTOR GENERAL**

**REPORT ON  
INSPECTION OF THE SECRETARY OF ENERGY'S  
FOREIGN TRAVEL**

Report No: DOE/IG-0397  
Date Issued: October 7, 1996

Office of Inspections  
Washington, D.C. 20585

**REPORT ON  
INSPECTION OF THE SECRETARY OF ENERGY'S  
FOREIGN TRAVEL**

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Attachments: Copies of Management Comments

1. June 27, 1996, Memorandum
2. July 8, 1996, Memorandum
3. October 3, 1996, Memorandum

## **I. INTRODUCTION AND PURPOSE**

On December 9, 1995, the Secretary of Energy requested that the Department's Inspector General (IG) conduct a thorough examination of all Secretarial foreign travel from 1993 to December 1995 to include the purpose of each trip, the activities of each Federal participant in each trip, the funding of each trip, and claims for reimbursements for expenses by Federal trip participants. The Secretary also requested that the review include an assessment of travel authorization, voucher, traveler reimbursement, and auditing systems employed by the Department to identify steps that could be taken to reduce errors and improve accounting oversight. Additionally, the Secretary requested that the Inspector General conduct a thorough examination of the establishment and filling of the Department's Ombudsman position. The Office of Inspector General (OIG) initiated a review into these matters and assigned primary responsibility for the review to the Office of Inspections. The results of the review regarding the Ombudsman position were discussed in the "Report on Inspection of the Establishment and Filling of the Department's Ombudsman Position" (DOE/IG-0393) issued August 1, 1996.

The purpose of this inspection was to conduct a thorough examination of the 16 Secretarial foreign trips from June 1993 to December 1995. This report focuses on the four trade missions because of their extent and cost. We examined a number of Departmental management systems and processes involved in planning and executing the 16 foreign trips. To determine the actual cost of the 16 trips, it was necessary to determine who participated in the trips and to identify the individual travel costs. We were required to perform extensive reviews of records and conduct a large number of interviews because the Department could not provide any specific documents that could accurately account for who actually participated on the 16 trips. We examined records such as Travel Authorizations, Travel Vouchers, passenger lists, trip reports, Department of State cables, and lists prepared by the Department; and conducted more than 300 interviews. Having identified who participated, it was then necessary to examine key aspects of the Department's management systems involving (1) accounting for costs; (2) authorizing, processing, auditing and paying for official travel; (3) obtaining and paying for overseas support through the State Department; (4) providing Executive protection; and (5) obtaining and using contractor support assistance. Some of the other management systems that we focused on were: (1) procedures for initially capturing and then tracking the status of business agreements associated with the trade missions; (2) processes for procurement of charter air services; and (3) interfaces with other Federal Government agencies to conduct foreign trade missions.

Our objectives were to:

- Identify the authority and purpose for each trip.
- Evaluate the Department's procedures for planning and for controlling the execution of each trip.

- Identify trip participants and evaluate the process for selecting and accounting for participants of each trip.
- Identify sources of funding and determine total costs of each trip.
- Evaluate the Department's procedures for acquiring aircraft for foreign travel.
- Review the Department's travel authorization/reimbursement system and travel vouchers for travelers paid by the Department for each trip.
- Evaluate the Department's process for identifying and reporting outcomes from the four trade missions.
- Follow up on the status of the suggestions in the OIG November 7, 1994, audit report regarding the India and Pakistan trips and the IG memorandum to the then Deputy Secretary (see Section E, "Aircraft Acquisition").

## **II. SCOPE AND METHODOLOGY**

In conducting this inspection, we interviewed Federal and non-Federal employees who had participated in the Secretarial foreign trips, and we reviewed selected records and documents at Department of Energy (DOE) Headquarters and at field locations. We interviewed DOE Federal and contractor employees who had participated on one or more of the Secretary's foreign trips, either as a traveler, as a trip planner, or in both capacities. We also interviewed Federal employees who traveled on a Secretarial foreign trip and represented the following organizations: Department of Commerce, Department of Interior, Department of State, Agency for International Development, Nuclear Regulatory Commission, Export-Import Bank of the United States, Office of Science and Technology Policy, Office of the Vice President, and United States Enrichment Corporation. In addition, we discussed selected travel and trade mission issues with other Federal employees from the Department of Commerce, the Department of State, and the Department of Treasury.

We discussed selected travel and outcome-related issues with selected business participants who traveled on a Secretarial foreign trip. Some of these discussions generated specific information regarding the status of business agreements, the nature of DOE's assistance during the four trade missions, support for DOE's stated position on the outcomes of the four trade missions, and other travel-related issues.

Our review of documents included laws: regulations; and DOE directives, policies, procedures, planning documents, financial documents, and travel management documents. In addition, we reviewed the following records: Time and Attendance, invitational travel, accounting, aircraft procurement, and embassy costs. The review of

travel management records allowed us to make observations regarding the Department's procedures for authorizing, processing, auditing and paying official travel. We also reviewed documents supporting the Department's reported outcomes that resulted from the trade missions.

On June 27, 1996, and July 8, 1996, the Department provided comments on our Initial Draft Report. These comments were signed by the Acting Chief Financial Officer and are attached verbatim to this report. In addition, on August 1, 1996, Department officials provided us a written update on the status of corrective actions regarding our recommendations. This update stated that a redraft of DOE Notice (N) 551.1, "International Travel" had been finalized and issued July 31, 1996, as DOE Manual (M) 551.1, "International Trips," and DOE Policy (P) 551.1, "International Trips." Also, in response to recommendations in the Initial Draft Report, the Office of General Counsel issued three opinions on July 31, 1996: (1) "Inspector General Recommendations - Reception and Representation Fund Issues"; (2) "Inspector General Recommendations - Miscellaneous Receipts Issue"; and (3) "Authority and Financial Liabilities of the Department and of Executive Protection Personnel When Carrying Weapons in a Foreign Country." On October 3, 1996, the Department also provided comments on our Official Draft Report. We discuss management's comments throughout the report and have made changes to the report where appropriate. In addition, Section VII of the report discusses management comments that are not specifically addressed elsewhere in the report.

This inspection was conducted in accordance with the Quality Standards for Inspections issued by the President's Council on Integrity and Efficiency.

### **III. EXECUTIVE SUMMARY**

Secretary Hazel R. O'Leary traveled overseas on 16 occasions between June 1993 and December 1995. We identified \$4.58 million, excluding salaries and overtime, spent by DOE for these trips: \$3.37 million for travel costs, \$819,091 for embassy support costs, and \$387,292 for contractor support costs. Four of the 16 trips were trade missions to India, Pakistan, China, and South Africa. We determined that \$3.42 million of the \$4.58 million was spent on these four trade missions: \$2.56 million for travel costs, \$523,634 for embassy costs, and \$336,736 for contractor support costs. According to DOE officials, the purpose of these trade missions was to help advance important U.S. international economic and policy objectives, and help create business for U.S. firms.

The Department has identified numerous non-monetary outcomes resulting from the trade missions. However, the Department has not always been clear in describing the monetary outcomes. For example, the monetary outcomes reported by DOE include the signing of 143 business agreements, with a potential value of \$19.7 billion. These agreements are not all firm contracts and they do not represent the actual dollars going to U.S. companies. Also, we identified a number of internal control deficiencies regarding the administration of the Secretary's foreign trips in such areas as embassy support costs, overtime costs, and chartering aircraft.

We have made a number of recommendations to improve DOE's management and administration of the Secretary's foreign travel, particularly for foreign trade missions. The following information summarizes selected results of our review.

#### **Authority and Planning**

DOE's Office of General Counsel has cited two statutes that delineate the Secretary of Energy's authority to conduct trade promotion activities: the Energy Policy Act of 1992 and the Export Enhancement Act of 1992. The Energy Policy Act of 1992 states the Secretary of Energy shall consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects. In writing about the Export Enhancement Act of 1992, DOE's Deputy General Counsel said: "The statutory mission that was enacted here includes 'delivery of services to United States businesses, including \* \* \* representation of United States business interests abroad.' "

Our inspection determined that Secretary O'Leary relied on four key staff members to plan and execute the trade missions. These key staff members were (1) the then Chief of Staff; (2) the then Special Assistant to the Secretary for Policy; (3) the then Director, Office of Scheduling and Logistics; and (4) a Management Assistant from the Office of Policy. The Management Assistant, referred to as an "International Trip Coordinator" (Trip Coordinator), arranged the transportation and schedules for the U.S. business representatives who accompanied the Secretary on the trade mission to India. For the subsequent trade missions to Pakistan, China, and South Africa, the Trip Coordinator

assisted the Special Assistant for Policy with the day-to-day planning for the trade missions. The Trip Coordinator said she was "the only DOE employee who was assigned full time on a day-to-day basis" to plan for these trade missions; and that she had no prior experience in this type of work.

The four key staff members were assisted by a trip planning team consisting of between 30 to 40 DOE employees. The trip planning team met once or twice a week for 1/2 hour to two hours to discuss the logistical and substantive plans for the respective trade mission. After the trade mission to India, DOE planning for the subsequent trade missions also consisted of sending a "preadvance" team to the host country to perform substantive and administrative work with the U.S. Embassy and host country officials. For the trade mission to Pakistan, for example, two DOE employees were in Pakistan before the main body arrived. Five individuals were on the preadvance team to China, and eight were on the preadvance team to South Africa.

In addition to the preadvance teams, DOE also sent advance teams to each of the four countries about a week in advance of the main body. Advance teams were responsible for security, communications, administration, press, graphics, and substance arrangements in preparation of the main body. We determined that 25 individuals were advanced to India, 35 to Pakistan, 56 to China, and 30 to South Africa.

The main body of the trade missions consisted of support personnel and the "Official Delegation," which included designated DOE employees and those individuals listed as "Business Delegates." The Business Delegation included individuals from U.S. businesses, non-governmental organizations, other Federal agencies, and DOE management and operating contractors. Some of the business delegates used Government-arranged air transportation while others traveled to the host country on their own.

### Trip Participants

We found that DOE could not accurately account for who actually participated on the Secretary's 16 foreign trips. It was especially difficult to account for the Federal and non-Federal participants on the Department's four trade missions. In order to determine who participated on the trips, we reviewed passenger lists for chartered flights, DOE's official trip reports, travel authorization listings, travel voucher listings, and other lists prepared by DOE. We identified 256 Federal participants and 188 non-Federal participants on the four trade missions who used Government-arranged air.

In response to requests from the Chairmen of two Congressional subcommittees, written criteria for selecting non-Federal participants were provided by DOE for each of the four trade missions. Also provided was a list of 28 people who DOE said participated in the selection of non-Federal participants. Seven of the 28 told us they were not involved with the selection of non-Federal participants for the trade missions.

Further, 12 of the 28 told us they had not seen the written criteria. In addition, the written criteria for India was prepared after the requests were received.

#### Invitational Travel

Under Federal travel regulations, DOE can pay the transportation, lodging, subsistence, and other related travel expenses of private individuals who perform a direct service for the Government. Based on information and documentation provided by DOE, the Department extended invitational travel to participants on as many as 27 occasions in association with the Secretary's foreign trips. We determined that on 5 of these occasions invitational travel was inappropriately extended, and that on 19 occasions prior written approval and justification had not been prepared by a principal Department official. We also determined that invitational travel policy was not fully understood by some DOE officials.

#### Travel Costs

DOE spent \$3.37 million in travel costs supporting the Secretary's 16 overseas trips. For the four trade missions, DOE spent \$2.56 million in travel costs: \$670,912 for the trade mission to India, \$488,360 for Pakistan, \$799,573 for China, and \$601,390 for South Africa.

#### Travel Vouchers

We reviewed 220 travel vouchers filed as a result of the four trade missions and determined that almost all DOE participants claimed full per diem. Yet, based on interviews and a review of official itineraries for the trade missions, we identified 30 functions in which breakfast, lunch, or dinner was provided. Of the 220 vouchers reviewed, only one person had reduced their per diem costs as required by Federal travel regulations. In some cases, the meals provided were paid for by the U.S. Embassy, potentially causing the U.S. Government to pay twice for the same meals.

#### Embassy Support Costs

We identified several internal control weaknesses in the process used by DOE officials to obtain support from U.S. Embassies and to control embassy support costs. DOE officials were unable, in some instances, to validate the appropriateness of specific embassy support costs for the four trade missions or provide records to support all costs incurred for these missions. Also, DOE officials incurred embassy support costs prior to obligating funds for the trade mission to India. The first DOE memorandum requesting DOE accounting officials to obligate funding for the India trip occurred one month after DOE officials had returned from India.

As of May 1, 1996, DOE accounting system records showed Department officials had identified \$819,091 in embassy support costs with 12 of the Secretary's foreign trips.

These costs included \$523,634, which were identified with the four trade missions, leaving a balance of \$295,457 for the eight other foreign trips. Of the \$523,634 identified with the four trade missions, \$325,828 was still in an embassy cost suspense account until Office of Human Resources and Administration (Human Resources) officials could determine the validity of these costs. Further, an additional \$279,155 in embassy support costs, not identified with specific trips, also had been applied to the suspense account.

As a separate effort, we reviewed documents other than the accounting system records and identified, through this approach, embassy support charges totaling \$549,299. These charges were identified by review of "1221 Summaries" prepared by DOE accounting officials, records provided by Human Resources officials, and other documents. The \$549,299 in embassy support charges are comprised of \$44,549 for India; \$101,903 for Pakistan; \$201,445 for China; and \$201,402 for South Africa. Following is a listing of the type and amounts of embassy support costs charged by U.S. Embassies in support of the four trade missions:

- "Ground Transportation" costs amounted to \$159,798 for the rental of automobiles, minivans, trucks, buses, and drivers. These costs were incurred to transport the Secretary, her staff, and business delegates. Rental cars were also used by security, communications, and administrative advance personnel.
- "Air Transportation" costs amounted to \$27,666 and included costs for airline tickets, costs relating to procurement of airline tickets, and air freight costs. For example, DOE paid the airfare for U.S. Embassy employees flying between Shanghai and Beijing. Air freight costs were charged for transporting containers that held computers, printers, and other supplies used during the trade missions.
- "Lodging" costs amounted to \$16,217 for hotel rooms purchased through an embassy to house DOE employees, invitational travelers, and embassy employees.
- "Meal" costs amounted to \$3,969, which included food and beverages at official functions, as well as embassy staff meals for personnel assigned to the Secretary's visit.
- "Phone and Facsimile" costs of \$91,781 were for rental charges for cellular telephones and standard telephone service charges for the Secretary, her staff, and the security, communications, and administrative advance teams.
- "Phone Installation" costs of \$15,205 were for telephone lines installed in hotel rooms used by the Secretary, her staff, security, and administrative personnel.

- "Business Center" costs of \$57,568 were for the rental of a hotel suite for a command post and a hotel suite for a staff room to conduct staff meetings and staff work.
- "Conference Rooms" costs of \$42,346 were for such items as the rental of large meeting rooms and smaller breakout rooms used by the Secretary and delegation.
- "Catering (Reception/Banquet)" costs of \$36,489 were for official receptions and banquets.
- "Embassy Costs/Overtime" of \$40,559 were for embassy employees who worked overtime or on holidays while on detail to assist the Secretary's visit.
- "Photography" and "Video" costs of \$17,228 were for photographs and video photography to document the various meetings, events, and signing ceremonies that took place during the four trade missions.
- "Other" costs of \$40,473 were for such items as miscellaneous labor and supplies, petty cash, printing, and reproduction.

Following are some specific examples of embassy support costs charged during the four trade missions.

A local phone company charged the U.S. Embassy in India \$6,609 to install eight telephones in the Maurya Sheraton Hotel. DOE was also charged \$4,706 for embassy support costs for embassy employees assigned to support the Secretary's trade mission to India and \$462 by the Tajmahal and Maurya hotels for room services for meals and beverages.

Of the \$101,903 in embassy support costs charged for the Pakistan trade mission, DOE did not provide invoices describing the nature of \$53,564 of these costs. We noted that these costs were primarily incurred during the Secretary's trip to Vienna, Austria, to attend an International Atomic Energy Agency General Conference before traveling on to Pakistan.

At the time of our fieldwork, the Department did not provide invoices or other documentation that identified the nature of \$38,212 of the total \$201,445 in embassy support costs for the China trade mission. Charges for the China trade mission included telephone service costs of \$53,878 and business center costs of \$38,898. DOE was also charged \$2,277 for reserving a block of rooms at the China World Hotel in Beijing even though some of the rooms were not used.

Charges for the South Africa trade mission included transportation charges of \$102,739, a \$7,085 charge for a reception, which was apparently double-billed by a

hotel, and a \$6,346 charge for an erroneous payment by the U.S. Embassy to an oil company. Other charges included \$4,785 paid to the American Chamber of Commerce for hosting a dinner and \$7,104 for a reception hosted by the Secretary at the Carlton Hotel in Johannesburg, which included food for 300 people and an open bar.

In addition to the \$201,402 identified above as being paid through the U.S. Embassy for the trade mission to South Africa, our review disclosed an additional \$20,440 paid to the Carlton Hotel for the Energy Summit Conference: \$8,121 for meeting rooms; \$1,470 for miscellaneous food and beverages; \$7,522 for a luncheon for 324 people; and \$3,327 for three breakfasts for 120-145 people. To fund these costs, 44 non-Federal travelers were each assessed a fee of \$400, for a total of \$17,600.

Our review of embassy support costs also disclosed that DOE funds were used for "reception and representation" type expenditures from the Departmental Administration appropriation when specific funding for such activities was not available. At the time of the trade mission to South Africa, the Department's Fiscal Year 1995 "reception and representation" fund, amounting to \$35,000, had a balance of \$1,772. All but \$142 of this remaining balance was subsequently expended or obligated. According to a DOE official, prior to the trip commencing, trip organizers were told that no money from the "reception and representation" fund would be available to fund trip activities or events. The Department was charged, however, an additional \$17,417 of "reception and representation" type costs in South Africa. The Department also failed to properly charge its reception and representation account for events held during the trade mission to China.

We believe that the "reception and representation" type expenditures, which have been charged to DOE's Departmental Administration appropriation and which are in excess of its \$35,000 Fiscal Year 1995 "reception and representation" fund, may have represented a misuse of appropriated funds. In addition, we believe that the Department's payment of these expenditures after the exhaustion of the "reception and representation" account, possibly may have resulted in an Antideficiency Act violation.

In response to our recommendation in the Initial Draft Report, the Office of General Counsel issued an opinion on July 31, 1996, regarding "reception and representation" fund issues. The opinion concluded that "reception and representation" funds were not "one-year" funds, despite the Department having treated them as such in prior years. The opinion also identified \$49,008 of unobligated "reception and representation" funds available from the past 11 years for use in paying for the \$35,086 of "reception and representation" expenses it identified in its review. Based upon this, the Office of General Counsel's concluded that the Department's "reception and representation" expenditures would not constitute either a misuse of appropriated funds or a violation of the Antideficiency Act. The Office of Inspector General has requested a Comptroller General opinion concerning the issue whether the Department's reception and representation funds are "no year"-funds, available until expended, or whether the annual expenditures are limited by the stated appropriation act amount.

We also identified a possible procurement integrity issue regarding the August 23, 1995, reception for the Secretary in South Africa hosted by the I Can Foundation. At the time the Department agreed to accept the reception from the I Can Foundation, the Department was initiating a procurement to pay them for activities in support of the Secretary's South Africa trip. We recommended that the Office of General Counsel determine whether the procurement integrity provisions of the Office of Federal Procurement Policy Act were violated by the acceptance of the reception by the Department and the attendance of Department personnel at the reception. On October 1, 1996, the Office of General Counsel issued an opinion that concluded that there was not a violation of procurement integrity prohibitions.

#### Contractor Support Costs

We identified support services contractors and subcontractor employees who participated in some of the Secretary's foreign trips. The National Renewable Energy Laboratory, a management and operating (M&O) contractor-operated laboratory, used a subcontractor to perform advance support on the India, China, and South Africa trade missions. The Department incurred \$52,842 in costs for this subcontractor: \$18,867 for the India trade mission; \$7,000 for the China trade mission; and \$26,975 for the trade mission to South Africa. Computer Data Systems Incorporated (CDSI) and The Mitchell Group, support service contractors, also assisted with some of the Secretary's foreign trips. Per DOE officials, CDSI was paid \$222,403 from January to September 1995 for support of the Secretary's foreign travel and for support of a trip to Mexico by the then Deputy Secretary.

DOE's Golden Field Office executed a contract with The Mitchell Group on July 25, 1995, for \$110,000 to identify local enterprises in South Africa that would become candidates for immediate partnerships with similarly interested and diverse U.S.-based energy related firms. Funds were transferred to the Golden Field Office from DOE's Office of Economic Impact and Diversity to help fund this effort. The Office of Economic Impact and Diversity subsequently wrote a letter to The Mitchell Group stating that it would increase its share of The Mitchell Group fees by \$6,000 so the "I Can Foundation" could arrange a tour for DOE of the Northern Transvaal Technikon in South Africa; convene a meeting of 2,000 students for the Secretary to address concerning DOE's commitment to education; and distribute books and computers donated to South Africa. The Mitchell Group was also paid \$50,000 by the Golden Field Office on January 10, 1996, to provide "logistics and support of South African visitors to Oak Ridge Manufacturing Research Technology Training."

#### Overtime

The Secretary was provided executive protection for the 16 foreign trips by couriers from DOE's Transportation Security Division (TSD) and by personnel from DOE's Headquarters Office of Security Affairs (OSA). Our review identified \$276,442 that was spent for 10,839 hours of overtime for executive protection personnel. For the four

trade mission trips, other support personnel were paid for 3,932 hours of overtime at an estimated cost of \$89,749. Our review also identified a lack of management controls regarding verification and certification of overtime claimed by executive protection personnel in support of the Secretary's foreign trips.

In addition to traveling with the Secretary, executive protection personnel performed advance work in-country in preparation for the Secretary's arrival. Advance work included such activities as arranging for ground transportation, becoming familiar with the roads from the airport to the hotel and other sites to be visited by the Secretary, and making security arrangements at the hotel and meeting sites.

We noted the Secretary traveled to St. Petersburg, Russia, on the afternoon of December 16, 1994, as an intermediate stop between official business that was conducted in Moscow and Stockholm, Sweden. The Secretary departed St. Petersburg for Stockholm on the following afternoon. We identified that executive protection personnel charged 147 hours of overtime in support of the Secretary's one-day visit to St. Petersburg. Two executive protection personnel were in-country about a week before the Secretary arrived and departed St. Petersburg the morning after the Secretary departed.

#### Full Cost Recovery

Our November 1994 report entitled, "Audit of Department of Energy International Charter Flights," noted that DOE officials had not implemented a full cost recovery policy and procedures for its foreign travel costs. DOE officials advised us, at the time, that they believed non-Federal passengers should pay for their full pro-rata share of air transportation costs in advance. For the trade mission to India, however, DOE officials had decided to charge non-Federal passengers the round-trip coach fare of \$2,800 instead of the full pro-rata cost of the charter flight estimated at the time to be \$12,860.

For the trade mission to Pakistan, the Department did attempt to collect in advance the full pro-rata air transportation cost of \$6,477 from non-Federal passengers. However, DOE had been unable to collect from all passengers in advance and had not established accounts receivable for these amounts at the time of our audit -- more than a month after the Pakistan trade mission was completed.

Consistent with the suggestion in our November 1994 report, in February 1995 DOE established 13 accounts receivable totaling \$75,486 for the Pakistan trade mission; and in March 1995, established 44 accounts receivable totaling \$95,200 for the India trade mission. We determined that as of April 26, 1996, approximately \$37,000 of these accounts receivable remained outstanding--\$19,831 for Pakistan and \$16,700 for India. We also determined that DOE did not pursue collection of the accounts receivable as aggressively as allowed by DOE policy.

Unlike the trade missions to India and Pakistan, the Department attempted full cost recovery of air travel costs for the trade missions to China and South Africa. For the trade mission to China, the Department told non-Federal travelers to make an estimated \$9,200 payment for charter airlift services directly to Omega World Travel (Omega), the Department's centralized travel service, prior to the flight. Omega, however, was unable to collect all the amounts due and sought reimbursement from DOE for \$93,626. DOE assisted Omega in collecting from the non-Federal passengers and, as of May 1996, \$9,881 was still owed.

For the trade mission to South Africa, the charter company apparently collected pro-rata amounts of \$7,553 due from non-Federal passengers in advance of the trip. We found, however, other costs that DOE did not recover from non-Federal passengers. For example, non-Federal travelers were not required to pay for their share of the Kimberly and Cape Town portions of the trip, and administrative fees collected from non-Federal travelers did not cover administrative costs associated with delegation activities.

#### Source of Funds

The Department used funds from 12 appropriation accounts to pay for costs of the four trade missions. The majority of the trade mission costs--\$2.25 million or 66 percent--were funded by the Departmental Administration, Operating Expenses appropriation.

#### Aircraft Acquisition

We determined the cost of charter aircraft for the Secretary's four trade missions was \$2,158,237. The net cost to DOE for use of charter aircraft was \$1,328,529; and collections from non-DOE passengers amounted to \$897,008. DOE deposited \$67,300 collected for the India trip into the U. S. Treasury, as required; and thus this amount did not reduce the cost to DOE.

DOE did not use the least expensive method for air travel for the four trade missions. Analysis performed by a DOE official prior to the trade mission to India, for example, determined that commercial air travel would cost \$165,200, a chartered aircraft would cost \$355,495, and use of a Department of Defense (DOD) aircraft would cost \$643,464. The Secretary authorized the use of a DOD aircraft for the trip to India because of the "inability of commercial scheduled air services to meet my travel plans" and because she was "advised that use of the Department of Defense aircraft is preferable for security reasons." For the three trade missions to Pakistan, China, and South Africa, however, DOE used a charter aircraft. We were told that Department officials generally justified the use of charter aircraft instead of commercial aircraft because the Secretary wanted the entire group to travel together and because of physical security needs.

Department officials used four different methods of acquiring aircraft charter services for the four trade missions. They stated that three factors influenced their decision on

which type of aircraft to use: (1) inadequate lead times to compete the acquisition effectively; (2) lack of information on the number of passengers; and (3) aircraft configuration limitations. We determined DOE tried different methods for each of the four trade missions to acquire aircraft in order to reduce the use of DOE appropriated funds as much as possible. After using a DOD aircraft for the trade mission to India, DOE used a service contract for the trade mission to Pakistan, a contracted centralized travel service for the trade mission to China, and a Government Transportation Request for the trade mission to South Africa.

Also, as a result of administrative errors, DOE paid \$7,492 for a flight in South Africa that should have cost \$1,347. DOE also paid \$5,287 for a canceled flight to Mozambique because the Mozambique government canceled the signing ceremony on the date of the ceremony. Consequently, the Department was required to pay for the charter airline.

### Trade Mission Outcomes

The Department has used both monetary and non-monetary outcomes to report on the success of its trade missions. The monetary outcomes reported include the signing of 143 business agreements, with a potential value of \$19.7 billion; and an estimate of tens of thousands of new jobs created in the United States. The non-monetary outcomes reported include policy and regulatory structure reforms intended to promote investment in the host countries, the breaking down of barriers that inhibit investment, cooperation on nuclear and energy policy issues, and the signing of various official documents.

The Department has not always been clear, however, in describing the outcomes of its trade missions. This situation has created opportunity for misinterpretations of the outcomes and the Department's role in achieving the outcomes. For example, the 143 business agreements used in the development of the \$19.7 billion are not all firm contracts, and the \$19.7 billion does not represent the actual dollars going to U.S. companies. In addition, the Department has used wording in its press releases and testimony before Congress, which suggests that the Department's trade missions caused the 143 business agreements to be signed. The more accurate description is that the Department helped move many of these agreements forward and accelerated the signings of many of these agreements. The Department has also used wording in its reporting that is misleading. For example, DOE described some of the business agreements as contracts even though they were actually Memorandums of Understanding, and described some business agreements as being finalized when, in fact, they were not.

### Management Comments. Management stated that:

"The Department consistently resisted claiming exclusive credit for 'causing' the business deals. Our press statements and one letter to Congress used the term

'resulted in,' which some critics assail as a claim of causality. But our intended meaning was Webster's second definition, 'to end in a given way.' The business signing signified the culmination of much work before and during our missions. In addition, most of the time, our press statements were accompanied at the time of their release with a listing of the specific agreement by type of project, type of agreement and estimated values using information provided by the companies so that reporters could describe them as they saw fit. Further, the Secretary's oral remarks at the signing events made clear that the deals were signing [sic] represented a variety of stages of business developments, from initial MOU's to power purchase agreements to a variety of other business agreements."

Also, the Department has not always been able to document its reported outcomes. In one case, for example, although the Department reported \$1.8 billion as the value of business agreements signed, it could not provide documentation to support fully what agreements comprised this amount. In addition, the Department's suggestion that the trade missions created tens of thousands of new jobs in the United States was not supported by the Department's records.

We found the Department had a positive impact on many of the business agreements that were signed, worked to achieve policy and regulatory structure reforms intended to promote investment in the host countries, and had numerous non-monetary outcomes relating to trade promotion and cooperation on trade issues. However, the Department cannot quantify the value of its role in helping to bring business agreements to signing; and cannot quantify the value of its role in breaking down barriers for U.S. companies or in helping U.S. companies build a foundation for future business that may have developed after the missions.

#### Recommendations and Management Comments

Section VI of the report summarizes our recommendations for improving the Department's internal controls over the planning and execution of the Secretary's foreign travel. We discuss management's comments throughout the report and have made changes to the report where appropriate. In addition, management comments on our recommendations are presented in the report and are consolidated in Section VI. Section VII of the report discusses management comments that are not specifically addressed elsewhere in the report.

#### **IV. BACKGROUND**

The Secretary participated in 16 foreign trips from June 1993 through December 1995. Table 1 shows the locations and dates of the 16 trips.

**TABLE 1**  
**FOREIGN TRAVEL BY SECRETARY O'LEARY**

	<u>TRIP NUMBER</u>	<u>DATES OF TRIP</u>	<u>COUNTRY</u>
<b><u>1993</u></b>	1	June 1-5	France
	2	Sept 24-Oct 2	Austria Russia
	3	Oct 22-26	England
	4	Dec 12-17	Russia
<b><u>1994</u></b>	5	Feb 5-8	Ivory Coast
	6	July 7-15	India
	7	Aug 31-Sept 5	Belgium
	8	Sept 16-25	Austria Pakistan
	9	Dec 12-19	Russia Sweden
<b><u>1995</u></b>	10	Feb 9-25	India Hong Kong China
	11	May 17-27	France Azerbaijan Italy
	12	June 7-11	Costa Rica
	13	June 26-July 1	Russia
	14	August 18-28	South Africa
	15	Sept 13-20	Czech Republic Austria
	16	Nov 29-Dec 7	South Africa

A November 7, 1994, Office of Inspector General audit report found that controls over the acquisition and financing of international air services needed strengthening. Specifically, the audit suggested that the Department:

- (1) prepare formal procedures for the acquisition of international air services;
- (2) implement the full cost recovery policy for non-Federal passengers as provided for in Title 10, Code of Federal Regulations (C.F.R.) Part 1009;
- (3) establish a procedure which ensures that the Department collects passenger air fares before the trip occurs; and,
- (4) establish accounts receivables for non-Federal passengers on the India and Pakistan flights and aggressively pursue collection of air fare costs from those passengers.

Department officials agreed with the audit's findings but advised us that they would not be able to implement corrective actions before the scheduled February 1995 trip to China. The Inspector General then wrote a December 20, 1994, memorandum to the then Deputy Secretary recommending that the Department's processes for international travel be addressed before any additional trips were contemplated.

In an April 9, 1996, memorandum to the Department's Deputy Chief of Staff, the Inspector General provided comments on the Department's implementation of the audit report suggestions. Regarding Suggestion 1, the Inspector General stated that formal procedures had not been implemented, but that he understood draft interim procedures were to be circulated throughout the Department for comment. Regarding Suggestion 2, the Inspector General stated that the Department had adopted an informal full cost recovery policy for non-Federal passengers but needed to clarify "what exactly is full cost recovery." Regarding Suggestion 3, the Inspector General stated that we did not believe that the procedure implemented by the Department to collect passenger air fares before a trip occurred would ensure that all collections would be made. Regarding Suggestion 4, the Inspector General stated that accounts receivable were established for non-Federal passengers participating in the India and Pakistan trips, however, the Department had not aggressively pursued collection from those passengers.

Management Comments. In response to the April 9, 1996, memorandum from the Inspector General, management stated that the Deputy Chief of Staff provided three memorandums to the Inspector General which provided further information on the Department's implementation of the audit report suggestions.

On April 15, 1996, the Department issued DOE Notice 551.1, "International Travel," "for simultaneous use and coordination." A memorandum issuing the Notice stated that DOE Notice 551.1 was developed to address the need for new international travel

policies and procedures and included key issues to improve advance planning, cost control, aircraft acquisition, acquisition of goods and services through U.S. embassies, recoupment of costs from private sector participants, and accountability.

In 1995, Congressional and media interest raised concerns about the extent and costs of the Secretarial foreign trips. The United States General Accounting Office (GAO) was asked to review expenditures for selected foreign trips. The GAO subsequently reviewed the India and South Africa trade missions and published their findings in a December 28, 1995, report.

## **V. INSPECTION RESULTS**

### **A. Authority and Planning**

#### **1. Introduction**

Table 2 identifies the purpose of each of the 16 trips. This section of the report will discuss in more detail the four trade missions led by Secretary O'Leary; specifically, (1) the legal authority for DOE's trade missions; (2) DOE's trade promotion strategy; (3) why DOE conducted trade missions to India, Pakistan, China, and South Africa; and (4) generally how the trade missions were planned.

#### **2. Legal Authority for the Trade Missions**

DOE's Office of General Counsel has cited two statutes that delineate the Secretary of Energy's authority to conduct trade promotion activities. The first statute, the Energy Policy Act of 1992 (Public Law 102-486), became law on October 24, 1992. The second statute, the Export Enhancement Act of 1992 (Public Law 102-429), became law on October 21, 1992.

The Office of General Counsel concluded in a memorandum dated December 13, 1995, and provided by the General Counsel to the Chairman, Subcommittee on Oversight and Investigations, House Committee on Commerce, on January 23, 1996, that the Secretary of Energy's export promotion responsibilities described in the Export Enhancement Act of 1992 and the Energy Policy Act of 1992 complement the foreign and defense policy responsibilities identified in the Department of Energy Organization Act, 42 U.S.C. 7101 *et seq.* Those responsibilities included national security functions under the Atomic Energy Act, 42 U.S.C. 2011 *et seq.*, and authorities under the Energy Policy and Conservation Act, 42 U.S.C. 6271-6275.

#### **Energy Policy Act of 1992**

The Energy Policy Act of 1992 states that the Secretary of Energy shall consult with government officials in host countries and, as appropriate, with representatives of utilities or other entities in host countries, to determine interest in and support for potential projects. Section 1607 of the Energy Policy Act of 1992 (the Act) requires the Secretary of Energy to develop policies and programs to encourage the export and promotion of domestic energy resource technologies, including renewable energy, energy efficiency, and clean coal technologies to developing countries. The Act also requires the Secretary to establish an innovative renewable energy technology transfer program and an innovative clean coal technology transfer program. The purposes of the technology transfer programs are to:

**TABLE 2**  
**PURPOSES OF SECRETARY O'LEARY'S FOREIGN TRIPS**

<u>TRIP NUMBER</u>	<u>DATES OF TRIP</u>	<u>COUNTRY</u>	<u>PURPOSE</u>
<u>1993</u>			
1	June 1-5	France	International Energy Agency Ministerial Meeting
2	Sept 24-Oct 2	Austria Russia	International Atomic Energy Agency General Conference Gore-Chernomyrdin Commission on Energy and Space Energy Policy Committee
3	Oct 22-26	England	Keynote address to the "Oil & Money" Conference
4	Dec 12-17	Russia	Gore-Chernomyrdin Commission on Energy and Space
<u>1994</u>			
5	Feb 5-8	Ivory Coast	Head of the Presidential Delegation for the Funeral of President Houphouet-Boigny
6	July 7-15	India	Presidential Mission on Sustainable Energy and Trade
7	Aug 31-Sept 5	Belgium	50th Anniversary of the Liberation of Belgium
8	Sept 16-25	Austria Pakistan	International Atomic Energy Agency General Conference Presidential Mission on Energy Investment
9	Dec 12-19	Russia Sweden	Gore-Chernomyrdin Commission on Energy and Space Tour of Swedish Nuclear Waste Facility
<u>1995</u>			
10	Feb 9-25	India Hong Kong China	Return Journey to India Prelude to Presidential Mission to China Presidential Mission on Sustainable Energy and Trade
11	May 17-27	France Azerbaijan Italy	International Energy Agency Ministerial Meeting Principal Speaker at International Caspian Oil & Gas Exhibition Keynote Speaker at the 1995 World Geothermal Congress
12	June 7-11	Costa Rica	Joint Implementation Workshop/Signature of Agreement
13	June 26-July 1	Russia	Gore-Chernomyrdin Commission on Energy and Space
14	August 18-28	South Africa	Clinton Administration Delegation on Sustainable Energy and Empowerment to South Africa
15	Sept 13-20	Czech Republic Austria	U.S. Country Studies Workshop; Center for Clean Air Policy Joint Implementation Project International Atomic Energy Agency General Conference
16	Nov 29-Dec 7	South Africa	Gore-Mbeki Binational Commission

- reduce the United States balance of trade deficit through the export of United States energy technologies and technological expertise;
- encourage the export of United States technologies to those countries that have a need for developmentally sound facilities to provide energy derived from renewable and coal resources;
- ensure the introduction of United States firms and expertise in foreign countries;
- better ensure that United States participation in energy-related projects in foreign countries includes participation by United States firms; and
- assist United States firms, especially firms that are in competition with firms in foreign countries, to obtain opportunities to transfer technologies to, or undertake projects in, foreign countries.

#### Export Enhancement Act of 1992

In a December 4, 1995, letter to an Assistant General Counsel, United States General Accounting Office, DOE's Deputy General Counsel referred to the Export Enhancement Act of 1992 and said: "The statutory mission that was enacted here includes 'delivery of services to United States businesses, including \* \* \* representation of United States business interests abroad.' "

Title II of the Export Enhancement Act of 1992 directed the President to establish the Trade Promotion Coordinating Committee. On September 30, 1993, President Clinton signed Executive Order 12870 establishing the Committee. The purpose of the Trade Promotion Coordinating Committee is "to provide a unifying framework to coordinate the export promotion and export financing activities of the United States Government; and to develop a Government-wide strategic plan for carrying out Federal export promotion and export financing programs."

The Trade Promotion Coordinating Committee (TPCC), chaired by the Secretary of Commerce, coordinates the development of trade promotion policies and programs of the United States Government. The TPCC, in addition to other responsibilities, coordinates official trade promotion efforts to ensure better delivery of services to United States businesses and represents United States business interests abroad.

The TPCC consists of members from 19 Federal departments and agencies, which include the Departments of State, Defense, Treasury, Agriculture, Transportation, as well as the Department of Energy. Under the auspices of the TPCC, the Department of Energy chairs two working groups comprised of representatives from 14 Federal departments and agencies that work with trade associations comprised mainly of small

to medium sized energy companies. These working groups, the Committee on Renewable Energy Commerce and Trade, and the Committee on Energy Efficiency Commerce and Trade, promote the exports of renewable energy technologies and energy efficiency products and services.

### 3. DOE's Trade Promotion Strategy

In a September 11, 1995, letter to the then Deputy Chief of Staff, the then Acting Assistant Secretary for Policy outlined the four elements of DOE's trade promotion strategy:

First, Presidential missions by the Secretary of Energy to the Big Emerging Markets (BEMs) as well as to other countries;

Second, providing political support for U.S. companies by written and personal intervention with foreign leaders;

Third, providing ongoing and longer term support for U.S. industry to break into or expand in foreign markets; and

Fourth, actively promoting policy reforms by foreign governments in such fields as regulation, accelerated project approvals, open procurement, and finance.

The Acting Assistant Secretary for Policy stated that DOE's trade promotion efforts were to support U.S. energy, environmental, and related technology exports, and to support U.S. energy companies' export and international investment objectives. The Acting Assistant Secretary for Policy's September 11, 1995, letter was dated two weeks after the last trade mission was completed in South Africa.

### 4. DOE Trade Missions

Secretary O'Leary led four trade missions. These trade missions were to India on July 7-15, 1994; to Pakistan, including an earlier stop in Austria, on September 16-25, 1994; to China, including earlier stops in India and Hong Kong, on February 9-25, 1995; and to South Africa on August 18-28, 1995.

Secretary O'Leary told us it was clear that she would lead a trade mission to China based on two events that occurred in 1993. Both events occurred as a result of a two-week mission in June 1993 organized and sponsored by the Departments of Energy and Commerce, and led by the then DOE Acting Assistant Secretary for Fossil Energy, to promote use of U.S. electric power technologies and services in China's electric power development program. Twenty-four firms in the U.S. electric power and fossil fuel industry were included in the 12-day mission to Beijing, Shanghai, and Guangzhou, China. The mission met with 500-Chinese electric power officials.

The first event cited by Secretary O'Leary was a meeting with the then Acting Assistant Secretary for Fossil Energy upon his return from China. Secretary O'Leary stated that the Acting Assistant Secretary urged her to lead a trade mission to China. The Secretary said it was clear after her meeting with the Acting Assistant Secretary that she would lead a delegation to China.

The second event was a meeting held with industry representatives who had participated in the June 1993 mission to China. On August 6, 1993, 21 representatives sent a report addressed to Secretary O'Leary with a courtesy copy to the then Secretary of Commerce. The report cited an urgent need for (1) changes in U.S. policies affecting commercial relationships with China, and (2) formation of a U.S. Government/industry partnership to promote electric power industry trade with China. On August 9, 1993, industry representatives on the mission presented their report to the Secretaries of Energy and Commerce and other senior U.S. Government officials. Secretary O'Leary stated that as a result of this meeting and the report provided by the industry representatives, she realized there had to be a coordinated strategy in DOE to export energy technology. She also said she realized there was no U.S. Government strategic plan for exporting energy technology to foreign markets.

At the August 9, 1993, meeting with the industry representatives, it was agreed that a Department of Energy/Department of Commerce-led working group would act on the issues and reconvene a meeting within a month to present their findings. The working group presented their findings to industry representatives on September 20, 1993. One of the findings presented was to plan several missions to China.

It was after these two events, according to Secretary O'Leary, that DOE began an orderly process to take a "slow track" to plan for a trade mission to China.

#### Presidential Mission on Sustainable Energy and Trade to India

While DOE was planning a trade mission to China, Prime Minister Rao of India conducted a State Visit to the U.S. During the May 19, 1994, State Visit, President Clinton committed that Secretary O'Leary would visit India. During a news conference with Prime Minister Rao, the President said he had asked Secretary O'Leary "to visit India in July to further our talks on renewable energy." An invitation to Secretary O'Leary had previously come from India's Minister of Power, Mr. Narendra Salve, on May 4, 1994. Mr. Salve wrote that a: "number of steps have been initiated by the Government of India which include . . . distribution facilities in . . . the country . . . . A large number of US based firms have evidenced interest in participating in the development of . . . the Indian power industry. Such mutually beneficial cooperation between our countries could facilitate direct investment . . ." Mr. Salve also wrote: "I extend to you . . . a personal invitation to visit India and to witness for yourself the dramatic changes that are occurring in the Indian power industry."

Secretary O'Leary said DOE then began planning trade missions to both China and India. She said she soon realized that the Department could not do two trade missions at the same time so it was decided to focus on India alone.

On July 5, 1994, President Clinton signed a letter to the trade mission delegates welcoming them as members of the "Presidential Mission on Sustainable Energy and Trade to India." The President wrote that: "On May 19, 1994, Prime Minister Rao and I set a new course in Indo/U.S. relations, one guided by the shared vision of stronger economic and commercial cooperation. Your mission marks the first major milestone toward realizing that vision, and it represents a significant part of our efforts to promote sustainable development and free trade throughout all of Asia."

#### Presidential Mission on Energy Investment in Pakistan

The Special Assistant (Economic Sector) to Prime Minister Bhutto sent a formal invitation to Secretary O'Leary on June 19, 1994. The letter made reference to a June 10, 1994, invitation for Secretary O'Leary to visit Pakistan from Secretary Salman Faruqui, Pakistan Ministry of Water and Power, on behalf of Prime Minister Bhutto. The June 19, 1994, letter stated that the "Government of Pakistan has undertaken significant measures to accelerate the development of the energy sector . . . . This has led to the emergence of new investment opportunities for foreign investment in power generation. You will be pleased to learn that out of the first four power projects being undertaken in the private sector four of them are sponsored by the US based firms." The U. S. Ambassador to Pakistan wrote Secretary O'Leary on June 9, 1994, encouraging her to visit Pakistan and to bring U.S. companies along with her.

In a message from President Clinton signed on September 17, 1994, introducing the members of the "Presidential Mission on Energy Investment in Pakistan," the President wrote that: "The United States highly values our rich history of friendship with the people of Pakistan. I hope that this mission will strengthen our mutual ties and advance free trade, sustainable development and private investment in South Asia."

#### Presidential Mission on Sustainable Energy and Trade to China

As mentioned earlier, Secretary O'Leary was planning to lead a trade mission to China. On November 24, 1993, the Acting Assistant Secretary for Fossil Energy reported in a memorandum to the Secretary that he had traveled to Beijing to represent her at the China/U.S. Energy Conference on November 15-17, 1993. In the memorandum, the Acting Assistant Secretary said that he had met with Vice Premier Zhao Jian Hua, ". . . a powerful man with broad policy oversight responsibilities including China's energy policies and programs. He was very positive about the interest of China to expand imports of U.S. energy technology." The Acting Assistant Secretary also said that the Chinese were anxious for her to visit China and that the U.S. Embassy was assessing the best time for her visit. He concluded by stating: "China is anxious to purchase more U.S. energy equipment. In my opinion, they are waiting for positive signals from

senior Clinton Administration officials before they open the floodgates (as they did for Helmut (sic) Kohl when he visited China this week)." The Secretary annotated the Acting Assistant Secretary's memorandum by stating that: "we need to take immediate action on trip to China . . . ."

On April 13, 1994, the Chairman of the State Science and Technology Commission invited the Secretary to attend a July 1994 Round Table Conference on China's Agenda 21 from July 7-9, 1994.

The Secretary also received a December 13, 1994, invitation from the President of the United States-China Business Council to address the Council's first In-Country Annual Meeting, "China Operations '95," on February 24, 1995.

On February 6, 1995, President Clinton signed a letter to each delegate welcoming them as members of the "Presidential Mission to China on Sustainable Energy and Trade." The President wrote that: "Your mission will help to strengthen ties between our two nations, advance sustainable development, and promote U.S. investment in China."

#### Clinton Administration Delegation on Sustainable Energy and Empowerment to South Africa

We were told by DOE officials that in an October 1994 State Visit to the United States, President Mandela asked Secretary O'Leary to visit South Africa. President Mandela's visit culminated in establishment of the U.S.-South Africa Binational Commission headed by Vice President Gore and Deputy President Mbeki. Secretary O'Leary serves as a member of this Commission. A record of President Clinton's October 5, 1994, News Conference with President Mandela includes a statement by President Clinton that the United States would send people to South Africa to help it address many of its challenges.

A February 17, 1995, letter from Minister R. F. Botha, Minister of Mineral and Energy Affairs, to Ambassador P. N. Lyman, U.S. Ambassador to South Africa, provided information on possible "areas of cooperation with the USA" regarding Secretary O'Leary's visit to South Africa. One area cited was: "Support towards the development of energy management consulting activities, including partnerships or collaborative agreements with USA companies."

On August 15, 1995, President Clinton signed a letter to each delegate welcoming them as members of the "Mission on Sustainable Energy and Trade Development to the Republic of South Africa." The President wrote: "Your work will strengthen our ties with South Africa, promote private investment, assist in building capacity, and facilitate economic growth and efforts to protect the environment."

Management Comments. Management stated that host country Ambassadors located in Washington, D.C., directly extended invitations from their governments and provided assistance to prepare DOE for the respective trade missions. Specifically:

- India's Ambassador Ray personally visited Secretary O'Leary to reiterate the invitation from the Prime Minister and to inform her that Minister Salve would be her official host.
- Pakistan's Ambassador Lohdi visited Secretary O'Leary to convey the Prime Minister's invitation personally.
- Vice Premier Zou Jiahua of the People's Republic of China first invited the Secretary to China during a visit to the Department, and Chinese Ambassador Li confirmed the invitation on behalf of the official host, Chen Jihua, Chairman of the State Planning Commission.

Secretary O'Leary's Reasons for Leading These Trade Missions

In an "Insight on the News" article in Insight magazine dated March 11, 1996, Secretary O'Leary wrote that the trade missions to India, Pakistan, China, and South Africa helped advance important international economic and policy objectives and served vital U.S. financial and strategic trade needs. The Secretary also wrote that the trade missions encouraged economic, legal, and policy reforms that spurred investment and access by U.S. energy firms.

Secretary O'Leary cited five specific reasons for picking India, Pakistan, China, and South Africa for trade missions:

First, because of the opportunity for U.S. firms;

Second, the trade missions fulfilled congressional intent of the Energy Policy Act of 1992 and the Export Enhancement Act of 1992;

Third, because DOE was asked both by the White House and the highest officials of the host nations to dedicate its expertise to their energy needs;

Fourth, the United States has vital economic, energy, environmental and security interests in each of these nations; and

Fifth, DOE's nuclear and energy policy expertise advances U.S. interests in these countries.

Secretary O'Leary also wrote that India, Pakistan, and South Africa sought the Department's assistance in helping to establish a market-based policy and regulatory structure for what have been government-controlled energy sectors.

## 5. Planning the Trade Missions

We were told by several senior DOE officials that Secretary O'Leary relied on certain key staff members to plan the trade missions. These key staff members included (1) the then Chief of Staff; (2) the then Special Assistant to the Secretary for Policy; (3) the then Director, Office of Scheduling and Logistics; and (4) a Management Assistant from the Office of Policy. The Management Assistant was identified by the Secretary as an "International Trip Coordinator" (Trip Coordinator) in letters sent to trade mission delegates.

We interviewed each of these staff members to determine their respective role in planning for the trade missions. The Chief of Staff said his responsibilities for the trade missions were to make sure that (1) the right private sector people were involved with the trade missions; (2) the issues were clearly identified and covered; and (3) the trade missions communicated what DOE wanted accomplished. The Chief of Staff also said he was responsible for liaison with White House officials in planning for the trade missions. He identified himself, along with the three employees identified in the preceding paragraph, as the employees involved in the "day-to-day" planning for the trade missions. He also said no one individual had responsibility for planning the trade missions. Secretary O'Leary said the Chief of Staff oversaw the planning process but that the planning process was a team effort.

The Special Assistant to the Secretary for Policy (Special Assistant for Policy) said he had the "substantive lead" for the trade missions. He said substantive outcomes drove the trade missions in terms of who was taken on the trade missions, scheduling, and what was to be accomplished. The Chief of Staff and the Director, Office of Scheduling and Logistics, characterized the Special Assistant for Policy as being "overall in charge" of the trade missions on a daily basis. The Special Assistant for Policy said this was a "fair assessment." He also said he chaired trip planning team meetings for the trade missions.

The Director, Office of Scheduling and Logistics, said no one person was responsible for planning the trade missions. She said the Chief of Staff was responsible for the policy portion of the trade missions, the Special Assistant for Policy was the day-to-day coordinator, and the Trip Coordinator was responsible for arranging participation by businesses. The Director, Office of Scheduling and Logistics, said she was responsible for arranging the Secretary's schedule and ensuring that the Secretary's requirements were included on the schedule. She also said the Secretary was a "hands-on" Secretary and that she and the Chief of Staff would go to the Secretary if a decision was needed from the Secretary concerning a trade mission.

The Trip Coordinator said for the trade mission to India she was assigned to arrange the business delegation's transportation and schedule. She also said she was in charge of assisting the Special Assistant for Policy with day-to-day planning for the

subsequent trade missions to Pakistan, China, and South Africa. She also said she was "the only DOE employee who was assigned full-time on a day-to-day basis" to plan for the trade missions to Pakistan, China, and South Africa. She said she had no prior experience in this type of work, learned on the job, and had no procedures to follow for her duties.

Management Comments. Management stated that the role of Trip Coordinator did not exist for the India mission; that the Chief of Staff did not attend the India mission; and that the Special Assistant did not attend the South Africa mission.

Inspector Comments. We acknowledge that the role of Trip Coordinator did not exist for the India trade mission even though she was involved in preparing for the trip. It should also be noted that the Chief of Staff was involved in the planning for the India trade mission and the Special Assistant was involved in the planning for the South Africa trade mission even though neither individual attended the respective trade mission.

#### Trade Mission Trip Planning Teams

For each trade mission, DOE established a trip team of 30 to 40 people to plan and discuss trip details. We were told by the Trip Coordinator that these teams would meet once or twice a week for 1/2 hour to two hours to discuss the logistical and substantive plans for the respective trade mission. The Trip Coordinator also said she and the Special Assistant for Policy gave assignments to the trip planning team members. The trip planning teams were also responsible for developing a proposed list of non-Federal participants from industry and non-governmental organizations to be included on the trade missions. A more detailed discussion of the process used in making these selections is described in Section B-3, "Selection of Non-Federal Participants."

The trip planning teams for the four trade missions were mainly comprised of DOE employees from various program offices and employees involved in arranging the logistical portion of the trade missions. Several DOE officials told us that the Special Assistant for Policy led the meetings for each of the planning groups established for the four trade missions. The Trip Coordinator said that attendance at the planning meetings was not mandatory and that team members might not attend some meetings.

The trip planning groups did not have a formal title but were referred to as "trip teams." In a letter dated March 29, 1996, to the Chairman, Subcommittee on Oversight and Investigations, House Committee on Commerce, DOE's General Counsel wrote that the "International Coordinating Committee" was a name coined during the trade missions for a group otherwise known as the trip team. He also wrote that there was no formal date when the "International Coordinating Committee" was established.

We were provided documents by the Trip Coordinator that listed the members of the trip planning teams for the four trade missions. The organization and composition of the

trip planning teams varied for each trade mission. For the trade mission to India, the trip planning team was comprised of a "Chairperson," "Coordinators," "DOE members," "Non-DOE USG (United States Government) members," and "Stakeholders." The document shows the names of the individuals assigned but does not identify any responsibilities of the individuals. Under the "Chairperson" heading, two DOE employees were listed: the Special Assistant to the Secretary for Policy, and the Assistant Secretary for Policy. Under the "Coordinators" heading, two DOE employees were listed: an employee in the Office of International Energy Relations, Office of Assistant Secretary for Policy; and a Special Assistant in the Office of the Secretary.

Based on documents provided by the Trip Coordinator, the trip planning team for the trade mission to Pakistan consisted of a "Management Team," a "Logistics Group," and a "Substance Group." The "Management Team" included five DOE employees: the Special Assistant to the Secretary for Policy; the Director, Office of Scheduling and Logistics; the Director, Office of International Energy Relations, who was identified as the "Substance Lead;" an employee in the Office of Administrative Services, who was identified as the "Logistics Lead;" and the Trip Coordinator assigned to assist the Special Assistant to the Secretary for Policy. The Trip Coordinator is identified as the "Glue." Individuals listed under the heading "Logistics Group," are listed under their respective DOE office heading. Ten employees listed under the "Logistics Group" had logistics functions such as administration, budget, security, or communications identified after their name. Four individuals did not have a logistics function associated with their name.

For the trade mission to China, the document identifying the trip planning team contained two pages. The first page lists 11 DOE employees without a general heading and identifies their respective organization affiliation, phone number, and facsimile number. The second page lists 31 DOE employees under the heading "SUBSTANCE/POLICY" and also includes their organization affiliation, phone number, and facsimile number. There was no breakout of responsibilities.

For the trade mission to South Africa, the trip planning team consisted of a "Management Team," a "Logistics Group," and a "Substance Group." The "Management Team" included nine DOE employees and identified the same two individuals, as shown above on the Pakistan trip planning team, as being assigned as the "Logistics Lead" and the "Glue." Under the "Logistics Group" were listed six DOE offices, but no DOE employee names were identified. Under the "Substance Group" were listed 12 DOE offices. At least one DOE employee's name was identified under each office heading.

Management Comments. Management stated that each trade mission trip "had a team that included a lead staff member for administration, a lead on communications, a lead on security and a lead on advance. We have provided organization charts to this effect."

Inspector Comments. We had been provided one organization chart which was for the China trade mission trip. It was a block and line diagram identifying 10 names who comprised the "Management Team," with four blocks shown under the Management Team. These four blocks were: Logistics, Advance Team, Business Liaison, and Substance/Policy. One name was listed in each of the four blocks. We contacted a DOE official to determine if this chart was the "organization charts" cited in DOE's comments. The DOE official subsequently provided us a chart for the Pakistan trade mission trip, which was entitled "Draft-Trip Team Structure." The chart identified a central block entitled "Team Leader," with lines leading from this block to other blocks that were entitled: Advance, Business Liaison, Logistics, Security, Communications, Administration, and Substance. No names were included on the chart.

#### POD Establishment, Organization, and Activities

One aspect of trade mission planning was the pre-trip planning for trade mission subgroups called "PODs." PODs were organized into energy sector subgroups with individual delegates assigned to subgroups to develop common outcomes, common themes, and common issues for the mission. For example, trade mission participants whose area of expertise was in, or whose companies did business in, the financial area would typically be assigned to the "Finance POD." The PODs for each of the four trade missions were as follows:

- India: Independent Power, Renewable Technology, Energy Efficiency and Planning, Project Finance and Trade Development, Environmental Issues, and Clean Coal and Technology Deployment.
- Pakistan: Finance, Electric Generation, Transmission and Distribution, Renewable Resources, Energy Efficiency and Demand Side Management, Oil and Gas, and Coal.
- China: Finance, Environment, Clean Coal, Oil and Gas, Renewable Energy, Electric Power, and Energy Efficiency.
- South Africa: Electricity, Oil and Gas, Renewables, Efficiency, Research and Development, and Finance.

PODs were placed under the leadership of senior DOE technical experts. POD membership typically included the leader, and between five and eight representatives from Government agencies and private businesses. We were told PODs worked together toward common outcomes under the guidance of their leader. We were also told this work began prior to departure of the trade mission, at which time PODs were tasked to identify goals to be accomplished during the in-country portion of the trip. These goals were recorded in a chart referred to as a "Matrix" within the Department.

As an example of POD goals, on the first trade mission to India, the Renewable Technology POD matrix contained three goals: (1) "Increase the role of renewables in India's sustainable energy plan," (2) "Reduce the risks of doing business in India," and (3) "Begin the Partnership." Anticipated benefits of accomplishing these goals were identified on the matrix as were key events leading up to accomplishment of the goals. For the first goal, an example of one of the key events listed was "Sign the Renewable Energy Agreement." For the second goal, an example of one key event was "Reduce tariffs on renewable energy equipment." For the third goal, the key event was to "Announce 8 U.S. Indian joint ventures."

POD goals were developed and other POD business discussed during conference calls between the various POD representatives, which took place prior to the trade missions' departures. In some cases, POD meetings were conducted in Washington, D.C., in advance of the trade missions. However, we were told that problems with conducting all necessary POD business prior to trade mission departure were that: (1) conference calls and meetings held before a trade mission were not always well attended; and (2) companies would send their Washington, D.C., representatives to the POD meetings rather than the principal who was traveling on the trade missions.

Prior to departure, PODs were met at the airport by the Secretary and her staff. (For the trade mission to China, the Secretary met the PODs in Shanghai.) At the airport, the PODs would receive a counterintelligence briefing, discuss itineraries, and receive a delegation pin from the Secretary. We were told by the Secretary that key reasons she wanted POD members to accompany her on the aircraft were because itineraries were always changing, PODs were focusing on four or five POD-specific policy issues during in-flight POD discussion meetings, and POD members could discuss who would be the POD spokesperson and decide on what message to convey during in-country presentations.

We were told, that for the first trade mission, several business representatives were assigned to several different PODs, which made simultaneous participation of in-flight POD meetings on-board the delegation's aircraft difficult. For the China mission, DOE provided an agenda to guide in-flight POD discussions. According to this agenda, in-flight POD work assignments included an hour-long delegation meeting in which DOE representatives described the overall trip purpose, trip schedule, "POD" approach, and availability of materials to POD members. During an approximate nine-hour segment of the flight from Anchorage, Alaska, to Shanghai, China, POD members were tasked, based on the agenda, to "Try to accomplish" 10 items, as shown in Exhibit 1, which reproduces the agenda.

POD WORK ASSIGNMENTS ON THE PLANE

---

Washington Terminal: Brief Welcome and Introductions

Washington to San Francisco (about 6 hours):  
SLEEP!!!

San Francisco layover (about 2 hours):  
relax/get acquainted

San Francisco to Anchorage (about 5 hours):  
SLEEP SOME MORE (if you want to)!!!  
or read materials/work/watch movies/etc.

Anchorage layover (about 2 hours):  
relax, then:  
one-hour Delegation meeting, at which we'll  
describe overall trip purpose, trip choreography,  
"POD" approach, availability of materials

Anchorage to Shanghai (about 9 hours):  
POD meetings (you'll be sitting near each other on  
the plane). Try to accomplish the following (but  
remember there'll be time in Shanghai on Sunday  
for Pod meetings to finish whatever you don't get  
done on the plane):

- get acquainted with each other's relevant  
experience in energy/environmental projects and  
markets in the U.S. and China
- familiarize yourselves with the itinerary/agenda,  
recognizing that there'll be changes once we arrive  
in China and almost on a daily basis thereafter
- review the meeting and background papers in your  
briefing book, keeping an eye towards whether you  
think they appropriately identify the issues,  
opportunities, barriers
- discuss your goals and desired outcomes for the  
trip, and even attempt to come up with a common set  
of goals for your Pod

- identify your Pod's key shared "messages" or themes, which you'll all have in mind when asked (inevitably and repeatedly) about your Pod's goals, outcomes, etc.
- decide as individuals whether you think you really belong in some other Pod (we're happy to accommodate changes, since we want you in the right group from your point of view as well as ours)
- begin to think about selection of your Pod's spokesperson, who'll be called upon to do various jobs, including speaking for the group when one voice is needed at a particular meeting, rounding you up from time to time during the trip to discuss issues, and so forth. Remember that some of your Pod members may be meeting up with us in China, so you might want to hold off selecting your Pod rep until you've got the entire group together in Shanghai.
- identify your members' collective and individual preferences about participating in specific bilateral meetings with the Secretary and the Chinese -- note that in many instances we won't know which Delegation members will be attending which bilateral meetings with the Secretary until we arrive in country, although many events (hosted lunches and receptions, summits, roundtables) are for the entire Delegation to attend.
- create (if you'd like) a list of additional meetings or activities your Pod would like to do if we end up with blocks of time on the schedule when your Pod is not joining the Secretary for a particular meeting. (We'll give these ideas to your Pod's contact person on the advance team when we arrive in China; if you have other ideas later on, we'll try to accommodate as much as we can later).
- FINANCE POD: decide how you'll allocate your members to also participate in the other pods, for the purposes of the Wednesday Beijing Summit break-out sessions and for other bilateral meetings as well.

Once in country, the Secretary said she held daily morning meetings with the PODs to discuss the day's upcoming schedule. Other in-country POD activities included signings, breakout sessions, site visits, and bilateral meetings with host country officials.

We were told by DOE officials that PODs working together in-country toward common outcomes resulted in nonmonetary trade mission benefits. For example, during the Pakistan mission, each POD made policy recommendations to the Government of Pakistan on how to improve the climate for U.S.-Pakistan cooperation in their specific areas. These recommendations were presented at a closing plenary session that served as a basis for a presentation to Pakistan President Farooq Leghari in Islamabad. The nonmonetary outcomes of the four trade missions are discussed in greater detail in Section F, "Trade Mission Outcomes," of this report. The Secretary told us the effectiveness of the PODs is evidenced by the fact that some POD teams "still have a relationship and their work is continuing."

#### Preadvance and Advance Planning

For the trade missions to Pakistan, China, and South Africa, DOE sent a preadvance team to the host countries to perform substantive and administrative work with U. S. Embassy and host country officials in advance of the trade missions. For the trade mission to Pakistan, two DOE employees were in Pakistan before the main body arrived. Six individuals were on the preadvance team to China, and eight were on the preadvance team to South Africa. We were told by DOE officials that the preadvance teams were in daily contact by telephone and facsimile machine with DOE trip planners in Washington, D.C. Their responsibilities were to help set the final agenda with the U.S. Embassy and the host country and physically inspect the hotels, meeting sites, and other locations that the main body of the trade mission would be visiting.

In addition to the preadvance teams, DOE also sent advance teams to India, Pakistan, China, and South Africa. The advance teams would travel to the host country generally about a week in advance of the main body. Advance teams were responsible for security, communication, administration, press, graphics, and substance arrangements in preparation of the main body. We determined that 25 individuals were advanced to India, 35 to Pakistan, 56 to China, and 30 to South Africa.

#### Size of the Trade Missions

The "Official Delegation" for the trade missions included designated DOE employees and those individuals listed as "Business Delegates." The Business Delegation included individuals from U.S. businesses, non-governmental organizations, other Federal agencies, and DOE management and operating contractors. The trade missions also included advance teams to support the Official Delegation. In addition, other businesses that were not part of the Business Delegation could attend certain in-

country functions such as energy summit meetings open to the general public; business signing ceremonies; and press conferences. Section B, "Trip Participants," of this report identifies the size of each of the Secretary's international trips, including the trade missions, and discusses how we determined the number of trip participants.

The Chief of Staff said the size of the trade missions was dependent on the "major substantive issues" being discussed on the trade missions. He said support people were needed to "move 100 people around" to all the separate events. He also said that for each of the trade missions he "cut back the size of the security detail." The Chief of Staff said they "took too many business folks" on the trade missions and that "Secretary O'Leary just did not want to say no" to anyone.

The Special Assistant to the Secretary for Policy said DOE's trade missions, unlike Department of Commerce trade missions, were "deep into policy." He said specific recommendations were provided to each of the host countries to improve their energy business environment through identification of policy, legislative and regulatory barriers, and this process required additional staff.

Regarding the size of delegations, the Director, Office of Scheduling and Logistics said "we wanted as many people as we could." She also said that the processes of determining the number of delegates, and which aircraft to procure, were occurring simultaneously.

Management Comments. Management stated that the Director's use of the term "people" meant business delegates, not Federal employees or any other participants on the trips.

The Trip Coordinator said that after the trade mission to India, DOE officials knew they wanted approximately 50 to 60 business delegates on the Government-chartered aircraft and about 10 to 15 DOE officials on board. She said her obligation was to ensure that the plane was full.

In an "Insight on the News" article in Insight magazine dated March 11, 1996, Secretary O'Leary wrote that the number of staff involved on the trade missions "was related directly to the policy objectives and logistical demands of each mission." For example, she wrote that, in India, working sessions were held with eight senior government officials and the agenda included a two-day energy summit with more than 500 participants; a finance roundtable; a government-to-government roundtable to address recommendations emerging from the energy summit; eight bilateral meetings; a briefing for U.S. business representatives by the U.S. Embassy; five site visits; seven working meals; and two signing events. The Secretary wrote that each of the activities required staff-level policy expertise from the Department. She also wrote that the trade missions could have been completed with fewer Federal workers, but the same accomplishments and level of substantive exchange could not have been achieved if the numbers had been cut significantly.

## Internal Control Procedures

We found that DOE lacked written internal control procedures for planning, coordinating, and executing international trade missions. As a result, the roles and responsibilities of those DOE employees involved in planning and executing the trade missions were not always clearly defined. In addition, no one in DOE was assigned responsibility for all the planning, coordination, and execution of the trade missions. Specifically, we found the process used for the trade missions resulted in a lack of control, primarily in the areas of administrative and logistical support. For example:

- Participation: No one in the department could provide an accurate list of trip participants. None of the available records from DOE could individually identify who actually participated on the Secretary's foreign trade missions. We found inaccuracies on each list. We were unable, therefore, to rely on any one trip participant list and had to develop a composite list by comparing several lists.
- Invitational travel: Procedures for invitational travel were not followed. Procedures for invitational travel require that travel to other than a DOE post of duty be approved in writing by a principal officer. We found travelers who were designated as invitational travelers, but for whom prior written approval and justification had not been prepared by a principal officer of the Department.
- Obtaining embassy support: DOE did not identify a single individual who would be responsible for ordering goods and services. As a result, funds were obligated and costs incurred without adequate internal controls. In addition, DOE is unable to apply all of the costs to the trips based on the documentation provided by the Department of State.
- Full cost recovery: DOE had established draft policy and procedures that would require full cost recovery of air transportation and other common travel costs of the Department's international travel. For the trade mission to India, however, non-Government travelers were charged the coach-fare equivalent for air services provided. The Chief Financial Officer has issued interim policy and procedures, which state that all private sector participants will be required to fund their full share of the trip costs including air and ground transportation, lodging, and administrative and other expense costs.
- Procurement of aircraft: Different procurement processes were used for each of the trade missions for acquiring aircraft charter services. We found travelers were not scheduled for the flight until late in the planning process, and multiple aircraft were booked for a single in-country trip in South Africa.

Each of these areas will be discussed in detail in the remaining sections of the report.

**RECOMMENDATION 1:** We recommend the Secretary assign to a senior official the responsibility for developing and implementing written international travel procedures for planning, coordinating, and executing all facets of international travel.

In a letter dated March 22, 1996, to the Chairman, Subcommittee on Oversight and Investigations, House Committee on Commerce, DOE's Office of General Counsel wrote that the Department began preliminary work on a new travel policy after the India trip and that the first complete draft of the policy was completed in January 1996, and an interim policy issued in March 1996. On April 15, 1996, the Department issued DOE Notice (N) 551.1, "International Travel," "for simultaneous use and coordination." The Office of General Counsel also wrote to the Chairman that the Department hoped to complete and issue the final international travel policy this summer.

**Management Update on Status of Corrective Actions.** Management stated that a redraft of DOE N 551.1, "International Travel," has been finalized and issued July 31, 1996, as DOE Manual (M) 551.1-1, "International Trips," and DOE Policy (P) 551.1, "International Trips." DOE P 551.1 states that all international trips by the Secretary, Deputy Secretary, and Under Secretary (Principal Department Officers) as well as all international trips by others at Department expense costing at least \$50,000 (together covered trips) will require the assignment of a Senior Trip Official who is responsible for all aspects of the trip.

**Inspector Comments.** We consider management's actions to be responsive; therefore, this recommendation may be closed.

## **B. Trip Participants**

### **1. Introduction**

We sought to identify who traveled on the Secretary of Energy's foreign trips via Government-arranged air. We defined Government-arranged air travelers as travelers who flew on the chartered aircraft regardless of whether the Government paid for their seats, and travelers who flew via commercial air paid for by the Government. Identification of the trip participants was necessary in order to (1) determine the total number of trip participants, (2) determine their justification for participation on the trips, and (3) include applicable DOE travel-related costs as part of the cost of each trip.

Table 3 shows the number of Federal and non-Federal participants we identified who traveled as part of, or in support of, the Secretary's foreign travel. Federal participants included DOE and other Federal agency employees. Non-Federal participants included DOE M&O and support services contractor employees, non-Federal invitational travelers, and business and non-profit organization participants who used Government-arranged air. However, we excluded from the non-Federal business participants those business travelers who arrived at a foreign trip destination on their own, without Government-arranged air.

**TABLE 3**  
**NUMBER OF FOREIGN TRAVEL PARTICIPANTS**

<u>TRIP NUMBER</u>	<u>DATES OF TRIP</u>	<u>COUNTRY</u>	<u>PURPOSE</u>	<u>PARTICIPANTS</u>	<u>FEDS</u>	<u>NON-FEDS</u>
<u>1993</u>						
1	June 1-5	France	International Energy Agency Ministerial Meeting	8	0	
2	Sept 24-Oct 2	Austria Russia	International Atomic Energy Agency General Conference Gore-Chernomyrdin Commission on Energy and Space Energy Policy Committee	35	0	
3	Oct 22-26	England	Keynote address to the "Oil & Money" Conference	13	0	
4	Dec 12-17	Russia	Gore-Chernomyrdin Commission on Energy and Space **	6	0	
<u>1994</u>						
5	Feb 5-8	Ivory Coast	Head of the Presidential Delegation for the Funeral of President Houphouet-Boigny **	7	0	
6	July 7-15	India	Presidential Mission on Sustainable Energy and Trade	42	38	
7	Aug 31-Sept 5	Belgium	50th Anniversary of the Liberation of Belgium	6	0	
8	Sept 16-25	Austria Pakistan	International Atomic Energy Agency General Conference Presidential Mission on Energy Investment	65	47	
9	Dec 12-19	Russia Sweden	Gore-Chernomyrdin Commission on Energy and Space ** Tour of Swedish Nuclear Waste Facility	19	0	
<u>1995</u>						
10	Feb 9-25	India Hong Kong China	Return Journey to India Prelude to Presidential Mission to China Presidential Mission on Sustainable Energy and Trade	85	53	
11	May 17-27	France Azerbaijan Italy	International Energy Agency Ministerial Meeting Principal Speaker at International Caspian Oil & Gas Exhibition ** Keynote Speaker at the 1995 World Geothermal Conference	30	2	
12	June 7-11	Costa Rica	Joint Implementation Workshop/Signature of Agreement	14	1	
13	June 26-July 1	Russia	Gore-Chernomyrdin Commission on Energy and Space	14	0	
14	August 18-28	South Africa	Clinton Administration Delegation on Sustainable Energy and Empowerment to South Africa	64	50	
15	Sept 13-20	Czech Rep. Austria	U.S. Country Studies Workshop; Center for Clean Air Policy Joint Implementation Project International Atomic Energy Agency General Conference	25	8	
16	Nov 29-Dec 7	South Africa	Gore-Mbeki Binational Commission **	12	8	

\*Includes all Federal (Feds) and non-Federal (Non-Feds) individuals identified as using Government-arranged air.  
 For those trips with multiple destinations, the numbers reflect individuals that were at any of the trip destinations.

\*\*Some air transportation paid for by another Government agency.

Our review focused on the four trade mission trips, which were to India, Austria/Pakistan, India/Hong Kong/China, and South Africa. The total number of participants using Government-arranged air for each of the four trade missions is displayed in Table 4.

A comparison of business participants who paid for transportation with the participants for whom the Government paid is shown in Table 5. The number of participants used in making this comparison is different from the number of participants in the other participant tables. This comparison includes not only the business participants who traveled via Government-arranged air, but also business participants listed in the Department's official trip reports who made their own air transportation arrangements. For those business participants who made their own air transportation arrangements, we did not verify to any source other than the trip reports that they actually participated in the trade mission trips.

**TABLE 4**  
**TRADE MISSION**  
**PARTICIPANTS IDENTIFIED BY OIG**

Country Destination	Participants*		
	Feds	Non-Feds	Total
India	42	38	80
Austria/Pakistan	65	47	112**
India/Hong Kong/China	85	53	138***
South Africa	64	50	114

\*Includes all Federal (Feds) employees and non-Federal employees (Non-Feds) identified as using Government-arranged air.

\*\*Department commented that 19 participants who went to Austria did not go on to Pakistan on the Trade Mission.

\*\*\*Department commented that 14 participants who went to India did not go on to China on the Trade Mission.

**TABLE 5**  
**TRADE MISSION PARTICIPANTS**  
**WHO PAID FOR TRANSPORTATION**  
**COMPARED TO TOTAL PARTICIPANTS**

Country Destination	Business Participants Who Paid For Transportation*	Participants That Federal Government Paid For	Total Participants**
India	37	52	89
Austria/Pakistan	69	75	144***
India/Hong Kong/China	71	101	172***
South Africa	54	78	132

\*Business participants including those identified in respective trip reports who did not use Government-arranged air.

\*\*Note that the total participants in this chart do not agree with total participants in other participant charts because we included travelers who did not use Government-arranged air.

\*\*\*Department commented that 19 participants who went to Austria did not go on to Pakistan on the Trade Mission and 14 participants who went to India did not go on to China on the Trade Mission.

We identify in Table 6 the mode of travel for the Federal and non-Federal participants who traveled on the four trade mission trips via Government-arranged air. We categorized the modes of travel as chartered flights, scheduled commercial flights, or both. The "both" modes of travel category applies if the participant traveled one-way via chartered air, and one-way via scheduled commercial air.

**TABLE 6**  
**TRADE MISSION PARTICIPANTS**  
**BY MODE OF GOVERNMENT-ARRANGED AIR TRAVEL**

CATEGORIES OF PARTICIPANTS	INDIA			AUSTRIA/ PAKISTAN			INDIA/HONG KONG/CHINA			SOUTH AFRICA		
	Charter	Comm.	Both*	Charter	Comm.	Both*	Charter	Comm.	Both*	Charter	Comm.	Both*
FEDS	16	19	7	21	38	6	15	52	18	20	33	11
OTHER TRAVEL PAID BY DOE**	5	2	2	8	1	1	8	8	-	6	5	3
NON-FEDS	13	-	16	29	1	7	25	-	12	30	-	6
<b>TOTAL***</b>	<b>34</b>	<b>21</b>	<b>25</b>	<b>58</b>	<b>40</b>	<b>14</b>	<b>48</b>	<b>60</b>	<b>30</b>	<b>56</b>	<b>38</b>	<b>20</b>

\*Participants traveled one way by charter air, one way by commercial air.

\*\*Includes M&O contractors, Invitational Travelers, and Support Services contractors and subcontractors.

\*\*\*Department commented that 19 participants who went to Austria did not go on to Pakistan on the trade mission and 14 participants who went to India did not go on to China on the trade mission.

## 2. Identifying Who Participated

In order to identify trip participants, we reviewed passenger lists for chartered flights, the Department's official trip reports, travel authorization listings, travel voucher listings, and other lists prepared by DOE.

### Basis for Inclusion of Participants

Secretarial foreign trip participants included in our tabulation were individuals who traveled by Government-arranged air to one or more foreign destinations of the trip. Participants included business delegates, Federal employees, and management and operating and support services contractor employees. Secretarial foreign trip participants were included in our tabulation if (1) they traveled to a foreign destination visited by the Secretary because of the Secretary's trip or (2) they spent at least half of their time at the foreign destination supporting the Secretary's trip even if they would have traveled to the foreign destination for other reasons.

We grouped the travelers into the preadvance trip or main trip as appropriate. Participants on the preadvance trip included Federal employees and M&O and support services contractor employees who traveled to a destination and returned to the U.S. prior to the Secretary's departure from the U.S. Even if the preadvance participants did not return to the trip destination while the Secretary was there, these individuals were included in our charts as trip participants. Note that some preadvance participants returned to the trip destination while the Secretary was there. These participants were counted twice, since they were on two distinct trips, preadvance and main.

Main trip participants were categorized into one of two phases: advance phase or the main body phase. We grouped Federal and non-Federal participants who traveled on a Secretarial trip prior to the Secretary's arrival at a particular foreign destination, and remained there during the Secretary's visit, into the advance phase. For example, during all of the foreign trips, security personnel traveled in advance of the Secretary's arrival, were present when she arrived, and provided security during her visit.

We grouped Federal and non-Federal participants who traveled on a Secretarial trip during the same time frame that the Secretary traveled to a particular foreign trip destination into the main body phase. For example, during the trip to China, some participants traveled on the Secretary's commercial flight from Hong Kong to Shanghai, and others flew to Shanghai on the same day on a charter flight from Washington Dulles Airport. The charter flight made a stop at a San Francisco, California, airport to pick up West Coast travelers. Table 7 shows the number of participants for each of the four trade mission trips by phases as described above.

**TABLE 7**  
**TRADE MISSION**  
**PARTICIPANTS BY PHASE OF TRIP\***

PHASE	INDIA		AUSTRIA/PAKISTAN**		INDIA/HONG KONG/CHINA****		SOUTH AFRICA	
	Feds	Non-Feds	Feds	Non-Feds	Feds	Non-Feds	Feds	Non-Feds
PREADVANCE	0	0	2***	0	5	0	8	0
ADVANCE	22	3	32	3	49	7	25	5
MAIN BODY	20	35	31	44	31	46	31	45
<b>TOTAL</b>	<b>42</b>	<b>38</b>	<b>65</b>	<b>47</b>	<b>85</b>	<b>53</b>	<b>64</b>	<b>50</b>

\*Participants used Government-arranged air.

\*\*Department commented that 19 Participants who went to Austria did not go on to Pakistan on the trade mission.

\*\*\*One of the two Federal employees who performed preadvance work returned to the U.S. before the Secretary's departure from the U.S. The other participant did not return the U.S., but went instead to England and Austria prior to returning to Pakistan to do advance work.

\*\*\*\*Department commented that 14 participants who went to India did not go on to China on the trade mission.

#### Function of Participants on Trips

The specific functions of the participants were security, communications, administration, substance, and business delegate. Table 8 identifies the number of participants on each of the four trade missions according to their trip functions. Where possible, we used the functions of the participants as shown on the trip participant lists that DOE had previously provided to the House Subcommittee on Oversight and Investigations, Committee on Commerce.

**TABLE 8**  
**TRADE MISSION**  
**PARTICIPANTS BY TRIP FUNCTIONS**

FUNCTION	INDIA		AUSTRIA/ PAKISTAN		INDIA/HONG KONG/ CHINA		SOUTH AFRICA	
	Feds	Non-Feds	Feds	Non-Feds	Feds	Non-Feds	Feds	Non-Feds
SECURITY	9	-	15	-	17	-	7	-
COMMUNICATIONS	3	-	7	-	8	4	2	3
ADMINISTRATION	5	-	10	-	15	-	8	-
SUBSTANCE	17	5	29	3	37	4	39	4
BUSINESS DELEGATE	8	33	4	44	8	45	8	43
<b>TOTAL*</b>	<b>42</b>	<b>38</b>	<b>65</b>	<b>47</b>	<b>85</b>	<b>53</b>	<b>64</b>	<b>50</b>

\*Department commented that 19 participants who went to Austria did not go to Pakistan on the trade mission and 14 participants who went to India did not go on to China on the trade mission.

Security employees provided executive protection for the Secretary on the 16 foreign trips. Some of these security personnel advanced to the destinations and investigated prior to her arrival the potential security threats at airports, hotels, and the travel routes of the Secretary. Upon her arrival, these advance personnel, along with the security person who accompanied the Secretary from the U.S., provided physical protection for the Secretary at the destinations.

Advance participants set-up and coordinated the use of computers, direct telephone lines, fax machines, and other equipment as part of the communications function. Communications participants set-up a command post and staff rooms in order, for example, to facilitate the Secretary in communicating directly with DOE Headquarters and with the embassy. Individuals who made and/or coordinated logistical and other trip arrangements with the embassies, foreign government officials, and hotel management were listed as administration. Other administrative activities included arranging for working rooms, local transportation for the official and business delegations, cellular phones, and command post rooms. Administration personnel traveled as preadvance and advance, and may also have traveled as part of the main body phase.

DOE and contractor employees who provided expertise concerning the scheduled trip agenda's topics were classified as substance participants. Other substance participants may have included POD leaders, policy experts, and persons with specific expertise relative to the foreign countries visited. As previously noted, where possible, we used

the functions of the participants as listed on the Department's trip participant lists submitted to the House Subcommittee on Oversight and Investigations, Committee on Commerce. On the China trade mission, included among the substance participants was a DOE employee who is an expert on the agenda topic of joint implementation concerning the reduction of atmospheric pollutants. Substance participants on the South Africa trade mission included Federal employees who had been appointed to the Gore-Mbeki Binational Commission. Some of the Commission personnel subsequently traveled with Vice President Gore and the Secretary on the South Africa Gore-Mbeki trip, which was later in 1995. Also, it should be noted that preadvance participants often included substance participants. For example, contractor personnel on the preadvance trip for the Gore-Mbeki Commission to South Africa provided substantive support.

Management Comments. Management stated that:

"The support personnel on any Secretarial foreign trip are some of the most experienced personnel in dealing with these matters. They offer particular insight into 'doing business' internationally and confirm that it is not easy or simple.

\* \* \* \* \*

"Contractor participants in the South Africa trip of November 29, 1995 are mischaracterized in Table 3 - Number of foreign Travel Participants. Five contractors were incorrectly associated with the trip as 'pre-advance'. Their efforts were part of the ongoing work of the Sustainable Energy Committee and had no direct relevance to the Secretary's trip."

Inspector Comments. Management's comment regarding the contractor participants in the South Africa trip was discussed with the Office of International Policy official who drafted the comment. She said that she meant to say that the contractors had no direct relevance to the preadvance for the Secretary's Gore-Mbeki trip because she thought preadvance meant logistical support, such as selecting appropriate hotels. She said she thought that preadvance work did not include substance support. She also said that she told the contractors that they were to provide substance support for the Secretary's Gore-Mbeki's trip to South Africa. She also said that as substance people, she agreed with our inclusion of the contractors as preadvance support, but said that the report should be changed to clearly indicate that preadvance work included substance support.

In addition to the above functions, participants were also identified as business delegates. These included business and non-profit organization participants, invitational travelers, and DOE, M&O contractor, and other Federal agency employees who were identified in the Department's official trip reports as business delegates.

### Problems Associated with Identifying Trip Participants

As previously stated, in order to identify trip participants, we reviewed passenger lists for chartered flights, the Department's official trip reports, travel authorization listings, travel voucher listings, and other lists prepared by DOE.

In general, we found that passenger lists for chartered flights had names crossed out, names written on the sides of the lists, and illegible handwritten names. For example, the passenger list from Cape Town to Johannesburg contained 15 names that were crossed out, and several names written in the margins of the list.

We could not use the Department's official trip reports by themselves to identify who participated on the 16 trips. Official trip reports, according to DOE Order 1500.3 titled, "FOREIGN TRAVEL AUTHORIZATION," are required to be completed within 30 days after the trip. We found that the Department's official trade mission trip reports did not include in the list of participants the preadvance or advance participants. The Department's official India trade mission trip report also did not include a list of DOE or support services contractor employees who were part of the trip's main body phase. We also found that the Department's official trip reports for the trade mission trips only listed the official delegation, who were primarily substance participants.

DOE Order 1500.3 requires summary data from foreign travel authorizations for DOE and contractor employees to be entered into the current Office of International Technology Cooperation's foreign travel information system. We obtained and reviewed trip specific travel authorization lists that were prepared from this system. We noted that one of the problems with these lists is that the Secretarial staff and executive protection personnel have been exempted from the requirement to provide summary foreign travel authorization data for inclusion in the Office of International Technology Cooperation's system. An Office of International Technology Cooperation official confirmed the Foreign Travel Management System currently does not apply to the Office of the Secretary of Energy and its support for foreign trips. We also determined that travel authorization lists included travel authorizations issued to individuals who traveled to the same destinations as the Secretary, but who were not there as part of the Secretary's trips. For example, the travel authorization list for the Costa Rica trip included several individuals who would have gone to Costa Rica even if the Secretary's trip had not occurred, and spent less than 50 percent of their time supporting the Secretary's activities.

During our review of the travel authorization listing for the Gore-Mbeki trip to South Africa, we identified three National Renewable Energy Laboratory (NREL) employees and two NREL subcontractor employees whose stated purpose for travel appeared to be related to the Gore-Mbeki Binational Commission. We interviewed four of these people and reviewed their trip-related documents, and confirmed that all of them had provided preadvance support for the South Africa Gore-Mbeki trip. We also determined that their services were paid for by DOE. These personnel were not identified by the

Department on any other lists that we reviewed for this trip. While the travel authorization lists presented problems in identifying trip participants, in this case, the travel authorization list for the South Africa Gore-Mbeki trip was beneficial.

We were told that the initial travel voucher lists provided to us might be incomplete because some trip participants had a first destination point different from the scheduled destinations for a particular trip. Since the traveler's first destination is the only destination entered into the travel voucher data base, the query based on the scheduled travel destinations, therefore, failed to include some trip participants whose first stop was elsewhere. For example, during the review of the list for the South African trade mission, we noted that some security personnel were not listed. Upon further review, it was determined that these personnel made an intermediate stop in London, England. London was shown as the first destination on their travel authorizations, even though their final destination was one of the South African destinations. Since their South African destinations were not entered into the computer data base, they did not initially show up on the travel voucher list for this trip.

We reviewed trip participant lists that DOE had previously provided to the House Subcommittee on Oversight and Investigations, Committee on Commerce, and determined through review of travel voucher listings and interviews of participants that these lists were not comprehensive. For example, an NREL support services contractor told us that he traveled on behalf of DOE to selected destinations on the trade mission trips to India, China, and South Africa. However, the DOE lists prepared for the Subcommittee did not list this contractor employee for the China trip. Although the NREL subcontractor had a travel authorization processed by the Office of International Technology Cooperation's foreign travel information system for the India destination on the China trip, the stated purpose was written in a way that did not allow us to identify his participation on this Secretarial trip.

Management Comments. Management stated that "the final list submitted to the Inspector General by the Trip Coordinator accurately reflects the members of the Official Delegation."

Inspector Comments. The Trip Coordinator subsequently told us the "final list" was the list of trip participants provided to the Chairman of the Oversight and Investigations Subcommittee, House Committee on Commerce, on January 19, 1996. She also said that the list did not represent the "official delegation" but actually represented the "trip participants."

The basic point we were addressing in our Initial Draft Report was that when we had begun our review in December 1995 the Department could not provide us with an accurate list of who had participated in the foreign trips the Secretary had taken. The list provided to the Subcommittee over a month later was, we understand, the result of a considerable amount of effort by the Trip Coordinator and other staff.

Based on the Department's comment, however, we did a comparative analysis between the "final list" provided by DOE and our list of participants. We found:

- three DOE Federal employees on the "final list" did not go on trips with the Secretary as indicated on the "final list."
- 21 DOE Federal employees who went on trips with the Secretary were not on the "final list" for the trips. In discussing our results with the Trip Coordinator, we found that subsequent to providing the "final list" to the Subcommittee she had handwritten the names of 15 additional DOE Federal employees to the "final list." These names were included in the 21 DOE Federal employees we had identified.
- two DOE Federal employees on the "final list" were not included on our list because, although they were at the locations for the indicated trips, they did not meet our criteria for inclusion as a participant because they traveled for other reasons and spent less than 50 percent of their time supporting the Secretary's mission.
- two DOE Federal employees and one contractor employee on the "final list" were not on our list. We reinterviewed these individuals and determined that they did go on the trips indicated on the "final list." We have, therefore, added these individuals to our list.
- There are a number of contractor personnel who went on various trips to directly support the Secretary's foreign trips who are on our list but do not appear on the DOE "final list."

This analysis is evidence that the Department's "final list" was not accurate and we reemphasize that our basic point is that in December 1995 when we began this review the Department could not provide an accurate list of participants.

### 3. Selection of Non-Federal Participants

The term "non-Federal participant" includes non-Federal invititational travelers, representatives of private business, and employees of non-governmental organizations who were invited to participate as business delegates on the trade missions. Examples of non-governmental organizations who have had employees participate in trade missions include representatives from public interest groups, colleges, and universities.

In the Secretary's Insight article referenced earlier, she wrote that DOE's trade missions were an "alliance with American business and international partners." According to the Secretary, Secretarial-led trade missions "brought leading U.S. business, financial and energy-policy experts together with high-level government and private-sector officials of the various nations to discuss substantive issues and advance concrete opportunities." In that regard, we were told by officials involved with non-Federal participant selection

that representatives of U.S. businesses were screened, prioritized, and selected to accompany the Secretary on the trade missions.

### The Selection Process

The methods used by DOE to identify non-Federal participants have been generally the same for each of the four trade missions. We were told that employees from various program offices within the Department were involved with identifying potential non-Federal candidates for each trade mission. This identification was accomplished through what was described to us as an "outreach" effort. We were told that DOE's outreach efforts included: (1) DOE's program offices contacting their program stakeholders to determine level of interest; (2) DOE personnel mentioning trade missions during speeches; (3) DOE contacting the business councils of the mission countries for business recommendations; and (4) DOE contacting business trade associations for nominations of association members.

As a result of the outreach effort, nominations of non-Federal candidates were placed on an initial candidate list, or "matrix," by a trip planning team. These non-Federal participants included both business candidates and non-governmental organization candidates. As mentioned earlier, the trip planning teams consisted of approximately 30 to 40 representatives from various Department offices who met weekly to bi-weekly during the months immediately preceding a trade mission to discuss trip details. We were told that, through use of selection criteria, the initial non-Federal candidate lists were screened, prioritized, and the individuals were placed on revised shorter lists by a smaller group of senior trip planners who then presented the revised lists to the Secretary for approval. These revised lists usually categorized the non-Federal candidates by "PODs."

### Selection Criteria

DOE officials reported to us that the Department had established selection criteria for use in screening non-Federal candidates for the trade missions. The Department was unable to provide us with written criteria that was prepared before the first trade mission to India. An official in DOE's former Office of Energy Exports told us she was the person originally tasked with developing the criteria for the India trade mission. The policy official said she began by writing down what seemed to be a "logical" starting point for the criteria, such as "did the company have any business deals in India," and "did the company have technologies applicable to India." The policy official said that after she wrote down the "logical" statements, the criteria were revised through brainstorming with the India trip planning team, to arrive at the final criteria. The policy official was unable to provide documentation that written criteria for India existed prior to the mission. A former senior advisor to the Secretary, who was involved with all four trade missions, told us that selection criteria were not developed until after the first trade mission. According to the Trip Coordinator, although she was not involved with trip planning for the first trade mission, she prepared written criteria in response to

recent Congressional inquiries, based on her understanding of what the India criteria had been.

For the trade missions after India, we were told the criteria were based upon issues unique to the business and energy needs of the respective countries. In the written criteria we were provided for the mission to Pakistan, the criteria for "Industrial Participation," in keeping with the mission's theme of energy investment, included criteria for the inclusion of utility companies and financial institutions. For example, the utility company selection criteria we were provided for Pakistan were:

- "utility companies that can assist Pakistan in developing strategies to meet future power demand. (There may be international utilities which are members of Edison Electric Institute and, as such, may already have 'interests' in Pakistan.)"

In addition, the financial institution selection criteria we were provided for Pakistan were:

- "financial institutions which may have some type of agreements or deals with businesses already involved in 'energy development' in Pakistan. (This is one way of overcoming obstacles to make money available.)"

The criteria for China provided for inclusion of "companies without established business contacts in China." For South Africa, we were told by a DOE official that training and educational needs were a key point considered by trade mission planners. As such, we were told that a new heading, titled, "Capacity Building/Training & Education," was included as a selection criterion for this mission. We were provided with written criteria, that had "bullets" under this new heading that read: (1) "interest in partnering with South African businesses (majority and minority)," and (2) "focus on training, education and capacity building within their long term company plans."

#### Selection Criteria Were Not Always Used

On August 4, 1995, the Chairman, Subcommittee on Energy and Environment, House Committee on Science, in a letter to the Secretary of Energy, requested that the Secretary provide the Chairman with documents related to trade missions that had been led by the Secretary since January 20, 1993. Documents requested in the Chairman's August 4, 1995, letter included a list identifying all persons who were involved in selection of non-Federal participants for the trade missions, and also a list of the selection criteria used by those persons. On January 11, 1996, the Chairman, Subcommittee on Oversight and Investigations, House Committee on Commerce, in a letter to the Secretary, also asked for information about how non-Federal participants were selected for the trade missions, including what criteria were used to determine who was invited. The same response was provided by DOE to both requests. The response consisted of a list of 28 persons involved in non-Federal participant selection,

and also written selection criteria for each of the four trade missions. As stated previously, we found, however, that the selection criteria that were provided to the Committees for the India trade mission were not in writing before the trip.

We interviewed 26 of the 28 people who had been identified by DOE in the response to the above Congressional requests. These officials included senior DOE representatives from the Office of the Secretary, Office of General Counsel, Office of Energy Exports, Office of Fossil Energy, and field locations.

Seven of those that we interviewed told us that they had not been involved with the selection of non-Federal participants for the trade missions. Of the remaining 19 who said they were involved, 12 who were involved in trade missions which had written selection criteria prepared before the trip told us that they had not seen written criteria for non-Federal participant selection. We asked these people what criteria they had used in making selection decisions. The two major criteria most often referred to were diversity status and whether a non-Federal candidate had reported having a deal to sign during the trade mission. The Department defined diversity as size of company, characteristics of potential delegate, and energy sector representation.

None of the DOE officials that we interviewed regarding the selection of non-Federal participants told us that there was any discussion of candidates' political affiliation or political contribution status during the selection process.

We were told by key officials involved with the selection of non-Federal participants that the Secretary placed emphasis on the diversity status of non-Federal participants in trade missions. One DOE program office official who was involved with non-Federal participant selection, and who did not see any written criteria, told us that the only guidance she ever received from the Secretary was to make the business delegation "look like society." Another DOE official involved with non-Federal participant selection, who did not see any criteria, told us that when she selected non-Federal participants, she selected "minorities and environmental energy companies" to be non-Federal participants.

According to key planners, the Secretary sent her senior trip planners "back to the drawing board" several times after she reviewed lists of proposed non-Federal participants, due to her displeasure with the diversity mix. The Secretary told us that when she saw the proposed list of non-Federal participants for the India trade mission, she noticed that the list contained no women, minorities, non-governmental organizations, or independent power producers. The Secretary told us that, while she does not recall ever asking her staff to include any particular person or business on any trade mission, she did tell her India mission trip planners that she needed "diversity" in the delegation of non-Federal participants.

We were also told by a former DOE official who worked with the Secretary that the Secretary places much emphasis on "deliverables," and that, as a result, during the

selection of non-Federal trade mission participants, emphasis was placed on whether a potential candidate reported having business deals to sign during the mission. A DOE national laboratory official, who was involved with non-Federal participant selection and who did not see any written criteria, told us that it was known the main deciding factors in selection were "deals and minority status." We asked the former senior advisor to the Secretary, who told us criteria were developed after India, what the selection criteria were for the three subsequent missions. The advisor explained that the criteria for selecting businesses for the last three trade missions were: (1) top priority was assigned to businesses already actively established in the host country; (2) second priority went to businesses with an on-going deal; (3) third priority went to diversification, which he said meant whether the business had expertise in the mission's theme area, whether the business was large with bigger businesses receiving higher priority, and, that this priority also considered the gender/race of the business owner; and, (4) last priority was assigned to intangible benefits, such as whether the potential business delegate represented a nonprofit environmental organization.

Records provided by the Department indicate that, during the outreach effort, information was collected by the Department concerning the value of existing and/or potential deals as reported by trade mission candidates. These records reflect that the deal information collected by the Department was compiled in various ways during the selection of non-Federal participants for trade missions. For example, the initial candidate matrix prepared prior to the India mission contained a "Dollar Value" column for business deal information that reflects dollar values for 21 companies. One page of this matrix illustrates that one oil and gas company reported a dollar value of "2,650 million."

The initial candidate matrix prepared prior to the Pakistan mission also contained a "Dollar Value" column, which reflected that three companies had reported business-deal dollar values of "several billion." An internal Department memorandum prepared during the screening, prioritization, and revision of candidate lists for the Pakistan mission listed potential non-Federal candidates. Attached to this memorandum was a note handwritten by a senior advisor to the Secretary. The handwritten note indicated that a company should be left on the shorter revised list because: "They have deals."

Prior to the mission to China, in addition to the initial candidate matrix with its dollar column, the Department prepared a tentative "Potential Deal/Signings Matrix," which reflected one company had reported to DOE that "Dollar values are very sensitive. Total value of all orders outstanding exceeds \$1.2B." The initial candidate matrix prepared prior to the mission to South Africa contained columns for "Past Project" and "Current Project" information. The "Current Project" column indicated one non-Federal candidate had reported it was "Seeking to develop \$500m project . . ." while another company reported that it "Has extensive ventures."

One non-Federal participant, a U.S. business executive who was a member of the official delegation on all four trade missions, provided us with information about why

and how he was selected to be a participant. According to this business executive, "In each instance [name of his company] was selected to participate in these trade missions because our company either had a project underway or a proposed project under consideration in the host country." Further, the business executive continued that "only those companies with good probabilities of success were selected to accompany the Secretary."

Management Comments. Management commented that:

"This section of the report suggests that business delegates were selected based upon whether they had a deal to sign on the trip. It is more accurate to say that the selection was based on companies that had deals that could be furthered by the Secretary's direct support, rather than deals that would be signed anyway, as is implied in that section."

**RECOMMENDATION 2:** We recommend the Secretary establish a nomination process for non-Federal trade mission participants, which includes public announcements of the opportunity to be included in any future trade missions.

Management Update on Status of Corrective Actions. Management stated that: "The Policy office developed a policy, circulated it for concurrence and comment and implemented on July 31."

Inspector Comments. We have been told that the Department plans to incorporate a Policy office recommendation concerning comprehensive public notification/solicitation methods for trip participants into a supplement to DOE M 551.1-1, "International Trips," at a future date. Therefore, this recommendation should remain open until the Policy office recommendation is incorporated into the existing guidance on notification/solicitation.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we establish a nomination process for non-Federal trade mission participants. We prepared and circulated such a nomination process with the Department's revised travel policy on July 31, 1996.

"Our subsequent conversations with your staff indicate that you may ask that more formal action be taken. We agree to take such action should our continuing deliberations with your staff call for that result."

Inspector Comments. We believe that a formal issuance of the nomination process is needed. Accordingly, we believe this recommendation should remain open until procedures are issued.

**RECOMMENDATION 3:** We recommend the Assistant Secretary for Policy establish written selection criteria for non-Federal participants on future trade missions and that such criteria be applied in the selection process.

Management Update on Status of Corrective Actions. Management stated that: "Consistent with DOE P 551.1 and DOE M 551.1-1 the Policy Office developed and implemented 'standard' selection criteria." In addition, for those trade missions covered by the new Department Travel Regulations, the Senior Trip Official will be responsible for developing mission specific selection criteria for selecting non-Federal participants in Department-sponsored trade missions.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

#### Invitation Letters

We were told that after the screening and selection process was completed for each trade mission, non-Federal trade mission candidates who were selected for the official delegation were sent letters by the Secretary inviting them to participate. These invitation letters served as the recipient's official invitation to join the delegation. As such, the letters served as an important control feature to prevent any misunderstandings, regarding official delegate status, between potential non-Federal participants and the Department.

All Secretarial correspondence is supposed to be processed and tracked by the Office of the Executive Secretariat. The Director, Office of the Executive Secretariat, told us that the Office is the repository for the official record of all correspondence signed by the Secretary. The Director also told us that, by definition, the Office of the Executive Secretariat should maintain a copy of all trade mission invitation letters. However, the Office was not maintaining copies of all trade mission invitation letters. For example, according to Executive Secretariat records, the Office at one time had copies of the Secretarial invitation letters for non-Federal participants on the Pakistan mission. However, during our inspection, copies of only three Secretarial invitation letters sent to non-Federal participants for the Pakistan trade mission could be located by the Office.

We found that records pertaining to non-Federal invitees for trade missions were decentralized. The Director told us that the Office of the Executive Secretariat had not been provided with copies of all the Secretary's invitation letters for the India, China, and South Africa trade missions because some copies were being maintained by the Trip Coordinator.

However, the Trip Coordinator told us that not all last-minute non-Federal participant additions to the trade missions, and other official delegates who met DOE in-country,

were sent Secretarial invitation letters. For the mission to Pakistan, we were told the chief executive of a business was added to the official delegation as a business delegate on the day of departure and was not provided a Secretarial invitation letter. The Trip Coordinator told us that the business executive was sent facsimile information about the cost of charter aircraft transportation to Pakistan, but that there was not enough time to obtain the Secretary's signature on an invitation letter.

The Trip Coordinator told us, for each trade mission, some non-Federal participants who were selected for the official delegation were already located in the trade mission country and some of these in-country delegates would not have been provided with Secretarial invitation letters. For example, in the case of China, we were told that Secretarial invitation letters were not prepared for seven non-Federal official delegation participants because they were already in-country.

**RECOMMENDATION 4:** We recommend the Assistant Secretary for Human Resources and Administration implement procedures to ensure that all non-Federal participants on future trade missions are provided with the appropriate official invitations in advance, and that copies of all correspondence pertaining to trade missions are maintained.

**Management Update on Status of Corrective Actions.** Management stated that the Office of Executive Secretariat has issued a memorandum "reminding all of correspondence policy" and has conducted training and streamlined their archiving processes. Also, the update stated that the Office of Scheduling and Logistics staff have received training to ensure that correspondence is handled correctly.

**Inspector Comments.** We consider management's actions to be responsive; therefore, this recommendation may be closed.

#### **Non-Federal Participants Selected Immediately Before Trade Mission Departure**

There was a limited number of seats available on the Secretary's aircraft for non-Federal participants from each POD. We were told by the Trip Coordinator that the lists, which categorized potential non-Federal candidates by POD, usually contained more potential candidates than the typical 5 to 10 seats per POD available on the Secretary's aircraft. The seats available for each POD were assigned to potential POD members based on their priority on the revised lists. Since the remaining candidates on the revised lists had been through the screening and prioritizing process, these candidates, if interested, would usually be sent a Secretarial invitation letter and could join the official delegation, in-country, by providing their own commercial airline transportation.

The Trip Coordinator told us that potential POD members who had been through screening and wanted to accompany the Secretary on her aircraft, but for whom a seat was not available, comprised a "waiting list." The Trip Coordinator told us that she

generally used the waiting list to look for replacements when a non-Federal participant "dropped out" of the official delegation traveling on the Secretary's plane at the "last minute." The Trip Coordinator said that for each trade mission there were, besides the waiting list, about a half-dozen business representatives who, although they had not been through the Department's screening and prioritization process, were nonetheless interested in being non-Federal participants in the mission's official delegation.

During our analysis of the selection of non-Federal participants, several issues related to the last-minute selection of POD members became evident. In one case, a traveler to Pakistan was selected for the official delegation by the Trip Coordinator rather than by the Secretary. This traveler was not selected from the waiting list, was not informed in writing of the cost of the chartered aircraft transportation, and has not paid for the plane flight. Further, during the week before the South Africa trade mission, while DOE faced possible cancellation of the trip because of an insufficient number of paying non-Government passengers, DOE added additional Government-paid passengers to the trip. These issues are discussed below, beginning with the September 1994 mission to Pakistan.

#### Pakistan

We were told by the Trip Coordinator that, as the departure date for the trade mission to Pakistan neared, some business representatives who were not on the waiting list expressed interest in the trip. The chief executive officer (CEO) of a technology firm was one of the business representatives who had not been through a selection process but was interested in becoming an official delegate. This CEO was planning to travel to Pakistan on his own, via commercial aircraft, and participate in the public events that coincided with the Secretary's mission. When a non-Federal participant dropped out of the Pakistan mission "at the last minute," the Trip Coordinator, who knew that the technology firm's CEO was interested in the trip, contacted the firm at midday on the day of the mission's departure about the CEO's possible participation. The CEO was departing his office to catch a commercial flight from a North Carolina airport when she told one of his employees that, if he could get to Dulles International Airport in Northern Virginia by 10:00 p.m., then he could fly on the Secretary's aircraft as a business delegate of the official delegation.

The Trip Coordinator told us that the technology firm was contacted regarding the CEO's participation in the mission rather than candidates from the trip's "waiting list," because the CEO was the "most able" to get to the Secretary's aircraft by the departure time. She said the CEO was leaving for the airport anyway, could easily divert to Dulles, and she believed those on the waiting list had either already left on their own for Pakistan or would find the available notice too short. Although there is no documentation, the Trip Coordinator said she sent facsimile information on the day of departure to one of the firm's managers that explained the cost of charter aircraft transportation for the CEO. She also said there was not enough time to obtain senior Secretarial staff or the Secretary's approval for the CEO's addition to the official

delegation, and therefore, no invitation letter was transmitted along with the facsimile explaining the cost of the charter aircraft transportation.

DOE records reflect that the technology firm was billed \$6,577 for the cost of the CEO's charter aircraft transportation to Pakistan. During our inspection fieldwork, the total balance remained outstanding. The CEO told us he was surprised to receive a bill from DOE following the mission because he was never informed that he would be required to pay for transportation other than from his office location to Dulles International Airport. The CEO also told us he considered his reimbursement to be an open issue. We were informed by the Department, however, that on June 10, 1996, after the issuance of our Initial Draft Report, the technology firm began a payment plan by paying one-third of the total outstanding balance.

#### South Africa

The trade mission to South Africa departed from Dulles International Airport for Cape Town on August 18, 1995. The delegation traveled on a DC-8 aircraft operated by Champion Air, a private carrier. Charter arrangements for this aircraft were made by the Department through Flight Time International, a charter agent. A more detailed discussion of charter aircraft acquisition will follow in Section E, "Aircraft Acquisition," of this report.

According to a logistical guide sent with DOE's Secretarial invitation letters to non-Federal participants in late July 1995, DOE had instructed non-Federal participants to forward their payment for the charter flight directly to Flight Time by August 4, 1995. However, we found that no formal agreement existed between Flight Time and DOE regarding the aircraft charter until August 10, 1995.

On August 10, 1995, DOE and Flight Time reached an agreement on the terms of the charter and the cancellation policy by using a Government Transportation Request (GTR) with appendix. This agreement shows that non-Federal participants (other than invitational travelers) were to make payment for the chartered-aircraft transportation directly to Flight Time. However, to ensure that Flight Time realized the full price of the charter, DOE agreed to fill any empty seats on the charter with paying passengers "off its delegation waiting list." Also, according to the agreement, if sufficient paying passengers were not committed for the flight during the final week before departure, Flight Time had the right to cancel the charter. Along with a cancellation penalty assessed against DOE of over \$150,000 by Flight Time, the late cancellation of the charter aircraft would most likely have resulted in the late cancellation of the trade mission. Specifically, the August 10, 1995, charter agreement stipulated that:

"The vendor shall have the right of cancellation: as of close of business on August 14, 1995, if the vendor has not received 90% of the total charter fee (Government and non-Government); as of close of business on August 16, 1995; if the vendor has not received 95% of the total

charter fee (Government and non-Government); and as of the scheduled take-off time on August 18, 1995, if the vendor has not received 100% of the total charter fee (Government and non-Government)."

Four days before departure there were 16 or 17 unpaid seats on the aircraft. This information was based on interviews by United States General Accounting Office (GAO) staff of both DOE and Flight Time officials as events were occurring. According to GAO's information, a Flight Time official stated on August 14, 1995, that, due to a shortfall in excess of \$100,000 under what was required to have been received by the established due date, Flight Time was reevaluating the charter agreement pending cancellation discussions with DOE. On August 15, 1995, GAO's information showed that a DOE official assured Flight Time the charter flight would be paid in full before takeoff. The GAO information further showed that two days prior to departure, on August 16, 1995, the shortfall remained in excess of \$100,000 under the amount required to have been received by the established due date. However, by three hours before takeoff, GAO's information showed the shortfall had narrowed to about \$16,000.

During our inspection, we identified and interviewed participants in the South Africa trade mission who were added during the final days before the mission's departure and also were provided Government-arranged air transportation. The information provided to us by these trade mission participants was consistent with the GAO information. Information provided by these trade mission participants is discussed below.

We interviewed a DOE contractor employee who traveled on the South Africa trade mission on Government-arranged air transportation. This traveler told us that she was not scheduled to go to South Africa until about 48 hours prior to departure. The contractor said that she did not know why she was given such short notice for this major overseas trip.

We also interviewed an official of a state utility board who traveled on the South Africa trade mission on Government-arranged air transportation as an invitational traveler. This official told us he was first contacted about being a participant only about 10 days prior to departure. Also, the official said that he did not commit to be a participant on the trade mission until three or four days prior to the mission's departure. Further, the official said he was not certain exactly why DOE selected him as a participant in the trade mission.

The original August 10, 1995, GTR discussed earlier in this section specified that 21 Government-paid passengers would be on the charter flight. Following the trip, on September 15, 1995, DOE modified the original GTR to cover the transportation expenses of five additional passengers. This modification raised the number of Government-paid passengers to 26. Therefore, the number of actual Government-paid passengers increased between the time of DOE's original agreement with the charter agent on August 10, 1995, and the date of departure on August 18, 1995. Based on

Departmental records, we were unable to specifically determine which of the travelers were added by the modified GTR.

In addition to the above travelers paid for by the Department, we also identified three business delegates whose travel to South Africa was not paid by DOE who were invited to participate in the South Africa trade mission during the final days before the mission's departure. The travelers were (1) a senior vice president with a small Michigan energy firm; (2) a pension fund specialist from a Louisiana based pension fund consulting firm; and (3) a board member of the United States Enrichment Corporation (USEC). The following is a discussion of the addition of these travelers.

The Michigan energy firm's senior vice president had participated in both the India and South Africa missions. On June 12, 1996, the senior vice president testified during a hearing before the Subcommittee on Oversight and Investigations, House Committee on Commerce, concerning DOE travel issues. During the question and answer portion of the hearing, the senior vice president provided information pertaining to her addition to the South Africa mission. Specifically, the senior vice president stated that she had not received a Secretarial invitation letter for the South Africa trip, nor had she been invited to participate in the mission until the last minute.

The pension fund specialist participated in the Finance POD on the South Africa Mission but was not included in either the initial candidate list or shorter revised list mentioned earlier in this section. Additionally, neither the Office of the Executive Secretariat nor the Trip Coordinator could provide us with a copy of the Secretarial invitation letter for the pension fund specialist. The Finance POD leader told us that the pension fund specialist was not on the potential non-Federal candidate lists because he did not identify the need for a pension fund specialist in the POD until late in the trip planning process. The Finance POD leader told us that when he realized the need for pension fund experience on the mission, he met with the pension fund specialist based upon the recommendation of another non-Federal candidate.

The Finance POD leader told us the non-Federal candidate who recommended the pension fund specialist also attended the meeting, as did a senior advisor to the Secretary. He told us that following the meeting he personally decided that the pension fund specialist should be added to the trade mission, and recommended this to the Secretary's senior advisor. Further, the Finance POD leader told the pension fund specialist that, based on space availability, a Secretarial invitation might be forthcoming. The POD leader told us that a week prior to departure, because space had become available, the Secretary's Office informed him that the pension fund specialist could be a non-Federal participant and fly on the chartered aircraft with the Secretary. The Finance POD leader did not know why, as late as one week from departure, additional space had become available.

The board member of USEC, a Texas medical doctor, participated in the Oil and Gas POD on the South Africa mission. The board member told us that USEC paid for his air

transportation, including the chartered aircraft and connecting commercial flights between Texas and Washington, D.C., and also reimbursed him for related travel expenses. The Oil and Gas POD was led by the then Deputy Assistant Secretary for Gas and Petroleum Technologies, who has since left the Department. The Oil and Gas POD leader told us that he knew the board member through contacts in the oil and gas industry, and that the board member was selected for the Oil and Gas POD due to his entrepreneurial interest in the Texas energy business.

Our analysis of an initial candidate list for South Africa prepared May 2, 1995, from the outreach effort of the Office of Fossil Energy, found no mention of the board member. Further, the board member was not on a June 16, 1995, list that contained the non-Federal participant candidates identified by all Department offices involved with the outreach effort.

A DOE official provided us with a July 12, 1995, revised list that had been developed by a smaller group of Department employees for approval by the Secretary. We found that the board member was not included on this July 12, 1995, revised list. However, we were also provided with other revised lists of potential non-Federal participants, which did include the board member. One such revised list, also dated July 12, 1995, included the board member in the "Capacity Building" POD and had a handwritten question mark beside the board member's name. A July 13, 1995, revised list did not include the board member in any POD. Another undated, revised, potential non-Federal candidate list assigned the board member to the Capacity Building POD, and contained handwritten notations both deleting the board member from the trip and "Fold[ing] back in" the board member. The Trip Coordinator told us they were her handwritten notations, but she also told us that she could not recall who told her to delete and add back the board member, or why.

The Oil and Gas POD leader told us that the board member contacted him "months" prior to the South Africa mission and expressed interest in participating, and also in accompanying the Secretary on her chartered aircraft. Based on the board member's inquiry, the POD leader said he unilaterally made the decision to include the board member in the POD as an official delegate. However, according to the POD leader, the Oil and Gas POD was already full and there were no more seats available for Oil and Gas POD members on the chartered aircraft. At that point, the POD leader said that the board member made plans to take a commercial flight to South Africa and meet the other trade mission participants. The POD leader also told us that while some small businesses were concerned about the cost of the charter flight, the board member wanted to be on the chartered aircraft regardless of the cost involved.

The Oil and Gas POD leader told us he received word that space had become available on the chartered aircraft for the board member about two days before the mission to South Africa departed. An employee on the POD leader's staff, who relayed this word to the POD leader, confirmed that the Trip Coordinator had called him with the news about the seat for the board member. Neither the POD leader, nor his employee, could

tell us why space had become available for the board member. When we discussed this with the Trip Coordinator, we were told that she had added the board member to the Secretary's aircraft during the "chaos" of the last few days before the trade mission. At that time, the Trip Coordinator said she called the above mentioned employee of the POD leader because space had become available on the chartered aircraft, but she no longer recalled how or why the opening occurred.

We asked the Trip Coordinator whether any Departmental policy or procedure dictated who she called, and in what order, to fill such openings. The Trip Coordinator told us that, while she was not required by policy or procedure, she attempted to look for replacements from the same POD section on the waiting list. However, in the case of the board member, the Trip Coordinator told us that a certain amount of "chance" was involved, because she happened to call the Oil and Gas POD leader's employee first about the South Africa opening and the employee suggested the board member.

Management Comments. Management commented that the Department had to turn away businesses that wanted to travel as part of the official delegation to South Africa.

Inspector Comments. We identified travelers who went to South Africa who did not know well in advance that they were being considered for participation in the trip.

#### 4. Invitational Travel

Under Title 5 U.S.C. Chapter 57, "Travel, Transportation and Subsistence," a private individual is allowed to be invited by a Federal agency to a meeting or conference, at Government expense, if that individual is performing a direct service for the Government such as making a presentation, or advising in an area of expertise. Under this arrangement, the Federal agency may pay transportation, lodging, subsistence, or other travel expenses.

Using this authority the Department invited a number of individuals to accompany the Secretary on the four trade missions. Based on information and documentation provided by Department officials, it appears that on as many as 27 occasions, invitational travel was extended to non-Federal employees and contractor personnel to participate in the four trade missions. This number is based on (1) a listing of 22 travelers initially provided to us by the Department; (2) an April 8, 1996, Office of General Counsel listing of invitational travelers prepared in response to a Congressional request, which identified one instance in which invitational travel was extended to a contractor; and, (3) travel authorizations/vouchers and other correspondence provided by program offices, which identified four invitational travelers, three of whom were contractors. Table 9 shows the sources used to determine the number of invitational travelers on the four trade missions.

**TABLE 9**  
**IDENTIFICATION OF THE**  
**INVITATIONAL TRAVELERS**  
**FOR THE FOUR TRADE MISSIONS**

Country/Destination	Initial List	OGC List	Program Data	Total
India	4	0	0	4
Austria/Pakistan	6	0	3	9
India/Hong Kong/China	6	1	0	7
South Africa	6	0	1	7
Total	22	1*	4	27**

\*The OGC list incorrectly indicated that in five instances invitational travel had been provided to Federal employees. Because Federal employees may not travel under invitational travel procedures, we did not include these instances in our list of invitational travelers.

\*\*All travelers went to the indicated trade mission country.

**Management Comments.** Management commented that the Department agreed that invitational travel did not apply to Federal employees. The Department advised us, however, that the procedures for travel of Federal employees who travel at Department expense are the same as for invitational travelers, "with the only difference being that they are not called invitational." With regard to the one Federal traveler referenced in the Department's comments, an Energy Research (ER) official advised that although this traveler's name had been included in error in an invitational travel memorandum to the Secretary, this individual's travel orders were issued correctly as standard Government travel authorizations and were properly approved and signed by ER officials.

**Inspector Comments.** After considering these comments, we concluded the Department incorrectly designated other Federal employees as invitational, but otherwise processed the travel correctly for those individuals. We therefore excluded these other Federal employees from our list of invitational travelers.

Title 10, Code of Federal Regulations Part 1060, "Payment of Travel Expenses of Persons Who Are Not Government Employees," (10 C.F.R. 1060) governs invitational

travel within DOE. The regulation provides that payment may not be authorized or approved for transportation, lodging, subsistence, or other travel expenses from DOE funds to, or on behalf of, a person who is not a Government employee unless such payment is made pursuant to an invitation to confer with a DOE employee on matters that are essential to the advancement of DOE programs or objectives. In the case of a person invited to confer at the post of duty of the conferring DOE employee, a designated official must approve and must state the reasons for the invitation in writing. In instances where individuals are invited to confer at a place other than the post of duty of the inviting official, the approval and statement of reasons must be made in writing by a principal Department official. This official is defined as either the Secretary, Deputy Secretary, or Under Secretary of Energy. The authority of the designated official or a principal Department officer to provide approval of an invitation to travel may not be delegated.

Title 10, C.F.R. Part 1060 also allows payment of travel expenses of contractor personnel provided the expenses are incurred with respect to matters outside the scope of the contract. However, 10 C.F.R. 1060 specifically states that its provisions are not applicable to the authorization or approval of payment of travel expenses of Government employees, including DOE employees.

The purpose for the OIG's review of invitational travel for the trade missions was to determine whether those persons extended invitational travel were eligible for such travel and whether the travel was properly approved. Based on this review, we found that (1) invitational travel may have been inappropriately extended to 5 travelers and (2) prior written approval and justification had not been prepared by a principal Department official in 19 of the 27 instances in which invitational travel was provided. Further, the review disclosed that invitational travel policy was not fully understood by Department officials. It is likely that this lack of understanding of the policy caused the deficiencies identified during the review.

#### Inappropriate Invitational Travel Process

During the review, we identified five travelers to whom invitational travel may have been inappropriately extended. In the majority of these instances, invitational travel had been extended to contractor personnel. Although it may have been appropriate to include these persons on the trade missions, invitational travel was not the appropriate mechanism for paying their travel costs. Following is a discussion of each of those instances that is based on information provided by cognizant Departmental officials and our review of relevant Department documents.

Traveler 1: Initially the Department arranged for this non-Government business delegate to fly round-trip to Pakistan on the charter flight. However, officials advised that after arriving in Washington, D.C., this traveler inadvertently left his briefcase in a taxi and was unable to fly on the charter flight. In order for the Department to acquire a one-way commercial airline ticket for this traveler, he was improperly classified as an

invitational traveler. However, according to a Department official, this traveler was expected to reimburse the Department \$2,123, the cost of the commercial airline ticket, as well as \$6,477, the cost of the seat reserved for him on the charter flight. Despite expecting reimbursement from this traveler, more than 19 months after the Pakistan trade mission, this individual had not reimbursed the Department for the commercial ticket, nor had the Department billed the traveler for the \$2,123. The Department, however, had billed this traveler \$6,477, the cost of the charter flight seat, and \$100 in administrative fees associated with the trip. As of April 26, 1996, this bill had not been paid.

Traveler 2: A management and operating contractor employee from the Lawrence Berkeley Lab, considered an expert in the field of electricity management, was invited to travel to Pakistan and provide services related to his field of knowledge. This individual's travel was not approved in advance by a principal Department official nor was justification provided. However, in an October 25, 1994, memorandum a Department official requested program office officials "complete the travel authorizations for certain individuals extended invitational travel by the Department." This traveler was listed as one of the invitational travelers for whom a travel authorization was needed. During the Pakistan mission, the Department arranged for this individual to fly on the charter flight and arranged for hotel accommodations to be paid by the U.S. Embassy. This traveler advised that the labor costs for services provided to the Department while in Pakistan were charged to the Department's contract with the laboratory. However, 10 C.F.R. 1060 states that payment of travel expenses of contractor personnel are allowed provided the expenses are incurred with respect to matters outside the scope of their contract. According to a Department official, this invitational travel arrangement was inappropriate and all labor and travel costs should have been paid through the laboratory's contract.

Traveler 3: DOE invited this subcontractor to provide expert technical assistance and advice related to oil and gas matters during the Pakistan trade mission. A subcontract was awarded for this service. Additionally, the Department arranged and paid for this traveler's round-trip air travel to Pakistan on the charter flight. The Department also arranged for hotel accommodations to be paid by the U.S. Embassy. However, the invoice submitted by this subcontractor to the prime contractor subsequent to the mission showed that the subcontractor's labor costs during the trip were charged to the subcontract. Based on 10 C.F.R. 1060, this arrangement was inappropriate, and as stated above, all labor and travel expenses due contractors should be paid through the contracts. In this case, the Department may have paid lodging costs for this traveler twice. Based on a review of this traveler's invoice, it appears that hotel costs during the trade mission were charged to the subcontract even though lodging costs had been paid by the U.S. Embassy. The OIG was advised that the prime contractor and DOE procurement officials are working to resolve this matter.

Traveler 4: A Deputy Assistant Secretary approved a subcontractor's invitational travel to China after the subcontractor advised of having been invited on the trip by the

Secretary, but not having money for the travel. The Department arranged to pay this subcontractor's travel and hotel costs. Additionally, the Department issued a purchase order and statement of work for this subcontractor to provide support services in developing and maintaining technology transfer processes and systems. The deliverable from the China mission was a document entitled: "Identifying Minority Businesses in the Environmental Field." This traveler was not eligible for invitational traveler under 10 C.F.R. 1060.301 since during the China mission, she was to conduct work required by her subcontract. According to a Department official, all costs associated with this subcontract should have been paid through the subcontract.

Traveler 5: An M&O contractor employee from the Pacific Northwest Laboratory (PNL) was asked to participate in the South Africa trade mission. During the mission, this contractor employee was to provide substance support. While the Department did not classify this participant as an invitational traveler, it arranged and paid airfare and hotel costs for this trip. However, PNL paid this contractor's salary during the South Africa mission. According to 10 C.F.R. 1060, these arrangements were improper. The Department is allowed to pay travel expenses of contractor personnel only if the services provided by the traveler are outside the scope of the contract. In this case, the contractor's travel costs should also have been paid through the contract.

#### Approval Documentation Lacking

During the review, we were unable to obtain documentation to support that all invitational travel had been approved in advance by a principal Department official. In 19 of the 27 instances in which invitational travel was provided, we found no evidence of a principal Department official's advance approval of the travel. In eight instances, we found a principal Department official had approved invitational travel. In five of these eight instances, however, justification consisted of a general statement that "the non-government personnel will be conferring with Department officials and the Mission Delegation on policy matters in their areas of expertise throughout the trip and are essential to the advancement of DOE programs and objectives." In two instances, a principal Department official's approval had been provided on the travel authorization forms. In these two cases, the purpose of travel was "for the special Presidential mission on sustainable development," with no additional justification provided. In the final instance, a principal Department official's approval was provided on September 20, 1994; however, the trade mission began on September 19, 1994. The justification for this travel was "to confer on energy investment opportunities being arranged between his company and the Pakistan and United States governments."

#### Invitational Travel Policy Misunderstood

During the review, we observed that program officials were not fully aware of requirements related to invitational travel. One program officer believed that all

invitational travel, both to DOE sites and non-DOE sites, could be approved at the Deputy Assistant Secretarial level. Further, some program office officials were unsure of the documentation needed to support invitational travel and the need to complete vouchers once travel had been completed.

One official also advised that their office frequently designated contractors as invitational travelers so that travel arrangements could be made by the Department. However, labor costs for these contractors were paid through the contracts. This official believed that contractors' travel expenses were cheaper with this arrangement in that overhead was not applied to travel costs.

To clarify invitational travel policy, the Office of General Counsel issued to all Secretarial officers a reminder on the legal review of aircraft use and invitational travel on April 23, 1996. Department officials were reminded of the Department policy concerning approval of invitational travel and the need to comply with such policy. We believe this is a positive action. However, we believe that the Department needs to provide training to ensure that invitational travel requirements are understood and are properly implemented.

**RECOMMENDATION 5:** We recommend the General Counsel and the Chief Financial Officer provide training to those individuals responsible for processing invitational travel.

**Management Update on Status of Corrective Actions.** Management stated that, in addition to issuing an April 23, 1996, memorandum to all Secretarial officers concerning the legal review of aircraft use and invitational travel, the CFO and OGC had developed plans and materials to conduct training classes. Classes have been scheduled to start in August and will continue regularly in an effort to keep DOE employees informed of the regulations and any changes associated with them.

**Inspector Comments.** We consider management's actions to be responsive; therefore, this recommendation may be closed.

##### **5. Support Personnel**

We were told by an official in the Office of Human Resources and Administration (Human Resources) that following establishment of the Office of the Secretary of Energy in 1977, Department personnel provided administrative, communications, and security support to the Secretary of Energy while on foreign travel. He said that although guidelines were established regarding support for the Secretary's foreign travel, there were never any written guidelines concerning the requirement for an advance team to travel in conjunction with Secretarial foreign travel. We also interviewed a retired Human Resources official who assisted in establishing the Office of the Secretary. Both officials told us that the concept of sending an advance team and the composition of the advance team to support the Secretary's foreign travel were

modeled after the standard advance team for foreign travel taken by "senior White House officials." Their understanding was that the standard advance team was composed of two administrative specialists, two communications specialists, and two security officers, who traveled to each destination on the Secretary's itinerary up to five days in advance of the Secretary to prepare for the Secretary's arrival. The retired Human Resources official said that for years he had been "bugged" to put together written guidelines for Secretarial foreign travel. He said, however, that every trip was different, and it was difficult to establish a written set of procedures. Therefore, he had not prepared any written guidelines. The current Human Resources official said that "over the years the advance team support package evolved and was continued without any written guidelines."

Management Comments. Management stated that: "It is our understanding that the advance team was modeled after and is consistent with those for the Secretaries of other Cabinet level departments."

Inspector Comments. We have no further comment.

We reviewed the numbers of personnel that participated in the advance teams for the Secretary's foreign travel. We found, for example, that 16 security, 12 communications, and 12 administrative support personnel traveled in advance of the Secretary on the China trade mission, which included four destinations. We also found seven security, five communications, and seven administrative support personnel traveled in advance of the Secretary on the South Africa trade mission, which included three destinations.

According to personnel who have participated on the administrative support team for the current and former Secretaries' foreign travel, duties of administrative support personnel on the advance team in preparation of the Secretary's arrival at a foreign location included: (1) making all logistical arrangements for hotels, including conference rooms; (2) establishing rooms to be used as a communications/security command post and staff working rooms; (3) arranging ground transportation and translators/interpreters; and (4) coordinating the trip with the U.S. embassy/consulate staff. We were told that prior to departure on their advance trips, administrative support personnel ensured completion of travel authorizations and funding/obligation approval to U.S. embassies/consulates, arranged for charter aircraft, and shipped equipment in support of the Secretary's trip.

Personnel who participated in the advance teams for the Secretary's foreign travel told us that duties of the communications personnel on the advance team included supporting all computer equipment, facsimile machines, cellular phones, hand-held radios, and other equipment used by the advance team and the Secretary's official delegation. The communications team, with the assistance of U.S. embassy staff, set up the command post and staff room(s), and set up and checked out all associated equipment that had been shipped to the host country. The communications team also ensured that the Secretary and staff had the capability to have direct contact with the

Department. We were told that prior to the Secretary's departure for foreign travel, the communications team assembled, checked-out, packed, and shipped all necessary equipment in support of the Secretary's trip. An official from the Office of Information Management (Information Management) also told us that the communications team staffed the command post 24 hours a day "to handle any situations that may arise."

#### Administrative/Communications Support

We found that the Department does not have written criteria for determining the number of administrative/communications personnel required to support the Secretary's foreign travel. We also found that on several occasions the number of administrative/communications support personnel for the trips was reduced by the Secretarial staff. According to a Human Resources official, there were never any written guidelines concerning the requirement for an administrative advance team to travel in conjunction with Secretarial foreign travel, nor any written guidelines concerning the size of an administrative advance team. He said that over the years the administrative advance team "support package" evolved and continued without any written guidelines. He said factors that affected the size of the advance team included size of the official delegation, stability of the foreign country, length of stay and number of destinations, and type of equipment that was needed to support the trip.

In describing the process for finalizing the size of the administrative support team, the Human Resources official said that he would make a verbal recommendation to his supervisor regarding who should be part of the administrative advance team. If the supervisor approved the recommendation, the official said that he would coordinate the recommendation with individuals on the Secretary's staff. He said that on several occasions, the Secretary's staff reduced the number of individuals recommended for the administrative advance team. He said that, typically, two staff members were sent to each location.

According to an Information Management official, although there were no written criteria for determining the size of the communications support team required for Secretarial travel, there were considerations that were used to determine the size of the communications team and the types and amount of support equipment. The size of the team was based on the size of the Secretary's official delegation; the level of communications support needed; the location(s) to be visited; and the amount and type of equipment needed at each location. An individual from the Secretary's office who was coordinating a planned trip would alert him that communications support was needed. Depending on what communications staff was available, he would make a verbal recommendation to his supervisor regarding who should be part of the communications team. If the supervisor approved the recommendation, he passed the recommendation on to the Human Resources' Administrative Specialist who was coordinating the administrative support package for the trip with the Secretary's staff. Several times the Secretary's staff reduced the number of individuals on the communications team. Typically, two staff members were sent to each location to be

visited by the Secretary, with an occasional trainee added to the team when the communications team deemed it appropriate to train additional personnel and the workload was expected to be unusually heavy. He said that on recent foreign trips, contractor support personnel were used to provide communications/computer support.

The Information Management official said support equipment configurations evolved over time and were influenced by prior trip experience, so various configurations were used from trip-to-trip. He said that currently a basic configuration list is used in planning equipment needed on specific trips. He said this basic list was established and implemented in May 1995 based on prior travel experience.

The Information Management official also said that with former Secretaries, his office would get at least 30-days notification from the Secretary's office of scheduled foreign travel. He said that this allowed his office time to pack equipment needed to support the Secretary and ship it via diplomatic pouch to the U.S. Embassy in the country to be visited. He said, however, that it was difficult to send equipment via diplomatic pouch to support the Secretary's travel because his office sometimes received notification of an upcoming trip anywhere from one day to a week in advance. This resulted in members of the support team having to transport equipment as excess baggage aboard the aircraft. Exhibit 2 lists equipment that was transported to Johannesburg, South Africa. A similar list of equipment was also transported to Cape Town, South Africa, during this trip. He further said that this method of shipping equipment was very expensive because, depending on the size of the delegation to be supported, there could be 15 to 25 crates of equipment, weighing from 60 to 80 pounds each, shipped as excess baggage. This excess baggage would weigh between 900 to 2,000 pounds.

**RECOMMENDATION 6:** We recommend the Assistant Secretary for Human Resources and Administration evaluate the level of administrative and communications support required for Secretarial foreign travel.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 requires the Senior Responsible Official to develop a logistical staffing plan as part of each trip plan. It also stated that the Offices of Administrative Services and Information Management have developed written criteria for use by the Senior Responsible Official in determining the appropriate number of administrative/communication personnel.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

U.S. Department of Energy  
 Travel Support System  
 Trip Inventory

August 3, 1995  
 Page :

Trip: 23  
 Destination: Johannesburg, S. Africa  
 Departure Date: 07/21/95

Item	Weight	VA	Number	Crates
Accessory Pack			1	B02
Adapter/2-3 prong US (np)	0.1		15	A03,A04,A05,A06,A10,B02,CD4,F03,F05,P03
Adapters/foreign (set)	0.2		25	A03,A04,A05,A06,A10,B02,CD4,F03,F05,P03
Appletel Node (w/ cord)	0.1		6	A10,CD4,P08
Battery charger/Mac	0.5		1	A10
Battery pack/Mac	0.5		2	A10
Cable, ptr/para 25-25-pin	0.5		4	P03
Cable, ptr/parallel	0.5		6	CD4,P03,P05,P06,P08,P10
Cable/Mac monitor			2	MD3,SD4
Cable/SCSI	1.0		1	SD4
carrying case	4.0		11	A03,A04,A05,A06,B02
Carrying Case/Mac	0.5		2	A10
Diskettes (box)	0.5		15	A04,A10,B02,MD3,MD7,MD9,ML0
Docs/Brother color ptr.	0.5		1	CD4
Docs/Canon Fax	0.2		1	F03
Docs/Mac Powerbook	3.0		1	A10
Docs/NEC Versa	3.5		1	B02
Docs/OKIDATA 830	1.0		1	P03
Docs/Scanner	2.0		1	SD4
Docs/TSS			1	B02
Extension cord	1.0		14	A03,A04,A05,A06,A10,B02,CD4,F03,F05,MD
Fax trays/Canon 7000			2	F03,F05
Fax, plain-ppr/Canon 7000	49.0	336	2	F03,F05

U.S. Department of Energy  
 Travel Support System  
 Trip Inventory

August 3, 1995  
 Page 2

Trip: 23  
 Destination: Johannesburg, S. Africa  
 Departure Date: 07/21/95

Item	Weight	VA	Number	Crates
Image Drum/CL830	2.5		10	A05,P03,P05,P06,P08,P10
Ink sht roll/Bthr (120)	1.0		8	C04,S04
Keyboard, external/AT	2.0		10	A03,A04,A05,A06,B02
Labels, Assorted	2.0		1	P03
Lamination Supplies			1	S04
Laminator			1	S04
Lock	0.2		24	A03,A04,A05,A06,A10,B02,C04,F03,F05,M03,
Monitor, external/Mac	28.0	156	1	M03
Monitor, external/PC	27.5	180	3	M07,M09,M10
Mouse pad	0.1		12	A03,A04,A05,A06,A10,B02
Mouse/Macintosh	0.5		2	A10
Mouse/PC	0.5		10	A03,A04,A05,A06,B02
Multi-plugs			5	A04,A06,M07,M09,M10
Paper/color, legal (100)	1.3		5	S04
Paper/color, letter (100)	1.3		3	C04
Paper/plain (ream)	5.0		21	A05,A06,F03,F05,M07,M09,M10,P03,P05,P06,
Phone cord/PCMCIA (& RJ)	0.1		10	A03,A04,A05,A06,B02
Phone cord/RJ-11	0.1		4	A10,F03,F05
Phone/Answering Machine	2.0		1	B02
Phone/Headset	1.3		1	B02
Phone/Speakerphone	2.8		3	A03,A04,B02
Portable/Mac Pwrbook 540	7.0		2	A10,A10
Portable/NEC color	7.0		10	A03,A03,A04,A04,A05,A05,A06,A06,B02,B02

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 Travel Support System  
 Trip Inventory

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 Page 3

Trip: 23  
 Destination: Johannesburg, S. Africa  
 Departure Date: 07/21/95

Item	Weight	VA	Number	Crates
Power cord	0.5		30	A03,A04,A05,A06,A10,B02,C04,F03,F05,M03,
Power supply/Ans. mach.			1	B02
Power Supply/Mac Pwrbook	1.0		3	A10
Power Supply/NEC	1.0		10	A03,A04,A05,A06,B02
Power supply/Speakerphone			2	A03,B02
PrtNet/PC (w/ cord)			10	A03,A04,A05,A06,B02
PrtNet/Ptr (w/ cord&adpt)			4	P03,P05,P06,P10
ptr thml hd clnr/Brother	0.1		1	C04
Ptr tray/Brother color			1	C04
Ptr tray/OKIDATA CL830			5	P03,P05,P06,P08,P10
Ptr trays/legal, Brother			1	S04
Ptr, color/Brother	57.5	600	1	C04
Ptr, laser/OKIDATA CL380	22.3	840	5	P03,P05,P06,P08,P10
Scanner	18.0		1	S04
Surge protector	1.5		17	A03,A04,A05,A06,A10,B02,C04,F03,F05,M07,
SW/DOS 6.22			1	A04
SW/Harvard Graphics v3.0	5.5		1	A04
SW/LapLink	2.7		1	B02
SW/Lotus-DOS			1	A04
SW/NEC Utilities			1	B02
SW/Norton Utilities	3.0		1	A05
SW/pcANYWHERE	2.0		1	A05
SW/Persuasion	3.0		1	A10

U.S. Department of Energy  
Travel Support System  
Trip Inventory

August 3, 1991  
Page

Trip: 23  
Destination: Johannesburg, S. Africa  
Departure Date: 07/21/95

Item	Weight	VA	Number	Crates
SW/Photoshop			1	S04
SW/QuickLink II			1	B02
SW/Windows			1	A04
SW/WordPerfect 6.1-Win	3.5		1	A03
SW/WordPerfect v5.1	7.0		1	A03
Switch box/ABCDE	4.8		1	P03
Tape/duct (roll)	1.5		1	A10,B02
Telephone books	1.5		2	A03,A10,B02
Toner cartridge/Canon fax	2.0		4	F03,F05
Toner cartridge/OKIB30	0.7		10	P03,P05,P06,P08,P10
Tool Kit	1.0		1	B02
Transformer/1000VA	14.0		5	P03,P05,P06,P08,P10
Transformer/300VA	5.0		1	B02
Transformer/500VA	8.5		2	F03,F05
Transformer/750VA	13.0		6	A03,A04,A05,A06,A10,CD4
Transparencies, lgl (50)	1.8		3	S04
Transparencies, ltr (100)	1.8		7	A05,CD4,P05,P06,P08,P10
Transparency Frames (50)	1.5		3	A06,SD4
Trash bags	0.1		15	P03,P05,P06,P08,P10

## Security/Executive Protection

According to the Office of Security Affairs (OSA) Executive Protection Procedural Guide (Guide), dated April 1995, "the purpose of the DOE Executive Protection Program is to provide personal protection to the Secretary and the Deputy Secretary, when designated by the Secretary." The Guide states that:

"... the program strives to prevent injury or embarrassment to the protectees from acts by terrorists, criminals, violent dissident groups, or unstable/ irrational individuals. Additionally, executive protection personnel should take precautions to reduce the exposure of the Secretary and Deputy Secretary to hazardous or life threatening accidents."

According to an OSA official, in January 1993 OSA issued the Executive Protection Procedural Guide, which was an attempt to consolidate executive protection procedures into one document. He said, however, that the Guide was not complete and was only a "discussion of what needs to be done, not how to do it." Although a separate order was not issued for the Executive Protection Program, in February 1995 the Department issued a revision to DOE Order 5632.7A, "PROTECTIVE FORCE PROGRAM," which contained the policy and concept of operations for executive protection of the Secretary and the Deputy Secretary. The OSA official said that, in April 1995, following issuance of the executive protection policy in the revised DOE Order, the Executive Protection Procedural Guide was updated, revised and reissued. He said that written requirements for the Executive Protection Program are contained in the revised DOE Order. However, he also said that although the Executive Protection Procedural Guide does not establish requirements, OSA uses the Guide as "requirements" for the Executive Protection Program.

The OSA official said that OSA is responsible for managing and directing the Executive Protection Program and has appointed an Executive Protection Program Manager to plan, coordinate, and control all executive protective service operations and program activities. The Executive Protection Program Manager, through his management channels, only made security recommendations to the Secretary's office. He said that the Transportation Safeguards Division (TSD), headquartered in Albuquerque, New Mexico, had employees in Albuquerque; Amarillo, Texas; and Oak Ridge, Tennessee; who provided executive protection support. TSD provided personnel for advance teams, protective details, and other services requested by the Executive Protection Program Manager and appointed an Executive Protection Coordinator to act as the official point of contact on executive protection matters.

According to an OSA official, OSA does not have written criteria/procedures for determining the number of executive protective personnel to support the Secretary while on foreign travel. He said that security recommendations for Secretarial travel were based on knowledge of the threats facing the Secretary, "professional training,"

and extensive experience in providing protection services dating back to the first Secretary of Energy. He said that the following factors were considered when determining the number of executive protective personnel that travel with the advance team, but that the Secretary made the final decision as to her personal security:

- A Departmental Threat assessment, which is provided by the Threat Assessment Division, Office of Emergency Management, Office of Nonproliferation and National Security;
- Threat information provided by the Department of State's Regional Security Officers located at the U.S. embassies/consulates in the countries to be visited or by local police department(s) for domestic trips;
- The number of stops on the itinerary; and
- Input from the Secretary and/or her staff.

We were told by an OSA official that for a number of foreign trips taken by the Secretary the recommended size of the executive protection team was reduced by the Secretary's office. The Secretary told us U.S. Embassy and Department of Energy security personnel handled security for her trips. She also said the Department's Chief of Staff would negotiate the size of the security team with the Director of the Office of Nonproliferation and National Security. The Secretary said that she stayed out of it completely.

As discussed above, threat assessment information played a role in the determination of the number of security personnel required to accompany the Secretary on foreign travel. We reviewed the threat assessments considered by OSA in their determination of the number of executive protection personnel for each of the 16 foreign trips by the Secretary. We compared the threat assessments with the corresponding numbers of executive protection personnel that supported the Secretary's travel on five trips that involved only one destination. We noted, for example, that for the Secretary's October 1993 trip to London, England, the threat was categorized as "negligible/low" and five executive protection persons supported the Secretary's trip. For the Secretary's July 1994 trip to New Delhi, India, the threat was categorized as "low" and nine executive protection persons supported the Secretary's trip. For the Secretary's trip in August/September 1994 to Brussels, Belgium, the threat was categorized as "low" and four executive protection persons supported the Secretary's trip. For the Secretary's June 1995 trip to San Jose, Costa Rica, the threat was categorized as "low" and five executive protection persons supported the Secretary's trip. For the Secretary's May 1995 trip to Moscow, Russia, the threat was categorized as "medium/high" and five executive protection persons supported the Secretary's trip.

DOE Order 5632.7A states that normally, proposed executive protection requirements will be submitted in writing to the Executive Protection Program Manager, who will then

forward recommendations to the Secretary or the Secretary's designated representative for approval. The Order, however, does not identify who is responsible for preparation and submission of the proposal to the Executive Protection Program Manager. Specifically, Chapter VIII, paragraph 3, Concept of Operations, states that:

"Executive protection will not be provided to the Secretary without the knowledge and specific approval of the Secretary . . . . Normally, proposed executive protection requirements will be submitted in writing to the Executive Protection Program Manager at least 10 working days prior to implementation of a service. On those occasions when there is less than 10 working days notice of impending travel by the Secretary or Deputy Secretary, executive protection requirements will be submitted as soon as possible. The proposal shall include:

- "(1) A description of known or potential threats.
- "(2) The nature, extent, and duration of proposed executive protection activities to be conducted."

The Order also states that: "The Executive Protection Program Manager will forward recommendations to the Secretary, or the Secretary's designated representative, for approval."

When we discussed this requirement with an OSA official, we were told that the intention was for the Secretary's office to provide OSA with detailed information for each trip proposed by the Secretary so that executive protection requirements could be identified. The OSA official said that it has been difficult, however, to obtain this information from the Secretary's staff prior to her travel and, therefore, this part of the requirement has not been followed. Another OSA official told us that he used the Secretary's schedule to determine her protection requirements while on travel. He said every two weeks OSA receives a copy of the Secretary's "block schedule of upcoming events," which includes the Secretary's foreign travel. He reviews the Secretary's agenda, highlights her trips, and uses the block schedule for determining requirements for protection of the Secretary while on travel.

#### Authority to Carry Weapons For Secretarial Foreign Travel

The authority for executive protection personnel to carry weapons and take actions to protect the Secretary while in a foreign country is granted by the host country. Depending on the limitations of authority granted by the host country, actions by the executive protection personnel may subject them to prosecution under host country criminal laws.

The "Executive Protection Procedural Guide" cites two Federal statutes that provide legal authority for actions by executive protection personnel while protecting the

Secretary: Title 18 U.S.C. Section 351, "Congressional, Cabinet, and Supreme Court assassination, kidnapping, assault; penalties," and Title 18 U.S.C. Section 3053, "Powers of marshals and deputies." Taken together, these statutes provide for executive protection personnel, when deputized as Deputy United States Marshals, to carry weapons in the U.S. while protecting the Secretary and to make arrests for violations of Federal law.

In a March 17, 1992, memorandum, subject, "Personal Protection of Secretarial Officers," to the Director, Office of Safeguards and Security, the Assistant General Counsel for General Law stated that:

"U.S. Marshals would be authorized to make arrests without warrant for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony. Section 351, Title 18, United States Code, provides in pertinent part, that it is a federal crime to kill, kidnap, attempt to kill or kidnap, conspire to kill or kidnap, or assault the Secretary (or nominee during pendency of the nomination) or Deputy Secretary . . . . It would appear, therefore, that a deputized U.S. Marshal could carry firearms and make arrests without warrant while protecting the Secretary or Deputy Secretary."

We also reviewed Title 18 U.S.C. Section 3053, which states that:

"United States marshals and their deputies may carry firearms and may make arrests without warrants for any offense against the United States committed in their presence, or for any felony cognizable under the laws of the United States if they have reasonable grounds to believe that the person to be arrested has committed or is committing such felony."

These statutes provide authority for executive protection personnel to carry weapons and enforce Federal laws while protecting the Secretary in the U.S. and while on property within the jurisdiction of the U.S. However, it appears that the authorities provided by Federal statute to executive protection personnel while protecting the Secretary overseas are limited to the authorities, if any, granted by the host country. Some foreign countries provided permits for executive protection personnel to carry weapons when protecting the Secretary while in that country. We were not provided a determination that addressed the legal status of executive protection personnel if they used their weapon or took physical action against a citizen of that country in the performance of their protection duties.

We were told by an official in the Bureau of Diplomatic Security, Department of State, that Federal agencies and/or Federal agents have no authority to carry weapons into foreign countries without that country's permission. He said that the only authority for

U.S. personnel to carry weapons in a foreign country is granted by that country. He said that Department of State tries to advise all cabinet level protective details not to carry weapons overseas because most countries do not like foreign agents carrying weapons. He said, however, that due to "reciprocity," most countries will give weapons permits to U.S. protective details because the U.S. Government will allow their protective details to carry weapons in the U.S. Normally, the U.S. Embassy's Regional Security Officer will obtain permits through the host country's foreign ministry prior to the protective detail arriving in country. The permit authorizes the protective detail member to carry a weapon while in that country. We were told that some countries, such as England and Japan, do not allow weapons in their countries and do not issue permits, while other countries, such as France, have limitations on weapons allowed in their country.

We were told by an OSA official that the Assistant General Counsel's March 17, 1992, memorandum was silent concerning the legal aspects of carrying firearms and/or the legal ramifications should a member of the executive protection team use their weapon legally or illegally in a foreign country. This is consistent with our review of the March 17, 1992, memorandum from the Assistant General Counsel for General Law. According to the OSA official, the executive protection personnel are volunteers and have no more authority than other U.S. citizens while traveling overseas conducting executive protection services in a foreign country.

**RECOMMENDATION 7:** We recommend the General Counsel determine the authority and financial liabilities of the Department and of executive protection personnel when carrying weapons in a foreign country.

Management Comments. Management commented that we should revise Recommendation 7 by deleting the words "in a foreign country" from the end of the recommendation.

Inspector Comments. Our review only addressed executive protection provided to the Secretary while on foreign travel, therefore, we did not revise our recommendation.

A July 31, 1996, memorandum from the Deputy General Counsel to the Acting Chief Financial Officer, contained the Office of General Counsel's conclusions regarding its review of this matter. In summary, the Office of General Counsel concluded that all but two of the 16 jurisdictions visited by the Secretary (the United Kingdom and Hong Kong) authorize personnel assigned to protect Cabinet Secretaries to carry weapons and it is generally understood that physical force or weapons may be used only in self-defense or in the defense of the Secretary.

With respect to liability by the Department or the DOE protection personnel in the event that physical force or weapons are used against a foreign national, the Office of General Counsel concluded that there probably would not be liability where the host country consents to the use of firearms by protection personnel and the use of physical

force or weapons is a valid use of self-defense. The Office of General Counsel further concluded that foreign countries might assert jurisdiction over the United States for alleged torts resulting from the use of force. Finally, with respect to DOE protection personnel, they concluded that although these personnel do not enjoy diplomatic immunity, in the event that there is the use of physical force or weapons, the United States might be able to invoke sovereign immunity because protection of the Secretary is an official function carried out for a public purpose. It must be shown, however, that the DOE protection personnel were acting within the scope of their employment.

In view of the Office of General Counsel's conclusions, it is suggested that DOE consider including a discussion of executive protection personnel potential liability in the executive protection training program. We consider management's actions to be responsive; therefore, this recommendation may be closed.

### **C. Trip Costs**

#### **1. Introduction**

As part of this review, we sought to identify the total costs associated with each of the Secretary's 16 trips. The costs were based on accounting reports provided by the Department's Office of Chief Financial Officer, Operations and Field Offices, and documents provided by contractors who supported the trade mission trips. The total cost identified for the Secretary's 16 foreign trips was about \$4.58 million, including \$3.42 million for the four trade missions. The costs for each of the 16 trips are shown in Table 10.

**TABLE 10**  
**COSTS OF FOREIGN TRAVEL**

TRIP NUMBER	DATES OF TRIP	COUNTRY	PURPOSE	PARTICIPANTS*		COST**
				FEDS	NON-FEDS	
<u>1993</u>						
1	June 1-5	France	International Energy Agency Ministerial Meeting	8	0	\$43,645
2	Sept 24-Oct 2	Austria Russia	International Atomic Energy Agency General Conference Gore-Chernomyrdin Commission on Energy and Space Energy Policy Committee	35	0	\$186,025
3	Oct 22-26	England	Keynote address to the "Oil & Money" Conference	13	0	\$67,591
4	Dec 12-17	Russia	Gore-Chernomyrdin Commission on Energy and Space ***	6	0	\$13,455
<u>1994</u>						
5	Feb 5-8	Ivory Coast	Head of the Presidential Delegation for the Funeral of President Houphouet-Boigny ***	7	0	\$11,153
6	July 7-15	India	Presidential Mission on Sustainable Energy and Trade	42	38	\$739,320
7	Aug 31-Sept 5	Belgium	50th Anniversary of the Liberation of Belgium	6	0	\$17,780
8	Sept 16-25	Austria Pakistan	International Atomic Energy Agency General Conference Presidential Mission on Energy Investment	65	47	\$590,999
9	Dec 12-19	Russia Sweden	Gore-Chernomyrdin Commission on Energy and Space *** Tour of Swedish Nuclear Waste Facility	19	0	\$104,395
<u>1995</u>						
10	Feb 9-25	India Hong Kong China	Return Journey to India Prelude to Presidential Mission to China Presidential Mission on Sustainable Energy and Trade	85	53	\$1,079,894
11	May 17-27	France Azerbaijan Italy	International Energy Agency Ministerial Meeting Principal Speaker at International Caspian Oil & Gas Exhibition *** Keynote Speaker at the 1995 World Geothermal Conference	30	2	\$291,524
12	June 7-11	Costa Rica	Joint Implementation Workshop/Signature of Agreement	14	1	\$53,270
13	June 26-July 1	Russia	Gore-Chernomyrdin Commission on Energy and Space	14	0	\$64,538
14	August 18-28	South Africa	Clinton Administration Delegation on Sustainable Energy and Empowerment to South Africa	64	50	\$1,010,392
15	Sept 13-20	Czech Rep. Austria	U.S. Country Studies Workshop; Center for Clean Air Policy Joint Implementation Project International Atomic Energy Agency General Conference	25	8	\$181,612
16	Nov 29-Dec 7	South Africa	Gore-Mbeki Binational Commission ***	12	8	<u>\$125,078</u>
<b>Total Foreign Travel Costs</b>				<b>\$4,580,671</b>		

\*Includes all Federal and non-Federal individuals identified as using Government-arranged air. For those trips with multiple destinations, the numbers reflect individuals that were at any of the trip destinations.

\*\*Includes the identified DOE airfare, meals and incidental expenses, lodging costs, contractor support costs, and embassy support costs as identified in the DOE accounting system.

\*\*\*Some air transportation paid for by another Government agency.

The trade missions costs are shown in Table 11. This table includes costs for travel, embassy support, and contractor support services for the four trade missions.

The first column, "Travel Costs," shows the costs for charter and commercial airfare services, and other services such as lodging, meals and incidentals. The second column, "Embassy Support Costs," shows the costs Department officials identified in the accounting system as amounts charged the Department to reimburse U.S. embassies for costs they incurred in support of the trade missions. The third column, "Contractor Support Cost," shows the costs for services provided by the Department's management and operating subcontractors and support services contractors. Each of these three columns will be discussed in the following three sections.

**TABLE 11**  
**TRADE MISSION COST SUMMARY**

COUNTRY/ DESTINATION	TRAVEL COSTS	EMBASSY COSTS	CONTRACTOR SUPPORT COSTS	TOTAL DOE COSTS
India	\$ 670,912	\$ 42,764	\$ 25,644	\$ 739,320
Austria/Pakistan*	488,360	99,053	3,586	590,999
India/Hong Kong/China**	799,573	188,018	92,303	1,079,894
South Africa	601,390	193,799	215,203	1,010,392
<b>TOTAL COSTS</b>	<b>\$ 2,560,235</b>	<b>\$ 523,634</b>	<b>\$ 336,736</b>	<b>\$ 3,420,605</b>

\*Department commented that \$54,595 of costs were incurred in Austria and not on the Pakistan Trade Mission.

\*\*Department commented that \$23,492 of costs were incurred in India and not on the China Trade Mission.

## 2. Travel Costs

Our review of trade mission travel costs included: (1) an audit of the Federal travel vouchers for the India and Pakistan trade missions, (2) a limited review of Federal travel vouchers for the China and South Africa trade missions, which were audited by the Department, and (3) an assessment of the Department's system for approving foreign travel and auditing foreign travel vouchers. As shown in Table 12, total travel costs for the four trade missions were \$2,560,235 which were comprised of costs associated with charter and commercial air transportation services (columns 1 and 2) and other services such as lodging and meals, and incidental expenses (column 3). Travel costs

were determined based on accounting reports showing costs paid by the Department as a result of travel vouchers submitted by travelers. DOE spent \$3.37 million in travel costs supporting the Secretary's 16 trips.

**TABLE 12**  
**TRADE MISSION TRAVEL COSTS**

Country/ Destination	Charter Costs to DOE	Commercial Airfare Costs	Other Costs*	Total Travel Costs
India	\$ 498,965	\$ 92,675	\$ 79,272	\$ 670,912
Austria/Pakistan	236,632	100,920	150,808	488,360
India/Hong Kong/China	331,716	208,989	258,868	799,573
South Africa	280,646	175,625	145,119	601,390
<b>Total</b>	<b>\$ 1,347,959</b>	<b>\$ 578,209</b>	<b>\$ 634,067</b>	<b>\$ 2,560,235</b>

\*Lodging, meals and incidental expenses.

We audited 94 foreign travel vouchers covering \$157,040 of the travel costs. Of the 94 vouchers we audited, 16 were for foreign travel by the Secretary from June 1993 to December 1995; 36 were for travelers who went to India during June/July 1994; and 42 were for travelers who went to Pakistan during September 1994.

Our audit of vouchers included the following:

- Identifying reimbursement for unallowable costs.
- Verifying per diem rates and accurate mathematical calculations.
- Reviewing justifications for air transportation seating upgrades.
- Reviewing travel authorizations and vouchers for proper authorization and approval.

The audit of travel vouchers was based on Federal and Department of Energy requirements for foreign travel. These requirements were included in Title 41, Code of

Federal Regulations, Chapter 301, Travel Allowances and DOE Orders 1500.2A, Travel Policy and Procedures, and 1500.3, Foreign Travel Authorization. We also held discussions with representatives of the Office of Headquarters Accounting Operations regarding the results of our audit of travel vouchers.

#### Travel Voucher Audit Results

Our review of 94 foreign travel vouchers identified an average of one error per voucher, which resulted in identifying \$1,841 in unallowable costs. We also identified the payment of incorrect per diem rates and mathematical errors. We discussed these findings with officials from the Department's Office of Headquarters Accounting Operations, who stated that they generally agreed with our results and that they believed most of the types of errors identified should be eliminated in the future by use of the Department's automated Travel Management system. They stated that this system was implemented in 1993 and was required to be used by program offices for travel vouchers and travel authorizations effective April 22, 1996.

The \$1,841 of unallowable costs included reimbursements for laundry expenses when authorized to receive a fixed rate for meals and incidental expenses (M&IE), overpayments of personal phone calls and reimbursements of photography without the required prior approval. Although there were a variety of unallowable costs, the reimbursement for laundry expenses, when on fixed M&IE was \$1,062, or 55 percent of total unallowable costs. The unallowable laundry costs were primarily found on the Secretary's travel vouchers -- \$952. We noted that the Secretary had reimbursed the Department \$451 of the \$952 prior to our review. In response to a May 16, 1996, memorandum from the Office of Chief Financial Officer, the Secretary paid the Department the balance of unallowable laundry expenses included on her travel vouchers.

Management Comments. Management commented that:

"Department of Energy personnel are allowed certain expenses within the bounds of their travel documents. Administrative staff most specifically, will allot an amount in the miscellaneous portion of their travel authorization to cover such expenses. These travel authorization are signed and approved by at least two separate individuals. Further clarification on this issue would be helpful. As cited: ' . . . equipment handling without prior approval . . . ', in one instance, due to change in airports porters with large dollies were needed to transfer equipment. Charge was f25 or approximately \$40."

Inspector Comments. During our review of trade mission travel costs it was determined that the travelers' costs associated with equipment handling costs were unallowable. Equipment handling costs were considered unallowable if prior authorization was not received. These unallowable costs for equipment handling were discussed with officials from the Department's Office of Headquarters Accounting Operations, and they agreed

that the costs associated with equipment handling were unallowable and should be collected from the traveler. After further review it was determined that prior approval was included on the travel authorizations for "excess baggage," which includes handling of Government property, and these costs should be allowable. The unallowable costs discussed in the report have been reduced to \$1,841 and "equipment handling" has been deleted from the report as an unallowable cost.

Furthermore, we found that the wrong per diem rates were used approximately 65 times on the vouchers we reviewed. Per diem is a daily payment of allowances for taxes, lodging, meals, and incidental expenses. The errors regarding per diem rates consisted of wrong M&IE and lodging rates, incorrect prorated per diem, reimbursement of actual lodging when on a fixed per diem rate and vice versa, payment of actual lodging when the traveler was not authorized actual lodging and reimbursement of M&IE and/or lodging rates for the wrong number of days. We also found 13 mathematical errors.

Finally, our review of the 94 foreign travel vouchers identified that travel authorizations were properly approved. We also found that 27 travelers upgraded to business class from coach. All upgrades were accompanied with justifications.

The Director of the Office of Headquarters Accounting Operations generally concurred with the results of our review. In a document dated March 29, 1996, he stated that although he did not see any obvious examples of waste, fraud or abuse in the errors that we found, he believed our analysis to be highly accurate.

The Director stated that the majority of errors we identified were clerical in nature and in the future will be caught by using Travel Manager software. Implementation of the Travel Manager system by the Office of Chief Financial Officer began in 1993. This software provided a user-friendly and accurate automated system in which to prepare travel authorizations and vouchers. The use of Travel Manager software recently became a requirement as a result of streamlining within the Department.

A memorandum dated March 26, 1996, entitled, "Travel Authorization and Voucher Processing to Heads of Headquarters Elements," required all Headquarters travel authorizations and vouchers to be prepared using the Travel Manager software by April 22, 1996. A CFO official stated that use of this software will streamline and simplify travel processing for both the traveler and the Travel Audit Section. The official also stated that using Travel Manager software will eliminate most types of errors identified in our review.

#### Reduction of Meals and Incidental Expenses

We found that all DOE travelers whose vouchers we reviewed, except one person, claimed full per diem for each day of travel. During each trade mission, breakfast, lunch, or dinner was shown on an itinerary as part of an official function. According to Title 41, Code of Federal Regulations, Chapter 301-7.12, "Reductions in Maximum Per

Diem Rates When Appropriate," travelers are required to reduce their per diem allowance appropriately when meals are furnished by the Federal government.

Based on interviews and a review of official itineraries for the four trade mission trips, we identified 30 functions where breakfast, lunch, and dinner were provided. According to one Department official who traveled on these trade missions, many DOE travelers attended these functions. We reviewed 220 vouchers for the four trade missions and determined only one traveler reduced his M&IE. Not only was there little offset of M&IE, but some of these meals were paid for by DOE through the embassy.

Management Comments. Management commented that:

"The report does not mention that many of the Federal employees on the trade missions worked 'behind the scenes.' They did not attend or eat at the functions discussed in the report, and therefore were not required to deduct anything from their per diem."

Inspector Comments. It is also our understanding that many of the trade mission travelers worked "behind the scenes" and may not have attended or eaten at the functions discussed in the report. The Office of the Chief Financial Officer has asked each trade mission traveler to review trade mission vouchers and modify them to properly reduce their per diem amounts to reflect provided meals.

Table 13 identifies the allowable amount of M&IE per day, the amount that the M&IE should have been reduced for each type of function, and the number of functions for each of the trade missions where meals may have been provided. The table also identifies the number of Federal travelers whose vouchers we reviewed for meal offset, the number of Department of Energy official delegates who were on the trade missions, and the number of instances where we identified a Federal traveler who reduced M&IE costs to reflect the receipt of free meals.

One Federal traveler who participated in all four trade missions stated that she did not reduce her M&IE for meals that were provided. She also stated that she did not remember discussing with anyone the requirements for reducing or not reducing M&IE for meals that were provided. Another Federal traveler stated that he recalled eating mostly at official meals and did not pay for "a lot of food." He also stated that he did not recall how he paid, but it would be indicated on his travel voucher. The voucher for this individual was not reduced for meals provided.

We discussed the issue regarding the lack of reduction in M&IE with the Director of the Office of Headquarters Accounting Operations. The Director stated that the Travel Audits Office was not aware of this information when they audited the vouchers and had no way of identifying that travelers attended functions where meals were provided. He also stated his office would be unable to determine who ate the meals provided at

TABLE 13  
Inventory of Meals and Associated M&IE Offsets

Country/ Destination	Date	Functions Designated as Meals	Total M&IE per day	Appropriate Reduction per Meal	Number of Federal Travelers Reviewed for Meal Offsets	Number of DOE Official Delegates	Number of Federal Travelers Who Reduced M&IE <sup>2</sup>
India			\$ 45.00	\$ 18.00	37	9	0
	9-Jul-94	Dinner hosted by Chadbourn & Park	45.00	11.00			
	10-Jul-94	Luncheon hosted by Minister Salve	45.00	11.00			
	11-Jul-94	Luncheon-Confederation of Indian Industry	45.00	11.00			
	12-Jul-94	Breakfast with Minister Kumar & O'Leary	45.00	7.00			
	12-Jul-94	Luncheon-Energy Summit	45.00	11.00			
	12-Jul-94	Dinner hosted by Rama Goenka	45.00	18.00			
	13-Jul-94	Roundtable Luncheon hosted by Minister of Environment Nath	45.00	11.00			
	14-Jul-94	Dinner hosted by Maharashtra State Chief Minister Pawar	41.00	17.00			
		Sub Total	\$ 104.00		42	13	1
Austria/ Pakistan			\$ 38.00	\$ 6.00			
	22-Sep-94	Breakfast Meeting with Prime Minister Bhutto	31.00	12.00			
	22-Sep-94	Dinner at Lahore Fort	31.00	12.00			
	23-Sep-94	Financing Breakfast at State Guest House	31.00	5.00			
	23-Sep-94	Dinner Hosted by Secretary O'Leary & Ambassador Monjo	38.00	15.00			
	24-Sep-94	Luncheon hosted by Prime Minister Bhutto	38.00	10.00			
	24-Sep-94	Dinner hosted by President Leghari	38.00	15.00			
		Sub Total	\$ 63.00		80	19	0
India/Hong Kong/ China			\$ 95.00	\$ 14.00			
	20-Feb-95	Delegation Breakfast	95.00	24.00			
	20-Feb-95	Lunch hosted by Vice Mayor Hua Jianmin	70.00	28.00			
	21-Feb-95	Welcome Dinner hosted by the Peoples Republic of China	70.00	17.00			
	22-Feb-95	American Chamber of Commerce Luncheon	70.00	28.00			
	22-Feb-95	Renewable Energy Dinner	70.00	11.00			
	23-Feb-95	Secretarial Oil & Gas Breakfast	70.00	17.00			
	23-Feb-95	Secretarial Sustainable Energy Luncheon	70.00	17.00			
	24-Feb-95	US/China Business Council Luncheon	70.00	17.00			
		Sub Total	\$ 156.00		61	17	0
South Africa			\$ 48.00	\$ 7.00			
	20-Aug-95	Delegation Breakfast	48.00	7.00			
	21-Aug-95	Delegation Breakfast & Meeting	48.00	7.00			
	21-Aug-95	Business Delegation Lunch	48.00	12.00			
	23-Aug-95	Delegation Meeting & Breakfast	50.00	8.00			
	23-Aug-95	Energy Summit Lunch	50.00	12.00			
	24-Aug-95	Delegation Breakfast & Meeting	50.00	8.00			
	24-Aug-95	Dinner Hosted by American Chamber of Commerce	50.00	20.00			
	26-Aug-95	Luncheon Hosted Premier Dipico	50.00	12.00			
		Sub Total	\$ 86.00				
		Total	\$ 409.00		220		

Note: Unable to determine number of travelers who attended the functions.

1. Number of Official Delegates the Department listed in documents provided to Chairman Barton.
2. M&IE - Meals and Incidental Expenses; Note that one traveler claimed a reduction of \$84 for the Pakistan trip.

these functions. The Director stated that officials in his office will discuss the possibility of sending a letter to all travelers, who attended the trade missions, asking them to reimburse the government for the amount that their M&IE should have been reduced because they attended functions where meals were provided.

**RECOMMENDATION 8:** We recommend the Chief Financial Officer include provisions in DOE N 551.1, "International Travel," to remind travelers of Federal travel regulations requiring that they reduce their M&IE for meals they are provided.

Management Update on Status of Corrective Actions. Management stated that the CFO "has ensured final policy was modified to include reminder," "has issued a DOE Cast [Department-wide E-mail message] addressing this issue," and "is working with the Travel Manager software to improve checks and balances."

The Department provided a June 12, 1996, "Memorandum for Trade Mission Participants," which stated that:

"The Inspector General's draft report indicates that many trade mission travelers did not deduct meals that were provided to them. The Office of the Chief Financial Officer is therefore conducting a review to ensure that all travelers properly reduce their per diem amounts to reflect the meals that were provided to them on these missions."

This memorandum included attachments consisting of DOE Order 1500.2A Chg. 11, IV-5, dated April 16, 1993; Federal Travel Regulation, Chapter 301 - Travel Allowances; Instructions for Per Diem/M&IE [Calculations]; and Table 13 - Inventory of Meals and Associated M&IE Offsets from the "Initial Draft Report on the Inspection of the Secretary of Energy's Foreign Travel." Additionally, the Department provided "DOE Employees M&IE Reimbursement for Trade Missions" reflecting the status of the recoupment of the M&IE offset costs.

DOE M 551.1-1 includes a provision relating to the reduction of M&IE for meals provided to Federal travelers. DOE M 551.1-1, "Meal Deductions," states that "Federal travelers are required to deduct the designated amounts from the meal portion of their allowances for every meal provided to them incident to their official travel (e.g., meals provided in connection with an official luncheon meeting)."

Inspector Comments. The Department's update on the status of corrective actions did not include a copy of the DOE Cast addressing this issue or documentation regarding the status of the work that is being done with the Travel Manager software to improve checks and balances. DOE M 551.1-1 does include a provision relating to the reduction of M&IE. This recommendation should remain open until the work is completed on the planned changes to Travel Manager.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report you requested that we include a reminder in the international travel policy concerning reduction of expenses for meals which are provided. On July 31, 1996, we issued DOE M-551, which included this reminder.

"In the Official Draft Report, you request that we forward to you a copy of the DOECast on this issue, and demonstrate to you the changes we made to the Travel Manager software. We are attaching a hard copy of the DOECast requested, which was made widely available to DOE employees. With respect to changing the Travel Manager software, an on-screen prompt already exists reminding travelers to reduce miscellaneous and incidental expenses by meals that are provided. In addition, we will reemphasize the reminder of DOE M-551.1 and the automatic prompt in the Travel Manager software in our continuing program of training on the use of this software."

Inspector Comments: We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 9:** We recommend the Chief Financial Officer contact all Federal travelers that submitted vouchers on the four trade mission trips, inform these employees of the M&IE offset issue, and request that the employees reimburse the Department for the amount appropriate.

Management Update on Status of Corrective Actions. Management stated that a "[m]emorandum was issued on 6/12/96 to travelers requesting review and reimbursement and responses have been received from a majority of trade mission participants."

Inspector Comments. The Department provided a letter dated May 16, 1996, from the Deputy General Counsel, subject: "Per diem and Meals-and-Incidental-Expenses Deductions When Complimentary Meals are Received During Official Travel," which described (1) pertinent ground rules concerning official traveler who receives meals paid for by the Government and (2) a DOE official traveler who receives meals paid for by anyone other than the traveler while on official travel. This letter also included attachments consisting of DOE Order 1500.2A Chg. 11, IV-5, dated April 16, 1993, and 41 C.F.R. 301-7.12, "Reduction in maximum per diem rates when appropriate."

The Department also provided the June 12, 1996, "Memorandum for Trade Mission Participants," which stated that "EACH TRADE MISSION TRAVELER SHOULD REVIEW TRADE MISSION VOUCHERS AND MODIFY THEM TO REFLECT PROVIDED MEALS."

According to the documentation provided by the Department, as of August 1, 1996, the Department has recouped approximately \$2,424 for M&IE offset costs.

This recommendation should remain open until all of the applicable M&IE offset costs are recouped from the trade mission Federal travelers.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we contact all Federal employees on the trade missions and obtain reimbursement for appropriate miscellaneous and incidental expenses. We have located and contacted 129 of the 139 employees involved and collected the \$3259.21 due. With respect to the remaining 10 employees all of whom have left the Department, we are continuing our efforts to locate them through all available sources so that they can identify for us whether they inappropriately received payment for miscellaneous and incidental expenses; and ensuring they have complied fully with the proper requirements.

"In the Official Draft Report you request that we completely recoup outstanding amounts. We will continue to pursue all amounts due for meals and incidental expenses received."

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

### 3. Embassy Support Costs

As of May 1, 1996, DOE accounting system records showed Department officials had identified \$819,091 in embassy support costs with 12 of the Secretary's foreign trips. These costs included \$523,634, which were identified with the four trade missions, leaving a balance of \$295,457 for the eight other foreign trips. Of the \$523,634 identified with the four trade missions, \$325,828 were still in a DOE suspense account used for embassy costs until Human Resources officials could determine the validity of these costs. Further, an additional \$279,155 (not included in the \$819,091) in embassy support costs that were not identified with specific trips, also had been applied to the DOE suspense account.

As a separate effort, we reviewed documents other than the accounting system records and identified, through this approach, embassy support charges totaling \$549,299. These charges were identified by a review of "1221 Summaries" prepared by DOE accounting officials, records provided by Human Resources officials, and other documents.

## Embassy Support Cost Process

This section describes the embassy support cost process Department officials followed to obtain support from U.S. embassies and to reimburse them for costs incurred in support of the Department's foreign travel. Our discussion is based primarily on a review of the process used to acquire embassy support for the four trade missions. This section will focus on (1) policies and procedures used by the Department for the trade missions; (2) Department actions to identify and apply embassy support costs; (3) interim policies and procedures; (4) four trade missions where embassy support costs were incurred; (5) "reception and representation" expenditures; (6) personal and other improper expenses paid by the Department; (7) inadequate internal controls; and 8) Accounting and Program Office coordination.

### Policies and Procedures Used by the Department for the Trade Missions

At the time the four trade missions occurred, Human Resources officials did not have written procedures for obtaining U.S. Embassy support. However, Office of Headquarters Accounting Operations (Accounting) officials had written procedures for applying embassy support costs to a particular trip once they were incurred. Department officials generally used the following process in obtaining embassy support and applying embassy support costs. Human Resources officials assigned at least one unique Contract Identification Number (CID) to an account for each trip to which embassy support costs could be applied. The CIDs could be for general expenses for the trip or specifically for reception and representation expenses. These officials requested through memoranda that Accounting officials obligate a specified amount of funds as a limit on the embassy support costs that could be applied to each trip CID.

Based on the memoranda, Accounting officials obligated the specified amount of funds for each trade mission and notified Human Resources officials that the funds were available. Human Resources officials then authorized embassy officials to procure goods and services such as lodging, transportation, and communications. The authorizations by the Department for the individual trade missions were communicated through draft cables provided to the State Department (State) or, in some instances, memoranda directly to the embassies. The series of draft cables may have included: appropriation number, which is an account at the Treasury Department (Treasury) to which embassy support costs could be charged; CID Numbers; CID obligation amounts; traveler information; hotel accommodations required; travel arrangements; and security-related information.

Based on the cables, Embassy officials were to begin ordering and obtaining requested goods and services. Often preadvance or advance teams would be in country to coordinate the procurement of goods and services. Each month State officials paid amounts related to the vendor from DOE's appropriation and prepared a Standard Form (SF) 1221, "Statement of Transaction," which summarized costs the embassies incurred to support the Department. Copies of the SF 1221s were sent to the

Department and the Treasury. State officials also provided the Department a "Voucher Auditor's Detail Report" (VADR), which included some details supporting charges shown on the SF 1221s. Upon receipt of the SF 1221s and VADRs, Department Accounting applied these costs to a specific trip CID or suspense account in the Department's accounting system. An Accounting official stated that they had some difficulty in assigning costs to a particular trip because the VADRs normally did not indicate which CID should be charged. The official stated that Accounting applied costs to a specific CID based on the country location, currency, and date the costs were incurred. Accounting officials also stated that copies of the VADRs were sent to designated officials for approval. The following describes actions taken by the Department after the four trade missions to assist them in applying embassy support costs to trip CIDs.

#### Department Actions to Identify and Apply Embassy Support Costs

Department officials took several steps to identify and apply embassy support costs for the four trade missions after a U.S. General Accounting Office review. They requested voucher and invoice data from State for the foreign trips where embassy support costs were incurred. The Department would not normally receive this information from the State Department, unless requested. Human Resources officials developed a list of costs based on information supplied directly from State for the four trade missions. Accounting officials also developed a list of embassy support costs ("1221 Summaries") for each of the four trade missions. The "1221 Summaries" generally listed the cost by month, vendor and general descriptions of the goods or services acquired. Accounting officials sent the "1221 Summaries" to Human Resources officials for approval. Based on Human Resources officials' approval, Accounting officials would then apply costs or deduct costs from a particular trip CID. Additional steps taken by Accounting and Human Resources officials included developing interim policies and procedures for obtaining embassy support and reimbursing the embassy. The following describes the interim policies and procedures the Department issued.

#### Interim Policies and Procedures

On April 15, 1996, Department officials issued DOE Notice 551.1, "INTERNATIONAL TRAVEL," to Department Elements for comments. The Notice discussed key areas such as advance planning, cost control, aircraft acquisition, acquisition of goods and services through U.S. embassies, recouping costs from private sector participants, and accountability. The Notice addressed the following: (1) DOE's preparation of a detailed cable to the embassy; (2) who can authorize expenditures or request changes to the expenditures; (3) DOE's request to the embassies for copies of all invoices and supporting documentation; (4) Trip Logistics officer or Event Logistics officer's approval of all goods and services in advance and in writing; and (5) DOE approved budget limits for each trip. The following describes policies and procedures State codified and reissued after the trade missions occurred.

State officials, with input from DOE, developed written guidance for the various agencies that require embassy support. On April 8, 1996, State officials issued guidance to the Chief Financial Officers Council members. According to a State official, the guidance is a codification of existing policies and procedures. The official stated that embassy policies and procedures for transacting business were not changed by the April 1996, guidance.

Management Comments. Management commented that:

"The Internal Control section of the report states that 'no one was assigned responsibility for obligating, controlling and approving services that were ordered and costs that were incurred.' This is incorrect. The Administrative Lead Officer had this responsibility."

Management also commented that:

"In administering costs through the embassies, the Department followed a decades-old system, in use throughout the Federal government. The draft report inaccurately describes this process.

"This government-wide process makes the traveling agency responsible for requesting only goods and services that it is allowed to spend money on and are necessary for the completion of the trip. The supporting embassy is responsible for buying all the requested goods and services, in accordance with applicable government rules, paying for only what it bought, and ensuring that it does not spend more than the amount given to it by the traveling agency."

Inspector Comments. We wrote to the Acting Chief Financial Officer and asked who the Administrative Lead Officer was on the four trade missions. In response to this question, two Chief Financial Officer officials identified one Human Resources official as having the responsibility of obligating, controlling and approving services for each of the four trade missions. In subsequent discussions with this Human Resources official, he stated that he was the Administrative Lead Officer for the four trade missions, however, he did not have total responsibility for obligating, controlling and approving services. Specifically, the official stated that he had responsibility to obligate and approve services that were ordered and costs that were incurred which he directed to be incurred. The official stated that several Department officials directed embassy officials to obtain goods and services. He further stated that these Department officials did not report to him that the services or goods were being ordered before they were ordered or after they were ordered. He also stated that during the meetings prior to arriving in country or after arriving in country, Department officials were not directed to proceed through him to obtain goods and services.

There is other evidence to support that more than one Department official was responsible for the obligating, controlling and approving the procurement of the goods and services on the four trade missions. For example, the Office of General Counsel opinion on "reception and representation" expenses reported that a number of Department employees were directing the embassy and vendors to procure on behalf of the Department. Specifically, the Office of General Counsel stated, that "even if they [advance staff] did not intend to interact with hotel, embassy, or private sector personnel for the purpose of procuring goods or services, these individuals were directing those activities and so might have been considered by outside sources as authoritative representatives of the Department." The review further stated that other individuals besides advance or administrative officials were given some responsibility to make arrangements for specific events were interacting with hotel, embassy and private sector. Office of General Counsel officials also stated that: "Thus, it is not possible to ascertain whether this group of individuals, or any of them, acted in a fashion to ensure the Department did not incur unplanned and unintended obligations. . . ."

Office of General Counsel identified several examples in which Department officials other than the Administrative Lead Officer, directed the embassy or the hotel to procure goods and services on behalf of the Department. For example, General Counsel officials interviewed an Office of Policy official about his authorization to make commitments involving the obligations of Department funds. The Policy official stated that he was in "charge of the Energy Summit, so in that capacity he needed to get certain things done . . . He dealt directly with the hotel and vendors, not going through the embassy . . . All business was done by 'word of mouth' (orally). There was no paperwork and he does not recall signing or being asked to sign . . . He just made sure everything got done, and was not concerned with who would be paying for it. He dealt with the hotel without knowing who ultimately would pay." The official further stated that "he was given no direction at all on ensuring that the agency did not overspend or spend inappropriately its appropriations."

Also, during testimony before the U.S. House of Representatives, Subcommittee on Oversight and Investigations, Committee on Commerce, on June 13, 1996, the Secretary testified that two people had the authority to make arrangement for the Department. During the testimony, the Secretary could not recall the names of the two people, but stated that she would provide these names for the record to the Subcommittee. The Secretary's response for the record did not include the specific names.

Based on our interviews, as well as the Office of General Counsel's opinion on "reception and representation" expenses, it appears that a number of Department officials directed the embassy to procure goods and services. It also appears that a number of Department officials worked directly with the vendors (hotels) to order goods or services.

Regarding management's comment that an embassy should ensure "that it does not spend more than the amount given to it by the traveling agency," the information we obtained showed that the Department did not normally provide dollar limitations to the State Department. The person designated by the Department as the Administrative Lead Officer confirmed that the Department did not normally provide dollar limitations to the State Department. Further this is supported by copies of State Department cables and cable sections that we have obtained. The following summarizes the funding limitations in the cables and cable sections we have:

INDIA - Funding citation given for general expenses (excluded "reception and representation expenses"), but no dollar limitation.

Funding citation given for "reception and representation" with \$2,500 limitation.

PAKISTAN--Funding citations given for general expenses, but no dollar limitation.

DOE memorandum to embassy with funding citation for rooms with \$18,000 limit.

No mention of "reception and representation" expenses.

CHINA -- Funding citation for general expenses (excluded "reception and representation"), but no dollar limitation.

SOUTH AFRICA -- Funding citation for general expenses, but no dollar limitation.

No mention of "reception and representation" expenses.

We discussed the Department's comments on the Initial Draft Report with the CFO official who had responsibility for preparing the Department's comments. The official stated that there were cables sent to the embassies which included limitations for general expenses and "reception and representation" expenses for the trade missions. Although we requested copies of these cables, the Department has not provided copies of the cables for our review.

Because the Department did not normally provide the embassy a maximum dollar obligation limit, we believe it would be impossible for the embassy to ensure that the embassy did not spend more than allotted by the Department. Further, as discussed elsewhere, the Department did not, as required, always allocate funding in the DOE accounting systems to cover the expense with the trip until after the trip was completed.

Management Comments. Management commented that:

"All expenses incurred by the embassy on behalf of the visiting agency,

including the embassy's own overtime and travel costs, are then charged directly against the fund cite, BEFORE any review by the traveling agency can be conducted."

The comments further stated that the Department requested the original invoices from the embassy vendors in order to substantiate the financial system notifications from Treasury.

The Department also commented that: "To our knowledge, this is the first time that the Department of Energy has requested vendor invoices from an embassy during this kind of review. Receiving these invoices has been a slow process that is still ongoing."

Inspector Comments. We discussed this issue with a senior State Department official who stated that DOE officials "misstated" the embassy support cost process, thereby creating a "false impression" of this process. The State Department official stated that DOE officials' statements, suggested that the review process begins when the Department receives the Treasury reports. The State Department official further stated that the review process should begin when DOE was at the post, not after DOE officials have departed. The official stated that beginning the review process upon the receipt of the Treasury report "is not the norm" for most visiting agencies. He stated that in most instances, the visiting agencies either requested copies of embassy support costs prior to leaving the embassy; or maintained logs of the incurred expenses. As a result, the visiting agency is able to review the expenses as they are incurred rather than after the expenses have been paid. The official stated this process allows the visiting agency then to match up the embassy support costs to the charges against the agency's fund cite upon receipt of the Treasury reports. The official further stated that, in the case of the Department of Energy, because DOE officials did not collect invoices nor maintain logs of the expenses, DOE is reconstructing these costs after receiving the Treasury reports. He also stated that, as a result, the DOE officials are working from the "tail end" to reconstruct the embassy support costs.

Regarding initiating steps to collect invoices, we acknowledged in the Initial Draft Report that the Department had taken steps to request invoices for the foreign trips where embassy support costs were incurred. However, as noted elsewhere, we believe that proper management of the embassy costs would have dictated that the Department collected invoices or maintained a log of expenses as they occurred, not 2 to 16 months after these expenses were incurred.

Management Comments. Management commented that:

"Page 108 of the draft report paraphrases a State Department official as saying 'the embassy does not verify the accuracy...of the costs incurred by the Department of Energy.' This is simply not true, and is inconsistent with

the State Department policy as set forth in the ‘State Department Guidance for Administrative Support of Overseas Cabinet Level and VIP Visits.’”

Management also commented that:

“However, the report makes no mention of the fact that many of the issues identified by the report are clearly within the State Department’s area of responsibility, according to its own policy. This clarification is necessary for the readers to understand that DOE needs to improve its review of State Department charges, but that many errors were initiated by the embassy.”

Management further commented that:

“The report then implies that DOE allowed these excessive costs to be charged, when in fact the amounts were charged before any DOE review could occur. Holding DOE responsible for these events does not make good common sense and directly contradicts the allocation of functions under the State Department policy.”

Inspector Comments. The complete sentence of the Initial Draft Report read that: “A State Department official stated that the embassy does not verify the accuracy or the appropriateness of the costs incurred by the Department of Energy.” We discussed the statement in the Initial Draft Report with a senior State Department official. The official stated that the State Department verified the accuracy of the costs, but verifies only the general appropriateness of the costs. The official stated that the certifying official reviews the vouchers for accuracy, i.e., the service was ordered, the service was provided and the price was correct. He further stated that the State Department uses a “level of discretion regarding appropriateness.” He stated that the State Department would utilize a general criteria for the appropriateness of the visiting agency’s request. The official stated, for example, if the Department requested 15 vehicles and the State Department believed 10 vehicles were sufficient, the State Department may not question the appropriateness of the Department’s request. However, if the visiting agency requested 15 limousines, the State Department may question this request.

A State Department official told us that many of the disputed items have not been reversed by the State Department, and most will not be reversed. The official further stated that the charges were legitimate costs incurred on behalf of the Department with the Department’s approval. The official also stated these disputed costs should be paid by the Department. Based on our review, we do not believe that the majority of the issues identified in the report were initiated by the State Department or are clearly within the State Department’s area of responsibility. The various “errors” as cited by DOE are further discussed in the South Africa and the “reception and representation” sections of this report.

Regarding the representation expenses incurred during the trade missions, we discussed this issue with a senior State Department official. The official stated that "normal process" required the traveling agency's approval for these services. The State Department official also stated that the Department had an Administrative official on site who was directing the embassy to procure goods and services. The State Department official stated that as a result of these directions, the Government incurred an obligation, i.e., had a reception activity and this obligation must be paid. He further stated that it is contrary to the State Department's appropriation authority to pay the expenses of another agency.

We believe that the Department did not adequately manage the ordering and payment for goods and services on the trade missions, particularly the South Africa mission. Our review of that mission revealed that the Department: (1) did not have any plan for how the administrative fees collected from business travelers would be used to cover the costs of events even though they stated that they planned not to use "reception and representation" funds; (2) numerous employees were directing the embassy and private businesses to procure on behalf of the Department; (3) The Mitchell Group, a subcontractor, collected registration fees, and these fees were applied to their account, instead of to DOE's benefit; (4) DOE was apparently not aware that the collected fees had not been applied to DOE's benefit; and (5) DOE officials did not routinely collect invoices or review costs prior to leaving the sites.

Given the (1) lack of a management plan for the use of the administrative fees, (2) lack of concern over who would pay for services ordered, (3) the fact that services were not always ordered through the embassy, and (4) no effort was made to collect invoices to determine what costs were incurred, we believe it would be inappropriate to hold the embassy responsible for paying obligations for events the Department organized and attended.

Following is a discussion of embassy support costs that the Department applied to the four trade mission trips and the results of our review of some support for the costs.

#### Four Trade Missions Where Embassy Support Costs Were Incurred

As of May 1, 1996, \$523,634 of embassy support costs had been applied to trip CIDs and to a DOE suspense account identified with the four trade missions. Table 14 provides details for the embassy support costs applied for each individual trade mission. In addition to these costs, Accounting officials have applied \$279,155 of embassy support costs to a suspense account that was not identified with a particular foreign trip. These costs have, therefore, been absorbed by DOE but not assigned to a particular trip.

**TABLE 14**  
**TRADE MISSION EMBASSY SUPPORT COSTS**  
**IDENTIFIED TO CIDS AND SUSPENSE**

Cost Identified to DOE Trip CIDs:	India	Austria/ Pakistan*	India/Hong Kong/China**	South Africa	Total
Cost Applied	\$ 30,610	\$ 30,837	\$ 11,115	\$ 125,244	\$ 197,806
Cost in Suspense	12,154	68,216	176,903	68,555	325,828
Total per DOE Accounting Records	\$ 42,764	\$ 99,053	\$ 188,018	\$ 193,799	\$ 523,634

\*The Department commented that \$54,595 of costs were incurred in Austria and not on the Pakistan Trade Mission.

\*\*The Department commented that \$23,492 of costs were incurred in India and not on the China Trade Mission.

The following describes the various categories in Table 14:

"Cost Applied" are embassy support costs that Department Accounting officials had applied to the CIDs as of May 1, 1996.

"Cost in Suspense" are embassy support costs that Department Accounting officials had applied as of May 1, 1996, to the "Suspense account" for the four trade missions. Department officials had not applied these costs to the trade missions because they questioned some aspect of the costs or have not yet reviewed the support for the costs.

"Total per DOE Accounting Records" are the total embassy support costs applied to the individual trade mission CID or Suspense account associated with the trade missions.

As a separate effort, we reviewed documents other than the accounting system records and identified embassy support charges totaling \$549,299. These charges were identified by review of "1221 Summaries" prepared by DOE accounting officials, records provided by Human Resources officials, and other documents. Table 15, "Trade Mission Embassy Support Costs," presents our analysis of these costs for the four trade missions.

TABLE 15  
TRADE MISSION EMBASSY SUPPORT COSTS

State Department Costs to DOE:	India	Austria/ Pakistan*	India/Hong Kong/China**	South Africa	Total
DOE Accounting Records:					
Transportation:					
Ground	\$ 3,995	\$ 37,263	\$ 15,801	\$ 102,739	\$ 159,798
Air	-	3,836	9,920	13,910	27,666
Lodging/Rooms	473	13,926	-	1,818	16,217
Meals (Food & Beverage)	462	28	543	2,936	3,969
Business Operations:					
Phone & Facsimile	6,154	7,358	53,879	24,390	91,781
Phone Installation	8,552	1,934	3,846	873	15,205
Business Center	2,566	-	38,898	16,104	57,568
Conference Rooms	8,232	7,721	24,493	1,900	42,346
Catering (Reception/Banquet)	2,644	4,096	7,424	22,325	36,489
Embassy Overtime/Supt Cost	4,706	11,091	22,704	2,058	40,559
Photography	407	2,313	6,150	5,551	14,421
Video	-	1,340	650	817	2,807
Other	6,358	10,997	17,137	5,981	40,473
<b>Total:</b>	<b>\$ 44,549</b>	<b>\$ 101,903</b>	<b>\$ 201,445</b>	<b>\$ 201,402</b>	<b>\$ 549,299</b>

\*The Department commented that \$54,595 of costs were incurred in Austria and not on the Pakistan Trade Mission.

\*\*The Department commented that \$23,492 of costs were incurred in India and not on the China Trade Mission.

Following is a brief description of categories found in Table 15.

"Ground Transportation" costs incurred were \$159,798. These costs were primarily for rental of automobiles, minivans, trucks, buses, and drivers, and were incurred to transport the Secretary, her staff, and other business delegates so they could attend various functions. The car rentals were also used by security, communications, and administrative advance personnel.

"Air Transportation" costs in the amount of \$27,666 included airline tickets, costs relating to procurement of airline tickets, and air freight costs. For example, the Department paid airfare for embassy employees flying between Shanghai, Beijing and returning. The airfare for freight was the cost incurred for transporting equipment carried by Secretarial staff to perform their duties upon arrival. The shipments consisted of containers that held computers, printers, and other supplies. In some cases, airline tickets for embassy employees were included in other costs, thus, not all airline tickets may be identified in this cost.

There were \$16,217 in "Lodging Costs" incurred for hotel rooms purchased through an embassy to house DOE employees, invitational travelers, and embassy employees. Some costs were for blocks of rooms procured at a special rate by the embassy. These room costs included costs for "Holding rooms" used by the Secretary for layover periods between locations or flights.

"Meals" costs, which totaled \$3,969, included food and beverages at official functions as well as embassy staff meals for personnel assigned to the Secretary's visit.

The "Phone and Facsimile" costs of \$91,781 included rental charges for cellular telephones and standard telephone service charges for the Secretary, her staff and security, communications, and administrative advance teams. These costs also included, at each stop, at least two International Direct Dial lines installed in the command post or staff room. In some cases, the cost for installation of telephone lines was included in the service cost because the invoice did not separate installation cost from the service charge.

"Phone Installation" costs of \$15,205 were separately identified in instances where the actual installation is identified on the hotel billing. The telephone lines were installed in various hotel rooms used by the Secretary, her staff, security, and administrative personnel.

The "Business Center" costs of \$57,568 were incurred in the course of business operations on the trip. The costs include rental of a suite for the command post (a suite was usually rented because a regular room was too small), and a suite for the staff room (to conduct staff meetings and have a place for the staff to work). Also included in this cost were copying and other office operating costs.

The "Conference Rooms" charges totaled \$42,346 for the four trade mission trips. The cost included such items as rental of large meeting rooms and smaller breakout rooms that were used by the Secretary and the delegation.

The "Catering/Banquet" cost of \$36,489 included charges for official receptions and banquets. These costs are normally associated with expenses charged to the Official Reception and Representation Account. In some instances, they were applied to the Official Reception and Representation Account. In other instances, these costs had been initially applied to various trips and then relegated to the suspense account awaiting further determination as to where they would be applied.

The "Embassy Costs/Overtime" of \$40,559 included charges for embassy employees who worked overtime or on holidays while detailed to assist with the Secretary's visit. In addition, this cost included other administrative type costs incurred by the embassy or embassy staff.

The "Photography and Video" costs of \$17,228 were incurred for the purpose of documenting the various meetings, events, and special signing occasions that took place during the four trade mission trips. In addition to the cost of still photos, \$2,807 was incurred for video photography during visits to Pakistan, China, and South Africa.

"Other" costs totaling \$40,473 included costs for which there is insufficient information available to specifically identify the costs. These costs included such items as miscellaneous labor and supplies, petty cash, printing and reproduction. The costs, in some cases, were commingled with other costs and were not specifically identifiable so they could be assigned to any other category discussed above.

Management Comments. Management commented that International Direct Dial (IDD) lines were important because of improved quality of lines; the availability of international lines without going through a hotel operator, security of the lines, and lack of availability of similar number of hotel lines to the Command Post, Staff Room, etc. Management also stated that communications capabilities in all locations were very limited and waiting periods to obtain phone service could exceed several years.

## India

Accounting officials obligated \$80,826 for the India trade mission to CIDs 0194AD21990 and 0194AD21992. In an August 19, 1994, memorandum, Human Resources officials requested that Accounting officials obligate \$15,000 for car rental, command post setup, and communication links (administrative expenses) for the India trade mission. On September 29, 1994, Human Resources officials issued a second memorandum requesting obligations of \$15,413 for lodging accommodations. The original request of \$15,000 was increased by \$413 resulting in \$30,826 being obligated for the India trade mission. In a September 30, 1994, memorandum, Human Resources officials requested an additional obligation of \$50,000 for administrative type expenses, bringing the total obligated amount for the India CIDs to \$80,826.

As of May 1, 1996, Accounting officials had applied \$30,610 to the two CIDs for the India trade mission, and \$12,154 to the suspense account identified with the India trade mission. Thus, the accounting records showed \$42,764 identified with the India trip.

As a separate effort, we reviewed documents other than the accounting system records and identified, through this approach, 53 embassy support charges totaling \$44,549. These charges were identified by review of "1221 Summaries" prepared by DOE accounting officials. An analysis of these costs showed that Department officials did not have invoices for \$1,667. Following is a discussion of the embassy support costs incurred by the Department.

Department officials incurred \$14,707 for telephone installation and service charges. A local phone company charged the embassy \$6,609 to install eight phones in the Maurya Sheraton Hotel. The same phone company also charged \$1,934 for additional installation. The second bill did not describe the number of phones installed. The combined invoices for telephone installation totaled \$8,552. A Human Resources official stated that the cost of the installation included International Direct Dial voice, facsimile and data lines. He also stated that the lines were in the rooms used by the Secretary, her staff, security, and administrative personnel. The official further stated that the Department paid a premium for the installation of these lines because installation was requested within a two-week period and installation could take as long as two years for local residents. The balance of the charges, \$6,154 was for telephone calls and facsimile transmissions through the two hotels.

We also reviewed Business Center costs of \$2,566. These cost were for command centers and staff rooms where copying and telecommunication services were made available to the travelers. According to a Department Human Resources official, the Business Centers were established for the duration of the trip.

The Department was charged a total of \$2,644 for reception/banquet activities. Details of these costs can be found later in this section of the report under Reception and

Representation Expenditures. The Department was also charged a total of \$462 by the Taj Mahal and the Maurya hotels for room services for meals and beverages .

The Department incurred \$4,706 in embassy support costs for embassy employees assigned to support the Secretary's trade mission to India. These expenses included per diem, baggage handling, telephone and overtime.

Department officials incurred embassy support costs prior to obligating funds for the trip. For example, the first memorandum requesting that Accounting officials obligate funding for the trip was August 19, 1994, one month after Department officials had returned from India. In addition, a number of VADRs were generated for the India trade mission prior to the Department obligating funding.

We found that the Department continued to move embassy support costs that were originally applied to the India trade mission. General Accounting Office (GAO) officials reported that DOE could not substantiate approximately \$80,000 in embassy support costs for the India trip. During a GAO review of the India trade mission, it was determined that embassy support costs may have been incorrectly applied to the India CID account. Specifically, GAO officials questioned \$31,000 in lodging for hotels in Vienna, Austria; New Delhi, India; and Stockholm, Sweden (\$10,709), which was charged to the India CID. After the review, Accounting officials removed the \$10,709 in costs from the India CID and applied the Stockholm, Sweden lodging costs to the Secretary's Russia trip. Accounting officials subsequently applied the costs to the suspense account until Human Resources officials' reviewed these costs to determine where the costs should be applied. A Human Resources official stated that he had not reviewed all of the costs in suspense or the Russia account. As a result, the \$10,709 in costs, which were incurred in 1994, still have not been applied to a trip CID.

We also found that Accounting officials had applied \$37,832 of embassy costs initially applied to India CIDs to other trips CIDs or to the suspense account. In reviewing the VADRs for these costs, we found three totaling \$5,944, which were originally charged to the State Department's appropriation "19" and subsequently "corrected" and charged to DOE. In the three instances, the VADRs read "to correct overtime charges for DOE"; or "OT erroneously charged to the Depart[ment] of State correctly charged to DOE." The VADRs did not have sufficient information to determine if the costs were actually incurred by DOE, another agency or the State Department. In discussing these costs with a Human Resources official, the official stated that he had not reviewed the costs, nor was he aware that the costs had been originally charged to the State Department's appropriation. He stated that he would review the matter further to determine if the costs were valid DOE costs .

#### Pakistan

Department officials obligated \$137,140 for the Pakistan trade mission under four CIDs. In an August 19, 1994, memorandum, Human Resources officials made two requests to

Accounting to obligate funds for the Pakistan trade mission. One request to obligate \$25,000 to CID 0194AD21982 was for car rentals, command post setup, and communication links. Another request to obligate \$20,000 to CID 0194AD21981 was for administrative expenses associated with the Vienna portion of the Pakistan trade. This amount was subsequently increased to \$22,000. In a September 30, 1994, memorandum, after the trip concluded, Human Resources officials again made two requests to Accounting to increase the obligations for the Pakistan trade mission. Human Resources officials requested that CID 0194AD21982 be increased to \$50,000 for administrative expenses. This amount was subsequently increased to \$67,103. The second request by Human Resources officials was to obligate \$30,000 for shipment of official Government equipment through CID 0194AD21991. We also reviewed CID 0194AD00098 for \$18,037 for the Pakistan trade mission.

As of May 1, 1996, DOE accounting records showed Department officials had identified in the accounting system \$99,053 in embassy support costs for the Pakistan trade mission. Accounting officials had applied \$30,837 to three of the Pakistan CIDs and \$68,216 to the suspense account identified with the Pakistan trip.

As a separate effort, we reviewed documents other than the accounting system records and identified, through this approach, 63 embassy support charges totaling \$101,903. These charges were identified by review of "1221 Summaries" provided by DOE accounting officials, records provided by Human Resources officials and other documents. The Department did not provide invoices describing the nature of \$53,564 of these charges. We noted that these charges were primarily incurred during the Secretary's trip to Vienna, Austria, before traveling to Pakistan. The following discusses costs incurred during the Pakistan trade mission.

A total of \$9,291 in telephone costs was incurred during the Pakistan trade mission. Of these costs, \$1,934 was incurred for telephone installation and \$7,357 for phone and facsimile charges. According to management's comments, the IDD lines that were installed were for voice, facsimile, and data requirements. Approximately \$4,505 of the telephone charges were incurred in Vienna at the International Atomic Energy Agency (IAEA). Department officials did not provide invoices supporting the telephone charges for Vienna. Thus, we did not determine if the costs were for phone installation, calls or facsimile.

Also included in the embassy costs were Conference Room costs of \$7,721. Inspectors were informed by Human Resources officials that during the Pakistan trip, four conference rooms were established in hotels at Lahore and Islamabad. According to the Human Resources official, the Business Centers were set up by the advance party and remained available during the duration of the trip.

Transportation costs totaled \$37,263. These costs were incurred to provide advance security and communications staff vehicles and to provide transportation for the travelers upon their arrival. The Pakistan trip embassy support costs also included

approximately \$31,305 for transportation in Vienna at the IAEA. A Human Resources official was unable to identify the number of cars and buses that Department officials rented during the IAEA conference. The official stated that he could not address questions regarding the Vienna aspect of the Pakistan trip because he had not reviewed the State Department's documentation supporting these costs.

Embassy costs including overtime, per diem and mileage totaled \$11,091. These expenses included \$8,352 for overtime.

The Department incurred \$653 to record and edit the Secretary's trips to Lahore, Wapda and Shahi Fort. Following is a brief summary of issues and observations regarding the Pakistan trade mission.

During our review of the Pakistan trade mission, we found VADRs that showed Pakistan travelers incurred \$2,026 for bus tours, meals and telephone charges during a stop in Vienna. We reviewed a February 10, 1995, letter from a Human Resources official to the U.S. Embassy in Vienna in which the official provided the Department's appropriation number and the Pakistan CID number to charge these expenses. In that letter, the official requested that copies of the invoices be forwarded to the Department. The official further stated that DOE would request reimbursement from the travelers.

Management Comments. Office of General Counsel's review regarding "reception and representation" expenditures for the Vienna excursion during the Pakistan trade mission determined that \$1,556.65 was incurred for this excursion.

Inspector Comments. Of the \$2,026 for the Vienna excursion, the Office of General Counsel only reviewed \$1,556.65. The balance of \$469.38 incurred for a mini bus and guide was not reviewed. We believe that the Office of General Counsel should review the additional \$469.38 and determine if additional funds should be allocated from the "reception and representation" fund.

Officials from the Secretary's Office and Human Resources stated DOE never anticipated paying for these services, and the costs were previously identified as personal costs to the individual travelers. The official in the Secretary's Office stated normally the participants on these type of excursions paid prior to boarding the buses, but in this situation, that did not occur. The official stated when the VADRs showing these costs arrived at DOE, Department officials were unable to identify who had gone on the excursion. As a result, the official stated these costs were never collected from the travelers who incurred the cost.

Our review also revealed that the Marriott Hotel in Islamabad erroneously double-billed DOE \$733 for lodging costs. In a September 9, 1996, letter from the State Department to DOE, the State Department stated that it would reverse the \$733 double lodging charge in Pakistan.

We reviewed a Voucher and invoice for a Department traveler in the amount of \$1,422. A Human Resources official stated he was unaware of why the traveler, cited in the supporting invoice, needed a Government Travel Request while in Pakistan. The official stated that he was recommending that the cost be borne by the traveler.

According to a Human Resources official, the Government of Pakistan upgraded the Pakistan trade mission to a "State visit." As a result of this upgrade, the Government of Pakistan paid approximately \$3,233 for the Secretary's lodging at the Marriott Hotel in Islamabad. In addition, Pakistan also provided lodging in its "State House" for the Secretary and other members of the delegation in Lahore. General Counsel officials stated that DOE officials who received the free lodging were not required to report these travel gifts under Federal Travel Regulations, Part 304-1 "ACCEPTANCE OF PAYMENT FROM A NON-FEDERAL SOURCE FOR TRAVEL EXPENSES" or Title 10, C.F.R. Part 1050, "FOREIGN GIFTS AND DECORATIONS," the implementing Regulation for Title 5, U.S.C. 7342, "Receipt and disposition of foreign gifts and decorations." Specifically, the official stated that Part 304-1.8 (a) provides an exception for gifts received under Title 5, U.S.C. 7342. The official further stated that Title 10, C.F.R. Part 1050 also provided an exception for reporting this type of gift under section 1050.301, "Reports," which normally required that foreign gifts be reported. The section stated that a report need not be filed if "the travel is in accordance with specific travel arrangement made by the Department in cooperation with the foreign government." The General Counsel official stated that the travel arrangements in this instance were made by the Department in cooperation with the foreign government and, therefore, neither the Secretary nor the DOE travelers were required to report these gifts.

#### China

The Department of Energy initially obligated \$190,687 for the China trade mission to pay for estimated embassy support costs of \$187,099 under CID 0195AD86001. During the China trade mission trip, the Secretary also visited New Delhi, India, and Hong Kong, en-route to Shanghai, and Beijing, China. An additional \$10,000 was obligated from the Official Reception and Representation Account under CID M6EN95019. There were also three other obligations initiated, one in the amount of \$1,000, for China interpreters, and two in the amount of \$500 each for miscellaneous expenses during the Hong Kong visit.

As of May 1, 1996, Accounting had applied \$11,115 in embassy support costs to the China trade mission trip CID 0195AD86001, placed \$176,903 in a suspense account, and applied \$4,250.00 to the Official Reception and Representation Account, CID M6EN95019. The remaining \$5,750 in the Official Reception and Representation Account, CID M6EN95019 was subsequently deobligated. The status of the three additional CIDs relating to the China trip as of May 1, 1996, was as follows:

<u>CID Number</u>	<u>Obligated Amount</u>	<u>Applied Amount</u>	<u>Purpose</u>
0195AD21179	\$1,000	-0-	Chinese interpreters
0195AD86003	418	\$418	Miscellaneous for Hong Kong
0195AD86004	500	-0-	Miscellaneous for Hong Kong

As a separate effort, we reviewed documents other than the accounting system records and identified, through this approach, embassy support charges totaling \$201,445. These charges were identified by review of "1221 Summaries" prepared by DOE accounting officials, records provided by Human Resources officials and other documents. The \$201,445 is comprised of \$191,349 that was identified on the "1221 Summaries" and \$10,096 from documents provided by a Human Resources official.

At the time of our fieldwork, the Department did not provide invoices or other documentation that would identify the nature of \$38,212 of the total \$201,445 in embassy support costs.

The VADRs for the China embassy support costs identified costs relating to ground and air transportation, lodging/rooms, and food and beverage. Additionally, there were costs relating to business operations that included phone/facsimile and phone installation, business center, conference rooms, catering, embassy overtime and costs, photography, and other costs. The following discussion concerns specific costs that relate to the China trip.

Ground transportation costs totaling \$15,801 were incurred to provide vehicles for the advance security and communications staff, and to provide transportation for the Secretary and the delegation upon their arrival. The vehicles were rented with drivers because the drivers were familiar with local routes.

Air transportation costs totaling \$9,920 included a cost of \$6,902 for transporting equipment and supply containers under diplomatic pouch status to the various cities that were visited. These shipments were made at a special rate through an embassy contract arrangement with the airline involved. This cost also included \$2,535 in airline ticket purchases charged while in Beijing. A DOE Human Resources official said that this was not a correct charge in that the Federal employees had open ended tickets and had simply confirmed reservations while at the Embassy. Also included was the cost of airline tickets for embassy personnel who were flying between Shanghai and Beijing to assist with the Secretary's visit.

The meals (food and beverage) charge of \$543 was incurred for meals of embassy employees assigned to the Secretary's visit.

The telephone service costs during the China trip totaled \$53,878. In addition to the service costs, there were identified telephone installation costs totaling \$3,846. The

cost of installation included the installation of International Direct Dial voice, facsimile, and data telephone lines that allowed the caller to direct dial anywhere in country and around the world. A Human Resources official said DOE paid premium costs for installation of the various telephone lines. The official said it takes approximately two years for local residents to obtain telephone service and DOE requested that the phone lines be installed within one week. There were also special requests, such as the installation of a no-ring phone extension to one of the voice International Direct Dial lines in the Secretary's Suite for her personal use.

Business center costs incurred during the China trip totaled \$38,898. A DOE Human Resources official said that the business center costs included costs incurred to facilitate a command post, a staff room, and a business center area to be used by non-Federal personnel. The command post was usually a suite used by the communications and security staff personnel to conduct their regular duties. The staff room was a separate suite used by the Secretary's staff to hold meetings and to conduct their daily business. Also included in the business center was the cost of the room for local security personnel, if required. Additionally, our analysis revealed a total of \$3,864 was charged the Department as business center costs incurred at the Portman Shangri-La Hotel, Shanghai, China. Detail of this expense illustrated that \$1,997 of these costs were incurred making 7,396 copies. During an interview, the Administrative Coordinator for this leg of the China trip said that the Secretary's media consultant directed that he make 100 copies of an 86-page compilation of news articles from U.S. newspapers and other papers around the world about the trade mission trip to China, so they could be given to all the members of the business delegation traveling with the Secretary. When the coordinator expressed concern about the reproduction cost, the media consultant directed him to make the copies regardless of the cost because this was what the Secretary wanted. The coordinator ultimately made 86 copies of the document for a total of 7,396 pages at a cost of approximately \$1,997.

The cost for procurement of conference room facilities totaled \$24,493. These costs were incurred renting meeting rooms for the travelers during the entire trip.

DOE incurred a total catering/banquet cost of \$7,424. Catering costs resulted from three specific costs: (1) \$2,308 at the Portman Shangri-La Hotel, (2) \$866 at the New Jin Jiang Tower Hotel, both in Shanghai, China, and (3) \$4,250 in banquet costs because a scheduled banquet to be hosted by the Secretary in Beijing was canceled because she was taken ill. An analysis of the Portman Shangri-La Hotel invoice showed that on February 19, 1995, there were cocktails served at the Portman Shangri-La Hotel, with a guaranteed minimum of 100 persons for the Hors D'oeuvres, and an open bar starting at 5:00 p.m. until 7:00 p.m. The resulting beverage charges totaled \$2,308. Additionally, the \$866 incurred at the New Jin Jiang Tower Hotel was for champagne served during the Round Table Discussions and the Signing Ceremony. These costs are the type that normally could have been charged to the Official Reception and Representation Account (as discussed later in this section). In the case of the canceled banquet, the \$4,250 cost was applied to the Reception and

Representation Account. However, there were not sufficient funds remaining in that account to apply the remaining \$3,174 in costs. Therefore, Accounting has placed these costs in the suspense account until a determination is made as to where they are to be applied.

Embassy overtime and other support costs totaled \$22,704. Of the total amount, \$11,391 in costs were charged by the State Department to DOE for overtime and, in some cases, holiday pay incurred by the embassy employees performing tasks to accommodate the Secretary's visits to the various locations during the China trip. The remaining \$11,313 embassy support costs were for items such as simultaneous translation services, Miscellaneous supplies and labor and costs (i.e., embassy employee food, facsimile, and telephone) that were not individually identified, and, therefore, could not be specifically categorized.

Photography and Video costs totaling \$6,800 were incurred in the course of documenting the various events that took place during the Secretary's trade mission trip to China. Both still and video photos taken of the events. For example, a still photographer was hired in New Delhi, Hong Kong, and Beijing at a combined cost of \$6,150. Additionally, in Beijing a video engineering crew was engaged to make a video tape of events at a cost of \$650.

The other costs category totaled \$17,137, which included costs relating to missing headsets, no-show costs, and other unsupported costs. Therefore, we could not categorize these cost. For example, the Department incurred a cost of \$1,200 to pay for four missing headsets.

The Department was charged \$2,277 because they had reserved a block of rooms at the China World Hotel, Beijing, China, and some of the rooms were not used. Human Resources personnel said that there were four persons who were scheduled to stay at the hotel but did not stay there, and the Department was charged for those four rooms. A Human Resources official said that they have determined that one of the individuals who did not use a room reserved for them was the Chinese language interpreter on Temporary Duty from the U.S. Information Agency. At the time of our review, the other three individuals who did not stay at the hotel had not been individually identified. A Human Resources official said that the rooms are requested in a block based on information available at the time the rooms are reserved. The official went on to say that efforts were made to adjust the number of rooms required as far in advance as possible. However, on this occasion, last minute changes were made and adjustments could not be made in sufficient time to avoid the charge for the unused rooms.

#### South Africa

As of May 5, 1995, \$150,000 for administrative costs was obligated to CID 0195AD86012 for the trip to South Africa. On the same date, the U.S. Embassy in Pretoria was cabled to charge costs for the Secretary's trip to South Africa to this CID;

the Department did not specify a funding ceiling. On May 7, 1995, a DOE advance party traveled to South Africa to discuss trip requirements in-country. On May 17, 1995, after the return of this preadvance party, \$50,000 was deobligated from the CID. Subsequently, on June 28, 1995, an additional \$25,000 was obligated. The trip to South Africa was completed on August 28, 1995. On September 1, 1995, an additional \$50,000 was obligated, bringing the total obligated amount to date to \$175,000.

Although \$175,000 had been obligated to this CID, Departmental accounting records showed that \$125,244 had been applied to this trip as of May 1, 1996, and an additional \$68,555 was in the liquidation status report suspense account for this trip. The total of these applied costs and costs in suspense was \$193,799, or \$18,799 more than the \$175,000 currently obligated.

As a separate effort, we reviewed documents other than the accounting system records and identified, through this approach, 90 embassy support charges totaling \$201,402. These charges were identified by review of "1221 Summaries" prepared by DOE accounting officials, records provided by Human Resources officials and other documents. Eighty-five of these items, totaling \$186,921, were included on DOE Headquarters Accounting's listing of "SF 1221 Charges" (VADRs) for the South Africa trip. The remaining five items, totaling \$14,481, were charges that have been identified as incurred in conjunction with the trip to South Africa but for which a Voucher had not been identified.

The \$201,402 in total charges included some items that have possibly been charged in error to this trip. Although the trip ended on August 28, 1995, over eight months ago, DOE officials were still trying to establish the validity of various charges and to secure reimbursement for some items incorrectly paid by the U.S. Embassy on behalf of the Department. Recovery examples would include a \$7,085 charge for a reception, (actually \$7,104 due to an exchange rate variance), which was apparently double-billed by a hotel, and a \$6,346 erroneous payment to an oil company.

Vendor invoices or other source documentation were not in all cases available to assist the Department in their review process. At the time of our fieldwork, the Department could not provide supporting invoices or other source documentation for 38 of 90 items, totaling \$38,930; the Department also had six invoices, totaling approximately \$1,914 for which Voucher charges could not be identified.

A discussion by category of the \$201,402 charged by the U.S. Embassy in support of the South Africa trip follows:

A total of \$102,739 was spent for ground transportation. The following four charges accounted for \$97,756 of this total:

- \$9,426 - Bright's Car Hire. From one to six cars per day, with drivers, were hired in Cape Town during August 10-23, 1995;

- \$17,541 - Specialized Tours. Four coaches, three cars, four microbuses, and driver/guides were hired in Cape Town during August 19-22, 1995;
- \$65,880 - International Chauffeur Drive. From one to 21 microbuses, from one to six cars, and from two to three 44 passenger buses were rented at various times in Pretoria during the period August 6-27, 1995. On each day during the period August 22 through August 25, the Department was charged for renting 21 microbuses, three Camrys, two Mercedes, one Audi, and two 44 passenger buses (three buses on August 25). An invoice documenting these numbers and types of vehicles rented by day is shown in Exhibit 3, and;
- \$4,909 - Imperial Car Rental. The Department has no invoice or other source documentation supporting this charge.

The remaining \$4,934 making up total ground transportation charges were 14 various charges, to include car rentals by embassy staff, local commuting costs, and baggage handling.

We discussed "ground transportation" with the Human Resources official responsible for reviewing invoices, and he provided the following comments. He said because crime was a concern, safety was a major consideration in selecting the mode of transportation. The travelers did not use taxis as it had been advised that taxis could be unsafe. Cars were hired with drivers, as the travelers frequently would not have known the best way to their destination.

This Human Resources official further said that there was no contract in place specifying the numbers of vehicles that would be made available to DOE. Frequently, from day to day it was not known what the schedule would be, and transportation had to be available to accommodate flexibility in the schedule. As one example, the official said that the U.S. Ambassador invited the delegation to his residence for a social function, and transportation was needed. Another example given was that all the travelers were invited by a South African official to attend a function held at a winery some 30 miles outside Cape Town.

Regarding the number of days that the vehicles were hired, the Human Resources official said that vehicles were hired beginning with use by the DOE advance party, which was responsible for, among other things, conducting security route checks and coordinating with their South African counterparts. He further said that while DOE did not necessarily use vehicles continuously throughout a day, DOE hired vehicles for long periods to ensure that transportation would be available when needed.

The Human Resources reviewing official told us he was going to challenge the number of microbuses being charged to the Department by International Chauffeur Drive in Pretoria. This Human Resources official had also questioned the U.S. Embassy in

September 1995

**INVOICE**

No. 1051

COMPANY: AMERICAN EMBASSY

DATE	VEHICLE	RATE	VEHICLE	RATE	TOTAL
6/8/1995	1 x Microbus	R950.00			R950.00
7/8/1995	2 x Microbus	R1900.00			R1900.00
8/8/1995	3 x Microbus	R2850.00	1 x Camry	R850.00	R3700.00
9/8/1995	3 x Microbus	R2850.00	1 x Camry	R850.00	R3700.00
10/8/1995	5 x Microbus	R4750.00	2 x Camry	R1700.00	R6450.00
11/8/1995	5 x Microbus	R4750.00	2 x Camry	R1700.00	R6450.00
12/8/1995	1 x Microbus	R950.00	1 x Camry	R850.00	R1800.00
13/8/1995	1 x Microbus	R950.00	-		R950.00
<b>SUB TOTAL</b>					<b>R25900.00</b>

DATE	VEHICLE	RATE	VEHICLE	RATE	TOTAL
14/8/1995	6 x Microbus	R5700.00	4 x Camry	R3400.00	R9100.00
15/8/1995	6 x Microbus	R5700.00	4 x Camry	R3400.00	R9100.00
16/8/1995	6 x Microbus	R5700.00	4 x Camry	R3400.00	R9100.00
17/8/1995	6 x Microbus	R5700.00	4 x Camry	R3400.00	R9100.00
18/8/1995	6 x Microbus	R5700.00	4 x Camry	R3400.00	R9150.00
19/8/1995	6 x Microbus	R5700.00	4 x Camry	R3400.00	R9150.00
20/8/1995	6 x Microbus	R5700.00	4 x Camry	R3400.00	R9100.00
<b>SUB TOTAL</b>					<b>R63700.00</b>

DATE	VEHICLE	RATE	VEHICLE	RATE	VEHICLE	RATE	VEHICLE	RATE	TOTAL
21/8/1995	6 x Microbus	R5700.00	4 x Camry	R3400.00					R9100.00
22/8/1995	21 x Microbus	R19950.00	3 x Camry	R2550.00	1 x Audi	R950.00	2 x Mercedes	R1900.00	2 x 44 Seater Bus
23/8/1995	21 x Microbus	R19950.00	3 x Camry	R2550.00	1 x Audi	R950.00	2 x Mercedes	R1900.00	2 x 44 Seater Bus
24/8/1995	21 x Microbus	R19950.00	3 x Camry	R2550.00	1 x Audi	R950.00	2 x Mercedes	R1900.00	2 x 44 Seater Bus
25/8/1995	21 x Microbus	R19950.00	3 x Camry	R2550.00	1 x Audi	R950.00	2 x Mercedes	R1900.00	3 x 44 Seater Bus
26/8/1995	10 x Microbus	R9500.00	3 x Camry	R2550.00	1 x Audi	R950.00	2 x Mercedes	R1900.00	2 x 44 Seater Bus
27/8/1995	4 x Microbus	R3800.00							R3800.00
	<b>SUB TOTAL</b>								<b>R147900.00</b>

DATE	SUB TOTAL
6/8/1995 - 13/8/1995	R 25 900.00
4/8/1995 - 20/8/1995	R 63 700.00
21/8/1995 - 27/8/1995	R147 900.00
<b>TOTAL</b>	<b>R237 500.00</b>

Pretoria regarding a \$451 bill for a car rented by a delegation from the Export-Import Bank of the United States (Export-Import Bank). The U.S. Embassy wrote back that prior to the rental cost being incurred, a DOE official on the trip had been asked whether the embassy should use DOE fiscal data on the purchase order since this delegation was supporting the DOE trip. This DOE official replied, according to the U.S. Embassy, "I don't agree, but go ahead." We interviewed the Export-Import Bank employee on the trip who said that she allowed DOE to use her name as a trip participant, as requested, even though she was in South Africa on Export-Import Bank business. Regarding disposition of this charge, the U.S. Embassy advised the Human Resources reviewing official that, if this charge was a problem, to resolve it with the Export-Import Bank.

The embassy costs included 10 charges, totaling \$13,910, which we have classified as "air transportation." Supporting invoices totaling \$4,001 have been identified with these charges; another \$1,461 in air travel invoices have also been identified, but cannot be matched with specific charges. Some of the air travel was by embassy personnel supporting the trip. Also included was \$1,361 for transporting DOE equipment.

One invoice for \$1,266, paid through the U.S. Embassy, documented a round trip air charter from Johannesburg to Sun City on August 22, 1995. This trip transported the Secretary to Sun City for a meeting with Deputy President Mbeke. It was noted in our inspection that: (1) a duplicate payment for this same flight was made to the air charter agent in an amount of \$1,347; and (2) another aircraft had been chartered for this trip, but not used, for which the Department paid a cancellation fee of \$4,880. These three charges for the same flight are discussed further in Section E, "Aircraft Acquisition."

Included within the "air transportation" category were five charges totaling \$9,909 for which there were no supporting invoices other than \$1,461 in invoices which could not be matched with the charges. These charges were classified as "air transportation" based upon the payee/vendor, a travel agency, which arranged for other in-country air transportation.

Room charges for six different individuals, totaling \$1,818, were charged to the Department: charges totaling \$923 for four DOE employees; \$504 for an individual with a non-profit organization; and \$391 for a U.S. Embassy employee.

The U.S. Embassy paid \$2,936 for costs that we have categorized as "food and beverage." These costs were expended as follows:

- \$1,077 was expended on a casual social function at the Ambassador's residence on August 19, 1995, in Cape Town. The trip report characterized the function as an "In-Country Briefing and Welcome reception hosted by Ambassador Lyman." For this function the Department was billed \$259 for alcoholic and other beverages, and \$818 for catered food;

- \$235 was for refreshments and beverages at the Johannesburg International Airport VIP facilities on August 27, 1995;
- \$1,432 was for expenses at the Cape Sun hotel during the period August 19-September 1, 1995. \$1,358 of this total was for breakfast for 62 people on both August 20 and August 21. The balance, \$74, was for various mini bar and room service charges that were billed to DOE; and,
- \$192 was for expenses at the Carlton Hotel during the period August 22 through August 26. These charges were for various room service and other bills charged to the Department. The largest, \$112, was room service for 10 lunches on August 25.

A total of \$22,325 was charged to the DOE for reception and banquet activities. Included within reception and banquet charges was a double billing for the same reception in an amount of \$7,085. An official with the U.S. Embassy said that the embassy had received a refund of this amount from the host hotel, and would be crediting this refund to the Department. The remaining charges for banquet and reception activities, \$15,240, resulted from the following:

- \$2,858 for a luncheon, with bar, for 120 people at the Cape Sun Hotel on August 21, 1995. The luncheon included the business delegation and the Organization for Economic Development of the Western Cape;
- \$7,104 for a reception which the trip report said was hosted by the Secretary of Energy on the evening of August 23, 1995, at the Carlton Hotel. The reception included food for 300 people and an open bar;
- \$4,785 was paid to the American Chamber of Commerce. Per the trip report, the American Chamber of Commerce hosted a dinner on August 24, 1995. The DOE official reviewing invoices has questioned this payment. This official said that the American Chamber of Commerce did host a dinner, but charged each person attending \$55, and that DOE should not have been charged any costs for this function; and,
- \$493 was shown as a charge for printing invitations. We noted that the charge was "supported" by a proposal rather than an invoice. Furthermore, the proposal indicated three different costs for 200 invitations, depending upon one-color printing, two-color printing, or one-color printing with a gold foil border. The amount of the charge was the total for all three of these options.

A DOE Accounting official who had reviewed the Initial Draft Report told us that the \$493 charge for printing invitations has never been paid by the Department. The official further said that the charge should not have been included on the Human Resources

approving official's list of accepted charges, or on DOE Accounting's listing of "SF 1221 Charges," under "Other Charges Not Identified to SF 1221 Charge."

Telephone and fax charges totaled \$24,390. The following four charges made up \$23,586 of this amount:

- \$1,657 was billed by Telkom SA Limited for telephone calls from the Carlton Hotel in Johannesburg;
- \$3,452 was billed for telephone charges by the Cape Sun Hotel in Cape Town;
- \$7,242 was billed by Rent-A-Phone for 28 cellular phones rented during August 8-28, 1995, plus charges for calls. Not all 28 phones were rented for the entire period. The DOE official reviewing invoices commented that the 28 cellular phones were used for logistics and security purposes. He further commented that normal communications equipment could not be used as radio frequencies were not made available; and,
- \$11,235 was paid to Telkom SA Limited; a supporting invoice was not available to document these charges.

\$873 was charged by the Cape Sun Hotel in Cape Town for the installation of eight telephone lines in one room and four telephone lines in another room.

Business center costs totaled \$16,104, in large part for control rooms at two hotels. \$9,286 was incurred at the Cape Sun Hotel in Cape Town for two small suites used as a command post and a staff room. These rooms were used during August 12-22, 1995, at a cost of approximately \$425 per day per suite. From two to six rooms were rented at the Carlton Hotel in Johannesburg during the period August 8-26, 1995, at a cost of \$3,981. These six rooms were described as the press control room; business control room; U.S. embassy control room; South African police security room; DOE control room; and DOE staff room.

In addition to room charges, DOE was charged \$916 for a computer used in the Embassy control room; \$1,684 for copies; and \$238 for transcription services.

The Department was charged a total of \$1,900 for conference room use at the Cape Sun Hotel in Cape Town (\$1,425), the Carlton Hotel in Johannesburg (\$421), and for a meeting at one other location (\$55).

The Department was charged a total of \$2,058 for overtime paid to personnel in South Africa who supported the trip.

The Department paid five charges for photographic and video services totaling \$6,368. Two of these charges, totaling \$3,710, were not supported by invoices. One charge for

\$1,840 was for film, prints and 33 hours of time to photograph the Secretary's visit to Cape Town and Kimberley. The other two charges paid by the Department (\$410 and \$408) were supported by only one invoice for 1,500 rand, and appear to be duplicate payments, each converting 1,500 rand to U.S. dollars using different exchange rates. The invoice supporting these two charges was for video coverage of the Secretary's visit to Peninsula Technikon and Gugulethu on August 20, 1995.

Other costs charged to the Department totaled \$14,498, less a credit of \$8,517, for a net cost of \$5,981. These costs were as follows:

- \$3,573 total for 14 charges. There were no supporting invoices for these charges, and the Department's listing of charges does not provide the payee's name;
- \$3,360 for six charges for which there were no supporting invoices;
- \$1,103 were for miscellaneous charges, to include airport security for equipment, lighting and electrical, flip charts, and courier mail;
- \$117 was a charge by the Palace Hotel in Sun City for food, beverages and guide services at a wildlife preserve on August 22, 1995. These costs were incurred in conjunction with the Secretary's trip to meet with Deputy President Mbeke;
- \$6,346 was a charge by Shell S. A. Oil Company. This charge was questioned by the Department, and will be refunded, according to U.S. Embassy personnel in South Africa; and,
- \$8,517 was credited to the Department's Cape Sun Hotel bill in Cape Town. \$8,400 of this credit represented a \$200 charge to each of 42 business travelers that was transferred to the Department's hotel bill as a credit to help offset joint trip expenses which had been billed to the Department. The remaining \$117 was a tax credit.

Regarding the above \$117 charge by the Palace Hotel, this charge was shown on both the Human Resources approving official's listing of South Africa trip costs and on DOE Accounting's listing of "SF 1221 Charges," under "Other Charges Not Identified to SF 1221 Charge." A DOE Accounting official who had reviewed the Initial Draft Report said that the Department was sent a copy of this invoice for information purposes, and, to date, the Department has not been billed for this cost.

In addition to the \$201,402 identified above as paid through the U.S. Embassy, our review disclosed an additional \$20,440 paid to the Carlton Hotel in Johannesburg for the Energy Summit Conference. These additional costs were incurred during August 22-25, 1995, for the following:

- \$8,121 for meeting rooms;
- \$1,470 for miscellaneous food and beverages;
- \$7,522 for a luncheon for 324 people on August 23; and,
- \$3,327 for three breakfasts for 120-145 people.

To fund these costs, 44 non-Federal travelers were each assessed an administrative fee of \$400 collected by the Carlton Hotel, for a total of \$17,600; the source of the remaining \$2,840 is not known, but may have been fees collected at the door for various events.

One problem we noted with the manner in which these activities were funded, is that it may have resulted in the non-Federal travelers paying for per diem costs (meals) for the Federal travelers. The issue of Federal travelers' per diems was discussed in Section C-2, "Travel Costs," of this report. The adequacy of the administrative fees charged to the non-Federal travelers is discussed in Section C-6, "Full Cost Recovery."

Management Comments. Management stated that "Overall, the Department has contested \$98,405 of embassy charges as inappropriate." Management further commented that:

"Nonetheless, during the Department's trade missions, the actions of the embassies often yielded erroneous charges to the Department's account. The South African embassy erroneously charged the Department's fund cite for airline fuel (\$6,346), hotel charges (\$24,285), room service (\$670.91), rental cars (\$15,539), banquets (\$14,170), computer equipment (\$916) and numerous other items which are still undergoing review by the State Department and DOE. Similar issues exist for the three other trade missions, although on a smaller scale. Many of these disputed items have been reversed by the State Department when brought to its attention."

Inspector Comments. We wrote to the Acting CFO and requested a list of the \$98,405 of "inappropriate" charges from the Department. On September 17, 1996, a CFO official provided us a listing of the \$98,405 of "inappropriate" charges. However, a letter to the State Department, dated August 26, 1996, as well as the State Department's reply to this letter, dated September 9, 1996, indicated that \$117,308 was being protested by DOE. We discussed the disputed cost differences with the CFO official. The official stated that the initial \$98,405 was developed "early in the process and was a snap shot in time." The official stated that after reviewing additional SF 1221s, the Department revised the disputed charges, which were forwarded to the State Department in the August 26, 1996, letter. The official also stated that the August letter included a hotel bill of \$63,069 for the China trade mission. The official stated that

while the Department believes that the bill is a legitimate charge, DOE did not receive sufficient support to verify this fact. Therefore, DOE disputed the charge and requested that the State Department forward additional invoices for the hotel bill. The CFO official further stated that, based on information he has received from the State Department, the CFO official does not believe that additional invoices for the China mission will be forthcoming. He stated that he is trying to get a written statement from State Department officials which will indicate the final position for each disputed cost. We also discussed this issue with a senior State Department official who stated that he was unaware of what items made up the \$98,405 charges. He further stated that most of the charges which the Department has questioned have not been reversed by the State Department and are legitimate charges of DOE.

Regarding the "erroneous charges," we are aware of two charges in South Africa which were "erroneous," the airline fuel bill, and the double-billed reception. Both of these charges were identified as such in the Initial Draft Report. We are aware of no other charges in South Africa that the State Department has agreed to reverse. We discussed these comments with a senior State Department official. This official said that the Department's comment that "the actions of the embassies often yielded erroneous charges to the Department's account" was a "gross distortion of facts." He further stated that he believed the State Department had only reversed one or two items including the fuel charge. Our specific comments on the charges cited by the Department as "erroneous" are as follows:

- \$6,346 airline fuel. Our Initial Draft Report discussed this amount as an erroneous charge to the Department.
- \$24,285 hotel charges. This amount consists of two items. The first item is the \$7,085 duplicate billing for a reception, which we identified in our Initial Draft Report. The second item is \$17,200, which the Department believed was collected from the business delegates as administrative fees; the actual amount collected was \$17,600. Department officials said that they have never received an accounting for this money from the U.S. Embassy, and until the funds are accounted for, they are claiming the funds as a credit due to the Department. Our review disclosed that the funds were collected by the Carlton Hotel in Johannesburg, and were placed in an account, separate from the Department's hotel accounts paid by the U.S. Embassy, and were used to pay for Energy Summit Conference costs. Our interviews indicate that Department officials were aware of this separate account because they arranged with the hotel personnel that these administrative fees be placed in a separate account. There would have been no reason, then, for the hotel to send invoices from the Energy Summit Conference costs to the embassy because the costs were "paid" by various credits to this account. We have provided DOE personnel with a copy of the Energy Summit Conference hotel bill, which we obtained from the hotel, which accounts for the administrative fees collected by the

hotel. Also, our interviews confirmed that DOE officials did receive some of the Energy Summit Conference bills from the hotel while in-country.

- \$671 room service. We agree that certain personal expenses were improperly charged to DOE. But we also believe that DOE personnel should have reviewed the Department's hotel bill at check-out, and cleared up mischarges at that time.
- \$15,539 rental cars. The Department is disputing charges for 14 minivans (\$14,757) for which State Department provided supporting invoices, and three missing car rental invoices (\$782). We have no documentary evidence the parties have agreed that DOE has been mischarged and that refunds will be made.
- \$14,170 banquets. This amount consists of two charges for \$7,085 for the same reception. One of the \$7,085 charges was a duplicate billing, which was identified as such in the Initial Draft Report. (Note: This banquet was actually billed with different exchange rates of \$7,085 and \$7,104.) DOE believes that the other \$7,085 charge was incurred, but should have been paid for by the I CAN Foundation, which DOE expected to sponsor the reception. We discuss this situation further below in addressing the Department's comments on "reception and representation" expenses. We note that the same \$7,085 reception expense is also included above in the Department's \$24,285 "erroneous" hotel charges example.
- \$916 computer equipment. The Department has previously challenged this computer rental charge. U.S. Embassy personnel have responded to DOE that the computer rental was necessary and used in the embassy control room in support of the DOE visit to South Africa. We have no documentation that the embassy is going to absorb this cost.

#### "Reception and Representation" Expenditures

Our review of embassy costs disclosed that Department funds were used for "reception and representation" type expenditures from the Departmental Administration appropriation when specific funding for such activities was not available.

Public funds may only be used for the purpose for which they were appropriated. (31 U.S.C. 1301(a)) Appropriated funds are not available for entertainment, including free food, except under specific statutory authority. Absent specific authorizing language, such improper entertainment expenditures may be authorized through "reception and representation" appropriations. (5 Comp. Gen. 455; 26 Comp. Gen. 281; Comp. Gen. B-20085; GAO/OGC-92-5 Appropriations Law-Vol. I pp. 4-100-4-114)

"Reception and representation" funds are amounts designated by Congress for entertainment in connection with official agency business. Examples of "reception and representation" activities include, entertainment, official functions at overseas missions, social responsibilities and courtesies, meals, parties, luncheons, and entertainment of non-government personnel.

"Reception and representation" funds are provided through the Department of Energy "Departmental Administration" appropriation. The appropriation for Fiscal Year 1995 stated:

"General and Special Funds:

#### DEPARTMENTAL ADMINISTRATION

For salaries and expenses of [DOE] necessary for Departmental Administration and other activities in carrying out the purposes of the Department of Energy Organization Act {Public Law 95-91} 42 U.S.C. 7101, et. seq., including the hire of passenger motor vehicles and official reception and representation expenses (not to exceed \$35,000) . . . ."

The trip to South Africa took place on August 18-28, 1995. On previous trade missions some "reception and representation" funds had been obligated and expended. On August 17, 1995, a log maintained by an official external to the accounting system showed that the remaining balance in the \$35,000 Fiscal Year 1995 "reception and representation" fund was \$1,772; all but \$142 of this remaining balance was subsequently expended or obligated. According to a Department official, prior to the trip commencing, trip organizers were told that no money from the "reception and representation" fund would be available to fund trip activities or events. Although only \$1,772 was available prior to the trip starting, and the trip organizers were told no "reception and representation" funds were available, our review disclosed that the Department was charged for the following costs, none of which have been charged to the Fiscal Year 1995 "reception and representation" fund.

- \$1,077 was charged for food and beverages for a casual social function at the Ambassador's residence (August 19, 1995);
- \$1,358 was charged for breakfast for 62 people for two mornings at the Cape Sun Hotel (August 20 and 21, 1995);
- \$2,858 was charged for a luncheon, with bar, for 120 people at the Cape Sun Hotel (August 21, 1995);
- \$4,785 was charged for an American Chamber of Commerce dinner at the Carlton Hotel (August 24, 1995);

- \$235 was charged for refreshments and beverages at the Johannesburg International Airport (August 27, 1995); and,
- \$7,104 was charged to the Department for a reception with food for 300 people and an open bar, held at the Carlton Hotel (August 23, 1995);

We discussed the above charges with a Human Resources official who has been reviewing embassy costs, and he commented that the Department should not have been charged for many of these costs. For example, he said that the charges for the function at the Ambassador's residence came as a complete surprise; they knew they had been invited, but they did not know they were going to be billed.

Regarding the American Chamber of Commerce banquet for \$4,785, the Human Resources reviewing official said that the participants were charged \$55 per person at the door for this event, and he questioned the embassy about why the Department was being billed. In response, an embassy official said that an agreement had been reached with DOE's advance team that a lump sum bill be submitted for this event, which was done (87 participants at \$55 each).

The \$7,104 charge for the August 23, 1995, reception is discussed in detail in response to management's comments at the end of this section.

As a general comment, the Human Resources reviewing official said that the administrative fees charged by the two hotels to each of the non-Federal trip participants were intended to cover the cost of these functions. The Carlton Hotel in Johannesburg charged \$400, and the Cape Sun Hotel in Cape Town charged \$200 to each non-Federal participant. We found that only the \$200 per person charge was shown as a credit on the hotel invoices to the Department. The other \$400 per person charge was accounted for separately and was spent for other activities at the Carlton Hotel in connection with the Energy Summit Conference. The issue of shared costs is discussed in Section C-6, "Full Cost Recovery" of this report.

Regardless of the Department's plans and intentions, the Department incurred \$17,417 of "reception and representation" types of costs on its South African trip when adequate "reception and representation" funds were not available.

In addition to the trip to South Africa, our review also found that the Department failed to properly charge its "reception and representation" account for events held during the Department's trip to China.

On February 19, 1995, an informal Welcome Reception was hosted by the Secretary from 5:00-5:30 p.m. at the Portman Shangri-La Hotel, Shanghai, China. The American Chamber of Commerce was to host the reception from 5:30-7:00 p.m. The Department was billed for a beverage charge of \$2,308, including service charges. This cost included \$510 for 125 glasses of beer, \$544 for 200 glasses of wine, and \$1,253 for

307 glasses of soft drinks. The American Chamber of Commerce did submit \$533 to defray the costs of the Secretary's visit in Shanghai; however, we have not been provided with any supporting documentation that the refund was directly associated with this expense. If the refund amount were to be applied in total to this expense, there would be a remaining amount of \$1,776 that should have been applied to the Official/Reception and Representation Account. Sufficient funding, however, was not available to apply this cost to the account.

Management Comments. Management commented that:

"With regard to China, the Initial Draft Report inaccurately presents the facts surrounding the China mission representation expenses. The report states that the China trip overran its representation funds by \$1,776. However, the report does not state that the Department originally set aside \$10,000 in representation funds, more than enough to fund all representation costs, including the ones detailed in the report. Nor does the report explain that the Department reallocated \$5,000 of the \$10,000 only after the original bills from the embassy showed that the additional funds were unneeded. Had the embassies promptly billed the Department for the costs outlined in the Initial Draft Report, the Department's original funds would have been more than sufficient. These facts are directly relevant to the discussion of the availability of representation expenses and should be included in the report."

Inspector Comments. Our Initial Draft Report identified that: "An additional \$10,000 was obligated from the Official Reception and Representation Account under CID M6EN95019." The Initial Draft Report also stated that: "The remaining \$5,750 in the Official Reception and Representation Account, CID M6EN95019, was subsequently deobligated."

An analysis of the SF 1221 Summary of Charges for the China trip indicated that the costs relating to the Portman Shangri La Hotel appeared in the March 1995 listing. The Jin Jiang Tower Hotel costs relating to the Round Table Discussion and Signing Ceremony were included in the April 1995 SF 1221, Summary of Charges for the China trip. A DOE Accounting Contract History Report indicates that \$4,250 was applied to the account on July 24, 1995. Additionally, a "Public Voucher for Purchases and Services Other Than Personal," (Standard Form 1034) indicated \$5,000 was deobligated on July 19, 1995; and the remaining \$750 was deobligated on September 12, 1995.

The DOE SF 1221 listings of State Department billings, provided during our review, indicate that DOE was provided with the billing information several months before the funds were deobligated, however, these expenses had not been applied to the Official Reception and Representation Account for the China trip.

On March 17, 1995, the Department was charged \$866 for beverages and a service charge of \$113 by the Jin Jiang Tower Co., Ltd. for champagne served during the Round Table Discussions and the Signing Ceremony. The charge was not applied to the official "reception and representation" account. There was no available "reception and representation" funding for this cost.

On the India trade mission, Department officials obligated \$2,500 for "reception and representation" expenses. A total of \$2,644 was incurred by the U.S. Embassy for "reception and representation" type expenses. This amount included:

- \$1,621 for food and beverages consumed at business meetings on July 9 and July 11, 1994;
- \$753 for beverages at the Gateway Restaurant;
- \$106 for a luncheon for 12 persons, including DOE officials, U.S. Embassy officials and local power sector officials;
- \$146 for a dinner for 18 persons on July 9, 1994; and,
- \$18 for flowers.

As of April 11, 1996, Accounting officials had applied \$1,785 to the India Reception and Representation CID EN94039. Accounting officials had also deobligated \$454 from this CID, leaving a balance of \$262 available for "reception and representation" expenses. The amount applied included expenses for the July 9 and July 11, 1994, business meetings, as well as for the \$106 luncheon. The \$753 had not been applied to the CID. Based on our review of the account, there were insufficient funds to charge the \$753 to the India reception and representation CID.

Management Comments. Management commented that:

"On the India, Pakistan and China trips, each embassy was requested to arrange for various receptions and official functions and was instructed via cable the amount available to fund those activities. According to the draft report, each embassy then spent more on representation expenses than was made available by DOE."

Management also commented that: "The Draft Report does not contain any explanation of the availability of funds to cover the representation charges made by the embassies."

Inspector Comments. Management commented that each embassy for India, Pakistan and China was instructed via cable the amount available for receptions. The copies of cables and sections of cables that we obtained, discussed earlier, show that only for India do we have a

section of a cable that provided a specific dollar limitation. That cable section stated \$2,500 was available for official "reception and representation" expenses. For China we have a section of a cable that provided a funding citation for "ALL CHARGES FOR ADMINISTRATIVE EXPENSES EXCLUDING REPRESENTATION." For Pakistan, funding citations were provided for other expenses, but there was no mention of "reception and representation" expenses. Also for South Africa the State Department cables that we have do not mention "reception and representation" expenses. As stated above, we have requested that the Chief Financial Officer officials provide us with any additional information or State Department cables sent to the embassies that might support Management's comments. The CFO officials have not provided additional information.

The Initial Draft Report did not state that the embassy spent more on representation expenses than was made available by DOE for the three trade missions. The report did not address the "representation" funds for Pakistan because we did not identify a representation issue. Furthermore, as previously discussed, the Department had obligated \$10,000 for the China trade mission, therefore obligating sufficient funds for the China trade mission. However, subsequent to the China mission, the Department deobligated funds prior to applying the representation expenses incurred through the embassy on the China trip.

Regarding the India trade mission, the Initial Draft Report addressed the \$2,500 obligated for reception and representation for India. The Initial Draft Report also addressed the deobligation of funding from the India CID. As a result of this deobligation, sufficient funding was not available in the India account. The details of the amounts obligated and expended were discussed in the Initial Draft Report.

In response to recommendations in the Initial Draft Report, the Office of General Counsel issued an opinion regarding "reception and representation" expenditures. The review stated that "an additional \$144.02 should be obligated from reception and representation funds to cover this charge, if such obligation has not already been made." We believe that due to the deobligations from this CID, as discussed above, an additional \$491 would need to be obligated to the India account.

The Departmental Administration appropriation for Fiscal Year 1995 clearly stated that funds allowed for "reception and representation" expenses are not to exceed \$35,000. On the occasions discussed above, Department funds were used for "reception and representation" types of activities when funds for such activities were not available. We asked a General Counsel attorney specializing in appropriations law whether "reception and representation" expenditures could be paid through the Departmental Administration appropriation when no "reception and representation" funds were available. We were told that, absent specific authorizing language, payment of "reception and representation" type activities with other than "reception and representation" funds may be construed as a possible misuse of appropriations funds.

Based on our review, we believe DOE's funding of these "reception and representation" expenditures from the Departmental Administration appropriation, without adequate "reception and representation" funds, may be a possible misuse of appropriated funds.

Additionally, it is also important to note that the Antideficiency Act states that Agencies may not spend or commit themselves to spend, in advance of or in excess of appropriations (31 U.S.C. 1341) The Departmental Administration appropriation specifically states that "reception and representation" is not to exceed \$35,000.

Management Comments. Management commented that:

"On the South Africa mission, the Department prepared a cable to the State Department specifically stating that no representation expenses are to be charged to the Department's account. However, the embassy did not receive this cable and charged DOE accounts for unallowed receptions and official functions. Because the records of the cables do not correspond, the General Counsel review recommended in the report will examine this issue and suggest a course of action."

Inspector Comments. Our inspection noted that the actual cables sent to the U.S. Embassy in South Africa did not discuss "reception and representation" expenditures, and did not specify any cost limitations of any type. The Department has provided us with the draft text of a cable to South Africa retrieved from a computer hard disk which stated: "THE FOLLOWING DATA IS THE FUNDING CODES TO BE USED TO COVER ALL GOODS AND SERVICES EXCLUDING ANY REPRESENTATIONAL EXPENDITURES." There is no evidence that this cable text was ever sent to the U.S. Embassy in South Africa. Department officials stated that they believed the draft cable was faxed to the State Department, but have no documentation to support this position.

Management Comments. Management commented that:

"Regarding South Africa, the draft report misleads the reader [on] trip expenses. The report states that the Department spent money on representation activities (\$17,910) in South Africa when no money was available. While it is true that the Department had no funds set aside for these expenses in South Africa, that is because the Department did not intend to incur nor authorize such expenses. Not only did the Department inform the State Department that DOE funds were not to be used for representation expenses, it made arrangements with the hotel and the embassy to reflect this."

Inspector Comments. Regarding the comment "Not only did the Department inform the State Department that DOE funds were not to be used for representation expenses, it made arrangements with the hotel and the embassy to reflect this," a Department official responsible for preparing the Department's comments verbally told us that this

comment referred to an initial meeting at the hotel where both embassy and hotel officials were informed of this requirement.

Contrary to the Department's comments, our report does not state that the Department intended to incur "reception and representation" expenses. The report does, however, make the point that regardless of the Department's plans and intentions, the Department was charged for \$17,417 of "reception and representation" types of costs on its South Africa trip when no "reception and representation" funds were available.

We asked Department officials to provide us with their plan on how the various South Africa trade mission functions which were "reception and representation" in nature were to have been funded, given their verbal instructions to both the embassy and hotel officials that: ". . . DOE funds were not to be used for representation expenses. . . ." We were specifically interested in a plan which listed the various "reception and representation" functions, and indicated how each was to be funded, whether by business delegates' administrative fees, fees collected at the door, etc. A Department official responsible for preparing the Department's comments stated that there had been no plan that he was aware of, either written or unwritten.

One consequence of the Department's failure to have a funding plan for these events was a loss of control over receipts for the Energy Summit Conference. During the conference a subcontractor was tasked to register participants for a "Summit on Sustainable Development." This registration included collecting a \$35 fee, to include a luncheon, from the business participants. A review by OIG determined that the fees collected by the contractor, The Mitchell Group, were never credited to the Department. The Department was apparently unaware of this fact. If a plan had been in place, then we believe this omission would have been detected by the Department. The Mitchell Group has been billed \$5,137, and we understand they have repaid this amount.

Management Comments. Management commented that:

"Of the \$17,910 in representation expenses cited in the report, \$12,966 were for three receptions that were held and hosted by others and were never authorized by DOE as government expenditures."

- "- \$1,077 was billed for a reception held by the American Ambassador to South Africa, a charge that the State Department has acknowledged was charged in error.
- "- \$7,104 was billed for a reception sponsored by the I CAN Foundation, a South African educational organization. The State Department has acknowledged that this cost should have been billed to the I CAN Foundation directly.

"- \$4,785 was charged for a reception sponsored by the American Chamber of Commerce, where the report itself suggests that funds may have been collected at the door to cover the cost of this event."

Inspector Comments. The following addresses the three "reception and representation" expenses on which the Department specifically commented:

Regarding the \$1,077 reception by the American Ambassador -- We have not been provided with evidence that the State Department has reversed these charges. We discussed these charges with a senior State Department official. This official told us that he also was not aware of a reversal of these charges by the State Department.

Regarding the \$4,785 American Chamber of Commerce Dinner -- Irrespective of whether some individuals paid for this event at the door, the Department has been charged for an event that is "reception and representation" in nature. A February 9, 1996, U.S. Embassy memorandum signed by an embassy employee who had worked with DOE officials on the trip, stated: "During the discussion between Secretary's O'Leary's advance team and the Am Cham regarding how to bill the O'Leary delegation for their seats at the banquet, the advance team suggested that Am Cham bill the party in a lump sum." This billing method is what the American Chamber of Commerce did.

Regarding the \$7,104 Reception -- In a June 13, 1996, letter to the Department of Energy, a senior State Department official wrote:

"The Embassy spent a great deal of time trying to clarify the intentions of the I Can Foundation with respect to paying the banquet fees at the Carlton Hotel. A telephone number . . . appears on the I Can Foundation stationary used for the letter dated January 26, 1996 [sic] provided by the Department of Energy. The telephone number is actually that of the organization Black Like Me, which in turn referred the Embassy to another number . . . . After many fruitless attempts to contact this organization, it is clear that we will not be successful." (Note: this banquet was billed twice, with differing exchange rates resulting in costs of \$7,085 and \$7,104.)

Regarding the Department's comment that: "The State Department has acknowledged that this cost should have been billed to the I CAN Foundation directly," a DOE official responsible for preparing the Department's comments told us that the comment referred to a phone conversation between himself and a senior State Department official. This same State Department official told us, however, that the State Department has not acknowledged that the I CAN Foundation was responsible for the cost of this reception.

In reviewing this comment on our Initial Draft Report and the Office of General Counsel's (OGC) opinion on "reception and representation" expenditures, which was provided in response to a recommendation in the Initial Draft Report, we identified additional issues related to the Department's position that the I Can Foundation (I CAN)

should have paid for the August 23, 1995, reception at the Carlton Hotel in Johannesburg. The following presents information on the Department's relationship with and procurement action regarding I CAN, and the reception on August 23, 1995.

#### The I CAN Procurement

On August 11, 1995, the Special Assistant to the Director, Office of Economic Impact and Diversity (ED), wrote a letter to The Mitchell Group (TMG) confirming her conversation of August 10, 1995, regarding TMG providing support to I CAN in support of the Secretary's trip to South Africa. TMG at the time had a contract with the Department, to support the trade mission. According to the letter, I CAN had agreed to set up a tour for the Department to the Northern Transvaal Technikon and convene a meeting of approximately 2,000 students for the Secretary to address concerning the Department's commitment to education. I CAN would also be responsible for the distribution of books and computers. The letter said that ED would provide \$6,000 to TMG to cover the expenses associated with this event.

A receipt dated August 16, 1995, shows that I CAN received from a TMG official \$4,000 in travelers checks. According to the receipt, the payment was made at the request of the ED Director. On August 17, 1995, an I CAN official wrote to TMG that the ED Special Assistant had asked that he contact TMG to obtain an additional \$1,000. The I CAN official also wrote that the ED Special Assistant would contact TMG to expedite the matter. Other documents from TMG files show that on August 17, 1995, \$1,000 was wired by TMG to a bank account of an I CAN official in South Africa. One accounting document is annotated that the funds were for "Subcontracting services."

The trip report for the Secretary's South Africa trip, dated September 13, 1995, showed that the Secretary departed Washington, D.C., for South Africa on August 18, 1995. The trip report reflects that on August 23, 1995, the Secretary hosted a reception at the Carlton Hotel, and on August 24, 1995, she traveled to the Northern Transvaal Technikon.

The purchase order to reimburse TMG for the I CAN expenditures was not executed until after the trade mission. On September 27, 1995, the Golden Field Office initiated a procurement request, indicating the Field Office Manager as the requester, in the amount of \$6,000 for "Logistic and support of South African 'I Can Foundation'." On September 28, 1995, a purchase order was issued by the Golden Field Office to TMG in the amount of \$6,000 for "Logistics and Support of the 'I Can Foundation'." On September 29, 1995, TMG wrote to a Golden Field Office procurement official that the additional \$6,000 contract funding was distributed as follows: \$5,000 disbursed to I Can Foundation For Observation Tour, and \$1,000 for "TMG's Management Fee." Subsequently, on October 16, 1995, the Golden Field Office approved payment of \$6,000 to TMG under the purchase order.

Golden Field Office procurement officials told us that based on the August 11, 1995, letter to TMG from the ED Special Assistant and instructions from the Golden Field Office Manager, they issued the purchase order to TMG in the amount of \$6,000 for support of I CAN. They said that I CAN was a subcontractor to TMG. They also told us that, although they did not have a statement of work for the purchase order in their file, they believed the purpose of the purchase order was for shipment of books to South Africa. Also, they believed a sole source statement had been in their file but it could not be found. Further, although services had already been ordered and provided, we were told that procedures that are used to formally ratify a procurement were not followed.

Our discussions with the ED Director and her Special Assistant provided additional information on who was involved in the events that led up to the August 11, 1995, letter from the ED Special Assistant to TMG. I CAN was assisting the African Electrification Foundation (AEF) in making arrangements for the trade mission. The AEF has a Cooperative Agreement with ED valued at \$4,000,000 and they were providing support for the trade mission. This Cooperative Agreement is briefly discussed in Section C-4 "Contractor Support Costs" of this report. We were told that I CAN expected to be paid \$11,000 by AEF for its assistance. However, AEF was unable to pay I CAN, we were told, because AEF wanted additional funding for this purpose and ED was unable to provide AEF additional funds at that time because the responsibility for administering the Cooperative Agreement was in the process of being transferred from the Oak Ridge Operations Office to Headquarters procurement officials.

We were told that during the advance trip to South Africa an advance team member was calling various DOE Headquarters officials and saying that I CAN was reluctant to continue working unless it got paid and that ED officials had the responsibility for paying I CAN and were not paying I CAN. The I CAN work included arrangements at the Northern Transvaal Technikon for the Secretary's planned visit there. We were told that the ED Director believed that arrangements for the Secretary's visit would be jeopardized if I CAN was not paid.

The ED Special Assistant told us that she would not agree to provide \$11,000 to I CAN for what they were doing and the advance team member subsequently told her that an I CAN official had agreed to \$5,000 and she concurred. The ED Special Assistant told us that she later learned that this I CAN official had been "mad" about the reduced price. She said the official felt strongly that because he had agreed to assist with the book distribution and tour arrangements, and also had volunteered to host the Secretary's reception, that his involvement was worth the \$11,000.

The ED Special Assistant said that since ED could not use AEF at that time to provide funds to I CAN, she consulted with the Manager of the Golden Field Office to see if funds could be added to the TMG contract for this purpose. She told us that he said that funds could be added to the contract. A TMG official told us that he told the ED Special Assistant that they would not provide I CAN with funds unless they had a written direction to do so and that TMG would require a \$1,000 administrative fee

because it was not certain how long it would take for TMG to be reimbursed. The TMG official also told us that he really did not consider this to be a subcontract but rather just "a pass through" providing funds to I CAN at the direction of the ED officials. The ED Director told us that the ED Special Assistant prepared the August 11, 1995, letter with her approval. Further, the OGC opinion on reception and representation expenses reported the following from their interview with the ED Director: "I CAN had done some advance work for the trip. She surmises they thought they would make money on that, and be able to use some for the reception."

### The Reception

Department officials believed that no reception and representation funds remained for use on the South Africa trip. Management commented that: "While it is true that the Department had no funds set aside for these expenses [representation activities] in South Africa, that is because the Department did not intend to incur nor authorize such expenses." Department officials have told us that it was known long before the trip that the Department would be expected to host a reciprocal event while in South Africa. The invitation letter to trip participants signed by the Secretary provided an agenda of activities that would take place in South Africa and one activity was identified as a reception hosted by the Secretary. Further, the trip report for the South Africa trip refers to the August 23, 1995, reception as a reception hosted by the Secretary.

Several DOE staff who worked on the South Africa trade mission told us the arrangements regarding who would host the reception were not finalized until the advance team was in-country. Our records indicate that advance team members left for South Africa on August 4, 1995. OGC reported in their July 31, 1996, opinion on reception and representation expenses that one staff member said that while on the advance team, he overheard an I CAN official, a member of the advance team, and another individual discussing the possibility of I CAN co-hosting the reception. Also, that same advance team member was reported as saying that "there was a frantic scurry as time got close to determine who would host the reception."

One staff person who was on the advance team said that on the night of August 10, 1995, before he took a trip to Cape Town, he recalled that the issue of who would host the reception was being discussed and had not been resolved. Further, he recalled that either during his trip to Cape Town or upon his return to Johannesburg on August 14, 1995, he learned that I CAN would be hosting the reception. Based on this information, it appears that the Department's decision to accept I CAN's offer to sponsor the reception was finalized during the period August 11 to August 14, 1995.

There is evidence that prior to finalizing the arrangements on the advance trip there had been some expectation that I CAN would host the reception. The ED Director told us that in July 1995 a staff member involved in the trade mission arrangements brought I CAN officials to her office. She recalled that it was said that I CAN would be hosting

the reception. Further, she confirmed that the staff member took the I CAN officials to meet the Secretary and have a picture taken.

We have been unable to identify any Department officials who could be described as having agreed to receive the reception itself. Since Management commented that I CAN should have been billed for the reception, we requested the Acting Chief Financial Officer by memorandum dated August 19, 1996, to identify the person(s) who agreed to accept the offer by I CAN to sponsor the reception. The Acting Chief Financial Officer has not yet responded to our memorandum.

In summary, the Department agreed to receive a reception, a thing of value, from I CAN during the conduct of a procurement for which I CAN was a competing contractor. This may have resulted in actions by individuals that were inconsistent with the procurement integrity provisions of the Office of Federal Procurement Policy Act (41 U.S.C. 423) that were in effect at the time of the reception. Accordingly, we have added the following recommendations for the Department.

**RECOMMENDATION 30:** We recommend that the General Counsel, who's office has a responsibility within the Department for interpretation of the procurement integrity provisions of 41 U.S.C. 423 and the implementing regulations in FAR 3.104, determine whether the provisions of 41 U.S.C. 423 were violated by the Department's acceptance of I CAN's offer to sponsor the August 23, 1995, reception or by individuals personally attending the reception and take any actions as may be appropriate.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Official Draft Report contained two new recommendations, both of which we have adopted."

Management also stated that:

"In response to this recommendation, we attach a memorandum from the Assistant General Counsel for General Law, which concludes that there was no violation of the procurement integrity laws."

The attached memorandum from the Assistant General Counsel for General Law stated that:

"Acceptance of the Reception by the Department"

"It is our view that, had the reception been funded by the I Can Foundation, the reception would have constituted a gift to the Department that could have been accepted under the Secretary's gift acceptance authority. The procurement integrity gift prohibition applies to gifts to procurement officials and not the acceptance of gifts by an agency that had statutory gift acceptance authority. The FAR excludes from the prohibition gifts which are accepted under specific statutory authority. (FAR 3.104-4(f)(1)(ii)) We have informally discussed this interpretation with a representative of the Office of Federal Procurement Policy, who agreed. Accordingly, we conclude that a violation of the procurement integrity gift prohibition could not have occurred.

"Acceptance of Invitations to Attend the Reception"

"Given the totality of the facts in this case, attendance at the reception should be viewed as gifts to the attendees from the Government. Invitations to the reception were sent out by the American Embassy. The I Can Foundation intended to add names to the invitation list, but advised the Office of Economic Impact and Diversity that it was unable to do so due to a lack of cooperation from the State Department. Thus, it appears that the Federal government exercised control concerning the invitation list to the reception. Since the Government decided who would be attending the reception, any procurement officials who attended the reception would have been accepting a gift from the Government, not from the I Can Foundation.

"Further, even if one were to argue that the reception should be viewed as a gift from the I Can Foundation to the attendees, the acceptance of the invitation must have been done "knowingly" in order to cause a violation. Both competing contractors and procurement officials have a duty to inquire whether any prospective conduct would violate the procurement integrity provisions. (FAR 3.104-8) In this case, there was confusion concerning funding of the I Can Foundation. Although the purchase order for the I Can Foundation was not issued until more than a month after the reception, it appears that, at the time of the reception, the individuals involved in the funding of the I Can Foundation thought the work had already been done under an existing contract with The Mitchell Group. [The Special Assistant's] August 11, 1995, letter and her August 21, 1996, interview with representatives from the Office of the Inspector General indicate that she thought that the I Can Foundation was going to be paid under the existing contract. Funds were in fact transferred to the Golden Field Office for these activities on August 11, 1995. In addition, The Mitchell Group sent correspondence to the Golden Field Office after the reception indicating their belief that the I Can Foundation was to be paid under the existing contract. It is illogical to conclude that attending the reception gave rise to a violation of

the procurement integrity gift prohibition when the alleged gift was given at a time when those involved were unaware that a procurement was being conducted. In any event, since the I Can Foundation never paid for the reception, any question concerning the propriety of individual attendees accepting a gift from it would appear to be moot."

Inspector Comments: We believe this recommendation should remain open until this office completes its analysis of the Office of General Counsel opinion.

**RECOMMENDATION 31:** We recommend that the Assistant Secretary for Human Resources and Administration review the circumstances surrounding the I CAN procurement to document procurement irregularities and identify "lessons learned" and take any actions that may be appropriate.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Official Draft Report contained two new recommendations, both of which we have adopted."

Management also stated that:

"We have prepared an action plan for implementation of this recommendation. That plan is attached to this memorandum."

Inspector Comments. We consider management's actions to be responsive. However, we believe this recommendation should remain open until the November 15, 1996, date set in the Action Plan for a report to be issued.

Management Comments. In addition to specifically commenting on the three items of "reception and representation" expenses totaling \$12,956, management further commented on the "reception and representation" expenses, to include the remaining \$4,944 of expenses as follows:

"The General Counsel review will examine these charges, as well as the remaining \$4,944 of charges discussed in the draft report. The review will examine the facts in light of the Department's understanding that none of the receptions were being hosted or sponsored by the Department of Energy, and that all other business related representation expenses would be funded from the business delegate's administrative fee, paid to the hotel. That review has already begun, and will be completed by July 31, 1996. If any of the facts indicate that corrective action by the Department is necessary, the Office of the Chief Financial Officer will take that action."

Inspector Comments. In the absence of any plan for how the administrative fees were to be used and the fact that the Department arranged for receptions, breakfasts, and luncheons, it is not clear to us how the Department had the understanding that none of the receptions were being hosted or sponsored by the Department of Energy. Also, regardless of who was to have paid for these events, the fact remains that the Department has been charged for these events, and has paid for them. The Department is faced with having made expenditures that are potentially both a misuse of appropriated funds, and a violation of the Antideficiency Act.

RECOMMENDATION 10: We recommend the Chief Financial Officer, in coordination with the General Counsel, properly classify "reception and representation" type costs incurred, and take other actions that may be required.

Management Update on Status of Corrective Actions. Management stated that the "CFO has disputed with State Dept many of the representation type expenditures highlighted in the report. CFO continues to work with State Dept to reverse improper charges. Meanwhile, GC is assessing remaining legal issues." The update also stated that management considers its action on this recommendation to be complete.

However, on July 31, 1996, the Deputy General Counsel wrote to the Acting Chief Financial Officer concerning the results of OGC's review of "reception and representation" fund issues. In its review, OGC identified \$35,086 of expenses that should be obligated from "reception and representation" funds.

Inspector Comments. This recommendation should remain open until the representation expenditures identified in the OGC's review have been resolved, properly reclassified, and applied in the Department's accounting system.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Department has reviewed the expenses and agrees to the classifications found in the General Counsel's review of representational fund expenses from the 4 trade missions. We are in final discussions with the State Department regarding who will pay for certain expenses and we expect that all issues will be resolved by and a final accounting will be completed by October 31."

RECOMMENDATION 11: We recommend the General Counsel review the Department's obligations and payments of expenditures that are representational in nature, to determine whether such obligations and payments, absent adequate "reception and representation" funds, constitute a misuse of appropriated funds.

Management Update on Status of Corrective Actions. Management stated that: "Prior request of GC asked to determine all Department funds available and how to handle

any potential issues. GC is completing analysis and CFO will act on results of GC review."

Inspector Comments. See our response to Recommendation 12.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Office of General Counsel's review, referenced above, concluded that there had not been a misuse of appropriated funds. A copy of their findings was provided to you on July 31.

"In the Official Draft Report, you informed us that you have sought the views of the Comptroller General on the question whether representation funds are no-year money or are available only for one year. We have completed all action on this recommendation; however, we will review the Comptroller General's analysis when he responds to your request."

**RECOMMENDATION 12:** We recommend the General Counsel review the Department's obligations, and/or payments of expenditures that are representational in nature, to determine whether such obligations and payments, absent adequate "reception and representation" funds, constitute a violation of the Antideficiency Act (31 U.S.C. 1341)

Management Update on Status of Corrective Actions. Management stated that "CFO is disputing with State Dept many of the representation type expenditures highlighted in the report. CFO continue[s] to work with State Dept to reverse improper charges. Meanwhile, GC is assessing remaining legal issues."

On July 31, 1996, the Office of General Counsel provided the Acting Chief Financial Officer its opinion regarding "reception and representation" fund issues. In that opinion the OGC stated:

"... the Secretary has committed to implementation of all the recommendations contained in the Inspector General's initial draft report. To enable timely implementation of recommendations 10, 11, and 12, we proceeded simultaneously on several fronts: development of facts with respect to what the obligations and expenditures were, and the circumstances under which they may have been made; and research and analysis of the legal issues potentially implicated . . . This analysis revealed neither a misuse of appropriated funds nor a violation of the Antideficiency Act.

\* \* \* \* \*

"Based on the . . . classification analysis, it appears that amounts totaling \$35,086.01 should be obligated from reception and representation funds. Amounts totaling \$4,206.34 should be obligated from other than reception and representation funds, . . . including other appropriate program accounts (or remain in a suspense account pending collection).

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" . . . we conclude that reception and representation funds remain available for their original purposes until expended, subject only to the limitation of the amount available from each appropriation; that sufficient carryover funds are available to meet the expenses discussed above which are properly chargeable to the reception and representation fund; and that, in view of the availability of adequate funds for the expenses related to the foreign travel examined in this memorandum, there has been neither a misuse of appropriated funds nor a reportable violation of the Antideficiency Act as set forth in sections 1341 (a)(1) or 1517 (a), title 31, United States Code."

Inspector Comments. On August 29, 1996, the Office of Inspector General requested a Comptroller General opinion concerning the issue whether the Department's "reception and representation" funds are "no year" funds, available until expended, or whether the annual expenditures are limited by the stated appropriation act amount. In their review, the Office of General Counsel concluded that the Department was not required to use funds only during the fiscal year for which appropriated; in fact, regarding the matter in controversy, the Office of General Counsel concluded that unobligated balances may be used for properly chargeable current expenses. The Office of General Counsel review identified \$49,008 of unobligated "reception and representation" funds available from the past 11 years that could be used in paying for the \$35,086 of "reception and representation" expenses it identified in its review.

In order to resolve this conflict between stated long-standing Department practice and the Office of General Counsel's legal conclusion, we are asking for an opinion on the issue of whether Department of Energy "reception and representation" funds may in essence be carried over for reception and representation activities in another fiscal year.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Office of General Counsel conducted such a review and concluded that DOE's actions were consistent with the Antideficiency Act.

"In the Official Draft Report, you informed us that you have sought the views of the [C]omptroller General on the question whether representation funds are

no-year money or are available only for one year. We have completed all action on this recommendation; however, as stated above, we will review the Comptroller General's analysis when he responds to your request."

Personal and Other Improper Expenditures Paid By the Department

Our review of costs paid through embassies disclosed that the Department was charged for various personal costs that should have been charged to individual travelers. The following costs were noted, which were improperly charged on the trip to South Africa:

- \$1,818 for room charges for six individuals;
- \$74 for room service and mini bar charges at the Cape Sun Hotel;
- \$192 for various room service and other bills at the Carlton Hotel; and,
- \$117 for food, beverages and guide services at the Palace Hotel;

Because, these personal costs were charged to DOE, it does not appear that Department officials adequately reviewed hotel bills prior to departing the country. Such a review would have disclosed these improperly billed costs, and enabled the Department to redirect the charges to the responsible individuals in a timely manner at the point of their occurrence.

There are other costs that the Department is currently questioning, which we believe should have been reviewed and resolved at the time of the trip. The Human Resources reviewing official said that he believes the Department was billed for too many vehicles in Johannesburg. If the Department was in fact charged for more vehicles than it ordered, then this over billing should have been detected and addressed while DOE personnel were in country, not eight months after the fact.

Another significant cost issue on which we found the Department to be unclear, and which we believe should have been addressed prior to departing South Africa, was the disposition of the \$400 administrative fees, totaling \$17,600, charged to the non-Federal travelers. While it was known by the Department that the non-Federal travelers had been charged the \$400 fee, the Department was unable to tell us if and how the \$17,600 was used to fund trip costs. The Human Resources reviewing official told us that the Carlton Hotel still owed the Department the \$17,600, and that the Department would be receiving credit for this amount. It was only by our contacting the hotel directly that we learned that the \$17,600 had been used to fund Energy Summit Conference costs in Johannesburg beyond what had been charged to the Department through the U.S. Embassy.

Based upon the above, we have concluded that the Department did not exercise adequate care in reviewing its bills and settling its accounts prior to departing South Africa.

**RECOMMENDATION 13:** We recommend the Chief Financial Officer recover personal expenses from responsible individuals.

**Management Update on Status of Corrective Actions.** Management stated that: "The Office of the Chief Financial Officer has identified personal expenses and is billing them to the individuals as appropriate by DOE rules and regulations. Additionally, the CFO stands ready to handle further actions if GC identifies additional personal expenses in the course of their other reviews."

**Inspector Comments.** This recommendation should remain open until efforts to recover all personal expenses from responsible individuals have been completed.

**Subsequent Management Comments on the Official Draft Report.** Management stated that:

"With respect to personal expenses that were incurred, we have completed our audit of all but three of the relevant travel vouchers. Six disclosed improperly billed personal expenses amounting to \$366.77, all of which has been recovered. Three remaining vouchers are still under review.

"We are aware that there are additional personal expenses that were or will be billed to DOE through U.S. Embassies overseas that will not appear on travel vouchers. We will work with the State Department to identify these amounts and take corrective action.

"With respect to any remaining improperly charged personal expenses, unless these expenses are voluntarily repaid, we will follow formal debt collection procedures, including the use of 30 day demand letters and referral to a collection agency."

**Inspector Comments:** The Department provided a matrix which indicated that corrective action for this recommendation will be completed by October 31, 1996.

**RECOMMENDATION 14:** We recommend the Chief Financial Officer take action to ensure proper review and approval of travel costs being charged to the Department, and that, to the extent available, bills are reviewed and accounts settled by DOE financial officer(s) prior to departing the country visited.

**Management Update on Status of Corrective Actions.** Management stated that: "DOE N 551.1 establishes policy for review and approval of travel costs, including review of

available invoices prior to departure. The final policy statement and manual have been issued. CFO has circulated internal policies and procedures on this process."

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

#### Inadequate Internal Controls

We identified several internal control weaknesses in the process Department officials used during the four trade missions to obtain support from the U.S. Embassies and to reimburse them for cost incurred during these trips. For instance, Department officials did not have adequate internal controls to assure that embassy support costs were appropriate. We believe that a number of factors contributed to the lack of such controls. First, Department officials failed to control embassy support costs because the Department did not identify a single individual who would be responsible for the ordering of goods and services. Specifically, we found that on each of the trade missions, a number of individuals directed the embassy to procure goods and services. Second, Department officials did not routinely collect invoices from the vendors or maintain a log of the expenses incurred during these trips. Copies of the invoices were available at the embassy, but Department officials failed to routinely request copies until the GAO review was underway that led to the January 4, 1996, testimony before the Subcommittee on Oversight and Investigations, House Committee on Commerce.

Due to lack of internal controls and limited data on State Department SF 1221s and Voucher reports, DOE officials were in some instances unable to validate the appropriateness of specific embassy support costs for the various trade missions or provide records to support all costs incurred for these missions. As a result, we noted several weaknesses regarding Accounting officials' procedures for applying embassy support costs. Accounting officials stated that the Office of Accounting received embassy support costs through the SF 1221s and Voucher reports. An official stated that these reports did not always contain CID numbers or other information necessary to correctly identify the specific trip in which the costs should be applied. The official stated that based upon limited information available on the Voucher reports, such as the currency, date of the report, and the State Department Regional Financial Center that recorded the costs, DOE Accounting officials applied the costs to the trip in which they believed the costs were incurred.

The Accounting official further stated that in some instances in which Accounting could not identify the specific trip, the unidentified costs were applied to the suspense account. The official stated that the applied costs, including the suspense costs, were then forwarded to the responsible Program Office officials for approval. The official stated if the Program Office official's approval had not been received within 90 days, it was assumed that the costs applied to the trip CIDs were correct, and Accounting took no further action. Regarding the suspense account costs, the official stated that these costs were subsequently applied to the trip in which Accounting officials believed they

were incurred. As a result of this uncertainty, we found that Department officials improperly applied embassy support costs to the Secretary's foreign trips.

We found that DOE officials were unable to verify the appropriateness of the embassy support costs incurred during the foreign trips. The informal procedures followed by the Department did not assign responsibility to an individual to verify the appropriateness of the cost incurred by the embassy. We discussed this issue with an Accounting official who stated that Accounting relied upon the Department's Program officials to verify the appropriateness of the costs. The Program official stated that they relied upon embassy officials to verify the appropriateness of the costs because a Certifying Official from the State Department signed the vouchers. A State Department official stated that the embassy does not verify the accuracy or appropriateness of the costs incurred by the Department of Energy.

We also found that in India, Department officials incurred embassy support costs prior to obligating the required general expense funds for the trade mission. Specifically in India, Department officials did not request that general expense funds be obligated until approximately one month after the trip and after embassy support costs were received by the U.S. Embassy. As a result of obligating funds after the fact, we found that Accounting officials, in some instances, simultaneously established obligations, recorded embassy support costs and made payments.

Management Comments. Management commented that the statement in the Initial Draft Report that obligations for India were established approximately one month after the trip and after embassy support costs were received by the U.S. Embassy "is inaccurate in the case of the Official Reception and Representation Fund. The obligation out of that fund was made in advance." In support of this statement, the Acting Chief Financial Officer provided a copy of the June 30, 1994, India "reception and representation" obligation which showed that the original request was made prior to the trade mission.

Inspector Comments. The statement in the Initial Draft Report was referring to the general India CID not the "reception and representation" account. The India general CID information as discussed in the Initial Draft Report showed that the process of obligating funds was not initiated until after the India trip was completed. Accounting officials did not obligate funds until August 1994, after the trade mission was completed.

We believe the lack of supervisory controls is another internal control weakness. An Accounting official informed us that Accounting technicians, using the VADRs, recorded embassy support costs in the Accounting system as they were received by DOE. The official stated that technicians recorded the costs and made adjustments to costs in the system without supervisory approval. The official also stated that there were no requirements because "the Program Office has the control for determining if the costs are correct and can be applied to a predetermined CID number."

**RECOMMENDATION 15:** We recommend the Chief Financial Officer develop policies and procedures which ensure that embassy support costs are appropriate, properly approved, and correctly applied.

Management Update on Status of Corrective Actions. Management stated that the final policy statement and manual have been issued. It also stated that DOE N 551.1 requires a negotiated advance understanding with the embassy or a detailed cable listing needed goods and services, specifically identifying individuals authorized to make changes, and requiring invoices, etc. prior to the end of the trip.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 16:** We recommend the Chief Financial Officer ensure that, prior to initiation of the trip, sufficient funds are obligated for foreign trips which require embassy support.

Management Update on Status of Corrective Actions. Management stated that the final policy statement and manual have been issued. It also stated that DOE N 551.1 requires the CFO to review the detailed trip budget, certify availability of funds, ensure proper authorizations are in place, and then track expenses.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

#### Accounting and Program Office Coordination

Our review determined that Accounting and Human Resources officials did not adequately coordinate activities relating to U.S. embassy support costs incurred during the trade mission trips. When requests were made for documents supporting the costs associated with the trade mission trips, Department officials had to request the support information from the State Department. Neither Accounting nor Human Resources had adequate supporting information concerning the trade mission trips. Although Accounting had developed "SF 1221 Summaries" to assist in applying costs associated with the trips, adequate support documentation was not being requested or maintained. There were no written policies and procedures delineating Human Resources' responsibilities to see that costs are applied and questioned costs resolved timely. Embassy support costs have been assigned and reassigned to various CIDs or to a suspense account where they remain unresolved. For example, costs associated with the India trade mission trip that took place in July 1994, are still maintained in a suspense account awaiting resolution. Coordination between Accounting and Human Resources must be improved in order to resolve the cost application problems in a timely manner.

**RECOMMENDATION 17:** We recommend the Chief Financial Officer develop written policies and procedures to ensure that embassy support costs for foreign trips be closely coordinated with the program office and to establish specific guidelines that would require timely application of embassy support costs.

**Management Update on Status of Corrective Actions.** Management stated that the final policy statement and manual have been issued. It also stated that DOE N 551.1 provides for program participation in developing administrative/logistical support levels and requires changes to these levels to be approved in writing prior to incurring costs. Post trip, the Senior Responsible Official is required to reconcile all costs and certify results.

**Inspector Comments.** We consider management's actions to be responsive; therefore, this recommendation may be closed.

#### **4. Contractor Support Costs**

Contractors provided preadvance and advance support on some of the Secretary's 16 foreign trips. We identified costs totaling \$387,292 associated with these contractor services. These costs are included in the costs in Table 10 and, for the four trade missions, are included in Table 11 under the column titled, "CONTRACTOR SUPPORT COSTS."

#### **The Mitchell Group**

A former employee of the Office of Congressional and Intergovernmental Affairs identified The Mitchell Group (TMG) as a possible support services contractor for the South Africa trade mission. This former employee introduced TMG to the Director, Office of Economic Impact and Diversity. According to the Director, DOE needed help "capacity building," or identifying South African majority-owned companies that could be matched with U.S. minority-owned companies. The Director expressed her view that the U.S. Embassy in South Africa was unable to provide this support; TMG, therefore, was an alternative source to provide the needed assistance. The Director also said she transferred funds to the Golden Field Office in order to help fund TMG. She said the funds were transferred because the Manager, Golden Field Office, volunteered to do the procurement. According to the Manager, Golden Field Office, he volunteered to become involved with the TMG procurement process due to his responsibilities relating to the upcoming trade mission and his ability to manage the TMG procurements through his office.

TMG, a small disadvantaged firm, submitted a proposal to the DOE's Office of International Policy on June 12, 1995. TMG proposed to provide Management Support to the DOE/South Africa Summit on Sustainable Development for the period June 22, 1995, through September 30, 1995, at an estimated cost of \$563,632. TMG submitted a revised proposal to DOE on June 19, 1995. TMG again proposed to provide

Management Support to the DOE/South Africa Summit on Sustainable Development for the reduced period July 1, 1995, through September 1, 1995, at a reduced estimated cost of \$124,606.

The Manager, Golden Field Office, on June 28, 1995, completed a requisition for the following services from TMG:

"Obtain services from The Mitchell Group (TMG) to research and identify a diverse group of participants representing a broad spectrum of large and small energy companies, financial institutions, women and minority-owned businesses, environmental groups and government specialists. TMG will directly identify local black-owned enterprises which would become candidates for immediate partnerships with similarly interested and diverse US-based energy related firms.

"Furthermore, TMG will identify opportunities for U.S. based Historically Black Colleges and Universities (HBCU) to participate in educational and training aspects of energy related activities."

The estimated cost for the above tasks was \$25,000.

The Golden Field Office executed a purchase order, Contract No. DE-AP36-95GO20228, with TMG on June 29, 1995, in the amount of \$24,962. The Golden Field Office completed a justification for other than full and open competition because of unusual and compelling urgency.

The above purchase order, under the section entitled "Deliverables," stated that TMG should complete weekly reports that should include, as a minimum, progress completed to date in text format, a list of businesses identified to date, a comparison of actual accomplishments vs. planned, a list of steps for the following week, and other comments. In addition, the above purchase order stated that the weekly reports should be received by July 10, 1995, and July 17, 1995, respectively.

The Golden Field Office, based on a July 14, 1995, requisition from the Manager, Golden Field Office, subsequently executed contract No. DE-AC36-95GO10107, with TMG on July 25, 1995, in the amount of \$110,000. The contract stated that it followed a bridge agreement purchase order with the Mitchell Group, which was signed June 29, 1995, and that the purchase order should fund TMG through July 14, 1995. To properly complete the designated tasks, and ensure continuity of work, a contract was needed to be immediately enacted. Due to this compelling time constraint, a market survey was not feasible. The Golden Field Office, therefore, completed a justification for other than full and open competition and "determined that a Contract for the Mitchell Group issued under unusual and compelling urgency is warranted in accordance with FAR 6.302.2. Furthermore, it is determined that the anticipated cost to the Government will be fair and reasonable."

The Office of Economic Impact and Diversity sent a letter, dated August 11, 1995, to TMG, to confirm an August 10, 1995, conversation regarding the "I Can Foundation" providing additional support for Secretary O'Leary's trip to South Africa. In this letter, the Special Assistant to the Director, Office of Economic Impact and Diversity, stated the following:

"The 'I Can Foundation' has agreed to set up a tour for the Department to the Northern Transvaal Technikon [in South Africa] and convene a meeting of approximately 2000 students for the Secretary to address concerning the Department's commitment to education. They will also be responsible for the distribution of the books and computers that have been donated to South Africa.

"The Office of Economic Impact and Diversity will increase its share of the Mitchell Group's fees by \$6000 to cover the expenses associated with the above event."

TMG subsequently sent a facsimile transmittal form, dated September 29, 1995, to the Golden Field Office, subject: "Additional \$6,000 Contract Funding." This facsimile stated:

"Per our discussion, please find attached a letter from DOE authorizing the additional \$6,000 of project expenditures undertaken by TMG under Contract # DE-AC36-95GO10107. The letter is self-explanatory and the funds were disbursed accordingly."

The above facsimile stated that \$5,000 was to be disbursed to the "I Can Foundation" and \$1,000 was TMG's management fee.

The Golden Field Office, based on a September 27, 1995, requisition from the Manager, Golden Field Office, subsequently executed Contract No. DE-AP36-95GO20368 with TMG on September 29, 1995, in the amount of \$6,000. However, per the above quote, TMG stated that the \$5,000 included in the \$6,000 purchase order had already been disbursed under Contract No. DE-AC36-95GO10107.

The circumstances surrounding this \$6,000 award to TMG and the payment to I CAN are discussed in more detail in Section C-3 "Embassy Costs."

In summary, TMG was paid \$140,962 for services performed under the three fixed-price procurements discussed above. As previously stated, the Manager, Golden Field Office, requested TMG's services for each of the three procurements. Additionally, for Contract No. DE-AC36-95GO10107, DOE's Contracting Officer's Representative for Post Award Administration was listed as the Manager, Golden Field Office. Per our discussions with the Manager, Golden Field Office, TMG generally performed the tasks

related to the South Africa trade mission as he had anticipated, and delivered all deliverables of sufficient quality in a timely manner. However, an OIG review found that TMG had not performed all of the specified tasks and provided all deliverables. For example, the task to "identify opportunities for U.S. based historically Black Colleges and Universities to participate in educational and training aspects of energy related activities," was to be done by TMG as preparation for the Secretary's visit to South Africa, but was not performed. The Chief Counsel at the Golden Field Office advised the OIG by memorandum that: "I have found that this element of the statement of work was not addressed by TMG. It is my understanding that this element of work was unachievable due to the pressing needs the other elements of work and the critical time constraints posed by the Secretary's mission to complete those more critical elements." The OIG has recommended that the Office of Procurement and Assistance Management assist in determining if the contractor should be required to refund a percentage of the contract value or perform additional work to complete the tasks.

Among the TMG deliverables we reviewed was a Final Report entitled, "SERVICES TO SUPPORT THE SECRETARY OF ENERGY VISIT TO SOUTH AFRICA CONTRACT NO. DE-AP36-P5GO20228," dated September 1, 1995. (Note that the Final Report was specified in the third set of deliverables under Contract No. DE-AC36-95GO10107, not as a deliverable under Contract No. DE-AP36-P5GO20228.) In this Final Report, TMG made "Recommendations For Follow-up With The South African Government And The Business Community." The following was listed as one of the follow-up recommendations:

"Quickly implement the programs or joint ventures formed during the Presidential Mission and the South Africa-United States Summit on Sustainable Energy Development is the foremost recommendation offered. The awarding of 15 fellowships to the Oak Ridge (Tennessee) Manufacturing Institute is just one area that should received maximum publicity to signal to the South Africans that the U.S. government and private sector are offering substantive assistance."

Based on TMG's recommendation, we were told the Golden Field Office executed an additional purchase order, Contract No. DE-AP36-95GO20356, with TMG on September 27, 1995. TMG was to provide "logistics and Support of South African visitors to Oak Ridge Manufacturing Research Technology Training." The Golden Field Office was unable to locate the executed purchase order. We did, however, confirm that the full amount of this purchase order, \$50,000, was paid to TMG on January 10, 1996. On July, 8, 1996, we received a copy of this purchase order from the Acting Chief Financial Officer.

#### Computer Data Systems Incorporated

Computer Data Systems Incorporated (CDSI), a support services contractor, provided communication support for several of the Secretary's foreign trips or other foreign trips

by designated senior DOE personnel. According to the CDSI's statement of work, they supplied technical and on-site support for the Secretary and her staff in the areas of analysis, pre-trip preparation, on-site overseas support, and post-trip functions. Per a DOE official, from January to September 1995, DOE paid \$220,403 to CDSI for support of the Secretary's foreign travel and for support of a trip to Mexico by the then Deputy Secretary. Per our request, a DOE official provided cost data, including on-site overseas support, for the China and South Africa trade missions as well as the Vienna destination on September 1995. These costs were as follows: China trade mission - \$85,303; South Africa trade mission - \$47,266; and the September 1995 Vienna destination - \$18,098. We did not obtain similar cost-related information for the remainder of the Secretary's foreign trips.

CDSI's pre-trip preparations included testing of all equipment to ensure operability prior to shipment; acquiring as directed items required for the foreign travel support (e.g., adapters, converters, tools, supplies); assembling all hardware, software, and supplies necessary to support a specific foreign site; and packing all equipment and supplies for shipment to foreign sites. Pre-trip costs for the China trade mission trip were approximately \$42,966, and included labor costs of \$25,848, logistics expenses (tools, components, crates, supplies, accessories) of \$16,981, and other costs of \$137. Pre-trip costs for the South Africa mission were approximately \$14,880, which included labor costs and logistics expenses. Included in the pre-trip costs were efforts related to the preparation of 50 IBM PS/2 computers for DOE's donation in South Africa.

#### National Renewable Energy Laboratory (NREL)

National Renewable Energy Laboratory (NREL), an M&O contractor-operated laboratory, provided employees to support some of the Secretary's foreign trips. As previously stated, their travel-related costs are included in the trip costs in Table 10. NREL used a subcontractor to perform advance support on the India, China, and South Africa trade missions. For the India trade mission, this subcontractor reported that he was paid \$18,867. For the India portion of the China trade mission trip (February 1995), according to documentation received from this subcontractor, DOE paid \$7,000 for the subcontractor's support services. For the trade mission to South Africa, the same subcontractor was paid approximately \$26,975 for his support services.

NREL also used two other subcontractors to assist them with in-country preadvance support for the South Africa Gore-Mbeki Binational Commission trip. According to documentation provided to us, NREL paid one subcontractor approximately \$17,458 and the other subcontractor approximately \$15,000, for a total of \$32,458.

Neither the subcontractor participant for the India destination on the China trip, nor the subcontractor participants for the South Africa Gore-Mbeki Binational Commission trip, were previously identified as participants in these trips by DOE.

### African Electrification Foundation

As a result of our review of management comments, we learned that the African Electrification Foundation (AEF) also provided support for the Secretary's August 1995 trip to South Africa under a cooperative agreement with the Department. This cooperative agreement has a total value of \$4,000,000. The purpose of the cooperative agreement is to develop a partnership with Historically Black Colleges and Universities to collaborate in strengthening the electric power system infrastructure in Africa. We have been told that support for the South Africa trade mission was provided under this cooperative agreement. Also, we identified a modification to the cooperative agreement to AEF for \$43,100 that specifically provided for support of the trade mission. The modification included the payment of travel and expenses for two Presidents of Historically Black Colleges and Universities and other support activities. Also included was payment of travel for an AEF official who was listed in the Department's trip report but not included in our tabulation of participants in Table 3 because we were unaware the Department had funded his travel. We did not complete analyzing and verifying the cost of the support provided by AEF for the Secretary's trip. Therefore, we have not included costs associated with AEF in the summary cost tables in this report or included the AEF official, mentioned above, in Table 3.

### 5. Overtime

While reviewing the costs of the 16 foreign trips taken by the Secretary, we identified a number of DOE employees who were paid overtime for these trips. In this section, we will discuss overtime earned by two categories of employees: executive protection personnel and other support personnel. The overtime costs discussed in this section are not included in the total cost in the trips that we reported in Table 10.

#### Overtime Worked by Executive Protection Personnel

We identified \$276,442 in overtime that was spent by the Department for executive protection provided by the Department's Transportation Security Division (TSD) couriers and selected DOE Headquarters Office of Security Affairs (OSA) personnel for the 16 foreign trips. Table 16 shows for each trip the number of executive protection personnel, the number of overtime hours paid, and the overtime costs for executive protection.

As discussed previously, TSD provides couriers to OSA to participate on advance teams and protective details at the request of the OSA Executive Protection Program Manager.

According to the TSD Executive Protection Coordinator, TSD did not develop specific overtime policy for executive protection because executive protection assignments were not considered to be "significant reoccurring events." The Coordinator said that TSD

considered overtime costs for executive protection to be minimal compared to overtime costs for regular TSD courier duties.

Overtime claimed by TSD couriers included overtime while conducting pre-protective duties at DOE Headquarters. These duties included: finalizing travel arrangements, reviewing the Secretary's itinerary, appointing the detail and shift leaders, obtaining maps of the countries or cities to be visited, finalizing security arrangements, and resolving security-related issues pertaining to the trip. TSD couriers also claimed overtime during advance activities; that is, when the TSD couriers traveled three to five days in advance of the Secretary to a foreign location(s) to prepare for her arrival.

**Table 16**  
**Overtime Identified for**  
**Executive Protection Personnel**

Trip No.	Trip Location	Number of Executive Protection Personnel	Total Protection Overtime Hours	Total Protection Overtime Cost
1	France	2	132	\$ 3,367
2	Austria/Russia	9	881	20,929
3	England	5	417	9,995
4	Russia	2	128	3,378
5	Ivory Coast	4	168	3,864
6	India	9	934	22,744
7	Belgium	4	407	11,701
8	Austria/Pakistan	15	1,649	40,372
9	Russia/Sweden	9	669	16,238
10	India/Hong Kong/China	17	1,794	48,179
11	France/Azerbaijan/Italy	13	1,182	30,410
12	Costa Rica	5	358	9,698
13	Russia	5	375	9,856
14	South Africa	7	831	22,104
15	Czech Rep./Austria	5	428	10,252
16	South Africa	5	485	13,355
<b>Totals</b>			<b>10,839</b>	<b>\$ 276,442</b>

According to TSD couriers who we interviewed, one member of the executive protection team is assigned as the "lead city agent." The lead city agent is responsible for verifying his overtime as well as the overtime of other members of the executive protection advance team. According to an OSA official, the detail leader is responsible for protecting the Secretary and initials off on advance team members' overtime "out of courtesy." The OSA official said that the detail leader does not verify the advance team's overtime because the detail leader does not travel with the advance team and is not present during advance team activities. The OSA official said, however, that the detail leader's "courtesy" acknowledgment of the advance teams' overtime is not considered an official verification of the overtime hours worked by advance team members. According to the TSD courier overtime policy, TSD couriers who work overtime hours must have their overtime hours certified by their unit commanders. A TSD official said that TSD couriers performing executive protection submitted their overtime for certification to their respective unit commanders upon their return from an executive protection detail. The official said this was done even though the unit commanders were not on the trip. We were told that the unit commanders accepted the overtime as accurate based on the detail leader's "courtesy" acknowledgment.

Management Comments. Management commented that:

"While not formally a recommendation by the Office of the Inspector General's office, the Office of Security Affairs has already implemented new procedures to enhance management and control of overtime by Executive Protection Personnel.

"Historically, there have been two different methods for authorizing and approving overtime for executive protection operations. One process applied to Transportation Safeguards Division (TSD) security personnel while the other applied to DOE headquarters personnel. These dual processes occurred because of the differences in the way each of the parent organizations processed and approved overtime requests. . . ."

The comments further stated that:

"In early 1996, an informal internal management review determined that the two overtime approval processes were causing confusion and improvements were needed. Accordingly, in April 1996, the Executive Protection Program Manager took action to standardize the authorization and approval of overtime. Since early May 1996, each City Lead and each member of a security detail has received an individual letter authorizing him/her to perform overtime and providing instructions on having their time sheets verified. Upon completion of the executive protection activity, the City Lead is responsible for verifying the number of overtime hours expended by each member of the detail. The City Lead's overtime hours are verified by the

Detail Leader. Upon return to their respective duty stations, all security agents submit these validated hours to their appropriate line management for final approval. However, there are certain situations that dictate certifying officials rely on the integrity of the individual. Such is the case when only one security agent travels with the Secretary domestically. There is no existing mechanism to allow the certification official to certify the accuracy of claimed overtime. In such a case, someone on the Secretary's staff must verify the accuracy of the claim (sometimes the Secretary, herself) or the certification official must trust that the claimant is making an honest claim."

#### Executive Protection Personnel Overtime in St. Petersburg, Russia

On December 16, 1994, the Secretary traveled to St. Petersburg, Russia, as an intermediate destination between official business that was conducted in Moscow, Russia, and Stockholm, Sweden. The Secretary told us that no official business was scheduled while in St. Petersburg and that she only visited the Hermitage. According to the trip report, "Trip of the Secretary of Energy Hazel O'Leary to Russia and Sweden," dated December 19, 1994, the Secretary spent Saturday, December 17, until approximately 3:00 p.m. on a "city tour" and a "cultural program" in the city. Following these activities, the Secretary departed St. Petersburg for Stockholm, Sweden.

In a memorandum for the Secretary, dated December 1, 1995, Subject: "Travel to Moscow, St. Petersburg and Stockholm - December 1994," the Special Assistant to the Chief Financial Officer stated that "in consultation with the Office of General Counsel, we have examined the question whether the government sustained any incremental cost from your one-day stopover in St. Petersburg during your official trip late last year to Moscow and Stockholm . . . . Based upon that review, there were no incremental transportation costs to the government because [of] the stopover in St. Petersburg."

We found, however, that executive protection overtime cost was incurred because of the Secretary's stopover in St. Petersburg, Russia. Executive protection personnel worked 147 hours of overtime while performing advance work prior to the Secretary's arrival and executive protection duties after her arrival in St. Petersburg.

According to executive protection personnel who were assigned to the advance team for the Secretary's travel to St. Petersburg, they first traveled to Washington, D.C., from Amarillo, Texas, for preadvance work and to obtain their visas. Subsequently, about one week prior to the Secretary's arrival in St. Petersburg, they departed Washington, D.C. for St. Petersburg to begin their advance work. Their arrival in St. Petersburg was delayed by one day due to a ground accident at the airport in Prague, Czech Republic, where they had to spend the night.

Following their arrival the next day in St. Petersburg, they spent two days trying to regain possession of their weapons that had been confiscated by Russian authorities at the St. Petersburg airport upon their arrival. A State Department official told us that the

weapons were confiscated because the Regional Security Officer (RSO), who was supposed to meet the team upon their arrival, was not aware they were coming to St. Petersburg. According to the official, the cable sent by the State Department advising the RSO of the team's arrival had not been sent on a timely basis by State and, because of a Russian holiday, was not received by the RSO until after the team's arrival. If the RSO had been at the airport when the executive protection personnel arrived, he would have cleared their weapons through Russian authorities. Executive protection personnel told us that prior to the Secretary's arrival in St. Petersburg, the RSO issued them weapons assigned to the Consulate for their use in protecting the Secretary. We were also told that prior to boarding the aircraft for their return trip to the U.S., their weapons were returned to them by Russian authorities.

Executive protection personnel told us that following their attempts to regain possession of their weapons they began conducting their advance work in preparation of the Secretary's arrival. Our review of records show that they worked 38 hours of overtime on the two days they spent trying to regain possession of their weapons. Their advance work consisted of making arrangements for the Secretary's arrival at the St. Petersburg airport, arranging for ground transportation, becoming familiar with roads from the airport to the hotel, and making security arrangements at the hotel. We were told by DOE officials that Conducting the advance in St. Petersburg was difficult because of the language barrier between the executive protection personnel and the local Russians. Also, obtaining ground transportation in St. Petersburg was difficult because they had no means of paying for vehicles and drivers. They had to obtain a funding source from DOE Headquarters so the U.S. Consulate could obtain two vehicles with drivers prior to the Secretary's arrival. According to travel records, executive protection personnel left St. Petersburg the morning following the Secretary's departure on December 17, 1994.

#### Overtime Worked by Other Support Personnel

A review of overtime worked by other support personnel was conducted as a result of our observation that several administrative and communications employees had charged overtime hours while participating on the Secretary's trade missions. Table 17 shows by trade mission, the number of support personnel that worked overtime, the total overtime hours worked, and the estimated cost of the overtime that we identified.

As shown in Table 17, we identified that a total of 3,932 overtime hours at an estimated cost of \$89,749 were incurred by support personnel during the four trade missions. Administrative personnel discussed in this section include personnel from Human Resources who supported the trip plus others that did administrative work for specific individuals and/or offices, but are not identified in other tables in this report as providing support. We were told that support personnel established a "Command Center," among other duties, which served to coordinate activities of the trade missions. Administrative personnel told us that on the trade missions they typically performed functions that included trip coordination and logistical support and maintaining coordination with host

country government and business officials, as well as American embassy staff. Communications personnel told us that they established and maintained computer support, as well as telephone and radio communications at the Command Center.

We determined that between nine and 15 support personnel incurred overtime expenses on each of the four trade missions. We were told by these support personnel that the trade mission Command Centers coordinated events in the host country, as well as served as a communications links between trip participants and officials in the United States. On many occasions the Command Center was staffed on a 24-hour per day basis to facilitate communications with DOE Headquarters, which was required due to the differences in time zones. Additionally, we were told that these personnel were frequently required to arrange for ground transportation, type trade agreements from handwritten notes, and type other correspondence. We found that in many instances, administrative and communications personnel worked over eight hours of overtime per day to meet these work requirements, and that the overtime was approved by their supervisors.

**TABLE 17**  
**OVERTIME IDENTIFIED FOR**  
**OTHER SUPPORT PERSONNEL**

Trip Location	Number of Support Personnel	Support Overtime Hours Paid	Total Other Support Overtime Cost
India	9	685	\$15,329
Austria/Pakistan	9	794	17,959
India/Hong Kong/China	15	1,357	30,882
South Africa	9	1,096	25,579
<b>Totals</b>	<b>42</b>	<b>3,932</b>	<b>\$89,749</b>

Note: This data is based upon hours reported as worked during the trade missions, and could have been subsequently amended. Additionally, payment for overtime hours worked may have been subject to salary caps.

## 6. Full Cost Recovery

This section of the report discusses Department officials' response to the November 1994 report in which we suggested that full cost recovery for foreign travel costs be implemented, and the results of our review of the Department's actions to recover full costs for the four trade mission trips.

### Prior Audit Report and Actions Taken

Our November 1994 report entitled "Audit of Department of Energy International Charter Flights," noted that Department officials had not implemented a full cost recovery policy and procedure for its foreign travel costs. Department officials advised us at the time that they believed non-Federal passengers should pay for their full pro-rata share of air transportation costs in advance. For the Secretary's India trade mission, Department officials decided to charge non-Federal passengers the round-trip coach fare of \$2,800 instead of the full pro-rata cost of the charter flight estimated at the time at \$12,860. A Department official stated that a General Counsel official misinterpreted Federal Regulations prior to the India trip. The Department had not collected airfare costs from non-Federal passengers prior to the India trip and had not attempted to collect these costs at the time of our 1994 audit -- more than three months after the India trip was completed. In contrast, Department officials attempted to collect, in advance, the full pro-rata air transportation cost of \$6,477 from non-Federal passengers traveling on the Pakistan trade mission. However, the Department had been unable to collect from all passengers in advance and had not established accounts receivable for these amounts.

The 1994 audit report included suggestions that Department officials: (1) establish accounts receivable for the amounts due from non-Federal passengers on the India and Pakistan trade mission trips and aggressively pursue their collection, (2) implement a full cost recovery policy for non-Federal passengers traveling on Government-furnished air transportation in the future, and (3) establish a procedure which would ensure that the Department collects passenger airfare before a trip occurs. Following is a discussion of our review of the Department's efforts to implement these suggestions.

### Establishment and Collection of Accounts Receivable for India and Pakistan

Consistent with the suggestion in our November 1994 report, in February 1995 the Department established 13 accounts receivable totaling \$75,486 for the Pakistan trip. Also in March 1995, 44 accounts receivable totaling \$95,200 were established for the India trip. As of April 26, 1996, approximately \$37,000 of these accounts receivable remained outstanding -- \$19,831 for the Pakistan trip and \$16,700 for the India trip. Following is a discussion of Federal and Department requirements for collecting accounts receivable and the Department's efforts to collect amounts due.

#### Criteria

Currently, the DOE Accounting Handbook, which is part of DOE Order 534.1, "Accounting," provides the policy and procedure to account for and collect accounts receivable. This order superseded DOE Order 2200.6A "Financial Accounting" on September 29, 1995. However, since DOE Order 2200.6A was in effect at the time of the India and Pakistan trips, we used it as criteria for determining whether DOE had properly established accounts receivable and aggressively pursued their collection.

DOE Order 2200.6A stated that accounts receivable are to be established as soon as possible after the event that gives rise to it, but in no case later than the end of the month following the month in which the event occurred. Once established, three requests for payment should be sent to debtors. The written request or demand for payment of moneys can be in the form of a letter, an invoice, or another billing. A total of three progressively stronger written demands at not more than approximately 30-day intervals are to be made unless a response to the first or second demand or other information indicates that further demands would be futile or unnecessary.

Department policy also provides that payments not received within [generally 30] days of the first invoice are to accrue interest on the amount due from the invoice date based on the Department of the Treasury "current annual value-of-funds interest rate, per annum." A charge to pay for costs incurred for processing and handling a delinquent account shall be assessed. This charge is currently \$7.25 for each bill issued. Further, a 6-percent-per annum penalty on any principal amount not paid within 90 days of the due date can be assessed for the period of delinquency. Debts greater than \$100 and more than 61 days delinquent can be reported to a collection agency for collection as well as a credit reporting agency. Outstanding balances can be reported to the Internal Revenue Service for administrative collection against future tax refunds and/or referred to the Department of Justice for litigation.

#### DOE Efforts to Collect

The Department had pursued collection of the India and Pakistan debts, although not as aggressively as allowed by DOE policy. For instance, as of December 1995, the start of this review, the Department had sent only two of the three required letters to the debtors demanding payment even though the accounts receivable had been established almost a year earlier. These billings had not been sent at the 30-day time intervals recommended by DOE Order 2200.6A, nor did they fully advise the debtors of the consequences of nonpayment. Letters were mailed to India travelers March 1, 1995, and generally again in October 1995. Nonpaying Pakistan travelers were initially billed in January 1995. The majority of the second demand letters were mailed in September 1995. Department officials advised that in addition to these billings, nonpaying passengers were telephonically contacted on several occasions to pursue collection of these debts.

According to Department officials, efforts to collect had not been aggressive or in accordance with Department policy because there was some concern whether the Department had a legal basis to bill passengers, particularly those on the India trip. Specifically, in response to the March 1, 1995, billing, some passengers on the India trade mission stated that they were not advised that they would be required to pay the airfare costs of the trip. Consequently there was concern by Department officials whether the Department could demand payment from these individuals. There was also some concern with regard to the Pakistan trade mission, even though those

passengers were advised prior to the trip that the participation fee would be about \$7,000, which included the cost of one business class seat on the U.S. Government-chartered aircraft. Table 18 shows the accounts receivable that remain open and reasons provided by passengers for nonpayment.

Due to the concern whether the Department had a legal basis for pursuing collections of these debts, officials from the Office of the Chief Financial Officer requested an opinion from the Office of General Counsel on this matter. On March 22, 1996, the Office of General Counsel found that the Department had a legal basis to pursue collection of the Pakistan debts. A decision on the India debts was not provided at that time.

As a result of the decision on Pakistan, the Department issued the third and final demand letters on April 1, 1996, to all except one debtor who owed \$100. In these letters, debtors were advised of the adverse actions that the Department could take as a result of their failure to pay. Specifically, they were advised that (1) for each 30-day period of delinquency past the letter, interest would accrue at the rate of three percent per annum; (2) an additional six percent per annum penalty would be assessed on any unpaid principal amount that was 91 days delinquent; and (3) account information would be reported to a credit report bureau and accounts would be sent to a commercial collection agency if payment was not received within 30 days of the notices. Additionally, debtors were advised that any balance owed would be submitted to the Internal Revenue Service for administrative collection against future tax refunds and/or referred to the Department of Justice for litigation. A third letter was not sent to the debtor who owed \$100 because Department personnel wanted to review their records to ensure the debt had not already been paid.

While Office of General Counsel did not make a decision on the India receivables at the time of the Pakistan ruling, the Office of Chief Financial Officer also sent third demand letters to all but one of the India debtors. The content of these letters however was not consistent with the normal third and final demand letters. These letters again requested payment from the debtors and advised that late payment interest and penalties would accrue if the accounts were not resolved within 15 days from the dates of the letters. The Department did not send a third letter to one debtor because a decision had been made to collect the debt by an interagency transaction. However, on May 2, 1996, Office of General Counsel ruled that the Department could pursue collection of the India accounts despite the possible lack of an expressed contractual understanding between the travelers and the Department that the business travelers would be required to bear this cost.

In our opinion, the Department implemented the prior audit report suggestion with respect to the establishment of accounts receivable for the India and Pakistan trips. However, due to the reasons stated above, attempts to collect the unpaid balances had not been as aggressive as permitted by DOE policy. Now that Office of General Counsel has ruled that the Department can legally pursue collection of both the India

and Pakistan accounts receivable, collection efforts should be resumed in accordance with Department policy.

**TABLE 18**  
**ACCOUNTS RECEIVABLE**

(Information as of April 26, 1996)

Country	Traveler	Amount Owed	Reason for Nonpayment <sup>1</sup>
India	<u>Non-Federal</u>	A <sup>2</sup>	\$ 2,700 OIG unable to contact
		B	2,800 OIG unable to contact
		C <sup>3</sup>	1,400 Asked to help fill plane - not advised of cost
		D <sup>3</sup>	1,400 OIG unable to contact
	Subtotal		\$ 8,300
India	<u>Federal</u>	E	\$ 2,800 Not advised of cost
		F	2,800 Not advised of cost
		G	2,800 Not advised of cost
	Subtotal		\$ 8,400
Pakistan	<u>Non-Federal</u>	H	\$ 6,577 Not advised of cost, willing to pay
		I	6,577 Debtor said paid <sup>4</sup>
		J	100 Not advised of cost <sup>5</sup>
		K	6,577 Debtor said paid <sup>4</sup>
	Subtotal		\$ 19,831
<b>Total</b>		\$ 36,531	

1. Explanations provided by travelers to DOE OIG.

2. Paid \$100.

3. Traveled one way.

4. Payments not received according to DOE officials.

5. Willing to pay cost of commercial airfare, paid \$6,477.

**RECOMMENDATION 18.** We recommend the Chief Financial Officer take timely action consistent with the Office of General Counsel opinion and the Federal and Department accounts receivable collection requirements.

**Management Comments.** Management commented that actions had been completed on all accounts receivable for the India and Pakistan trade missions. Of the remaining five individuals with accounts receivables, three had been placed on an installment plan and two had been referred to collection agencies.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

Implementation of Full Cost Recovery for China and South Africa

China

The Department attempted full cost recovery of foreign travel costs on this trip by requiring non-Federal travelers to make payment for charter airlift services directly to Omega World Travel (Omega), the Department's centralized travel service.

Department officials sent letters of invitation to the participants for the China trade mission stated that the estimated cost of a seat on the charter aircraft for the trade mission was \$9,200. According to a Department memorandum, the officials reached an agreement with Omega prior to the flight, which included the provision that Federal travelers would tender Travel Authorizations to Omega for their seats on the chartered aircraft and Omega would process those payments as any other routine travel. The memorandum further stated that Omega was to collect all monies from non-Federal participants prior to the flight. In addition, the memorandum stated ". . . Omega would bill the Department for unanticipated costs arising from enroute changes in itinerary, unfilled seats, unforeseen taxes or fees, etc."

Omega had not collected all amounts due from non-Federal passengers prior to the trip, and a Department official allowed a number of the nonpaying passengers to board the charter flight. As a result, Omega asked the Department to pay \$93,626, which included \$2,935 of interest due from non-Federal passengers as of October 1995.

Department officials from the Office of Chief Financial Officer advised Omega that the Department was not liable for these amounts. However, in a February 1996 letter to Omega, a Department official in the Office of the Chief Financial Officer stated that a Chief Financial official had been working with Omega in collecting from the non-Federal passengers. As of May 1996, according to a Department accounting official, a non-Federal passenger still owed Omega \$ 9,881.

South Africa

The Department also attempted full cost recovery of foreign travel costs on this trip. For example, the Department's invitation letter to the non-Federal participants advised them that their pro-rata share of the air transportation costs was \$7,553.

Department officials arranged for the charter company to accept responsibility for collecting the pro-rata cost of air transportation costs from non-Federal passengers prior to the trip. The Department also arranged to pay the charter company through a Government Transportation Request intending to pay the costs of the seats used for Department passengers.

While the charter company apparently collected initially pro-rata amounts due from non-Federal passengers in advance of the trip, we found that the Department may have paid more than necessary for air charter costs and that there were other costs which the Department did not recover from non-Federal passengers. For example, during our review of travel voucher and charter costs for the South Africa trade mission, we noted that, for two invitational travelers, the Department paid airfare costs for services not utilized by the travelers. At DOE expense, one traveler departed Orlando, Florida, via commercial air on August 21, 1995, and arrived in Johannesburg on August 22, 1995. This traveler departed South Africa on the charter aircraft to Dulles Airport and took commercial air from Dulles Airport back to Tallahassee, Florida, on August 28, 1995. In addition to \$3,238 for his commercial air ticket, the Department also paid basic round-trip charter costs of \$7,553, even though the traveler only flew on the charter one-way. The Department also paid \$744 in charter costs from Johannesburg to Kimberly and \$1,413 for a return flight to Cape Town.

The second traveler departed Atlanta, Georgia, via commercial air on August 18, 1995, and arrived at Dulles Airport the same morning, at a cost to the Department of \$199. On the same day, this traveler continued on the charter aircraft to Cape Town. The traveler departed from South Africa on commercial air on August 25, 1995, and arrived back in Atlanta on August 26. In addition to \$2,928 for this return commercial air ticket, the Department also paid basic round-trip charter costs of \$7,553, even though the traveler only flew on the charter one-way. Furthermore, the Department paid an additional \$744 in costs for this traveler for charter costs from Johannesburg to Kimberly on August 26, 1995, even though, as we previously noted, the traveler had departed South Africa on August 25, 1995.

In summary, the Department paid \$8,297, for charter services not used by these two invitational travelers. This cost was in addition to charter costs of \$9,710 and commercial air costs of \$6,365 paid by the Department for air services used by the two travelers. Thus, total charter and commercial airfare costs for these two invitational travelers totaled \$24,372 for the South Africa trade mission.

Management Comments. Management commented that:

“ . . . the Inspector General states that the Department paid charter costs of \$7,553 for traveler one. Office of Energy Research review of the traveler’s travel voucher shows that Energy Research paid \$3,976 for the charter portion of the trip because, as stated in the report, the traveler only flew on the charter one-way.

\* \* \* \* \*

“ . . . the Inspector General report states that the Department paid \$7,553 for charter airfare for traveler two. Energy Research review of traveler two’s travel voucher shows that Energy Research paid \$3,776 for the

charter portion of the trip because, as stated in the report, the traveler only flew on the charter one-way. Energy Research has no record that it paid round-trip charter costs of \$7,553 each for the two travelers. If round-trip fare was paid, it did not come out of Energy Research funds. Paragraph 4 erroneously identifies traveler two as the passenger on the Johannesburg to Kimberly leg of the flight when in fact it was traveler one.

"In summary . . . , Energy Research did not pay \$8,297 for charter services not used by these two travelers. Energy Research paid \$7,752 in charter costs, not \$9,710.38 as reported by the Inspector General. The Inspector General correctly stated \$6,364 in commercial air costs. The total charter and commercial airfare costs for these two travelers totaled \$14,116, not \$24,372 as stated in the report."

Inspector Comments. It appears that the management comments only considered the Travel Manager (travel voucher) input and never considered other modifications, approved by ER officials, which are reflected in the Department's accounting records. We brought this to the attention of the CFO official responsible for preparing the comments on the Initial Draft Report. He stated that an internal review would be performed to identify applicable charges. This report continues to reflect the costs for the charter as they are recorded in the accounting system.

The Department's accounting records reflected that both travelers were charged for the Johannesburg to Kimberly leg of the flight. The Initial Draft Report stated that actual records showed that DOE paid charter costs for traveler two to fly from Johannesburg to Kimberly even though he did not make the trip.

We also identified other costs that DOE did not recover from non-Federal travelers. Non-Federal travelers were not required to pay for a share of the Kimberly and Cape Town segments of the trip. The amount of administrative fees collected from non-Federal travelers did not pay for administrative costs associated with their delegation activities.

Department officials stated that as result of a discussion between the Secretary and officials of the South Africa government, an additional stop in Kimberly was added to the South Africa mission. The incremental aircraft cost for the Kimberly stop was \$18,595. The Assistant General Counsel for General Law determined that the Department need not charge the non-Federal passengers for the stop and that the Department could pay the full amount of the incremental cost.

Also, the charter company charged the Department \$32,000 for an unscheduled return trip to Cape Town during the South Africa trade mission. Documentation from the charter company stated that the unscheduled stop in Cape Town was requested by DOE because additional cargo had to be transported to the U.S. DOE was provided with three options:

- (1) Leave cargo and operate as scheduled;
- (2) Stop in Cape Town for fuel and allow eight hours crew rest; then fly to Recife, Brazil, for refueling; and then to Dulles International Airport; or
- (3) Stay overnight in Johannesburg and leave in the early morning when weather conditions would allow a nonstop flight to Recife, Brazil, for refueling; and then to Dulles International Airport with the extra cargo.

Department officials selected Option #2 and paid an additional \$32,000, which resulted in the flight being re-routed from Johannesburg through Cape Town, South Africa, to the United States. The on-scene DOE officials stated that the re-routing was needed due to weather conditions involving temperature and tail winds.

The inspection also found that non-Federal travelers were undercharged for the common costs. Our review of the trip costs the Department incurred through the U.S. Embassy in South Africa identified the following common costs billed to the Department for which, in our opinion, the non-Federal travelers should have borne a proportional share:

Ground transportation	\$ 97,756
Food and beverage	2,435
Reception and banquet	14,747
Telephone and facsimile	24,390
Telephone installation	873
Business center	16,104
Conference rooms	<u>1,900</u>
Total costs	\$158,205

To help pay for these common costs, the Department arranged for non-Federal travelers to pay two administrative fees through their hotel bills. Forty-two of the 54 non-Federal travelers each paid a \$200 administrative fee, totaling \$8,400, through the Cape Sun Hotel in Cape Town. This \$8,400 was credited to the Department's hotel bill and offset some of the above costs.

Forty-four travelers paid a \$400 administrative fee, totaling \$17,600 through their Carlton Hotel bill in Johannesburg. This \$17,600, however, was not used to fund the above \$158,205 paid through the U.S. Embassy, but for other costs, principally meeting rooms and meals, that were incurred in connection with the Energy Summit Conference held during the trip. Thus, the non-Federal travelers contributed \$8,400 towards the above \$158,205 common costs, which was far less than a proportional share.

Management Comments. Management commented that:

"Some of the administrative expenses identified in the report as appropriate for private sector cost recovery were in fact for the Department's benefit alone (e.g. telephone installation and communications, facsimile capability, and certain transportation expenses). They were necessary to support the Secretary when out of the country or to support other non-trade mission business, such as national security and non-proliferation discussions."

Inspector Comments. We understand that possibly not all of the costs we included as "common costs" were incurred costs from which business travelers benefited. However, while it may be appropriate to adjust our estimate of the total common costs to exclude costs which did not result in benefit to the business travelers, a specific reduction was not provided by DOE. Further, the \$97,756 spent for ground transportation cost alone would exceed full cost recovery. The CFO official with responsibility for preparing the Department's comments told us that there is an analysis of these costs which would indicate what portion the business travelers should have paid. We requested a copy of this cost allocation analysis on August 1, 1996. On September 17, 1996, a CFO official provided a two page handwritten document regarding the fees collected in Johannesburg and Cape Town. We interviewed the Department official who had originally prepared the document. The official stated that the document was prepared for a General Counsel official and that it was not a formal analysis. Even this informal analysis showed an overall shortfall of \$1,361 in attaining full cost recovery. However, because this was not a formal analysis, we have not further evaluated the analysis.

Although we did not attempt to identify common costs for the other three trade mission trips, we noted that the Department assessed administrative fees to non-Federal travelers as follows:

<u>Trade Mission</u>	<u>Fee Assessed</u>	<u>Total Collected</u>
India	No Fee	0
Pakistan	\$100	\$2,600
China	\$300	\$15,000

According to DOE Accounting documents, the total administrative fees collected for the Pakistan and China missions were placed in the Miscellaneous Receipts Accounts and returned to the Department of Treasury. Additionally, when a comparison is made to the number of business travelers, presented in Table 5, it appears administrative fees were not collected from all the business travelers. In addition, as indicated above, the Department arranged for the hotels to collect \$26,000 in administrative fees on the South Africa trade mission trip.

### Department's Position on Full Cost Recovery

Finally, we found that the Department had established draft policy and procedures that would require full cost recovery of air transportation and other common travel costs of the Department's international travel. In a January 23, 1996, letter to the Subcommittee on Oversight and Investigations, House Committee on Commerce, the Department stated that the Department believes non-Federal participants on trade missions who were asked to pay their own travel expenses should pay on a full cost recovery basis, and the Department has restructured commercial air charters to achieve this end.

### Draft Policies and Procedures

Department officials issued two sets of policies on international travel: (1) "Interim International Travel Policies and Procedures," dated March 14, 1996, and (2) DOE Notice 551.1, "International Travel," dated April 15, 1996. These policies and procedures require non-Federal international travelers to fund their full share of trip costs, including air and ground transportation, lodging, administrative and other expenses costs.

DOE Order 2110.1A, "Pricing of DOE Materials and Services," dated July 14, 1988, requires non-Federal travelers on aircraft chartered by DOE to be charged at the comparable common carrier coach fare. The order appears contrary to the requirements in DOE Notice 551.1. We discussed the language in DOE Order 2110.1A with an official in the Office of General Counsel who stated that the order does not apply to the Secretary's trade missions.

Management Comments. Management commented that:

"... the advice to charge coach was based at the time on the explicit wording of OMB Circular A-126 and related regulations. Subsequent to the trip the Office of General Counsel was advised by OMB orally to recover as much as possible from the private sector notwithstanding the apparent requirements of Circular A-126."

**RECOMMENDATION 19:** We recommend the Chief Financial Officer ensure that requirements outlined in DOE Order 2110.1A and DOE Notice 551.1 are consistent with the full cost recovery policy.

Management Comments. Management commented that:

"The draft report reviews the costs of the trade missions and recommends that the Department ensure its orders are consistent with full cost recovery policies. Yet the report does not address some of the Federal Regulatory limitations (i.e. OMB Circular A-126) that may bear on implementing a full-cost recovery policy."

Inspector Comments. In a letter dated January 23, 1996, to the Chairman of the Subcommittee on Oversight and Investigations, House Committee on Commerce, Department officials stated that certain portions of the OMB circular did not apply to DOE travel. ". . . whereas, attachment A to OMB Circular A-126 would suggest the aliquot shares of the full cost recovery rate might be charged. Moreover, since the travel at issue does not perfectly fit any of the categories of travel by non-Federal personnel described in these provisions, it would be possible to conclude that they do not apply at all. In any event, the Department believes the non-Federal participants in these trade missions who are asked to pay their own travel expenses should do so on a full cost recovery basis, and has restructured commercial air charters to achieve this end."

Management Update on Status of Corrective Actions. Management stated that the CFO will ensure the final order is consistent with full cost recovery.

Inspector Comments. This recommendation should remain open until DOE Order 2110.1A, paragraph 25, is revised to clarify the policy concerning the airfare to be charged to non-Federal passengers traveling aboard DOE-chartered aircraft. Currently, DOE Order 2110.1A states that non-Federal passengers traveling aboard DOE-chartered aircraft should be charged the "comparable common carrier coach fare"; whereas DOE M 551.1 states that non-Federal personnel "traveling with the other trip members must pay their full prorated share of the arranged transportation costs by the date established for payment."

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we revise DOE Order 2110.1A (which calls for non-Federal travelers on DOE aircraft to be charged full coach fare) and DOE Order M-551.1 [sic] (which calls for full cost recovery) for consistency. In response, we examined and consulted with members of your staff on whether the two rules were, in fact, inconsistent.

"In the Official Draft Report, you reiterated your requested [sic] that we modify DOE Order 2110.1A to clarify that DOE's policy is to recover the full cost of transportation by all travelers. We will complete this action by October 31.

#### **D. Source of Funds**

We identified 12 appropriation accounts DOE officials used to pay \$3.16 million of \$3.42 million in costs for the four trade missions. Trade mission costs included expenses for chartered aircraft, commercial airfare, embassy support, and management and operating contractor and subcontractor support. The majority of the trade mission

costs -- \$2.25 million or 66 percent -- were funded using the DOE Administration Operating Expenses appropriation account. Another \$910,895 or 27 percent was paid for with funds from 11 other appropriation accounts. We did not determine the source of funds used to pay \$261,094 in travel-related costs for management and operating contractor and subcontractor support expenses. Table 19 shows these costs and the costs for each trade mission the Department charged to the 12 appropriation accounts.

TABLE 19  
TRADE MISSION SOURCE OF FUNDS

APPROPRIATION DESCRIPTION	INDIA	AUSTRIA/ PAKISTAN	INDIA/HONG KONG/CHINA	SOUTH AFRICA	TOTAL COSTS
Departmental Administration, Operating Expenses	685,183	389,493	660,639	513,301	2,248,616
Energy Supply, R&D Activities, Operating Expenses	7,239	22,381	82,561	113,194	225,375
Energy Conservation	6,263	16,776	38,570	151,956	213,565
Materials Production and Other Defense Programs	-	105,210	9,226	58,656	173,092
Fossil Energy Research and Development	13,047	19,166	78,890	40,955	152,058
Clean Coal Technology	-	-	34,784	11,012	45,796
Weapons Activities	3,666	13,043	12,887	3,409	33,005
Federal Energy Regulatory Commission	-	13,755	-	8,982	22,737
Emergency Preparedness	-	-	15,688	-	15,688
Defense Env. Restoration and Waste Management	-	-	11,435	-	11,435
Energy Information Administration	-	-	5,023	5,532	10,555
Bonneville Power Administration	-	7,589	-	-	7,589
Miscellaneous*	23,922	3,586	130,191	103,395	261,094
<b>TOTAL</b>	<b>\$ 739,320</b>	<b>\$ 590,999</b>	<b>\$ 1,079,894</b>	<b>\$ 1,010,392</b>	<b>\$ 3,420,605</b>

\*M&O and Contractor Support Costs. We did not determine the appropriation used to pay these costs.

### DOE Administration Operating Expenses Appropriation

The Department funded \$2.25 million or 66 percent of trade mission travel costs with this appropriation account. These costs included \$685,183 or 93 percent of the trip costs for the India trade mission; \$389,493 or 66 percent of the trip costs for the Pakistan trade mission; \$660,639 or 61 percent of the trip costs for the China trade mission; and \$513,301 or 51 percent of the trip costs for the South Africa trade mission.

This appropriation account supports the following DOE Offices: the Office of the Secretary; Human Resources and Administration; Chief Financial Officer; Congressional, Public, and Intergovernmental Affairs; General Counsel; Policy; Economic Impact and Diversity; and the Board of Contract Appeals. In addition, this appropriation pays for the Department's Cost of Work for Others program. Further, this appropriation account was used to account for revenues from the sale of goods and services under the Cost of the Work for Others program, as well as, miscellaneous revenues from a variety of other sources. Finally, this appropriation account included the reception and representation fund of \$35,000 designated by Congress for official entertainment expenses.

### Energy Supply, Research and Development Activities, Operating Expenses Appropriation

The Department funded \$225,375 of trade mission travel costs using this appropriation account. This account supports a variety of energy research and applied technology programs as well as programs providing environmental oversight and mitigation. Organizations with programs supported by this appropriation include Energy Efficiency and Renewable Energy; Nuclear Energy; Environmental Management; Environment, Safety and Health; Energy Research; and Field Management.

### Energy Conservation Appropriation

The Department funded \$213,565 of trade mission travel costs using this appropriation account. This account supports the mission of the Office of Energy Efficiency and Renewable Energy, which is to work with customers to lead the nation to a stronger economy, a cleaner environment, and a more secure future by developing and deploying sustainable energy technologies.

### Materials Production and Other Defense Programs Appropriation

The Department funded \$173,092 of trade mission travel costs using this appropriation account. This account supports the mission of the Materials Support program, which has been to provide nuclear materials to meet national defense requirements, Government research and development activities in support of civilian research, commercial, and medical applications.

#### Fossil Energy Research and Development Appropriation

The Department funded \$152,058 of trade mission travel costs using this appropriation account. This account supports the Department's mission to stimulate sustainable development and utilization of the nation's fossil fuel resources and technologies to assure an ample, secure, clean and low cost domestic supply of energy.

#### Clean Coal Technology Appropriation

The Department funded \$45,796 of trade mission travel costs using this appropriation account. This account supports technology development efforts jointly funded by Government and industry to demonstrate the most promising advanced coal-based technologies and to generate data needed for the marketplace to judge their commercial potential.

#### Weapons Activities Appropriation

The Department funded \$33,005 of trade mission travel costs using this appropriation account. This account supports the mission of Defense Programs, which is to maintain the safety, security, and reliability of the nation's enduring nuclear weapons stockpile within the constraints of a comprehensive test ban, utilizing a science-based approach to stockpile stewardship and management.

#### Federal Energy Regulatory Commission Appropriation

The Department funded \$22,737 of trade mission travel costs using this appropriation account. This account supports the overseeing of operations of key parts of America's energy industries, for example, natural gas and oil pipelines, electric utilities, and hydropower facilities.

#### Emergency Preparedness Appropriation

The Department funded \$15,688 of trade mission travel costs using this appropriation account. This account supports the Department's efforts to develop and direct energy emergency preparedness planning, operational, and response programs to meet the goal of reducing U.S. vulnerability to the adverse impacts of domestic and international supply distributions.

#### Defense Environmental Restoration and Waste Management Appropriation

The Department funded \$11,435 of trade mission travel costs using this appropriation account. This account supports Environmental Restoration activities, Waste Management functions, Nuclear Material and Facility Stabilization efforts, Science and Technology activities, and Site Operations activities and privatization efforts, as well as

program direction and administrative activities, including management and evaluation, and planning, policy and budget.

#### Energy Information Administration Appropriation

The Department funded \$10,555 of trade mission travel costs using this appropriation account. This account supports the mission of the Energy Information Administration, which is to be the Nation's primary source of comprehensive energy information, providing high quality energy data, analyses and forecasts to customers in Government, industry and the public in a manner that promotes sound policy making, efficient markets and public understanding.

#### Bonneville Power Administration

The Department funded \$7,589 of trade mission travel costs using this appropriation account. This account supports 80 percent of the electric power transmission capacity for the Pacific Northwest as a Federal electric power marketing agency.

#### Miscellaneous

The Department paid \$261,094 for management and operating contract and subcontractor travel costs. These costs are included in the Miscellaneous category of Table 19 because we did not determine the appropriation the Department used to pay these costs.

#### Source Of Funds For Security Costs

DOE changed the source of funding for future foreign security travel costs in May 1995, when it reprogrammed \$400,000 within its Defense Programs appropriation -- \$241,166 from four Defense Materials Support projects and \$158,834 from one New Production Reactor project. These reprogrammed funds were provided to the Office of Nonproliferation and National Security to fund security costs for international trips.

A senior Chief Financial Officer (CFO) official stated that this reprogramming had occurred because, historically, security travel costs for the Secretary had been funded from two appropriation accounts, Defense Programs and DOE Administration. When the Secretary traveled domestically, security travel costs had been funded from Defense Programs, and when the Secretary traveled internationally, security had been funded from the DOE Administration account. The senior CFO official also stated that in the past, international travel had been on an "ad hoc" basis and that DOE Administration officials had not really planned to spend much money on security for foreign travel. However, he stated that as a result of the Energy Policy Act of 1992, it was anticipated that the Secretary would increase international travel because the Act established a requirement to foster international cooperation by developing international markets for domestically produced sustainable energy technologies. Furthermore, the

senior CFO official stated that in the past, the Secretary's international travel had not been tied to a specific program office mission; however, in "March or April 1995," funding sources had been proposed for the Secretary's future foreign travel and the Department had realized that security for the Secretary's travel, unlike in the past, was tied to the Defense Program Office mission. As a result, Department officials made a policy change to fund security for international and domestic travel using the same appropriation account that funds the Defense Program Office -- the Materials Support and Other Defense Programs Appropriations.

Specifically, in a memorandum dated April 21, 1995, a CFO official from the Budget Analysis Division, Defense Programs Branch, requested an internal reprogramming action totaling \$400,000 to pay for travel requirements in the Office of Nonproliferation and National Security. According to a DOE memorandum, dated May 5, 1995, the reprogramming action was completed and was to be effective upon approval of the Department's May-approved funding programs.

Reprogramming guidance for programs and activities funded in the Energy and Water Development Appropriation Act was provided in the Committee on Appropriations Report 99-195. This Report contained Reprogramming Procedures and stated that:

"The Committee requires the Department to ensure that the Appropriations Committee is promptly and fully informed whenever a necessary change in program execution is desired. To assist the Department in this effort, the following guidance is provided by the Committee for the Department's reprogramming actions for programs and activities funded in the Energy and Water Development Appropriation Act.

*"Definition.* Reprogramming, as defined in these procedures, includes the reallocation of funds from one activity to another within an appropriation. For construction projects, a reprogramming constitutes the reallocation of funds from one construction project identified in the justification to another or a significant change in the scope of an approved project. A reprogramming shall also consist of any significant departure from a program, project, or activity described in the agency's budget justifications as presented to and approved by Congress.

*"Criteria for Reprogramming.* A reprogramming should be made only when an unforeseen situation arises; and then only if postponement of the project or the activity until the next appropriation year would result in detrimental impact to an agency program or priority. Mere convenience or desire should not be factors for consideration.

"Reprogramming should not be employed to initiate new programs or to change allocations specifically denied, limited or increased by the Congress in the Act or the report. In cases where unforeseen events or

conditions are deemed to require such changes, proposals shall be submitted in advance to the Committee, regardless of amounts involved, and be fully explained and justified.

*"Reporting and Approval Procedures.* To provide some management latitude within the Department, any proposed reprogramming must be submitted to the Committee in writing prior to implementation if it exceeds \$1,000,000 annually or results in an increase or decrease of more than 10 percent annually in affected programs. In any case, all reprogramming shall be reported to the Committee quarterly."

We found that information regarding the reprogramming of the \$400,000 was included in the Department's quarterly report entitled Energy and Water Development, "FY 1995 Base Table Summary of Current Changes for the Period 4/1/95 through 6/30/96," which was sent to the Congressional Committees on appropriations. The documents we reviewed suggested that the reprogramming within the Materials Support and Other Defense Programs appropriation was completed by the Department in accordance with the Congressional Committee reprogramming guidelines.

#### Source Of Funds For Invitational Travelers

We identified \$217,140 in travel costs where DOE extended invitational travel to participants on 27 occasions associated with the Secretary's four trade missions. The appropriations used to pay these costs were as follows: \$23,672 from the Clean Coal Technology appropriation; \$11,435 from the Defense Environmental Restoration and Waste Management appropriation; \$54,241 from the Energy Supply, Research and Development Activities, Operating Expenses appropriation; \$21,504 from the Fossil Energy Research and Development appropriation; \$45,481 from the Energy Conservation appropriation; \$11,002 from Materials Production and other Defense Programs; and \$48,139 from the DOE Administration, Operating Expenses appropriation. We did not identify which appropriation was used to pay \$1,666 in costs for contractors who were extended invitational travel.

#### Department's Use Of Funds From Non-Federal Travelers To Pay Charter Costs

Prior to DOE procuring chartered air transportation for the Pakistan trade mission, discussions occurred between DOE Human Resources and Administration, Office of Chief Financial Officer and Office of General Counsel officials regarding the Department's financial responsibility for the cost of the aircraft. According to a Human Resources official, DOE's Office of Aviation Policy raised questions regarding DOE's ability to use funds from non-DOE Federal and private sector passengers to pay costs for chartered air transportation. These questions were based on their understanding that DOE policy required that collections received by DOE should be deposited as miscellaneous receipts to the General Fund of the Department of Treasury. The Human Resources official stated that the Office of Aviation Policy suggested that DOE

officials procure services from the Department of Interior (Interior) to use its working capital fund to apply non-DOE Federal and private sector passengers' collections to the cost of the chartered air transportation. The Human Resources official also stated that a determination for this process had been requested from General Counsel officials, however, none was provided at the time.

On September 16, 1994, DOE contracted with Flight Time International, an air charter broker, to provide charter air transportation to Pakistan at an estimated cost of \$415,000. Subsequently, DOE entered into a \$12,500 Interagency Agreement with Interior to act as DOE's collection and payment agent for chartered aircraft services. The agreement stated that Interior would: (1) pay Flight Time International for providing air transportation services, (2) collect the pro-rata cost of air transportation from private sector and non-DOE Federal passengers, and (3) collect from DOE the difference between the amount paid to Flight Time and the amounts collected from non-DOE passengers.

At the time DOE contracted with Flight Time International, Department officials obligated \$415,000 to pay the estimated costs of the chartered plane. Department officials also obligated \$12,450 to pay Interior for their services. DOE sent an invitation letter to potential non-DOE passengers inviting them to participate on the Pakistan trip and advising them that the estimated participation cost including traveling on the charter aircraft was about \$7,000.

Interior used its own funds to pay Flight Time International \$415,000 for providing air transportation to DOE on the Pakistan trade mission. Interior recovered the \$415,000 and its \$12,450 service fee due from DOE by collecting \$184,340 from private sector travelers, \$25,908 from non-DOE Federal travelers, and the balance of \$217,202 from DOE. However, DOE's reliance on payments from private sector and non-DOE Federal passengers to pay some of this cost was contrary to the "miscellaneous receipts" statute of the United States Code (Title 31 U.S.C. Section 3302(b)). This statute states that:

"(b) 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 General Accounting Office has interpreted the provisions of 31 U.S.C. 3302 in its "Principles of Federal Appropriations Law" stating that:

" 'It is difficult to see,' said an early [Comptroller General] decision, 'how a legislative prohibition could be more clearly expressed.' 10 Comp. Gen. 382, 384 (1931). Simply stated, any money an agency receives from a source outside of the agency must be deposited into the Treasury. This means deposited into the general fund ('miscellaneous receipts') of the

Treasury, not into the agency's own appropriations, even though the agency's appropriations may be technically still 'in the Treasury' until the agency actually spends them. The Comptroller of the Treasury explained the distinction in the following terms:

" 'It [31 U.S.C. 3302 (b)] could hardly be made more comprehensive as to the moneys that are meant and these moneys are required to be paid "into the Treasury." This does not mean that the moneys are to be added to a fund that has been appropriated from the Treasury and may be in the Treasury or outside. [Emphasis in original.] It seems to me that it can only mean that they shall go into the general fund of the Treasury which is subject to any disposition which Congress might choose to make of it. This has been the holding of the accounting officers for many years. [Citations omitted.] If Congress intended that these moneys should be returned to the appropriation from which a similar amount had once been expended it could have been readily so stated, and it was not.' "

The Department has implemented the provisions of the "miscellaneous receipts" statute in DOE Order 2200.6A, "Financial Accounting." This order states that:

- "(1) As a general rule, all collections received by DOE shall be deposited as miscellaneous receipts to the General Fund of the Department of the Treasury unless otherwise authorized by statute or this chapter.
- "(2) Retaining and using collections that DOE should have deposited as miscellaneous receipts constitutes an improper augmentation of DOE's appropriations and is a violation of title 31, section 3302, of the United States Code."

The "miscellaneous receipts" statute and the DOE order provide exceptions to this general rule. Two primary exceptions under the statute, generally stated, include instances in which: (1) an agency has specific statutory authority to retain the funds; and (2) receipts qualify as a repayment to an appropriation and therefore can be retained to the credit of that appropriation.

These exceptions and those in the DOE order, however, were not used by the Department where DOE collected revenue from non-Federal travelers on the India and Pakistan trips. For instance, the Department had collected \$87,231 directly from non-DOE travelers on the India and Pakistan trips, and deposited the amounts collected to the miscellaneous receipts of the Treasury.

Also, in a March 1995 note to the Department's Controller, a senior accounting manager stated that concern had been expressed that the Department may have to return the funds, which Interior collected from non-DOE travelers, to the U.S. Treasury. He stated in the note that Office of General Counsel and Human Resources officials

were challenging the issue. We determined that as of January 1996 the Department had maintained an obligation of \$210,248 against the two contracts it awarded. The amount remaining obligated equals the amount that Interior collected on DOE's behalf from non-DOE travelers on the Pakistan mission.

We discussed the circumstances presented above separately with two attorneys in the Department's Office of General Counsel. Both attorneys agreed that the circumstances appeared to support the position that Interior was acting as an agent for DOE in collecting the \$210,248 from non-DOE travelers on the Pakistan trip and that DOE should have returned these funds to the U.S. Treasury miscellaneous receipts account. One of the attorneys said the Office of General Counsel would need to review the specific circumstances in order to render an official opinion.

**RECOMMENDATION 20:** We recommend the Chief Financial Officer consider requesting an appropriation account to fund future foreign trade missions.

Management Update on Status of Corrective Actions. Management included a July 31, 1996, memorandum to the Acting Chief Financial Officer from the Special Assistant to the Chief Financial Officer that provided two options regarding the consideration of an appropriation account to fund future foreign trade missions: (1) Request Trade Mission Funding as a Single Appropriation, or (2) Continue Program Office Funding of Trade Mission. The memorandum stated that the Department chose the second option and will continue to fund trade missions through the relevant program offices. Further, the memorandum also included a statement that the CFO should examine the ability of the accounting and finance systems to separately track trade mission expenses.

Inspector Comments. A CFO official subsequently informed us that the Department has not determined a method for tracking trade mission costs. Therefore, this recommendation should remain open until a system has been defined and implemented for tracking foreign trade mission costs.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we consider requesting an appropriation account to fund future foreign trade missions. We considered but rejected such a request because the same financial information can be captured without altering the existing, Congressionally-approved budget structure.

"In the Official Draft Report, you accepted this strategy but requested that we define a system for identifying and tracking trade mission costs. At present, for all travel that is covered by the new travel regulations, including trade missions, the Senior Trip Official is charged with the responsibility for identifying, tracking and maintaining a log of all trade mission costs. That individual will provide regular expense reconciliations of trips to the Chief Financial Officer. However,

as you have requested, we will develop a computerized system that is complementary to our existing travel manual."

Inspector Comments: We agree with management's planned actions to develop a computerized system. Accordingly this recommendation should remain open until that action has been completed.

**RECOMMENDATION 21:** We recommend the General Counsel determine whether the "miscellaneous receipts" Statute (31 United States Code, Section 3302(b)) requires the Department to deposit into the U.S. Treasury all funds the Department of Interior collected on behalf of DOE.

Management Update on Status of Corrective Actions. Management included a July 31, 1996, memorandum from the Deputy General Counsel to the Acting Chief Financial Officer regarding this recommendation. The memorandum stated that: ". . . the Miscellaneous Receipts Statute does require DOE to deposit in the Treasury as miscellaneous receipts the amount of the funds collected by DOI from non-federal sources."

Inspector Comments. We consider management's action to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 22:** We recommend the Chief Financial Officer take timely action consistent with the determination of the Office of General Counsel.

Management Update on Status of Corrective Actions. Management stated that Department officials have taken appropriate action as a result of the final opinion issued by OGC regarding the collections received by DOI from non-Federal travelers. Further, the Department has provided the OIG with a copy of the accounting records that show the transfer of the funds from the Departmental Administration account to the Department of Treasury's Miscellaneous Receipts.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

## **E. Aircraft Acquisition**

### **1. Introduction**

In our November 1994 report entitled, "Audit of Department of Energy International Charter Flights," we reported that the Department had not established a systematic and cost-effective process to acquire international air services. We suggested that the Department establish written policy and procedures for acquiring international air service including clarification of the responsibilities for all interested parties. We stated that the written policy and procedures should clarify the responsibilities of the Office of Human Resources and Administration, Headquarters Procurement, and Office of Aviation Policy. In addition, in a December 20, 1994, memorandum to the Deputy Secretary we concluded that the Department ensure that international air service processes and procedures be established before any additional trips were taken.

This section of the report discusses the actions Department officials have taken to respond to our November 1994 report and December 20, 1994, memorandum, and our review of the process they followed to acquire international air services for the four trade missions to India, Pakistan, China and South Africa. During the 16 trips, a variety of modes of transportation were used. Table 20 shows the method of travel used by the Secretary and her staff for each of the 16 foreign trips including the four trade missions. The Office of Aviation Operations Policy has been renamed the Office of Field Support (EH-53). The Office of Field Support is responsible for: (1) assisting the Office of the Secretary and Headquarters staff offices with travel planning and arrangements for domestic and international air travel, and (2) implementation and assurance of compliance with DOE and Federal travel requirements.

### **2. Action Taken as Result of a Prior Audit Report.**

Department officials did not establish written procedures for acquiring international air services before taking additional foreign trips. Since our December 20, 1994, memorandum, the Secretary traveled on two trade missions to China and South Africa without such procedures in place. Department officials advised us that they had met as early as December 14, 1994, to discuss improvements needed in the international aircraft acquisition process. However, only proposed procedures, entitled, "OUTLINE OF PROPOSED GUIDANCE FOR ARRANGING AIR TRANSPORTATION IN CONNECTION WITH SECRETARIAL OVERSEAS TRADE MISSION TRAVEL," had been established by Chief Financial Officer officials as of February 1996. These proposed procedures had not been reviewed or coordinated with officials who had responsibilities for acquiring aircraft services. On March 14, 1996, the Chief Financial Officer published "INTERNATIONAL TRAVEL POLICIES AND PROCEDURES (INTERIM)." These procedures had not been received by either Field Support Office or Headquarters Procurement Operations Office officials as of April 29, 1996.

In a March 28, 1996, meeting with the Inspector General, the Secretary expressed her desire to ensure that necessary policies and procedures for international travel were established, and properly coordinated with appropriate program offices prior to any additional international trade missions. The Inspector General recommended that the policies and procedures be processed through the Department's system for developing DOE orders and guidance.

As a result, the Department issued DOE Notice (N) 551.1, "INTERNATIONAL TRAVEL," dated April 15, 1996, to implement the audit report suggestions and to request comments on the procedures. Although the policies were issued, they did not, in our view, clarify roles and responsibilities of Department officials responsible for acquiring aircraft charter services for international travel.

After we issued our Initial Draft Report, Department officials issued DOE Manual (M) 551.1-1, "INTERNATIONAL TRIPS," dated July 31, 1996, which canceled DOE N 551.1. The Manual clarified roles and responsibilities of Department officials responsible for acquiring aircraft charter services for international travel.

### 3. The DOE Aircraft Acquisition Process

DOE used different methods of acquiring aircraft charter services for each of the four trade missions. Officials stated three factors influenced the decision on the method used: (1) inadequate lead times to effectively compete the acquisition, (2) lack of information on the number of passengers, and (3) aircraft configuration limitations.

We asked DOE officials whether they had considered commercial airline services. An official from the Office of Field Support said DOE officials generally justified non-use of scheduled commercial flights for the four trade missions for two reasons: (1) the Secretary requested that her entire group travel together and that there were not enough seats available for all travelers to fly together on any one scheduled commercial airline at the time of the trade missions; and (2) related to security needs, it was said the Secretary was required to be protected by an armed guard at all times.

**TABLE 20**  
**MODE OF TRANSPORTATION FOR FOREIGN TRAVEL**

	<u>TRIP NUMBER</u>	<u>DATES OF TRIP</u>	<u>COUNTRY</u>	<u>MODE OF TRANSPORTATION</u>
<b><u>1993</u></b>	1	June 1-5	France	Commercial
	2	Sept 24-Oct 2	Austria Russia	Commercial
	3	Oct 22-26	England	Commercial
	4	Dec 12-17	Russia	Commercial & Military
<b><u>1994</u></b>	5	Feb 5-8	Ivory Coast	Commercial & Military
	6	July 7-15	India	Commercial & Military
	7	Aug 31-Sept 5	Belgium	Commercial
	8	Sept 16-25	Austria Pakistan	Commercial & Charter
<b><u>1995</u></b>	9	Dec 12-19	Russia Sweden	Commercial & Military
	10	Feb 9-25	India Hong Kong China	Commercial & Charter
	11	May 17-27	France Azerbaijan Italy	Commercial & Military
	12	June 7-11	Costa Rica	Commercial
	13	June 26-July 1	Russia	Commercial
	14	August 18-28	South Africa	Commercial & Charter
	15	Sept 13-20	Czech Republic Austria	Commercial
	16	Nov 29-Dec 7	South Africa	Commercial & Military

Management Comments. Management commented that: "This section indicates there is a requirement for the Secretary to be protected by an armed guard at all times. There is no 'requirement' that the Secretary be accompanied by an armed guard at all times while traveling internationally."

According to DOE officials, funding limitations also caused a change in the method of acquiring aircraft services. Payments DOE collected from non-Federal passengers on the India mission could not be retained by DOE to offset aircraft acquisition costs, but had to be returned to the U.S. Treasury. Thus, after the India trip DOE officials discussed the funds available for international travel and the estimated cost of future trade missions. They attempted to find a procurement method that would allow payment of only the cost of aircraft services used by DOE travelers.

Table 21 shows, for each trade mission, the estimated cost of aircraft and the amount of cost paid by non-DOE travelers versus the cost paid by the Department.

India:

In a memorandum dated on June 29, 1994, the Secretary of Energy requested that the Secretary of Defense provide a Department of Defense (DOD) aircraft for a delegation of approximately 60 government and business leaders in support of the Presidential Mission to India. The memorandum also stated that:

"Furthermore, given that this trip is scheduled during monsoon season when domestic flights in India are unpredictable and unreliable, it is essential to the timelines and overall success of the mission that a U.S. Government aircraft be provided."

On June 30, 1994, Office of Field Support officials informed the Office of Scheduling and Logistics of the results of their aircraft-acquisition cost analysis performed on the Secretary of Energy's planned visit to India. An official from the Field Support Office based the analysis on 59 travelers (15 Government travelers and 44 non-Government travelers). The analysis showed that commercial air travel would cost \$165,200, charter aircraft would cost \$355,495, and DOD aircraft would cost \$643,464. A Field Support official found that commercial flights, other than charter airlift, were not available to meet the Secretary's requirement that all participants of the trip travel together. He recommended that charter airlift be used, which was less expensive than using military airlift. Another official stated that past estimates have also shown that use of military airlift was not considered the most cost effective mode of air travel.

**TABLE 21**  
**TRADE MISSION CHARTER AIRCRAFT PAYMENT**

Mission	Cost of Charter	Collections from non-DOE	Cost to DOE
India	\$ 498,965	*67,300	\$ 498,965
Pakistan	427,450	**210,248	217,202
China	***662,000	***330,284	331,716
South Africa	569,822	289,176	280,646
<b>Total</b>	<b>\$ 2,158,237</b>	<b>\$ 897,008</b>	<b>\$ 1,328,529</b>

\*DOE collected this amount and deposited it into the U.S. Treasury. Thus, DOE's cost remained at \$498,965, while the net Government cost was \$431,665 (\$498,965 - \$67,300).

\*\*The Department of Interior collected the \$210,248 on behalf of DOE, pursuant to an interagency agreement. Included in DOE's cost is \$48,831.50 that Interior was unable to collect from non-Federal travelers. Of the \$48,831.50, DOE has collected \$19,931 and deposited these funds in the U.S. Treasury.

\*\*\*The cost of the charter is per Omega records, the collections from non-DOE are estimated based on the charter cost.

The Secretary of Energy sent a memorandum, dated July 1, 1994, to the Acting General Counsel seeking approval of arrangements to use DOD aircraft for DOE and non-Federal travelers to travel from July 7-15, 1994, from Washington, D.C. to New Delhi, India, and return. The memorandum also authorized internal travel within India. Furthermore, the memorandum stated that:

"Use of the Government aircraft in this case is required due to the inability of commercial scheduled air services to meet my travel plans. Further, I have been advised that use of the Department of Defense aircraft is preferable for security reasons."

On July 1, 1994, DOD officials approved use of a DOD aircraft, and on July 5, 1994, the Acting General Counsel approved the Secretary's request to use a DOD aircraft. The Secretary and her delegation departed from Andrews Air Force Base, on July 7, 1994, for India.

A Field Support official requested the invoice on September 21, 1995, for remittance on the chartered DOD aircraft used to transport the Secretary's delegation. On September 22, 1995, a voucher for Transfer Between Appropriations and/or Funds, was received from the Air Force, which charged DOE \$498,965.

Pakistan:

The Department used a different method to obtain charter services for the Pakistan mission. The Department acquired chartered airlift by using a service contract in accordance with the Federal Acquisition Regulation (FAR). A Department official established a contract with the Department of Interior (Interior) to provide financial support services to bill and collect from the non-Federal travelers. However, we found that the method used to offset the cost for non-Federal passengers on chartered airlift was contrary to Federal requirements. We discussed this issue in Section D, "Source of Funds," of this report.

On August 9, 1994, the Office of Field Support official sent a memorandum to the Secretary's staff outlining options and cost estimates for charter aircraft service. The following options were outlined:

- (1) Use DOD Aircraft: The only military aircraft that was available in passenger configuration was the C-137, the same type of plane that was used on the India trip. This option was deemed unsatisfactory because 70 passengers required transport. Although 70 passengers required transport, the plane's capacity was approximately 50 individuals; therefore, at least 20 passengers would have been required to travel commercially. Also, in order to use the C-137 aircraft, the Department would have had to change its itinerary. The military charter estimated cost was \$730,000.
- (2) Use of Commercial Carrier: This option was not available due to most flights being sold out. Scheduled commercial carriers from Washington (Dulles) to Islamabad to Lahore to Washington (Dulles) would cost approximately \$4,000 per traveler (\$280,000 for the total 70 passengers). However, the official stated that Omega travel noted that several of the flights necessary for the proposed itinerary were sold out.
- (3) Use of Charter Aircraft: This option was selected because it met the needs of the Secretary and her delegation. Flight Time International, a charter agent, provided a bid of \$375,000, which included 70 first class seats on a DC-8 aircraft, a 24 hour duty officer and flight services. The price per seat was \$5,357.

The Field Support official signed and sent a draft Justification for Other Than Full and Open Competition (Justification) document to the contracting officer on August 17, 1994. The Justification stated that the delegation would total 65 persons including 45 from the "private sector" and that no scheduled commercial airline service was available to meet the requirement. The draft Justification was signed by the contracting officer on August 18, 1994. The contracting officer, on August 23, 1994, forwarded a letter to Flight Time International committing the Department to a chartered flight for transportation of a party of 70 passengers from Washington, D.C. to Lahore, Pakistan.

On August 29, 1994, the contracting officer requested and received from the Office of Field Support information needed for inclusion in the contract with Flight Time International. On the next day, the contracting officer and program office officials signed the Small Business/LAS Set-Aside Review document for "Aircraft Charter Services." The document was signed by the DOE Small/Disadvantaged Business Specialist on September 2, 1994, and by the Small Business Administration representative on September 19, 1994.

Non-Federal travelers were informed in an invitation letter that the round trip flight cost would be approximately \$7,000. The fee was to pay for the cost of one business class seat on the U.S. Government-chartered aircraft, ground transportation, and official meals.

The contracting officer submitted a request for bids to Flight Time International on September 1, 1994. The request invited Flight Time International to submit a proposal in accordance with a Statement of Work that was provided. It also required Flight Time International to comply with the Truth in Negotiations Act. The Justification was signed on the same day, September 1, 1994, by required Department officials -- a Program office official, the contracting officer, the senior program official, and the procurement activity competition advocate. The contracting officer approved the Justification for Flight Time International to be the charter broker.

Also, on the same day, September 1, 1994, a Program office official and the contracting officer signed the "PRENEGOTIATION PLAN AND POST NEGOTIATION SUMMARY." The following cost proposals were considered:

<u>Agent</u>	<u>Price Quoted</u>	<u>Remarks</u>
Flight Time International	Proposed price = \$415,000	Available
American Trans. Air	Market Price = \$700,000	Unavailable
Rich International	Market Price = \$475,000	Unavailable
Advance Air	Market Price = \$500,000	Unavailable

A DOE official certified that funds were available in the amount of \$415,000 to contract for charter airlift services with Flight Time International. The contract to perform aircraft charter services in accordance with the statement of work was awarded on September 16, 1994, to Flight Time International.

The delegation departed for Pakistan on September 19, 1994, using the chartered MGM Grand (DC-8) aircraft that was provided by Flight Time International.

An Interagency Agreement between DOE and Interior's Office of Aircraft Services was signed by DOE contracting officials on September 20, 1994. Under the agreement,

Interior was to act as DOE's collection and payment agent for chartered aircraft service. The total cost to DOE of the proposed agreement was \$12,450.

In accordance with Title 41, C.F.R. 101, Part 37.405 and OMB Circular A-126, all travel by non-Federal travelers to travel on Government-chartered aircraft must be authorized and approved on a trip-by-trip basis by the Department's senior legal official or the principal deputy. The approval must be authorized in advance and in writing. Department officials did not provide documents to show that non-Federal travelers were authorized to accompany the Secretary on the charter airlift.

China:

The third method used to acquire charter airlift services was use of the Department's centralized travel service, Omega World Travel. Provisions of the existing Omega World Travel contract were used to justify acquisition of charter service.

The Secretary's Travel Coordinator sent a memorandum dated December 1, 1994, to an Office of Field Support official, which outlined a draft itinerary for the planned trip. In the memorandum, the Secretary's Travel Coordinator stated "... in fact she would really like the same plane we had the last time ...." Subsequently, on or about December 12, 1994, the contracting officer forwarded a draft Justification for Other than Full and Open Competition (Justification) to Office of Field Support officials. Also, a draft purchase request to procure a charter aircraft for the China mission was forwarded to Omega World Travel by a Field Support official. The draft purchase request stated that the travel would include 26 Federal employees and 44 non-Federal business persons.

The Director of the Office of Field Support forwarded a memorandum citing cost estimates to the Director of the Office of Scheduling and Logistics on January 17, 1995. The cost estimates for alternative aircraft services included: \$8,895 per person cost (based on 77 passengers) for a DC-8-62 charter aircraft; \$3,859 using a business class ticket, which was cited as "2.3 times less than cost of charter person," for scheduled commercial services; and \$674,103 for an Air Force aircraft (Boeing 707 with up to 50 passenger seats). The Air Force aircraft, however, was not available.

In the invitation letters, non-Federal travelers were informed that their portion of the round trip flight cost was estimated at \$9,200 each (payable to Omega World Travel). Also, the letter assessed each traveler an administrative fee of \$300 to pay the cost of ground transportation, official meals, business services, and use of translators. Administrative fees were to be mailed to DOE's Office of Headquarters Accounting.

Omega World Travel forwarded cost estimates on January 25, 1995, to Field Support Office officials, which contained several options for the China trip. Attached was a document suggesting that Omega World Travel would provide charter services using a named charter airline.

Omega World Travel made the aircraft selection, subject to technical and safety review by the Office of Field Support. The Office of Field Support's technical review found that the low bidder did not have the international certification required to operate international charters. Therefore, they were disqualified and the second lowest bidder was then selected.

On January 31, 1995, the Field Support Office official wrote to the Secretary's staff that Omega World Travel had been informed that "we would like to have the Grand Holdings Aircraft" (MGM Grand). The Field Support Office informed the Secretary's staff, in a memorandum, that a Grand Holding Aircraft (MGM Grand) would be used for the China trip.

The Omega World Travel Region Manager informed the local Omega World Travel Supervisor on February 10, 1995, that Flight Time International would be the charter agent and that Grand Holding would be the charter aircraft used for the China mission at a cost of \$662,000. As previously noted in the Pakistan mission, Department officials did not provide documents to show that non-Federal travelers were authorized to accompany the Secretary on the charter airlift, as required by 41 C.F.R. 101-37.405.

South Africa:

For the South Africa trade mission the Department used a fourth method of acquiring chartered airlift services. The method used was through a Government Transportation Request (GTR).

In June 1995, Department officials initiated the process to acquire aircraft charter services for the South Africa trade mission. On June 7, 1995, officials from the Field Support office and Headquarters Procurement Operations met with a former Interior official to discuss the feasibility of using the GTR to acquire aircraft charter services. The Interior official stated there are two basic methods used to acquire charter air services:

- (1) Formal procurement utilizing the Federal Acquisition Regulation under Chapter 48 of the C.F.R. This method is appropriate when needs are continuous or intermittent, but on a relatively frequent basis; and
- (2) Charter arrangements utilizing GTR/Charter Agreement procedures are described in 41 C.F.R. Chapter 304. This method is more appropriate for infrequent point-to-point transportation of groups.

A Field Support Office official stated that between June 7 and July 5, 1995, he had held many discussions with staff members of the Office of Scheduling and Logistics on a process to be used for procuring aircraft charter services for approximately 200 passengers in support of the South Africa trade mission. The official stated that around

July 5, 1995, he discussed two options for chartering aircraft service for the South Africa trade mission with a staff member from the Office of Scheduling and Logistics. The recommended options, based on the itinerary and a passenger list of 70 members, were to use: (1) Rich International, which had the ability to transport 189 passengers, at an estimated cost of \$311,000 plus a \$37 tax per person or (2) the Front Page Tours - Champion Air (formerly MGM Grand), at an estimated cost of \$485,000.

The Field Support official on July 14, 1995, contacted six charter agents and DOD as potential candidates that might provide charter aircraft service for the South Africa trade mission. However, four of the six charter agents and DOD were immediately eliminated because they could not provide charter aircraft to perform the stated itinerary and support a passenger list of 70. In addition, a Rich International agent (the fifth charter agent) noted that his company was unable to reconfigure aircraft seating. The only charter agent that could fully support the South Africa trade mission with the required configuration of the charter aircraft was Flight Time International. As a result, the Field Support official advised the contracting officer that Flight Time International was the sole responsive bid to charter the South Africa trade mission. The Field Support official advised us that he entered into a verbal commitment with Flight Time International, in advance of a written contract, to charter their aircraft service for the South Africa trade mission.

Department officials sent letters of invitation on July 18, 1995, to non-Federal personnel to accompany the Secretary of Energy on the trade mission. In the invitation letter, non-Federal travelers were informed that the round trip flight cost was estimated at \$7,553, which was to be paid directly to a Flight Time International representative. In addition, non-Federal travelers were informed of an administrative fee of \$600 to be paid to the hotel in Johannesburg.

The official from the Field Support Office forwarded the Purchase Request and Justification for Other Than Full and Open Competition to the contracting officer on July 20, 1995. Also, on the same day, the contracting officer sent a memorandum to the Office of General Counsel seeking interpretation of regulations governing transportation acquisition. On July 28, 1995, the Office of General Counsel determined that requirements found in the Federal Acquisition Regulation did not apply to acquisition of transportation or transportation-related services for personnel using a GTR.

The contracting officer prepared a "memorandum for record," on or about August 8, 1995, that noted inquiries were made to six charter agents, which requested aircraft service for the South Africa trade mission. Based on the stated itinerary and the 67-passenger list, the following is the summary information provided by each agent:

<u>Agent</u>	<u>Type of Aircraft</u>	<u>Price Quoted</u>
Tower Air	747	Approximately \$525,000, plus current prices of aircraft routings to South Africa. Aircraft not available.
Rich International	DC-8	Approximately \$500,000, aircraft seats about 200 people
American Trans Air	L1011	No price quote. The entire aircraft must be paid for. The required configuration kept the aircraft from being cost effective.
Flight Time International	DC-8	\$506,000. The agent was willing to charter the aircraft on behalf of DOE with the Department being responsible for only 21 seats. Available.
Sun Country Airlines	DC-10	\$510,000. All aircraft were committed for the summer and were not available for booking.
World Airways	DC-10	\$550,000. Company did not offer the required configuration for a one time charter.

On August 10, 1995, the Special Assistant to the Chief Financial Officer forwarded a memorandum to the contracting officer providing that the Chief Financial Officer has reserved "\$158,613 to cover the Government's share of the South Africa Delegation charter aircraft" with Flight Time International. On the same day, the contracting officer and a Flight Time International agent signed the basic GTR and charter flight requirements. While the DOE GTR was for seats needed for travelers paid for by DOE, the total charter cost was \$506,000 and the Department agreed "to fill empty seats with paying passengers off its delegation waiting list to ensure that Flight Time [International] realizes the full price of the charter." The appendix attached to the GTR further stated that: "In the event the Department cancels the trip prior to take-off, the cancellation fee shall be \$258,000." However, on August 10, 1995, the Office of General Counsel determined that in the event that the Department canceled the trip prior to take-off, the Department was legally liable for only its proportionate share of the original \$158,613.

An addendum to the basic GTR was forwarded to the contracting officer from Field Support Office, on August 15, 1995. The addendum added five Government

passengers to the chartered aircraft manifests, a trip to Kimberly, South Africa, and two side trips to Sun City, South Africa, and Mozambique. This addendum added \$68,454 to the trip cost, which included \$18,595 for a trip to Kimberly.

The Office of General Counsel (OGC) reviewed issues associated with charges for the Kimberly portion of the trip. In an August 18, 1995, memorandum on this subject, OGC stated that (1) it is lawful and appropriate for the Department to pay the additional aircraft cost of \$18,595 for the trip to Kimberly and (2) the Department need not charge the non-Government passenger a surcharge for the Kimberly portion of the trip. OGC further stated that non-Government travelers were to pay Flight Time International \$7,553 per person based on the itinerary and that this decision was consistent with OMB Circular A-126 and the Federal Property Management Regulations. OGC also said that it was proper for DOE to charter the entire aircraft and invite non-Government passengers to ride as guests without paying an "aliquot share" of the charter fee.

Several additional charges were incurred during the South Africa trade mission. First, on or about August 20, 1995, the Secretary of Energy was invited to travel to Sun City for a meeting with Vice President Mbeki. Vice President Mbeki was in Sun City with a delegation of 250 industry personnel from Malaysia. Attempts to accommodate the Secretary's requirements for visiting Sun City resulted in the on-site Transportation Coordinator and a Field Support Office official making two separate requests for aircraft.

Furthermore, on or about August 22, 1995, the Secretary of Energy was invited to attend both a meeting with President Chissano of Mozambique and an event to witness the signing of an agreement between Mozambique and Enron Corporation to develop and market the Pande natural gas reserves and related pipeline infrastructure. On the day of the trip to Mozambique, the signing was canceled, but the airline charged the Department the entire cost of the trip, 100 percent of the cost, because the cancellation was not made 24 hours prior to the scheduled take-off. As a result, Department officials paid \$5,287 for a canceled charter flight from Johannesburg to Mozambique.

The contracting officer received a bill and invoices on August 31, 1995, from Flight Time International for additional charges for aircraft charter services. The additional charges were for added seats totaling \$45,318, a side trip to Kimberly costing \$19,339, a \$32,000 return trip to Cape Town, two air charter services to Sun City totaling \$6,227, and a charge of \$5,287 for a canceled trip to Mozambique. The total additional charges were \$108,171.

Our review revealed that for a flight from Johannesburg to Sun City two aircraft were chartered for the same flight. One aircraft was chartered through the U.S. Embassy for \$1,347, and the other through Flight Time International. As a result of the administrative error of chartering the aircraft, DOE paid \$7,492 instead of \$1,347.

**RECOMMENDATION 23:** We recommend the Chief Financial Officer ensure that the Department's policies and procedures for aircraft acquisition for international travel are formally issued and they are consistent with results of this inspection.

**Management Update on Status of Corrective Actions.** Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that DOE N 551.1 includes policies on aircraft acquisition for international travel, pursuant to which the Procurement office is responsible for acquisition through competitive process or other legitimate procurement procedures.

**Inspector Comments.** This recommendation should remain open until the Department's policies have been revised to include how payment shall be received from non-Federal passengers traveling on military chartered aircraft.

**Subsequent Management Comments on the Official Draft Report.** Management stated that:

"In the Initial Draft Report, you requested that we formally issue policies and procedures for aircraft acquisition. Our office formally issued these policies and procedures on July 31, 1996.

"In the Official Draft Report, you ask us to revise these policies to address how payment shall be received from non-Federal passengers on military aircraft. We will complete this action by October 31.

**RECOMMENDATION 24:** We recommend the Secretary provide written logistic requirements for other than regularly scheduled flights to the Director of the Office of Field Support.

**Management Update on Status of Corrective Actions.** Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that DOE N 551.1 requires the Senior Responsible Official to submit an air transport requirements document to the Office of Aviation Policy (Field Support).

**Inspector Comments.** We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 25:** We recommend the Director of the Office of Scheduling and Logistics assure that a system is developed and implemented to acquire charter airlift and services.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that DOE N 551.1 establishes procedures for competitive acquisition (or other legitimate procurement process) of aircraft services for international travel.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 26:** We recommend the Director of the Office of Scheduling and Logistics establish a system to provide a listing of non-Federal individuals who will be traveling on Government-chartered aircraft to the Office of General Counsel for approval.

Management Update on Status of Corrective Actions. Management stated that the final travel order/policy will be modified to require submission to GC of a listing of non-Federal travelers. Management also stated that DOE N 551.1 requires GC review and approval of travel by Government aircraft, without explicit reference to a list of non-Federal travelers. The Department officials redrafted DOE N 551.1 and issued a policy statement as DOE P 551.1, "INTERNATIONAL TRIPS" and a manual as DOE M 551.1-1, "INTERNATIONAL TRIPS, on July 31, 1996.

Inspector Comments. We determined that DOE M 551.1-1 addresses submission to GC of a listing of non-Federal travelers who will be traveling on a Government-chartered aircraft. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 27:** We recommend the Assistant Secretary for Human Resources and Administration, in coordination with the Assistant Secretary for Environment, Safety and Health, establish a system to procure charter service in the most economical fashion possible and ensure funds are available prior to committing the Department.

Management Comments. Management commented that:

"Recommendations 23, 25, and 27 seem to overlap somewhat. The Department agrees with the recommendations and aircraft acquisition procedures need to be established. The Department will involve all parties discussed in the draft report in the process, assigning primary responsibility to the Office of Human Resources and Administration (Office of Procurement) working with the Office of Field Support, the Office of Scheduling and Logistics, the Office to General Counsel and the Office of the Chief Financial Officer."

Inspector Comments. The three recommendations address actions to be taken by three different Program offices. Recommendation 23 recommends that the Chief Financial Officer formally issue policy. Recommendation 25 recommends that the Office of Scheduling and Logistics assure a system is developed and implemented to acquire charter airlift services. Recommendation 27 recommends that the Office of Human Resources and Administration (Office of Procurement) work with the Assistant Secretary for Environment, Safety and Health (Office of Field Support) to establish a system to procure charter airlift services. We believe that addressing these recommendations separately to these three offices is the best way to ensure corrective actions are taken.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that "DOE N 551.1 requires Aviation Policy to prepare Transportation Options Analysis which considers all reasonable alternatives and includes detailed cost breakout. Senior Responsible Official must select least cost option meeting needs." Further, management stated that "DOE N 551.1 requires transportation costs to be included in budgets; CFO required to certify availability for funds for budget."

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

## **F. Trade Mission Outcomes**

### **1. Introduction**

The Department of Energy has used both monetary and non-monetary outcomes to report the success of trade missions to India, Pakistan, China, and South Africa. The monetary outcomes reported by the Department include the dollar value of business agreements signed on the missions and the estimated jobs associated with those agreements. The non-monetary outcomes include policy and regulatory structure reforms intended to promote investment in the mission countries, the breaking down of barriers that inhibit investment, cooperation between governments on nuclear and energy policy issues, and the signing of various official documents.

This section reviews the monetary outcomes of the trade missions reported by the Department, the Department's clarification of the monetary outcomes, the role the Department played in achieving the monetary outcomes, and the non-monetary outcomes of the trade missions.

## 2. Monetary Outcomes

### Potential Value of Business Agreements Reported by Trade Mission

The Department has reported the potential value of business agreements signed on its trade missions as \$19.7 billion. This amount is found in an October 2, 1995, document prepared by the Office of Energy Exports entitled, "SUMMARY OF TOTAL BUSINESS AGREEMENTS SIGNED DURING DEPARTMENT OF ENERGY TRADE MISSIONS." The "Introduction" states: "Included in this report is a summary of the total dollar value signed during each mission broken out by energy sectors or 'POD' which to-date totals over \$19.7 billion." As identified in this summary, the \$19.7 billion is derived from 143 business agreements signed on seven missions. These missions include:

- (1) Presidential Mission on Sustainable Energy and Trade to India, July 7-15, 1994.
- (2) Presidential Mission on Energy Investment to Pakistan, September 21-24, 1994.
- (3) Reverse trade mission to the U.S. made by India's Minister of Non-Conventional Energy Sources, Kumar, India's Power Minister, Salve, and the Confederation of Indian Industry, September and December, 1994.
- (4) Follow up Mission to Pakistan on Energy Investments, December 12-17, 1994, led by the Deputy Secretary.
- (5) Return to India, February 11-14, 1995.
- (6) Presidential Mission on Sustainable Energy and Trade to China, February 15- 24, 1995.
- (7) Clinton Administration Delegation on Sustainable Energy and Empowerment to South Africa, August 18-28, 1995.

Although not stated in the October 2, 1995, summary, an October 3, 1995, memorandum transmitting this summary refers to the \$19.7 billion as the "potential total dollar value" of the 143 business agreements signed on the missions. Table 22, "Summary of \$19.7 Billion by Trade Mission," provides a breakdown of the number of business agreements and their value by trade mission.

The Department did not report any value for the 10 business agreements attributed to the South Africa mission. We were told by a Department official that, since the value of the agreements signed on the South Africa mission was small, the Department decided not to report this value because of concerns that it would detract from the other, more significant, non-monetary accomplishments of the mission. However, in response to

questions asked by the House Committee on Commerce, Subcommittee on Oversight and Investigations, the Department reported that: "Based on its experience with India, Pakistan, and China missions, including uncertainties about the economic benefits of MOUs, DOE chose not to announce financial and job creation benefits from the mission to South Africa, although the benefits are considerable."

Accumulation of the Value of Business Agreements Signed

The Department decided to accumulate the value of business agreements signed on its trade missions in late February or early March 1995, shortly after the China mission. We were told by an official in the Office of Energy Exports, the office tasked with compiling Secretarial trade mission data, that he was approached by a member of the Secretary's staff after returning from China and asked to develop an amount representing the value of all business agreements signed on the Secretary's trade missions. This official said that he was told that this amount was needed for an upcoming hearing.

**Table 22**  
**Summary of \$19.7 Billion by Trade Mission**

Trade Missions	Number of Business Agreements	Total Value (in billions)
Presidential Mission to India	18	\$ 5.2
Return to India	23	1.3
Presidential Mission to Pakistan	16	3.9
Follow up Mission to Pakistan	18	2.6
Presidential Mission to China	35	6.5
Reverse Mission to the U.S. made by India's Ministers Kumar and Salve	23	0.2
Mission to South Africa	10	-
<b>TOTAL</b>	<b>143</b>	<b>\$ 19.7</b>

The Office of Energy Exports developed a March 20, 1995, document entitled, "SUMMARY OF TOTAL BUSINESS AGREEMENTS SIGNED DURING DEPARTMENT OF ENERGY TRADE MISSIONS." This document represents the first compilation provided to the Office of Inspector General of the total value for business agreements signed on the trade missions. In this document, the Office of Energy Exports identified a total of 108 agreements valued at \$19.5 billion. However, the first time a compiled amount was reported by the Department was during the Secretary's testimony on March 7, 1995, before the Senate Committee on Foreign Relations, Subcommittee on Near Eastern and South Asian Affairs. In her prepared statement, the Secretary reported that the Department's Presidential Missions "have resulted in energy business agreements valued in excess of \$15 billion." In her oral testimony before the

Subcommittee, the Secretary stated that work the Department of Energy and the Department of Commerce had done in Pakistan, India, and China quantified "something very close to \$27 billion worth of U.S. deals signed." The monetary data for these statements was compiled by a Special Assistant to the Secretary. This official said that he obtained data for the monetary outcomes from trip reports and phone calls made to Department program offices engaged in tracking various efforts.

The data used by the Office of Energy Exports to accumulate monetary outcomes for the Department's trade missions were not taken from actual signed business agreements. An official from the Office of Energy Exports told us that he accumulated the value of signed business agreements by gathering data available from trade mission trip reports and press releases. This official said that some business agreement summaries were prepared by U.S. company representatives during the mission and that these summaries were used for trip reports. The official said the summaries included the value of business agreements signed. However, the official said that he did not have access to the actual signed documents, and that this type of documentation was not obtained by the Department.

#### Types of Agreements Included in the Monetary Outcomes

The 143 business agreements used in development of the \$19.7 billion are not all firm contracts for U.S. goods and services. The October 2, 1995, "SUMMARY OF TOTAL BUSINESS AGREEMENTS SIGNED DURING DEPARTMENT OF ENERGY TRADE MISSIONS," along with other Department records provided to us during this inspection, show that agreements signed on DOE missions include Memorandums of Understanding and Letters of Intent, and a wide variety of business agreements such as Concession Agreements, Power Purchase Agreements, Joint Venture Agreements, Implementation Agreements, and Sales Contracts. Many of these agreements represent various stages in the development of energy related projects such as power plants, wind farms, and cogeneration facilities, while others represent the sale of U.S. technology or equipment to foreign partners. As shown in Table 23, "DOE Summary of \$19.7 Billion by Agreement Type," nearly one-third of the \$19.7 billion in potential value reported by the Department represents Memorandums of Understanding, while roughly another third represents Letters of Intent and agreements for which no specific type was identified in the Department records reviewed by the Office of Inspector General.

#### Memorandums of Understanding

Memorandums of Understanding have been described to us by Department officials as the least firm of business agreements signed on the Department trade missions. Department records indicate that 52 of the 143 business agreements reported to have been signed on Department trade missions were Memorandums of Understanding, representing \$6.4 billion of the \$19.7 billion in potential value reported. Memorandums of Understanding have been defined by Department officials as agreements between U.S. companies and their foreign partners to work together to explore more formal

business agreements. Department records identify Memorandums of Understanding to establish joint ventures and partnerships for activities such as development of power generating facilities and energy related production plants. An official from the Secretary's Office told us that Memorandums of Understanding are not generally binding.

#### Letters of Intent

Letters of Intent have been described to us by Department officials as more firm than Memorandums of Understanding, but less firm than other business agreements signed on the Department trade missions. Department records indicate that 15 of the 143 business agreements reported to have been signed on Department trade missions were Letters of Intent, representing \$2.5 billion of the \$19.7 billion in potential value reported. Letters of Intent have been defined by Department officials as a more formal agreement that demonstrates that all parties involved are willing to pursue a specific opportunity. A Letter of Intent is described in the INVESTMENT OPPORTUNITIES

**TABLE 23**  
**DOE Summary of \$19.7 Billion by Agreement Type**

Type of Business Agreements	Number of Transactions	Potential Value (in billions)
Memoranda of Understanding	52	\$ 6.4
Letters of Intent	15	2.5
Sales	10	0.3
Implementation Agreements	7	3.2
Joint Ventures	4	0.1
Licensing Agreements	3	0.5
Power Purchase Agreements	2	0.3
Licenses	2	0.3
Turnkey Construction Project	1	0.1
Miscellaneous	22	0.1
Type Not Specified	<u>25</u>	<u>5.9</u>
<b>Total</b>	<b>143</b>	<b>\$19.7</b>

Note: DOE provided data as of October 2, 1995.

brochure published by the Government of Pakistan in February 1993. This brochure shows that a Letter of Intent contains the terms of agreement between the sponsors of a proposal selected for evaluation and the Pakistani government. This brochure states that a Letter of Intent confers on the sponsors exclusivity in relation to the project for a

period long enough to enable them to complete all further preparation leading up to the signing of final contracts and agreements. Department records identify Letters of Intent for activities such as development of power plants and sale of generating equipment.

#### Other Agreement Types

Department records indicate that 51 of the 143 business agreements reported to have been signed on Department trade missions included a wide variety of agreement types representing \$4.9 billion of the \$19.7 billion in potential value reported. These agreements include Implementation Agreements, Power Purchase Agreements, a Turnkey Construction Project Agreement, and Licensing Agreements. According to the Department's records, Implementation Agreements represent \$3.2 billion of the \$4.9 billion in other agreement types and are unique to Pakistan. An Implementation Agreement is described in the INVESTMENT OPPORTUNITIES brochure published by the Government of Pakistan. This brochure shows that an Implementation Agreement is the first in a series of contracts and agreements on power plant projects that will need to be signed before financial closure and the start of construction. According to this brochure, an Implementation Agreement defines the relationship between the project company and the Government throughout the project life, setting out general obligations and conditions to be satisfied by the project company and sponsor, the assurance and assistance to be given by the Government, and the arrangements that will apply in the event either party is unable to fulfill its obligation. The other contracts and agreements that follow an Implementation Agreement include Power Purchase Agreements, Fuel Supply Agreements, Loan Agreements, a Turnkey Construction Contract, an Operation and Maintenance Contract, a Shareholders Agreement, Escrow Agreement, Insurance Policies, Trust Deed, and Land Purchase/Lease Agreement.

#### Agreement Type Not Specified

Department records do not indicate the agreement type for 25 of the 143 business agreements reported to have been signed on DOE trade missions, representing \$5.9 billion of the \$19.7 billion in potential value reported. Department records identify activities such as the development of power generating facilities, but do not specify if the type of agreement signed in relation to the facility was a Memorandum of Understanding, a Letter of Intent, or some other type of business agreement such as an Implementation Agreement, Partnership, Joint Venture, or Power Purchase Agreement.

#### Characteristics of Monetary Outcomes

The \$19.7 billion reported by the Department in business agreements signed on Department missions does not represent the total dollar amount going to U.S. companies. Although the \$19.7 billion includes sales by U.S. companies and contracts for goods and services with U.S. companies, the \$19.7 billion in potential value also includes projects that involve U.S. and foreign capital investment into foreign countries. The potential benefit to the United States and U.S. companies resulting from capital

investment projects cannot be determined from Department records because the Department did not collect the data necessary to make this determination.

#### U.S. and Foreign Investment

The Department has recognized, in instances involving development of major power projects, that the agreements signed include the value of both U.S. and foreign investment. As a result, the Department has used the term "U.S. share" to identify dollars associated with the capital investments of U.S. companies. Department records show that this term was used on the China mission.

Thirty-five business agreements were signed on the China trade mission with a potential value of \$6.479 billion. DOE records show that 10 of these 35 business agreements had a potential value of \$4.1 billion, and that the "U.S. share" of these 10 agreements was \$2.2 billion. We were told by an official from the Office of Energy Exports that the "U.S. share" represents investment being made by U.S. companies involved in the agreements, and that the remaining \$1.9 billion represents the foreign share of the investment. For example:

- The Department has reported the potential value of a Memorandum of Understanding for expansion of an electrical project as \$1.2 billion. Based on Department records, the "U.S. share" of this agreement is \$150 million.
- The Department has reported the potential value of a Letter of Intent for a 2X300 MW coal fired plant as \$300 million. Based on Department records, the "U.S. share" of this agreement is \$150 million.

We were told by the official from the Office of Energy Exports that this condition may exist for the dollars being reported for the India and Pakistan trade missions. However, since the concept of "U.S. share" was not utilized until the China trip, Department records for the business agreements signed on the India and Pakistan trade missions do not identify the "U.S. share."

#### U.S. Export Content

The Department's use of the "U.S. share" concept does not capture data needed to identify the actual monetary benefits to the United States and U.S. companies. As a result, the Department could not, at the time of our inspection, identify that portion of the \$19.7 billion that may benefit the United States and U.S. companies.

We discussed the "U.S. share" concept with the Department of Commerce (Commerce). An official involved with Secretarial trade missions at Commerce told us that he was not familiar with the term "U.S. share." This official told us that Commerce did not break down the source of capital into U.S. or foreign share. He said Commerce tries to identify the U.S. export content of the business agreements involving capital investment.

The Department, however, did not identify the U.S. export content of the business agreements signed on the India, Pakistan, and China missions, and we found that the "U.S. share" and the U.S. export content could be significantly different. For example, an executive from a U.S. company reported to have signed a \$1.2 billion Letter of Intent in China, told us that 35 to 50 percent of the total value of this agreement would be exports from the United States. This would equate to between \$420 million and \$600 million in U.S. exports verses the \$1 billion in U.S. share identified in DOE records.

In addition, many of the projects included in the \$19.7 billion are in an early stage of development. In a prepared statement provided to the House Commerce Committee, Subcommittee on Oversight and Investigations, for a planned January 25, 1996, hearing, the Secretary stated that: "It generally takes between two and 10 years from initial agreement to financial closure and construction." Therefore, U.S. companies involved in these types of projects may not be able to provide data on the U.S. export content. For example, a business executive from a U.S. company reported to have signed a \$300 million agreement for a power generating facility told us that, "hypothetically," \$125 million of the total agreement would be capital equipment costs for material that "could" be purchased from the United States. However, he also said that there are other countries that are capable of providing this equipment as well.

#### Misapplication of the Formula for Calculating U.S. Jobs

As a result of not identifying the U.S. export content of business agreements included in the \$19.7 billion, the Department did not have the data necessary to provide accurate "OUTCOMES" information to the Trade Promotion Coordinating Committee (TPCC). The TPCC, created by the Export Enhancement Act of 1992, consists of members from 19 Federal departments and agencies that are involved in trade promotion. In their third annual report (October 1995) to Congress, a section entitled, "The Unified Budget - Linking Trade Promotion Funding with Performance," was compiled by the Office of Management and Budget. This section of the October 1995 TPCC report consisted of a unified trade promotion budget, trade promotion performance measures framework, and trade promotion output and outcome measures for each agency. In compiling this information, the Office of Management and Budget collected data from various federal agencies that make up the TPCC on their trade promotion activities. This data included the U.S. export content of business agreements. The U.S. export content was used, in part, to estimate the number of U.S. jobs created through trade promotion activities.

The Department provided the TPCC with an "OUTCOMES" measure of jobs created by its trade promotion activities, which overstated the estimate of the potential number of U.S. jobs created by the Department's trade missions. The Office of Energy Exports applied a formula for calculating U.S. jobs to the potential dollar value of business agreements signed on Department missions rather than to the U.S. export content. Specifically, on June 15, 1995, the Office of Energy Exports provided the Office of Management and Budget with an estimate of 390,000 "potential gross jobs to be

created" by the Department's trade missions for the Unified Budget Portion of the TPCC Report. This estimate was calculated by the Department by applying a 20,000 jobs/\$1 billion formula to the \$19.5 billion in potential value of business agreements signed on DOE missions as of the March 20, 1995, summary. According to an official from the Office of Energy Exports, the 20,000 jobs/\$1 billion formula was obtained from a May 15, 1995, article from INSIDE ENERGY, entitled, "O'LEARY: BUDGET PLAN WILL HURT ECONOMY." The article states that "Every \$1 billion in U.S. goods sold overseas translates into 20,000 new domestic jobs."

The 20,000 jobs/\$1 billion formula was developed by the Department of Commerce for the purpose of estimating the number of U.S. jobs supported, and is applied to the U.S. export content of business agreements. A Commerce official told us that Commerce has revised its jobs formula due to increased U.S. productivity, and currently uses a 16,000 jobs/\$1 billion formula. The Office of Energy Exports used the 16,000 jobs/\$1 billion formula, which was obtained from the Office of Management and Budget after the Department's June 15, 1995, submission. The Department applied the revised formula to the potential value of the business agreements and lowered its jobs estimate to 312,000 on July 28, 1995.

However, the Office of Management and Budget did not use either estimate for the October 1995 TPCC report. Since these formulas were applied to the potential value of business agreements and not the U.S. export content, both the 390,000 and 312,000 estimates significantly overstated the number of potential jobs created. A former official from the Office of Management and Budget, who received the Department's jobs estimates, told us that he recognized the jobs formula had been applied to the potential value of business agreements rather than to U.S. export content. He said that the Department's jobs estimates of 390,000 and 312,000 were not used in the TPCC report for that reason. The October 1995 TPCC report contained a footnote for the Department of Energy under the category "Indicative Est. of Gross Jobs Supported," which stated that: "Agency unable to measure this indicator at this time." An official in the Office of Energy Exports agreed that the jobs formula had been misapplied to the potential value of \$19.7 billion. This official told us that, in the future, the jobs formula would be used correctly.

**RECOMMENDATION 28:** We recommend that the Assistant Secretary for Policy establish policy and procedures for measuring accomplishments claimed as a result of trade promotion activities.

**Management Update on Status of Corrective Actions.** Management stated that the DOE Policy Office developed written guidance on tracking and reporting results of trade promotion activities. The policy was formalized on July 31, 1996. DOE's policy recommendation states that DOE track accomplishments of DOE-sponsored trade missions through the Department of Commerce Advocacy Center, using the same reporting forms and procedures as the Department of Commerce. The policy recommendation also states that, to the maximum extent possible, claims regarding the

magnitude or dollar amounts of business activity generated during or as a result of a trade mission should be based on documentation provided by the private sector participants involved. The policy recommendation also states that speculation with regard to the potential business activity that could be the result of a particular trade mission should be avoided at all costs.

Inspector Comments. Although we agree with DOE's response, the Department has not discussed measuring all accomplishments claimed as a result of its trade promotion activities. Specifically, the Department conducts advocacy efforts involving letters sent to foreign governments on behalf of U.S. companies. According to the Commerce's Assistant Secretary for Trade Development, its Advocacy Center tracks its advocacy efforts that have resulted in the material advancement of business agreements between U.S. and foreign partners. Since DOE's intention is to use Commerce's procedures, DOE should track its advocacy efforts. Therefore, this recommendation should remain open.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we establish policies and procedures for measuring accomplishments as a result of trade promotion activities. The Office of Policy developed these policies and procedures and they were issued on July 31, 1996.

"In the Official Draft Report, you request that we develop a tracking mechanism for advocacy and trade promotion activities. We are now using the system in place at the Department of Commerce, which has the responsibility to maintain a governmentwide trade promotion system. This allows governmentwide tracking of trade promotion and advocacy activities. We will develop an automated system tailored for DOE use."

Inspector Comments: We consider management's actions to be responsive. However, we believe this recommendation should remain open until planned dates for the implementation of the automated system have been established.

#### Business Agreements Signed

We interviewed U.S. business executives who accompanied the Secretary on the trade missions to India, Pakistan, and China to obtain a better understanding of the business agreements that comprise the \$19.7 billion reported by the Department. Our sample included 22 U.S. business executives whose companies signed 30 of the 143 business agreements reported by the Department as having been signed on the missions. The 30 agreements represent \$9.4 billion of the \$19.7 billion in potential value reported by the Department. These interviews revealed that the \$19.7 billion includes the value of agreements that were already in process prior to the missions and that would have

been signed anyway, and the value of some agreements that were signed prior to the missions.

#### Most Agreements Already In Process Prior to the Trade Missions

We were told by U.S. business executives that 29 of the 30 business agreements included in our sample were already in process prior to the trade missions. As discussed in Section B-3, "Selection of Non-Federal Participants," of this report, part of the selection criteria for the U.S. business delegation to accompany the Secretary on these missions included the "Company's current activity in the United States and [the missions country]," including the status of any "projects/deals." We were told by several Department officials that U.S. companies were asked if they had any agreements that would be ready for signing on the missions, and were asked what assistance could be provided by the Department in helping these agreements move toward signing. An executive from one U.S. company who participated in four trade missions stated that: "In each instance [his company] was selected to participate in these trade missions because our company either had a project underway or a proposed project under consideration in the host country."

We identified one agreement that was actually initiated on the Pakistan mission. An executive for a U.S. company that was reported to have signed an agreement for "75 MW hydropower" facilities at three sites told us his company actually signed a Memorandum of Understanding for a single 97 MW hydroelectric power plant valued at \$75 million. He said negotiations for the Memorandum of Understanding were initiated during the mission. He said he was invited by the Department to speak to Pakistani officials on renewable power issues and, that following his speech, he was approached by Pakistani officials on the feasibility of power plant construction. He said that the Memorandum of Understanding resulted from this event.

#### Many Agreements Would Have Been Signed Anyway

We were told by U.S. business executives that many of the business agreements included in our sample would have been signed anyway, with or without a DOE trade mission. Specifically, we were told by business executives representing 16 of the 28 business agreements, which were either signed on the missions or after the missions, that their agreements would have been signed with or without a DOE mission. However, several of these executives told us the missions accelerated the signing of their agreements and, in some cases, saved significant time and effort for their companies.

Business executives told us four business agreements would not have been signed without a DOE trade mission. Business executives told us it was "hard to say" if five business agreements would have been signed with or without a DOE mission. Three business executives did not indicate whether or not their business agreements would have been signed without a DOE mission.

### Some Agreements Were Not Signed on the Trade Missions

We were told by U.S. business executives that four of the 30 business agreements included in our sample were not signed on the DOE trade missions. Specifically, we were told of two business agreements that had been reported in the October 2, 1995, summary as being signed on the India mission that were actually signed before the mission. These are:

- A \$6.5 million agreement in which a business executive from the U.S. company that signed the agreement said that the agreement had been signed the year before the mission, but that the mission helped energize the parties to the agreement to follow through with their prior commitments.
- A \$2.1 billion agreement in which a business executive from the U.S. company that signed the agreement said that the agreement had been signed prior to the mission, but that the mission helped to advance proposals on counter-guarantees to enable the project to complete its financing package.

We were told of one business agreement that had been reported in the October 2, 1995, summary as being signed on the Pakistan mission, which was actually signed after the mission. This is:

- A \$740 million agreement in which a business executive from the U.S. company that signed the agreement said that the agreement had been signed after the mission, and that the agreement was just getting started at the time of the mission in September 1994. This executive, whose company was involved in the \$2.1 billion agreement reported to have been signed on the India mission as discussed above, said that he traveled to India, Pakistan, China, and South Africa. He said that: "The only agreement signed in the countries visited on the trade missions was in China by an . . . affiliate . . . ."

We were told of one business agreement that had been reported in the October 2, 1995, summary as being signed on the China mission, which was actually signed after the mission. This is:

- A \$400 million agreement in which a business executive from the U.S. company that signed the agreement said that the agreement was not signed on the China mission, but that it was actually signed upon return to the U.S.

We were also told of one agreement that had been reported in the October 2, 1995, summary as being signed on the China mission, which was actually re-signed on the mission. This is:

- A \$700 million agreement in which a business executive from the U.S. company that signed the agreement said that the agreement was signed prior to the mission, but that it was re-signed on the mission to incorporate re-negotiations with the Chinese with regard to capital investment.

### Reporting on the Outcomes of DOE Trade Missions

The Department's reporting on the outcomes of its trade missions was done primarily through press releases, testimony by the Secretary, and in reporting to the Trade Promotion Coordination Committee. The wording used in some of the Department's reporting could be interpreted to suggest that the Department's trade missions caused the business agreements to be signed, and that all of these agreements represented contracts with U.S. companies.

#### Press Releases

Press releases were issued by the Department for all of its trade missions. These press releases sometimes included wording that (1) did not clearly describe the Department's actual role in securing the signing of business agreements, (2) suggested the agreements signed were contracts when they were not, or (3) suggested the agreements were closed or finalized when they were not. For example:

- A press release for the India mission dated July 18, 1994, states that "Secretary of Energy Hazel R. O'Leary's mission to India . . . has begun a new era for partnerships between the United States and India, **having closed on hundreds of millions of dollars of commercial deals** [emphasis added] . . ."
- A press release for the Secretary's return to India dated February 16, 1995, states that "U.S. Secretary of Energy Hazel R. O'Leary's second mission to India **has produced 23 new projects** [emphasis added] between U.S. and Indian firms."
- A press release announcing business agreements being signed in Beijing at the conclusion of the China mission dated February 24, 1995, was titled "**O'LEARY CHINA ENGAGEMENT NETS** [emphasis added] **MORE THAN \$6 BILLION IN NEW ENERGY PROJECTS.**"

We believe that the use of words such as "having closed," "has produced," and "NETS" can be interpreted as suggesting that the Department's trade missions are causing the business agreements to be signed.

Other press releases contained information that was misleading. For example:

- A press release dated February 17, 1995, kicking off the Secretary's mission to China, discussed outcomes of the Secretary's second mission to India and states that: "Prior to her trip to Hong Kong and China, Secretary O'Leary spent several days in India **where \$1.4 billion in contracts were signed** [emphasis added] for a wide variety of energy projects."
- The China press release dated February 24, 1995, states "Today's ventures, combined with eight signed in Shanghai on Monday, raise the total private sector investment **finalized** [emphasis added] on this trip to more than \$6 billion . . ."

We believe that some of the wording included in these press releases was not consistent with the facts as identified during our inspection. For example, the reference to the "\$1.4 billion in contracts" found in the February 17, 1995, press release discussing the Secretary's second mission to India was misleading. Based on Department records, 23 agreements were signed on the second mission to India with a reported value of \$1.3 billion, but 18 of these agreements valued at \$1.2 billion were not contracts, they were Memorandums of Understanding. In addition, the reference to the agreements signed on the China mission found in the February 24, 1995, press release, which states that the signings in Beijing "raise the total private sector investment finalized on this trip to more than \$6 billion" was also misleading. Based on Department records, of the 35 business agreements signed on the China mission, 18 of the 35 agreements were Memorandums of Understanding or Letters of Intent, and only two of the 35 agreements with a value of \$25 million have been finalized, i.e., reached financial closure.

We were told by officials from the Department's Office of Public and Consumer Affairs, Press Services Division, that there was concern within their division with regard to numbers being reported in press releases attributed to the signing of business agreements on the trade missions. We were told that the concern was that the numbers were not "hard," that the numbers included agreements that were not actually contracts. We were told that this concern developed from the fact that many of the agreements included in the numbers reported were for Memorandums of Understanding, but that most reporters would think that the numbers being reported were actual contracts. These officials told us that they did not develop the numbers, but that the numbers were provided to their division by Department officials who were on the missions.

In response to a Department questionnaire, one member of the U.S. business delegation to Pakistan stated that: "The signings were great for the press and as a political statement but may not have represented much in fact . . ." We were told by a member of the Secretary's staff that the reporting of dollars associated with each mission was done primarily because the foreign press was looking for this type of information. In an interview with the Secretary, she said that she took ownership of the decision to quantify results of the trade missions. She said that, for the India mission, it

was clear that the press was interested in numbers, and during the signing ceremonies, were asking what the signed deals were worth.

**RECOMMENDATION 29:** We recommend the Secretary, in coordination with the Director of the Office of Public and Consumer Affairs, establish policies and procedures for press releases related to the Department's trade promotion activities.

**Management Update on Status of Corrective Actions.** Management stated that the Assistant Secretary for Congressional, Public and Intergovernmental Affairs issued a memorandum establishing policy and outlining procedures that are to be taken when press releases are issued in connection with international trade missions sponsored by DOE. Included in the memorandum are the purpose, content, and procedures for preparing and approving written press announcements. The policy was formalized on July 31, 1996.

**Inspector Comments.** We consider management's actions to be responsive; therefore, this recommendation may be closed.

#### Reporting in "DOE This Month"

In addition to the above press releases, the January 1996 edition of the "DOE This Month" discussed monetary outcomes of the Department's trade missions. Specifically:

- The Department reported in the January 1996 edition of "DOE This Month" that: "The missions have brought a return on investment of more than \$1,000 to every \$1 spent, with \$4.3 billion in successful economic projects **finalized** [emphasis added] so far."

We believe that this wording was not consistent with the facts as identified during our inspection. The reference to "\$4.3 billion in successful economic projects finalized so far" is misleading. As discussed in Part 3 of this section, "The Department's Clarification of Monetary Outcomes," \$2.3 billion of the \$4.3 billion has not been finalized. In addition, the Department's records do not identify U.S. export content of business agreements signed on its missions, and, therefore, do not identify that portion of the \$4.3 billion that would be returned to the United States through exports. Also, as discussed in Part 4 of this section, "Role of the Department in Achieving the Monetary Outcomes," the "return on investment" for the Department's trade missions cannot be determined because the Department cannot quantify the value of its role in helping business agreements move forward or reach financial closure.

#### Reporting to the Trade Promotion Coordinating Committee

The Department of Energy also provided data to the Trade Promotion Coordinating Committee on the "OUTCOMES" of its trade promotion activities. On June 15, 1995, the Department provided outcomes data to the Office of Management and Budget for

the Unified Budget chapter of the TPCC's annual report. In the Department's submission, under the activity classification "Developing Foreign Markets for U.S. Goods & Services," the Department stated that: "To date, the total potential \$ value of business agreements signed **as a result of** [emphasis added] DOE missions = \$19.5B. This figure is the result from Secretarial trade missions to India and Pakistan in 1994, and China in 1995."

### Secretary's Testimony

The Secretary discussed outcomes of the trade missions in testimony before the Senate Committee on Foreign Relations, Subcommittee on Near Eastern and South Asian Affairs, on March 7, 1995. This testimony was prepared prior to questions raised by the press and Congress about the value of the business agreements. The testimony included the following statements:

- The Secretary, referring to "Our Presidential Missions," stated that: "These missions **have resulted in** [emphasis added] energy business agreements valued in excess of \$15 billion." She also stated that: "That equates to tens of thousands of new jobs created in the United States."
- The Secretary stated that: "Last month, I spent four days in India on a return journey that **produced** [emphasis added] agreements valued at over \$1.4 billion of new projects . . ."

We believe that this type of wording could be misleading in describing the Department's involvement with regard to business agreements that were signed on the trade missions. For example, this wording could be interpreted to suggest that these missions caused the business agreements to be signed. This wording does not clearly communicate the role of the Department in helping to move many of these agreements forward and in accelerating the signings of many of these agreements, and does not clearly communicate that many of these agreements would have been signed with or without a DOE mission. In addition, while the number of new jobs created in the United States may ultimately equate to "tens of thousands," Department records do not support this statement. At the time of our inspection, Department records supported only 5,650 U.S. jobs for five business agreements that the Department is reporting as reaching financial closure. Four thousand of these jobs were not identified by the U.S. companies, but were calculated by the Department using the Department of Commerce jobs formula.

The wording used by the Secretary since monetary outcomes of the Department's trade missions were questioned by the press and Congress has become clearer in terms of describing the Department's involvement with regard to business agreements that were signed on the missions. For example:

- The Secretary, in a prepared statement provided to the House Committee on Commerce, Subcommittee on Oversight and Investigations, for a planned January 25, 1996, hearing, and in an "Insight on the News" article in Insight magazine dated March 11, 1996, stated that: "Our four missions during 1994 and 1995 advanced [emphasis added] 143 trade agreements with a potential value of \$19.7 billion."
- The Secretary also stated, in her prepared statement provided to the Subcommittee on Oversight and Investigations, that: "The Department by no means assumes primary 'credit' for the agreements reached on its trade missions, because the companies themselves have been the tireless crusaders for their own interests abroad." She also stated that the Department has been told that its efforts helped move stalled projects and establish new business for U.S. companies that they did not yet have.

As will be discussed in Part 4 of this section, "Role of the Department in Achieving the Monetary Outcomes," the Department's involvement was that of a facilitator, a catalyst, and a force for accelerating or expediting agreements, not the cause of the generation of most of the business agreements. We believe that the wording used by the Secretary cited above describes this involvement.

Lack of Documentation to Support the \$1.8 Billion as Reported in DOE Press Releases for Business Agreements Signed on Reverse Missions

The Department has not been able to provide documentation to fully support the \$800 million in business agreements that were reportedly signed during the visit of Mr. Salve, India's Minister of Power, to the United States. Full documentation was also unavailable for the \$1 billion in business agreements that were reportedly signed during the visit of Mr. Kumar, India's Minister of State for Non-Conventional Energy Sources, to the United States. Department records support only \$215 million in business agreements signed on these two visits.

The agreements signed during the two visits were reportedly a follow up to Secretary O'Leary's July 1994 trade mission to India. However, most U.S. companies involved in the business agreements were not part of the trade mission to India.

DOE Press Releases

In a November 14, 1994, Department press release entitled, "U.S., INDIAN COMPANIES SIGN ENERGY AGREEMENTS; PACTS REFLECT GROWING RELATIONS BETWEEN TWO COUNTRIES' ENERGY SECTORS," the Department reported the signing of five agreements valued at \$800 million to jointly develop and market energy technologies at a ceremony attended by Secretary O'Leary and Mr. Salve, India's Minister of Power. However, the Office of Energy Exports has not been able to fully support the dollar amount reported in the press release. The Office of

Energy Exports included one agreement signed during Mr. Salve's visit in the summary of 143 business agreements, but the value of this agreement has not been determined.

In a December 21, 1994, Department press release entitled, "\$1 BILLION IN RENEWABLE ENERGY AGREEMENTS SIGNED BY U.S. AND INDIAN COMPANIES," the Department reported the signing of 25 agreements valued at nearly \$1 billion. The signings were attended by Secretary O'Leary and Mr. Kumar, India's Minister of State for Non-Conventional Energy Sources. However, the Office of Energy Exports has not been able to fully support the dollar amount reported in the press release. The Office of Energy Exports included 21 agreements signed during Mr. Kumar's visit in the summary of 143 business agreements, but the value of these agreements was only \$215 million.

We believe that documentation for dollar amounts reported for the visits by Mr. Salve and Mr. Kumar have been difficult to obtain because the Department did not have a system for collection and retention of information relating to the monetary outcomes of its trade missions until after the China trade mission, approximately three months after the visits by Mr. Salve and Mr. Kumar. We contacted DOE officials who participated in the signing ceremonies for these visits, including those involved in providing dollar amounts for the press releases. These officials told us that notes were made at the time of the signings, which included the value of the agreements, but they were unable to locate these notes at the time of our inspection to support the \$1.8 billion.

According to a former Department contractor employee who organized the signing ceremony for Minister Salve, once the Minister agreed to visit the United States, the Indian Government contacted Indian companies who wished to travel to the U.S. in a reverse trade mission. We were told that the Indian companies who had agreements ready to be signed then contacted their U.S. counterparts so that the signing of these agreements could be arranged. The former contractor employee then organized a signing ceremony attended by both Secretary O'Leary and Minister Salve. We were told that the same process was used for Minister Kumar's visit.

Although the visit by Minister Kumar was an official follow up to Secretary O'Leary's trade mission to India, only three of the 25 agreements reported to have been signed involved companies that were part of the official business delegation on the original mission. Of the three agreements, only one contained any dollar value; a \$1 million cost shared partnership. Of the five agreements signed during Minister Salve's visit, only one company was part of the official business delegation on the original mission. There was no dollar value associated with that agreement.

**Lack of Documentation to Support the \$5 Billion as Reported in DOE Press Releases for Business Agreements Signed on Reverse Missions**

In another press release involving the same visits to the United States by Mr. Salve, India's Minister of Power, and Mr. Krishna Kumar, India's Minister of State for Non-

Conventional Energy Sources, as well as a visit by the Confederation of Indian Industry, the Department reported the signing of \$5 billion in business agreements. However, the Department has not been able to provide documentation to support this dollar amount.

Specifically, in a February 8, 1995, Department press release entitled, "ENERGY SECRETARY MAKES RETURN VISIT TO INDIA TO SOLIDIFY RELATIONSHIPS ALREADY BEGUN," the Department reported \$5 billion in "energy deals" signed on visits to the United States by Mr. Salve, Mr. Kumar, and the Confederation of Indian Industry. However, as discussed above, our inspection was only able to document \$215 million in business agreements to support the \$1.8 billion reported to have been signed on the visits by Mr. Salve and Mr. Kumar. In addition, we have been unable to identify any value for agreements that may have been signed on the visit by the Confederation of Indian Industry.

In the February 8, 1995, press release, the Department reported that the Secretary felt that a return visit to India was extremely important in order to sustain momentum generated on the Secretary's previous visit to India. This press release reported that the Department had "great successes" on the previous visit, signing "energy business deals" worth over \$400 million, which grew to nearly \$3 billion in the months following the mission. This press release went on to state:

"After O'Leary's mission, she hosted visits by India's Power Minister Salve, Non-Conventional Energy Minister Kumar and a trade mission led by the Confederation of Indian Industry (CII). Energy deals totaling \$5 billion were signed on these missions. . . ."

The draft of this paragraph was prepared by an Assistant to the Secretary with a blank line for the amount where the \$5 billion was later inserted for the issuance of the final press release. We interviewed the Department's press officer who was responsible for processing this press release, the two Department officials who cleared this press release, and the two Department officials from the Office of the Secretary whose names appeared on the Public Affairs Clearance Sheet. The press officer was able to provide the original handwritten draft of this paragraph with a note written by her underneath the blank line, which states "Salve, Kumar, no CII business deals." However, none of the officials interviewed could recall who developed and provided the \$5 billion to the Department's Press Services Division, and none of these officials could provide any documentation to support the \$5 billion. Two officials speculated that the \$5 billion may have been derived from the \$1.8 billion reported for the visits by Mr. Salve and Mr. Kumar, and the \$3 billion reported in an earlier paragraph of the February 8, 1995, press release while discussing the "great successes" on the previous visit to India. None of these officials recalled any dollars associated with the visit by the Confederation of Indian Industry.

### 3. The Department's Clarification of Monetary Outcomes

#### Department's Attempt to Clarify the Monetary Outcomes

The Department has clarified the status of monetary outcomes reported for the four trade missions, two follow-up missions, and one reverse mission. Specifically, the Department is reporting that 20 agreements valued at \$2.0 billion have reached financial closure and 11 agreements valued at \$2.3 billion have made significant progress. These amounts, which total \$4.3 billion, are found in a December 19, 1995, document prepared by the Office of Energy Exports entitled, "TRADE MISSION RELATED BUSINESS AGREEMENTS PROGRESS STATUS SINCE MISSION." The transmittal for this status report states that: "The attached table is broken out by (1) agreements having reached either financial closure or sales agreements and (2) agreements having made significant progress since the mission." Table 24, "Summary of \$4.3 Billion Claimed by DOE by Type of Agreement," provides a breakdown of the \$4.3 billion by the type and value of agreements by mission.

We were told that the Department's clarification of monetary outcomes reported for the Department's trade missions was the result of questions raised in the press and by Congress concerning the validity of the \$19.7 billion. An official in the Office of Energy Exports told us that seven to 10 days prior to preparation of the December 19, 1995, status report, he received a message that the Secretary's office was interested in determining what business agreements had moved forward. He said that he believed that this message was the result of press reports regarding the \$19.7 billion and questions being asked about this amount by Congress.

Department program employees who worked closest with companies that attended the various missions were asked by DOE officials to telephone U.S. business executives and gather a status on business agreements signed during the trade missions. The status of these agreements was divided into two categories: those which had reached financial closure and those which had made significant progress. The Office of Energy Exports has defined the terms financial closure and significant progress as follows:

- Financial closure: All necessary financial documents have been signed and the financing package has been approved.
- Significant progress: Where an agreement has moved but has not reached financial closure. Examples include agreements on projects that have entered into contract negotiations or where there is an expectation that contract negotiations will be completed, and agreements where project approval by the foreign government has been received.

The determination as to what business agreements fell into either of these categories was made by an official from the Office of Energy Exports.

### Financial Closure Not Reached for One Agreement as Reported

Interviews conducted by the Office of Inspector General of U.S. business executives who accompanied the Secretary on the trade missions revealed one agreement that was reported to have reached financial closure, but was actually canceled. Specifically, we were told by a U.S. business executive that a \$9 million agreement for the sale of wind energy equipment reported to have reached financial closure was actually "dead." The business executive told us that the order for the equipment was signed, but the foreign partner did not come through with the Letter of Credit to finance the sale.

### The Department Lacks a System for Tracking Financial Outcomes

At the time of our inspection, the Department did not have a system to track the monetary outcomes of agreements signed on the Secretarial trade missions. In addition, the Department did not have a system to track monetary outcomes of non-Secretarial trade missions or its advocacy efforts that are not directly related to a trade mission. As a result, the Department (1) could not provide documentation to support some outcomes reported in press releases, (2) could not distinguish between business agreements in which the Department's role in achieving signing was substantial versus those instances in which the Department played no substantial role in moving an agreement to signing, (3) could not clearly identify the value to the United States and U.S. companies that resulted from the signing of business agreements in the mission countries, and (4) could not provide accurate information to the Trade Promotion Coordination Committee.

**TABLE 24**  
**SUMMARY OF \$4.3 BILLION CLAIMED BY DOE BY TYPE OF AGREEMENT**

<u>Trip</u>	<u>Financial Closure or Sales Agreements</u>	<u>In Millions</u>	<u>Significant Progress</u>	<u>In Millions</u>
<b>India</b>	Sale of PV Cells for Module Assembly in India	\$ 6.0	10 MW Cogen. Power Project	\$ 15.0
	Sale of Wind Energy Equipment to India	9.0	Joint Venture Agreement-Prod. of Adv. Batteries	9.0
	Investment in New Plant Equip. for Solar Cells	3.0	Proposal to Operate Natural Gas Project	TBD
	Sale of Wind Energy Equipment to India	60.0	<u>Significant Progress-Subtotal</u>	\$ 24.0
	Const. of a Combined Cycle Gas Fired Power Plant	250.0		
	Return to India	<u>12.6</u>		
	<u>Financial Closure or Sales Agreements-Subtotal</u>	<u>\$340.6</u>		
<b>Pakistan</b>	Concession Agreement-Oil/Gas Explor. and Prod.	\$ 175.0	Implement. Agreement-104 MW Nat. Gas Pwr. Pl.	\$ 105.0
	Concession Agreement-Oil/Gas Explor. and Prod.	100.0	Implement. Agreement-782 MW Power Station	740.0
	Implement. Agreement-360 MW Oil-fired Pwr. Pl.	350.0	Agreement to Develop 310 MW Nat. Gas Pwr. Pl.	175.0
	Implement. Agreement-360 MW Oil-fired Pwr. Pl.	350.0	<u>Significant Progress-Subtotal</u>	\$ 1,020.0
	Implement. Agreement-385 MW Nat. Gas Pwr. Pl.	660.0		
	Follow-up to Pakistan	32.4		
	<u>Financial Closure-Subtotal</u>	<u>\$ 1,667.4</u>		
<b>China</b>	Joint Venture to Mfr. Flow Measurement Products	\$ 0.9	Construct Polycrystalline Silicon PV Prod. Plant	\$ 12.0
	Sales Contract-Two 600 MW Turbine Gen. Units	24.0	Expand an Existing Photovoltaic Mfrng. Plant	2.0
	<u>Financial Closure or Sales Agreements-Subtotal</u>	<u>\$ 24.9</u>	General Petrochemical Works Project	400.0
			2X125 MW Coal Fired Power Plant	130.0
			2X350 MW Coal Fired Power Project	700.0
			<u>Significant Progress-Subtotal</u>	\$1,244.0
			All Missions: Significant Progress-Total	\$2,288.0
			<b>ALL MISSIONS: TOTAL</b>	<b>\$4,320.9</b>

As previously discussed, the Department has used informal methods to collect and track monetary outcomes of its trade missions. These informal methods included summaries provided by U.S. companies that signed agreements on the missions, telephone contacts with U.S. companies to determine the status of business agreements, and notes on the number and value of business agreements signed on some missions. In addition, the Department did not establish any central collection point for data on monetary outcomes of its trade missions until late February or early March 1995, after the India, Pakistan, and China missions had been completed.

Through its informal survey, the Department has identified 20 business agreements valued at \$2 billion that have reached financial closure. However, a system was not in place at the time of our inspection to track the financial progress of the other 123 business agreements reported to have been signed on the Department's trade missions. During our inspection, the Office of Energy Exports attempted to survey all the U.S. companies that were reported to have signed business agreements on the missions. However, an official from this office told us that he was prevented from pursuing this survey because of restrictions under the Paperwork Reduction Act.

Our inspection found that the Department has other trade promotion activities that are outside of the Department's reporting of \$19.7 billion for the trade missions to India, Pakistan, China, and South Africa. These other activities include Deputy Secretarial trips where business agreements have been signed, and Department advocacy involving letters sent by the Department to foreign governments on behalf of U.S. companies. However, we found no evidence that the Department has any means of capturing the results of these efforts. Therefore, because of a lack of a system to track monetary outcomes from all of its trade promotion activities, the Department's overall efforts in trade promotion are not being identified.

In her December 28, 1995, letter to the Chairman, House Committee on Commerce, the Secretary stated that the Department would continue to track progress and update the dollar-value results of the trade missions. Although DOE is currently planning on creating and maintaining a tracking system, the decision on what financial data is to be gathered and the methodology on how the data is to be captured was still pending at the time of our inspection.

#### Agreements Included in \$4.3 Billion Not Listed in \$19.7 Billion

The \$4.3 billion reported in the December 19, 1995, status report includes 31 agreements. Twenty-six of the 31 agreements were included in the Department's summary of the \$19.7 billion. However, five agreements were not signed on the Department's missions, and were not included in the \$19.7 billion. Specifically:

- An agreement to sell \$60 million of wind turbines in India was listed as reaching financial closure. The agreement was reportedly the result of a wind

turbine program supported by DOE. Although DOE may have supported the technology that led to the agreement, the company was not part of the official business delegation for the India trade mission.

- A mine-mouth coal-fired project in China valued at \$700 million was listed in the \$4.3 billion summary as making significant progress. The December 19, 1995, summary of the \$4.3 billion includes a footnote for this project that states "this project is not included in the \$19.7 B figure. Project was already in the approval process pipeline and was advocated for during the mission." A company official attended the trade mission.
- A coal-fired power plant in China valued at \$130 million was listed in the \$4.3 billion summary as making significant progress. The December 19, 1995, summary of the \$4.3 billion includes a footnote for this project that states "this project is not included in the \$19.7 B figure. Project was already in the approval process pipeline and was advocated for during the mission." A company official attended the trade mission.
- An implementation agreement for a natural gas combined cycle power plant in Pakistan valued at \$105 million was listed as making significant progress. The agreement was advocated for outside of the Secretarial trade missions.
- An agreement to operate natural gas from coal beds project in India whose value has yet to be determined was listed as making significant progress. The signing of the agreement followed the India trade mission.

#### 4. Role of the Department in Achieving the Monetary Outcomes

##### Statements by DOE Personnel

The Department's role in achieving the monetary outcomes of its trade missions has been described by various Department officials as that of a facilitator, helping to move energy-related business agreements forward. We were told that these missions brought together U.S. companies, foreign companies, and foreign governments to focus their efforts on individual agreements to help bring them to a point of signature. We were also told that the Department did not cause these business agreements to be created. Some statements made by DOE personnel during interviews by the Office of Inspections include:

- An official in the Office of Energy Exports told us that the signing ceremonies were incorporated into the official itinerary, usually the last day in the mission city. This official said that many of the agreements would have been signed without a mission, but that the mission provided a signing date for everyone to work toward. He said that, in some cases, negotiations may have been accelerated as a result of establishing the date of the signing ceremony.

- An official from the Department's Office of Industrial Technologies told us that the Department helped to expedite business agreements, and discussed one \$400 million Letter of Intent for a control system upgrade project in which the Secretary personally advocated for the agreement while on the mission.
- An official from the Department's Office of Oil and Gas told us that he believed the Department helped expedite some business agreements by working with foreign ministries where the agreements were awaiting signature.
- An official from the Department's Office of Electricity Policy told us that the Department did not negotiate any agreements and that the private sector had the initiative in generating the business agreements.
- An official from the Secretary's office told us that no one will ever know the true value of the Department's role in helping to move business agreements forward. He said that the Government was not sitting at the negotiating table, but that the missions helped move some agreements "off the dime, some more and some less."
- In the summary for his statement provided to the Commerce Committee, Subcommittee on Oversight and Investigations for an April 24, 1996, hearing, the Assistant Secretary for Congressional, Public, and Intergovernmental Affairs stated that: "As to whether the Department alone claims credit, we know that 'success has a thousand fathers and mothers.' A successful business agreement is a joint effort by all concerned. But our bottom line at the Department of Energy is that the heroes of these projects are the private sector participants and their partners abroad. We feel privileged to make a contribution to their efforts. . . ."

Management Comments. Management commented that: "Statements by DOE Personnel" could be more complete with direct statements from recent hearings by the Secretary, Chief Financial Officer, Deputy General Counsel and Assistant Secretary for Congressional, Public and Intergovernmental Affairs."

Inspector Comments. In the Initial Draft Report, we quoted from the Secretary's prepared statement for a planned January 25, 1996, hearing before the House Committee on Commerce, Subcommittee on Oversight and Investigations. We also included in the Initial Draft Report the Assistant Secretary for Congressional, Public, and Intergovernmental Affairs' comments from a April 24, 1996, hearing before the same subcommittee.

The Secretary's prepared statement for the June 13, 1996, hearing, included the following:

"The Department of Energy, in planning these missions, focused on policy reforms and advocacy that would allow U.S. firms to capture market share and bring business and jobs home to Americans. We brought leading U.S. business, financial and energy policy experts together with high-level government and private sector officials in these nations to discuss, recommend and advance policy reforms which would move government-controlled energy markets to privatization. We sought to build long-term relationships with decision-makers that could be relied upon over the years it can take for an energy project to move from initial agreement through construction to final operation."

#### Statements by U.S. Business Executives

The Department's role in achieving the monetary outcomes of its trade missions has been described by various business executives for U.S. companies as that of a catalyst, crediting the Department's missions with moving agreements along. Some statements made by members of the U.S. business delegations during interviews by the Office of Inspector General include:

- A business executive from a U.S. company reported to have signed a \$9 million agreement for the sale of production equipment for advanced batteries said that the mission brought dead projects back to life and brought energy projects to the forefront. He said that the entire mission was a catalyst to bring discussions on business agreements to a conclusion. He said that, in the case of his project, the Department did not provide direct advocacy, but provided a mechanism for his company to get access to foreign government ministries. He said that the mission promoted and endorsed business relationships.
- A business executive from a U.S. company reported to have signed a \$6.5 million agreement for the sale of photovoltaic cells said that the mission brought credibility to his company, and that his foreign partners got very excited about meeting their commitments under an existing agreement that was not generating much business.
- A business executive from a U.S. company reported to have signed a \$138 million agreement for a wind power project said that the mission accelerated the signing of the agreement because the Department was able to gather together appropriate foreign government officials for discussions and signing of the agreement.
- A business executive from a U.S. company reported to have signed a \$100 million agreement for a wind power project said that the mission accelerated the signing of the agreement because the Department was able to

get appropriate foreign government officials together with personnel from his company.

- A business executive from a U.S. company reported to have signed a \$150 million agreement for a hydropower project said that the mission was instrumental in assembling the proper forum of senior foreign government and business officials that had the ability to make agreements happen. He said that the high profile of the Secretary and her delegation obviously impressed the foreign officials and greatly accelerated the usual length of time that it normally takes to put business agreements together.
- A business executive from a U.S. company reported to have signed a \$175 million agreement for gas and oil exploration said that his agreement would have been signed eventually, but that the delay would have meant that U.S. oil drilling personnel would have been sent home for three to six months due to the gap between an old agreement and the new agreement. He said that it was clear that the Secretary's presence accelerated the signing by providing a positive forum for business and foreign government leaders to meet.
- A business executive from a U.S. company reported to have signed a \$2.1 billion agreement for a power plant said that the big help from the Department was not on specific business agreements, but the focus on market reforms in the foreign countries.
- A business executive from a U.S. company reported to have signed a \$245 million power purchase agreement for a gas combined cycle power plant said that the trade mission allowed his company to talk directly with foreign Government power ministers. He said that, without the mission, his company would never have had this level of access.
- A business executive from a U.S. company reported to have signed a \$650 million agreement for a power plant said that the Department acted as a catalyst and provided added trust for each party to an agreement to do business. He said that, for this agreement, there may have been some advocacy in which the Department brought in some foreign government officials to move things along.

This executive said that there are two misunderstandings about these missions. He said that it is not true that these missions cause business agreements to happen. However, he also said that it is not true that these missions are a waste of money.

Management Comments. Management commented that: "Statements by U.S. Business Executives' would be further enhanced by testimony given on June 13, [sic]

1996 by an industry panel before the House Commerce Committee, Subcommittee on Oversight and Investigations."

Inspector Comments. Prior to the June 12, 1996, hearing, where business executives testified before the House Commerce Committee, Subcommittee on Oversight and Investigations, we interviewed two of the business executives who provided testimony to the committee and the Vice President of another company whose President provided testimony to the committee. We included their comments in the Initial Draft Report.

#### Business Agreements Developed After the Trade Missions

Interviews of executives from U.S. companies have identified instances in which business agreements have developed after the missions were completed. For example:

- A business executive from a U.S. company reported to have signed the \$6.5 million agreement for the sale of photovoltaic cells said that his foreign partners got so excited during the mission that they sent him a letter proposing another project which his company was in the process of negotiating.
- A business executive from a U.S. company reported to have signed a \$150 million agreement for a 75 MW hydropower facility told us that, as a direct result of the Pakistan mission, his company has negotiated two additional Memorandums of Understanding for a 97 MW and a 500 MW power plant. He said that the estimated value of these agreements is between \$700 and \$750 million.

These agreements are not included in the Department's calculations of monetary outcomes.

#### A Cost/Benefit Relationship of Trade Missions is Difficult to Determine

The Department reported in the January 1996 edition of the "DOE This Month" that "The missions have brought a return on investment of more than \$1,000 to every \$1 spent, with \$4.3 billion in successful economic projects finalized so far." However, as previously discussed, the Department did not cause most of these agreements to happen, but acted in the capacity of a catalyst, accelerating the signing of many agreements that would have been signed anyway. The Department cannot quantify the value of its role in helping to bring these agreements to signing. In addition, the Department cannot quantify the value of its role in helping U.S. business build a foundation for any future business agreements that may develop after the missions are over.

## 5. Non-Monetary Outcomes of the DOE Trade Missions

### Non-monetary Outcomes

In response to questions asked by the House Commerce Committee, Subcommittee on Oversight and Investigations, the Department stated that the missions were designed to accomplish several objectives. These include:

- "(1) Promoting trade and investment partnerships that will deliver clean, affordable energy to fuel economic growth with U.S. technology, capital and expertise. Our strategy is to broaden the host country's experience with U.S. firms, establish better confidence in U.S. technologies, reduce business risk to participation by U.S. firms, and ultimately to sign business agreements.
- "(2) Facilitating cooperation on sustainable development policies that offer environmental and economic benefits to both the host country and to the United States. Our strategy is to exchange ideas about innovative policies to spur the use of advanced technologies and better practices in order to meet energy needs, promote economic growth and improve the environment.
- "(3) Establishing a structure for bilateral problem solving on energy, environment and science. Our strategy is to develop new government-to-government structures for working together to resolve problems."

These objectives resulted in activities that produced outcomes that cannot be measured in dollars at the conclusion of the missions. In his statement provided to the House Commerce Committee, Subcommittee on Oversight and Investigations, for an April 24, 1996, hearing, the Assistant Secretary for Congressional, Public, and Intergovernmental Affairs, stated that: "Our policy work remains the most important aspect of our international work, particularly because business contracts are unlikely to mature to financial closure unless the policy framework is sound, clear and stable over time." Our inspection found that the Department's trade missions have included many policy initiatives and that the Department's trade missions have had numerous non-monetary outcomes in each objectives category identified by the Department.

Management Comments. Management commented that: "The non-monetary outcomes we agree are often difficult to define, thus increasing the importance of those that are stated clearly and represent tangible progress in the energy sector."

### Planning for Non-Monetary Outcomes

The Department prepared reports prior to the primary trade missions to India, Pakistan, China and South Africa. Included in these reports was an agenda, briefing papers on meetings/breakout sessions, profiles of foreign delegation, and strategy papers listing anticipated outcomes for each POD and, except for Pakistan, opportunities and challenges facing the delegation. The pre-trip report served as a road map for the delegation on what objectives the POD wanted to achieve while on the mission. It also assisted in formulating actions DOE was to take following the mission.

### Examples of DOE Promoting Trade and Investment Partnerships

As discussed earlier in this section, through the trade mission's signing ceremonies, meetings, and advocacy efforts, DOE assisted in advancing specific agreements. The Department's trade missions also assisted in broad market development. Specifically, two markets were established as a result of Secretary O'Leary's trade missions to India and China. According to a Special Assistant to the Secretary, a market for wind energy was established during the Secretary's trade mission to India. The Special Assistant said that the company that initially established the market during the trade mission has since been eclipsed by other companies. Also, a former executive for a U.S. company said during an interview that the China trade mission provided high visibility for opening a new market -- clean coal technology. He said that political market entry is necessary in China and that DOE, through the high visibility of the trade mission, assisted in opening the market by focusing people's attention on new technology. This broad market development cannot be accurately measured in dollars, although development is crucial to creation and advancement of business agreements.

### Facilitating Cooperation on Sustainable Development Policies

In the "Insight on the News" article dated March 11, 1996, the Secretary stated that DOE conducted the four primary trade missions because officials of the host nations asked DOE to dedicate its expertise to the host nation's energy needs. She also stated that India, Pakistan and South Africa sought the Department's assistance in helping to establish a market-based policy and regulatory structure for what have been government-controlled energy sectors. The article listed numerous events held during the missions in order to help forge business and government relationships that would guide the energy-policy and investment agenda between the U.S. and these nations. For example, during the trade mission to India, the following events were held: an energy summit, a finance roundtable, and a government-to-government roundtable to address recommendations emerging from the energy summit. In addition, input was provided by DOE officials for making the host country's regulatory structures and policies more conducive for business agreements.

### Establishing a Structure for Bilateral Problem Solving

As identified in the trade mission trip reports, numerous official documents were signed on the various trade missions. The underlying themes of the agreements were to establish ties between the two governments, cooperate in the energy arena, and share ideas and information. Specifically, according to the India trip report, 10 documents were signed during the trade mission to India, including four statements of intent to cooperate in various energy fields between DOE and its foreign government counterpart. In addition, two documents establishing cooperation between DOE and its foreign government counterpart were signed on the Secretary's return to India.

According to the Pakistan trip report, three joint statements of intent were signed during the trade mission to Pakistan including one document establishing a Joint Commission on Energy. According to the trip report for the follow up to Pakistan, five documents were signed during the follow-up mission to Pakistan, including three joint statements of intent to facilitate activities in various energy fields between DOE and its foreign government counterpart. The other two documents signed during the follow-up mission to Pakistan established Joint Committees on Energy and the Environment. According to the China trip report, seven documents were signed during the trade mission to China. The underlying themes of the agreements were to cooperate in the energy arena and share ideas and information. According to the South Africa trip report, seven documents were signed in South Africa. One document formalized an Energy Committee-Binational Commission, two others established training and educational programs, while the other documents shared underlying themes of cooperation and the exchange of information.

### Non-Monetary Outcomes Identified by DOE in Trip Reports

In addition to the documents that were signed during the trade missions, DOE discussed numerous non-monetary outcomes throughout its trip reports. The following is only a partial listing of those non-monetary outcomes:

#### India

- Prime Minister Rao affirmed the appropriateness of opening a nuclear safety dialogue between experts in India and the U.S.
- U.S. Renewable Energy Resources Association signed a cooperative agreement with the Confederation of Indian Industries to advance private partnerships.
- The Ministry of Non-Conventional Energy Sources agreed to establish a special organizational unit in order to streamline, standardize, and shorten the joint venture process and resolve issues brought to them by specific ventures.

- The Indian government agreed to accelerate consideration of standardizing customs and tariffs on U.S. renewable energy products imported into India.
- The Confederation of Indian Industries and National Independent Energy Producers of the U.S. signed an cooperative agreement to recommend reforms and oversee progress made in implementing reforms necessary to finance private power projects in India.

Management Comments. Management commented that:

"The summary of non-monetary outcomes for India could be more complete. The India Matrix, the India calendar of events (an event almost every month since the first trip in July 1994), and the communiqés from two meetings of the Indo-U.S. bilaterals already provided to the IG are clear evidence of the historic work that the Department of Energy is undertaking with India."

Inspector Comments. The Initial Draft Report lists the non-monetary outcomes identified by DOE in Trip Reports, including India. The India Matrix, the India calendar of events and the communiqés from two meetings of the Indo-U.S. bilaterals were not included in the trip report. These documents were provided to the OIG on July 18, 1996, and indicate the continued efforts of DOE within India.

#### Pakistan

- The Government of Pakistan announced that an incentive package for investment in their transmission sector would be announced in the future.
- Agreement that significant reductions to energy consumption can be made by adopting efficiency improvement and DSM measures and that Pakistan could benefit from U.S. experience in these fields.

#### Follow Up Mission to Pakistan

- Liaison established between U.S. EPA and the Pakistan Environmental Protection Council.

#### Trade Mission to China

- Held discussions on China's energy policies, focusing on investment barriers and opportunities and on the policy framework necessary to encourage foreign investment in the energy sector.
- DOE, the Export-Import Bank of the United States and the China State Bank agreed to work together in facilitating financing of renewable energy projects.

- The Ministry of Electric Power agreed to establish an informal "working group" to discuss issues relating to electricity projects in China.
- The Ministry of Electric Power clarified procedures used to evaluate power projects in China, particularly those with foreign partners.

#### Trade Mission to South Africa

- Facilitated economic and environmental equity by creating pilot projects, helping build an infrastructure for sustainable development, and devising strategies for supplying power off-grid.

Management Comments. Management commented that we should: "Add two more bullet [sic] for South Africa." The suggested bullets were:

"Held lengthy discussions with industry and government leaders from both countries which resulted in extensive U.S. comments on the South African draft energy policy statement, 'the green paper'."

"Launched efforts which resulted in Departmental and U.S. industry experts assisting in the restructuring of electricity regulatory structure and an action plan for developing of a natural gas market."

Inspector Comments. With regard to the first bullet, the Initial Draft Report listed the non-monetary outcome for South Africa identified by DOE in the trip report. The Initial Draft Report also discussed a statement provided by a DOE official who said that the Department and members of the business delegation were able to comment and provide input on South Africa's "Green Paper."

With regard to the second bullet, we did not include this information in the Initial Draft Report. The trip report states that efforts were launched to identify areas where policies and regulations needed to be altered to attract private investment and strengthen energy partnerships between the U.S. and South Africa. It also states that positive discussion and understanding occurred on the part of the South African government on the urgency to develop a clear policy and regulatory framework to encourage new development (in the oil and gas arenas). However, the trip report did not discuss the result of restructuring of electricity regulations or an action plan for developing a natural gas market.

#### Other Non-Monetary Outcomes Identified By DOE Personnel

The Secretary discussed non-monetary outcomes in an interview with us. She said that it is not important how many "deals" were signed and how much they were worth. She said what is important are the non-monetary results from the trade missions: deploying

technology, national security interests, global climate change, planting seeds of democracy, and empowering people.

Other Department personnel also identified non-monetary outcomes generated from the trade missions. For example, according to a DOE official, an action plan outlining how the industry was to follow up on the China trade mission was drafted at the energy summit. According to the official, both U.S. and China officials formed teams in eight work areas. The teams consist of two industry representatives, two national lab representatives, one small company representative, and one non-governmental representative. The DOE official said that the teams are working together to eliminate barriers. She said that DOE is "out of the loop," but will facilitate where it is difficult for the team to move forward in order to create opportunities. The official believes that these teams will eventually generate business deals that go beyond the reported amounts. She believes that the team structure is unique between the U.S. and China.

Another Department official said that the heads of five Chinese ministries gathered together in the same room for the first time because of the China trade mission. The official stated that industry officials considered this gathering of officials to be a very significant event.

Management Comments. Management commented that:

"The five Chinese ministries described in this section are the five important heads of oil and gas in China; the presidents of China's four oil and gas national corporations and the Minister of Geology and Mineral Resources. The lack of cooperation between the national corporations in particular is infamous, and so getting them in the same room was a major accomplishment and speaks volumes about the importance that these powerful Chinese leaders placed on the mission."

Another Department official said that, during the trade mission to South Africa, DOE and members of the business delegation were able to comment and provide input on South Africa's "Green Paper," which, according to the July 8, 1996, comments on the Initial Draft Report signed by the Acting Chief Financial Officer, was a "policy options roadmap document for restructuring the energy sector."

#### Other Non-Monetary Outcomes Identified By Business Delegation

As discussed earlier, we interviewed 21 company officials concerning 30 business agreements valued at \$9.4 billion. DOE's trade missions acted as a catalyst; a way of moving specific business agreements forward. However, those within the business delegation identified numerous non-monetary outcomes not associated with specific agreements. Almost every company official contacted was highly satisfied with the trade mission. Some specific statements follow:

### India

- A business executive from a U.S. company said that the trade mission's focus was not on specific deals, but rather on market reforms. He said that market reforms, either regulatory, financial, or others were necessary to assure the success of projects. He said that the focus of the trade mission was to resolve obstacles preventing U.S. businesses from successfully competing in these markets.
- A business executive from a U.S. company said that the DOE trade mission was the first time that the government actually helped business. He wanted very much to see more involvement in the future.
- A business executive from a U.S. company said that the DOE trade mission brought together government officials in the host country and participants from the U.S. He said that the mission also brought together negotiating parties that wanted to demonstrate success.

### China

- A business executive from a U.S. company said that his company has expanded business in China and that this expansion was directly related to the Secretary's assistance. He believed that there was a need for the Government to work with businesses.
- A business executive from a U.S. company said that the trade missions make U.S. presence known. He stated that the missions are part of the U.S. Government's assistance to U.S. companies that compete against foreign companies and their government.
- A business executive from a U.S. company said that the mission was a good way to send a signal to the Chinese to let them know the U.S. was interested in conducting business with China.

The Department surveyed business delegation participation in Secretarial trade missions through the use of questionnaires. These questionnaires addressed the general satisfaction of the trade mission participants, asking questions on usefulness of the missions, adequacy of logistical arrangements, suggested follow-up activities, and the ranking of regulatory and policy issues in terms of potential adverse impact on U.S. trade and investment in the mission countries. Most responses we reviewed were positive. Among the responses gathered from the trade mission to Pakistan, an official from a U.S. company stated that, as a result of the trade mission, the company would be increasing its activity in Pakistan. Another U.S. company official stated that the trade mission helped in bringing the U.S. and Pakistan closer. He stated that U.S.

business people needed this type of support from the Government in order to compete with companies from other nations.

Among the responses from the business delegation for the China trade mission, a U.S. company official stated that he was able to meet many industry and U.S. Government people. Another U.S. company official stated that the support afforded his company and others that were embarking on a new world journey was most appreciated and would greatly enhance not only the worth of their companies but the economic long-term viability of the country.

Management Comments. Management commented that: "The Trade Mission Outcomes section of the draft report understates the value of the trade missions by not including important national security and non-proliferation accomplishments."

Management also commented that:

"In each country where DOE conducted trade missions, the Department undertook work related to non-proliferation and national security. In India and Pakistan, Secretary O'Leary took the opportunity to establish personal relationships with key officials, an important step in advancing U.S. non-proliferation policy. Since both of these countries are at the center of a nuclear arms and missile race in South Asia, the ability to use personal relationships to convey U.S. non-proliferation policy concerns and positions is useful and important. Secretary O'Leary established these relations on her trade missions, and built upon them when discussing with India the importance of completing a Comprehensive Test Ban Treaty."

Inspector Comments. The "Trade Mission Outcomes" section of the "Initial Draft Report on Inspection of the Secretary of Energy's Foreign Travel" did not specifically address national security and non-proliferation accomplishments. The India trip report does not specifically address non-proliferation and national security. However, the trip report does indicate meetings with key officials on nuclear safety. The trip report states that Prime Minister Rao affirmed the appropriateness of opening a nuclear safety dialogue between experts in India and the U.S. The trip report also states that:

"A significant advancement occurred when Secretary O'Leary, Nuclear Regulatory Commissioner Gail de Planque and other nuclear energy experts on the delegation met with Indian Atomic Energy Commission Chairman Chidambaram and reached agreement on regular consultations on nuclear safety."

The Pakistan trip report does not address non-proliferation and national security, or nuclear safety. However, the trip report does indicate meetings with key officials, and states that:

"The Secretary met several times with her official host, Prime Minister Bhutto, and with President Leghari, who curtailed a foreign tour to be on hand for the implementation strategy roundtable at the conclusion of the energy conference. The Secretary also held discussions with her Pakistani counterparts, Water and Power Minister Ghulam Mustafa Khar, and Petroleum and Natural Resources Minister Anwar Saifullah Khan."

While discussions on completing a Comprehensive Test Ban Treaty were not specifically included in the India trip report, it appears from the Department's comments that these discussions took place after the India mission and do represent a non-monetary outcome of the India mission.

Management Comments. Management commented that:

"The discussions with China resulted in an agreement by the Chinese government to consider joining a program to convert their research reactor fuel from weapons-usable highly-enriched uranium to non-weapon usable low-enriched uranium. Such conversion has a direct non-proliferation benefit by decreasing the need and use of a bomb-grade material. Conversion of these reactors worldwide is a U.S. policy goal. This meeting also assisted in the dialogue on the future of the U.S.-China Peaceful Nuclear Cooperation Agreement that was signed in the 1980's but is not yet implemented because of Chinese proliferation and human rights practices."

Inspector Comments. The China trip report does identify a government-to-government agreement to convert Chinese research reactor fuel from weapons-usable highly-enriched uranium to non-weapon usable low-enriched uranium. The trip report identifies this agreement as follows:

- Statement of Intent on Reduced Enrichment for Research/Test Reactors (RERTR) to work together through the exchange of information on the conversion of Chinese research reactors from highly enriched to low enriched uranium.

The trip report also identifies a discussion on the U.S.-China Nuclear Cooperation Agreement. The trip report states that:

"During the meeting with Jiang Xinxiang, President of the China National Nuclear Corporation, the Secretary clearly and forcefully expressed the U.S. interest in expanded nuclear cooperation with China, while emphasizing the necessity to satisfy the nonproliferation requirements of U.S. law in order to fully implement the 1985 U.S.-China Agreement for Nuclear Cooperation."

Management Comments. Management commented that:

"The South Africa meeting produced a nuclear cooperation agreement which will facilitate U.S.-South Africa cooperation on nuclear energy issues including the conversion of their highly-enriched uranium fueled reactors to low-enriched uranium fuel. In addition, both governments agreed to engage in a nuclear non-proliferation dialogue. This is important, given South Africa's admission that it once possessed nuclear weapons and now has relinquished them."

Inspector Comments. The South Africa trip report does identify a nuclear cooperation agreement. The trip report states that:

"The government to government agreements included statements of intent in the areas of collaboration on energy policy, science and technology, and the exchange of energy information and forecast trends. The two nations also entered into a new Agreement of Cooperation in the Peaceful Uses of Nuclear Energy. The Agreement recognizes the many significant and positive steps taken by South Africa with regards to nuclear non-proliferation. President Clinton approved the agreement on August 14, 1995, and authorized Secretary O'Leary to sign on behalf of the United States."

The trip report does indicate nuclear non-proliferation dialogue. The trip report shows that a commitment was reached during the mission for the drafting and coordination of an agenda for a Conference in South Africa on Non-proliferation scheduled for the Fall of 1995.

Management Comments. Management commented that:

"The conduct of these non-proliferation and security elements of the trade missions also required additional staff and Administration representatives with expertise in these issues. By failing to fully acknowledge these important aspects of the missions, the draft report fails to provide a full picture of the activities, accomplishments and staff requirements of the trips."

## **VI. SUMMARY OF RECOMMENDATIONS AND CORRECTIVE ACTIONS**

This section summarizes the corrective actions the Department has planned and reported as completed on our recommendations. The Department concurred on Recommendations 1 through 29. Recommendations 30 and 31 were added to the Official Draft Report. In comments dated October 3, 1996, the Department also agreed with these two recommendations.

Management Comments. Management commented that:

"The draft report confirms areas of concern in the conduct of international travel. We acknowledge that stronger management controls, improved planning, tighter administration and improved accounting procedures are necessary. Your recommendations -- which the Secretary has accepted and directed to be implemented -- will help achieve the goal of establishing more accountability and cost containments for future international travel."

**RECOMMENDATION 1:** We recommend the Secretary assign to a senior official the responsibility for developing and implementing written international travel procedures for planning, coordinating, and executing all facets of international travel.

In a letter dated March 22, 1996, to the Chairman, Subcommittee on Oversight and Investigations, House Committee on Commerce, DOE's Office of General Counsel wrote that the Department began preliminary work on a new travel policy after the India trip and that the first complete draft of the policy was completed in January 1996, and an interim policy issued in March 1996. On April 15, 1996, the Department issued DOE Notice (N) 551.1, "International Travel," "for simultaneous use and coordination." The Office of General Counsel also wrote to the Chairman that the Department hoped to complete and issue the final international travel policy this summer.

Management Update on Status of Corrective Actions. Management stated that a redraft of DOE Notice (N) 551.1, "International Travel," has been finalized and issued July 31, 1996, as DOE Manual (M) 551.1-1, "International Trips," and DOE Policy (P) 551.1, "International Trips." DOE P 551.1 states that all international trips by the Secretary, Deputy Secretary, and Under Secretary (Principal Department Officers) as well as all international trips by others at Department expense costing at least \$50,000 (together covered trips) will require the assignment of a Senior Trip Official who is responsible for all aspects of the trip.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 2:** We recommend the Secretary establish a nomination process for non-Federal trade mission participants, which includes public announcements of the opportunity to be included in any future trade missions.

Management Update on Status of Corrective Actions. Management stated that: "The Policy office developed a policy, circulated it for concurrence and comment and implemented on July 31."

Inspector Comments. We have been told that the Department plans to incorporate a Policy office recommendation concerning comprehensive public notification/solicitation methods for trip participants into a supplement to DOE M 551.1-1, "International Trips," at a future date. Therefore, this recommendation should remain open until the Policy office recommendation is incorporated into the existing guidance on notification/solicitation.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we establish a nomination process for non-Federal trade mission participants. We prepared and circulated such a nomination process with the Department's revised travel policy on July 31, 1996.

"Our subsequent conversations with your staff indicate that you may ask that more formal action be taken. We agree to take such action should our continuing deliberations with your staff call for that result."

Inspector Comments. We believe that a formal issuance of the nomination process is needed. Accordingly, we believe this recommendation should remain open until procedures are issued.

**RECOMMENDATION 3:** We recommend the Assistant Secretary for Policy establish written selection criteria for non-Federal participants on future trade missions and that such criteria be applied in the selection process.

Management Update on Status of Corrective Actions. Management stated that: "Consistent with DOE P 551.1 and DOE M 551.1-1 the Policy Office developed and implemented 'standard' selection criteria." In addition, for those trade missions covered by the new Department Travel Regulations, the Senior Trip Official will be responsible for developing mission specific selection criteria for selecting non-Federal participants in Department-sponsored trade missions.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 4:** We recommend the Assistant Secretary for Human Resources and Administration implement procedures to ensure that all non-Federal participants on future trade missions are provided with the appropriate official invitations

in advance, and that copies of all correspondence pertaining to trade missions are maintained.

Management Update on Status of Corrective Actions. Management stated that the Office of Executive Secretariat has issued a memorandum "reminding all of correspondence policy" and has conducted training and streamlined their archiving processes. Also, management stated that the Office of Scheduling and Logistics staff have received training to ensure that correspondence is handled correctly.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 5: We recommend the General Counsel and the Chief Financial Officer provide training to those individuals responsible for processing invitational travel.

Management Update on Status of Corrective Actions. Management stated that, in addition to issuing an April 23, 1996, memorandum to all Secretarial officers concerning the legal review of aircraft use and invitational travel, the CFO and OGC had developed plans and materials to conduct training classes. Classes have been scheduled to start in August and will continue regularly in an effort to keep DOE employees informed of the regulations and any changes associated with them.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 6: We recommend the Assistant Secretary for Human Resources and Administration evaluate the level of administrative and communications support required for Secretarial foreign travel.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 requires the Senior Responsible Official to develop a logistical staffing plan as part of each trip plan. Management also stated that the Offices of Administrative Services and Information Management have developed written criteria for use by the Senior Responsible Official in determining the appropriate number of administrative/communication personnel.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 7: We recommend the General Counsel determine the authority and financial liabilities of the Department and of executive protection personnel when carrying weapons in a foreign country.

Management Comments. Management commented that we should revise Recommendation 7 by deleting the words "in a foreign country" from the end of the recommendation.

Inspector Comments. Our review only addressed executive protection provided to the Secretary while on foreign travel; therefore, we did not revise our recommendation.

A July 31, 1996, memorandum from the Deputy General Counsel to the Acting Chief Financial Officer, contained the Office of General Counsel's conclusions regarding its review of this matter. In summary, the Office of General Counsel concluded that all but two of the 16 jurisdictions visited by the Secretary (the United Kingdom and Hong Kong) authorize personnel assigned to protect Cabinet Secretaries to carry weapons and it is generally understood that physical force or weapons may be used only in self-defense or in the defense of the Secretary.

With respect to liability by the Department or the DOE protection personnel in the event that physical force or weapons are used against a foreign national, the Office of General Counsel concluded that there probably would not be liability where the host country consents to the use of firearms by protection personnel and the use of physical force or weapons is a valid use of self-defense. The Office of General Counsel further concluded that foreign countries might assert jurisdiction over the United States for alleged torts resulting from the use of force. Finally, with respect to DOE protection personnel, they concluded that although these personnel do not enjoy diplomatic immunity, in the event that there is the use of physical force or weapons, the United States might be able to invoke sovereign immunity because protection of the Secretary is an official function carried out for a public purpose. It must be shown, however, that the DOE protection personnel were acting within the scope of their employment.

In view of the Office of General Counsel's conclusions, it is suggested that DOE consider including a discussion of executive protection personnel potential liability in the executive protection training program. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 8:** We recommend the Chief Financial Officer include provisions in DOE N 551.1, "International Travel," to remind travelers of Federal travel regulations requiring that they reduce their M&IE for meals they are provided.

Management Update on Status of Corrective Actions. Management stated that the CFO "has ensured final policy was modified to include reminder," "has issued a DOE Cast [Department-wide E-mail message] addressing this issue," and "is working with the Travel Manager software to improve checks and balances."

The Department provided a June 12, 1996, "Memorandum for Trade Mission Participants," which stated that:

"The Inspector General's draft report indicates that many trade mission travelers did not deduct meals that were provided to them. The Office of the Chief Financial Officer is therefore conducting a review to ensure that all travelers properly reduce their per diem amounts to reflect the meals that were provided to them on these missions."

This memorandum included attachments consisting of DOE Order 1500.2A Chg. 11, IV-5, dated April 16, 1993; Federal Travel Regulation, Chapter 301 - Travel Allowances; Instructions for Per Diem/M&IE [Calculations]; and Table 13 - Inventory of Meals and Associated M&IE Offsets from the "Initial Draft Report on the Inspection of the Secretary of Energy's Foreign Travel." Additionally, the Department provided "DOE Employees M&IE Reimbursement for Trade Missions" reflecting the status of the recoupment of the M&IE offset costs.

DOE M 551.1-1 includes a provision relating to the reduction of M&IE for meals provided to Federal travelers. DOE M 551.1-1, "Meal Deductions," states that "Federal travelers are required to deduct the designated amounts from the meal portion of their allowances for every meal provided to them incident to their official travel (e.g., meals provided in connection with an official luncheon meeting)."

Inspector Comments. The Department's update on the status of corrective actions did not include a copy of the DOE Cast addressing this issue or documentation regarding the status of the work that is being done with the Travel Manager software to improve checks and balances. DOE M 551.1-1 does include a provision relating to the reduction of M&IE. This recommendation should remain open until the work is completed on the planned changes to Travel Manager.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report you requested that we include a reminder in the international travel policy concerning reduction of expenses for meals which are provided. On July 31, 1996, we issued DOE M-551, which included this reminder.

"In the Official Draft Report, you request that we forward to you a copy of the DOECast on this issue, and demonstrate to you the changes we made to the Travel Manager software. We are attaching a hard copy of the DOECast requested, which was made widely available to DOE employees. With respect to changing the Travel Manager software, an on-screen prompt already exists reminding travelers to reduce miscellaneous and incidental expenses by meals that are provided. In addition, we will reemphasize the reminder of DOE M-551.1 and the automatic prompt in the Travel Manager software in our continuing program of training on the use of this software."

Inspector Comments: We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 9:** We recommend the Chief Financial Officer contact all Federal travelers that submitted vouchers on the four trade mission trips, inform these employees of the M&IE offset issue, and request that the employees reimburse the Department for the amount appropriate.

Management Update on Status of Corrective Actions. Management stated that a "[m]emorandum was issued on 6/12/96 to travelers requesting review and reimbursement and responses have been received from a majority of trade mission participants."

Inspector Comments. The Department provided a letter dated May 16, 1996, from the Deputy General Counsel, subject: "Per diem and Meals-and-Incidental-Expenses Deductions When Complimentary Meals are Received During Official Travel," which described (1) pertinent ground rules concerning official traveler who receives meals paid for by the Government and (2) a DOE official traveler who receives meals paid for by anyone other than the traveler while on official travel. This letter also included attachments consisting of DOE Order 1500.2A Chg. 11, IV-5, dated April 16, 1993, and 41 C.F.R. 301-7.12, "Reduction in maximum per diem rates when appropriate."

The Department also provided the June 12, 1996, "Memorandum for Trade Mission Participants," which stated that "EACH TRADE MISSION TRAVELER SHOULD REVIEW TRADE MISSION VOUCHERS AND MODIFY THEM TO REFLECT PROVIDED MEALS."

According to the documentation provided by the Department, as of August 1, 1996, the Department has recouped approximately \$2,424 for M&IE offset costs.

This recommendation should remain open until all of the applicable M&IE offset costs are recouped from the trade mission Federal travelers.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we contact all Federal employees on the trade missions and obtain reimbursement for appropriate miscellaneous and incidental expenses. We have located and contacted 129 of the 139 employees involved and collected the \$3259.21 due. With respect to the remaining 10 employees all of whom have left the Department, we are continuing our efforts to locate them through all available sources so that they can identify for us whether they inappropriately received payment for miscellaneous and incidental expenses; and ensuring they have complied fully with the proper requirements.

"In the Official Draft Report you request that we completely recoup outstanding amounts. We will continue to pursue all amounts due for meals and incidental expenses received."

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 10:** We recommend the Chief Financial Officer, in coordination with the General Counsel, properly classify "reception and representation" type costs incurred, and take other actions that may be required.

Management Update on Status of Corrective Actions. Management stated that the "CFO has disputed with State Dept many of the representation type expenditures highlighted in the report. CFO continues to work with State Dept to reverse improper charges. Meanwhile, GC is assessing remaining legal issues." Management also stated that it considers its action on this recommendation to be complete.

However, on July 31, 1996, the Deputy General Counsel wrote to the Acting Chief Financial Officer concerning the results of GC's review of "reception and representation" fund issues. In its review, GC identified \$35,086.01 of expenses that should be obligated from "reception and representation" funds.

Inspector Comments. This recommendation should remain open until the representation expenditures identified in the OGC's review have been resolved and properly reclassified, and applied in the Department's accounting system.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Department has reviewed the expenses and agrees to the classifications found in the General Counsel's review of representational fund expenses from the 4 trade missions. We are in final discussions with the State Department regarding who will pay for certain expenses and we expect that all issues will be resolved by and a final accounting will be completed by October 31."

**RECOMMENDATION 11:** We recommend the General Counsel review the Department's obligations and payments of expenditures that are representational in nature, to determine whether such obligations and payments, absent adequate "reception and representation" funds, constitute a misuse of appropriated funds.

Management Update on Status of Corrective Actions. Management stated that: "Prior request of GC asked to determine all Department funds available and how to handle any potential issues. GC is completing analysis and CFO will act on results of GC review."

Inspector Comments. See our response to Recommendation 12.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Office of General Counsel's review, referenced above, concluded that there had not been a misuse of appropriated funds. A copy of their findings was provided to you on July 31.

"In the Official Draft Report, you informed us that you have sought the views of the Comptroller General on the question whether representation funds are no-year money or are available only for one year. We have completed all action on this recommendation; however, we will review the Comptroller General's analysis when he responds to your request."

**RECOMMENDATION 12:** We recommend the General Counsel review the Department's obligations, and/or payments of expenditures that are representational in nature, to determine whether such obligations and payments, absent adequate "reception and representation" funds, constitute a violation of the Antideficiency Act (31 U.S.C. 1341)

Management Update on Status of Corrective Actions. Management stated that "CFO is disputing with State Dept many of the representation type expenditures highlighted in the report. CFO continue[s] to work with State Dept to reverse improper charges. Meanwhile, GC is assessing remaining legal issues."

Inspector Comments. On July 31, 1996, the Office of General Counsel provided the Acting Chief Financial Officer its opinion regarding "reception and representation" fund issues. In that opinion OGC stated:

"... the Secretary has committed to implementation of all the recommendations contained in the Inspector General's initial draft report. To enable timely implementation of the recommendations 10, 11, and 12, we proceeded simultaneously on several fronts: development of facts with respect to what the obligations and expenditures were, and the circumstances under which they may have been made; and research and analysis of the legal issues potentially appropriated funds nor a violation of the Antideficiency Act.

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Based on the . . . classification analysis, it appears that amounts totaling \$35,086.01 should be obligated from reception and representation funds. Amounts totaling \$4,206.34 should be obligated from other account funds

other than reception and representation, including other appropriate program accounts (or remain in a suspense account pending collection).

\* \* \* \* \*

" . . . we conclude that reception and representation funds remain available for their original purposes until expended, subject only to the limitation of the amount available from each appropriation; that sufficient carryover funds were available to meet the expenses discussed above which are properly chargeable to the "reception and representation" fund; and that, in view of the availability of adequate funds for the expenses related to the foreign travel examined in the memorandum, there had been neither a misuse of appropriated funds nor a reportable violation of the Antideficiency Act as set forth in sections 1341 (a)(1) or 1517 (a), title 31, United States Code."

Inspector Comments. On August 29, 1996, the Office of Inspector General requested a Comptroller General opinion concerning the issue whether the Department's reception and representation funds are "no year" funds, available until expended, or whether the annual expenditures are limited by the stated appropriation act amount. In their review, the Office of General Counsel concluded that the Department was not required to use funds only during the fiscal year for which appropriated; in fact, regarding the matter in controversy, the Office concluded that unobligated reception and representation balances may be used for properly chargeable current expenses. The Office of General Counsel review identified \$49,008 of unobligated "reception and representation" funds available from the past eleven years that could be used in paying for the \$35,086 of "reception and representation" expenses it identified in its review.

In order to resolve this conflict between stated long-standing Department practice and the Office of General Counsel's legal conclusion, we are asking for an opinion on the sole issue of whether Department of Energy "reception and representation" funds may in essence be carried over for "reception and representation" activities in another fiscal year.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Office of General Counsel conducted such a review and concluded that DOE's actions were consistent with the Antideficiency Act.

"In the Official Draft Report, you informed us that you have sought the views of the [C]omptroller General on the question whether representation funds are no-year money or are available only for one year. We have completed all action on this recommendation; however, as stated above, we will review the Comptroller General's analysis when he responds to your request."

**RECOMMENDATION 13:** We recommend the Chief Financial Officer recover personal expenses from responsible individuals.

Management Update on Status of Corrective Actions. Management stated that: "The Office of the Chief Financial Officer has identified personal expenses and is billing them to the individuals as appropriate by DOE rules and regulations. Additionally, the CFO stands ready to handle further actions if GC identifies additional personal expenses in the course of their other reviews."

Inspector Comments. This recommendation should remain open until efforts to recover all personal expenses from responsible individuals have been completed.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"With respect to personal expenses that were incurred, we have completed our audit of all but three of the relevant travel vouchers. Six disclosed improperly billed personal expenses amounting to \$366.77, all of which has been recovered. Three remaining vouchers are still under review.

"We are aware that there are additional personal expenses that were or will be billed to DOE through U.S. Embassies overseas that will not appear on travel vouchers. We will work with the State Department to identify these amounts and take corrective action.

"With respect to any remaining improperly charged personal expenses, unless these expenses are voluntarily repaid, we will follow formal debt collection procedures, including the use of 30 day demand letters and referral to a collection agency."

Inspector Comments: The Department provided a matrix which indicated that corrective action for this recommendation will be completed by October 31, 1996.

**RECOMMENDATION 14:** We recommend the Chief Financial Officer take action to ensure proper review and approval of travel costs being charged to the Department, and that, to the extent available, bills are reviewed and accounts settled by DOE financial officer(s) prior to departing the country visited.

Management Update on Status of Corrective Actions. Management stated that "DOE N 551.1 establishes policy for review and approval of travel costs, including review of available invoices prior to departure. The final policy statement and manual have been issued. CFO has circulated internal policies and procedures on this process."

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 15: We recommend the Chief Financial Officer develop policies and procedures which ensure that embassy support costs are appropriate, properly approved, and correctly applied.

Management Update on Status of Corrective Actions. Management stated that the final policy statement and manual have been issued. Management also stated that DOE N 551.1 requires a negotiated advance understanding with the embassy or a detailed cable listing needed goods and services, specifically identifying individuals authorized to make changes, and requiring invoices, etc. prior to the end of the trip.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 16: We recommend the Chief Financial Officer ensure that, prior to initiation of the trip, sufficient funds are obligated for foreign trips which require embassy support.

Management Update on Status of Corrective Actions. Management stated that the final policy statement and manual have been issued. Management also stated that DOE N 551.1 requires the CFO to review the detailed trip budget, certify availability of funds, ensure proper authorizations are in place, and then track expenses.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 17: We recommend the Chief Financial Officer develop written policies and procedures to ensure that embassy support costs for foreign trips be closely coordinated with the program office and to establish specific guidelines that would require timely application of embassy support costs.

Management Update on Status of Corrective Actions. Management stated that the final policy statement and manual have been issued. Management also stated that DOE N 551.1 provides for program participation in developing administrative/logistical support levels and requires changes to these levels to be approved in writing prior to incurring costs. Post trip, the Senior Responsible Official is required to reconcile all costs and certify results.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 18.** We recommend the Chief Financial Officer take timely action consistent with the Office of General Counsel opinion and the Federal and Department accounts receivable collection requirements.

**Management Comments.** Management commented that actions had been completed on all accounts receivable for the India and Pakistan trade missions. Of the remaining five individuals with accounts receivables, three had been placed on an installment plan and two had been referred to collection agencies.

**Inspector Comments.** We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 19:** We recommend the Chief Financial Officer ensure that requirements outlined in DOE Order 2110.1A and DOE Notice 551.1 are consistent with the full cost recovery policy.

**Management Comments.** Management commented that:

"The draft report reviews the costs of the trade missions and recommends that the Department ensure its orders are consistent with full cost recovery policies. Yet the report does not address some of the Federal Regulatory limitations (i.e. OMB Circular A-126) that may bear on implementing a full-cost recovery policy."

**Inspector Comments.** In a letter dated January 23, 1996, to the Chairman of the Subcommittee on Oversight and Investigations, House Committee on Commerce, Department officials stated that certain portions of the OMB circular did not apply to DOE travel. ". . . whereas, attachment A to OMB Circular A-126 would suggest the aliquot shares of the full cost recovery rate might be charged. Moreover, since the travel at issue does not perfectly fit any of the categories of travel by non-Federal personnel described in these provisions, it would be possible to conclude that they do not apply at all. In any event, the Department believes the non-Federal participants in these trade missions who are asked to pay their own travel expenses should do so on a full cost recovery basis, and has restructured commercial air charters to achieve this end."

**Management Update on Status of Corrective Actions.** Management stated that the CFO will ensure the final order is consistent with full cost recovery.

**Inspector Comments.** This recommendation should remain open until DOE Order 2110.1A, paragraph 25, is revised to clarify the policy concerning the air fare to be charged to non-Federal passengers traveling aboard DOE-chartered aircraft. Currently, DOE Order 2110.1A states that non-Federal passengers traveling aboard DOE-chartered aircraft should be charged the "comparable common carrier coach fare"; whereas DOE M 551.1 states that non-Federal personnel "traveling with the other trip

members must pay their full prorated share of the arranged transportation costs by the date established for payment."

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we revise DOE Order 2110.1A (which calls for non-Federal travelers on DOE aircraft to be charged full coach fare) and DOE Order M-551.1 [sic] (which calls for full cost recovery) for consistency. In response, we examined and consulted with members of your staff on whether the two rules were, in fact, inconsistent.

"In the Official Draft Report, you reiterated your requested [sic] that we modify DOE Order 2110.1A to clarify that DOE's policy is to recover the full cost of transportation by all travelers. We will complete this action by October 31.

**RECOMMENDATION 20:** We recommend the Chief Financial Officer consider requesting an appropriation account to fund future foreign trade missions.

Management Update on Status of Corrective Actions. Management's update included a July 31, 1996, memorandum to the Acting Chief Financial Officer from the Special Assistant to the Chief Financial Officer that provided two options regarding the consideration of an appropriation account to fund future foreign trade missions: (1) Request Trade Mission Funding as a Single Appropriation or (2) Continue Program Office Funding of Trade Mission. The memorandum stated that the Department chose the second option and will continue to fund trade missions through the relevant program offices. Further, the memorandum also included a statement that the CFO should examine the ability of the accounting and finance systems to separately track trade mission expenses.

Inspector Comments. A CFO official subsequently informed us that the Department has not determined a method for tracking trade mission expenses. Therefore, this recommendation should remain open until a system has been defined and implemented for tracking foreign trade mission costs.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we consider requesting an appropriation account to fund future foreign trade missions. We considered but rejected such a request because the same financial information can be captured without altering the existing, Congressionally-approved budget structure.

"In the Official Draft Report, you accepted this strategy but requested that we define a system for identifying and tracking trade mission costs. At present, for

all travel that is covered by the new travel regulations, including trade missions, the Senior Trip Official is charged with the responsibility for identifying, tracking and maintaining a log of all trade mission costs. That individual will provide regular expense reconciliations of trips to the Chief Financial Officer. However, as you have requested, we will develop a computerized system that is complementary to our existing travel manual."

Inspector Comments: We agree with management's planned actions to develop a computerized system. Accordingly, this recommendation should remain open until that action has been completed.

**RECOMMENDATION 21:** We recommend the General Counsel determine whether the "miscellaneous receipts" Statute (31 United States Code, Section 3302(b)) requires the Department to deposit into the U.S. Treasury all funds the Department of Interior collected on behalf of DOE.

Management Update on Status of Corrective Actions. Management's update included a July 31, 1996, memorandum from the Deputy General Counsel to the Acting Chief Financial Officer regarding this recommendation. The memorandum stated that: "... the Miscellaneous Receipts Statute does require DOE to deposit in the Treasury as miscellaneous receipts the amount of the funds collected by DOI from non-federal sources."

Inspector Comments. We consider management's action to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 22:** We recommend the Chief Financial Officer take timely action consistent with the determination of the General Counsel.

Management Update on Status of Corrective Actions. Management stated that Department officials have taken appropriate action as a result of the final opinion issued by OGC regarding the collections received by DOI from non-Federal travelers. Further, the Department has provided the OIG with a copy of the accounting records that show the transfer of the funds from the Departmental Administration account to the Department of Treasury's Miscellaneous Receipts.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 23:** We recommend the Chief Financial Officer ensure that the Department's policies and procedures for aircraft acquisition for international travel are formally issued and they are consistent with results of this inspection.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July

31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that DOE N 551.1 includes policies on aircraft acquisition for international travel, pursuant to which the Procurement Office is responsible for acquisition through competitive process or other legitimate procurement procedures.

Inspector Comments. This recommendation should remain open until the Department's policies have been revised to include how payment shall be received from non-Federal passengers traveling on military chartered aircraft.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we formally issue policies and procedures for aircraft acquisition. Our office formally issued these policies and procedures on July 31, 1996.

"In the Official Draft Report, you ask us to revise these policies to address how payment shall be received from non-Federal passengers on military aircraft. We will complete this action by October 31.

RECOMMENDATION 24: We recommend the Secretary provide written logistic requirements for other than regularly scheduled flights to the Director of the Office of Field Support.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that DOE N 551.1 requires the Senior Responsible Official to submit an air transport requirements document to the Office of Aviation Policy (Field Support).

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 25: We recommend the Director of the Office of Scheduling and Logistics assure that a system is developed and implemented to acquire charter airlift and services.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS" and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that DOE N 551.1 establishes procedures for competitive acquisition (or other legitimate procurement process) of aircraft services for international travel.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 26:** We recommend the Director of the Office of Scheduling and Logistics establish a system to provide a listing of non-Federal individuals who will be traveling on Government-chartered aircraft to the General Counsel for approval.

Management Update on Status of Corrective Actions. Management stated that the final travel order/policy will be modified to require submission to GC of a listing of non-Federal travelers. Management also stated that DOE N 551.1 requires GC review and approval of travel by Government aircraft, without explicit reference to a list of non-Federal travelers. The Department officials redrafted DOE N 551.1 and issued a policy statement as DOE P 551.1, "INTERNATIONAL TRIPS," and a manual as DOE M 551.1-1, "INTERNATIONAL TRIPS," on July 31, 1996.

Inspector Comments. We determined that DOE M 551.1-1 addresses submission to GC of a listing of non-Federal travelers who will be traveling on a Government-chartered aircraft. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 27:** We recommend the Assistant Secretary for Human Resources and Administration, in coordination with the Assistant Secretary for Environment, Safety and Health, establish a system to procure charter service in the most economical fashion possible and ensure funds are available prior to committing the Department.

Management Comments. Management commented that:

"Recommendations 23, 25, and 27 seem to overlap somewhat. The Department agrees with the recommendations and aircraft acquisition procedures need to be established. The Department will involve all parties discussed in the draft report in the process, assigning primary responsibility to the Office of Human Resources and Administration (Office of Procurement) working with the Office of Field Support, the Office of Scheduling and Logistics, the Office to General Counsel and the Office of the Chief Financial Officer."

Inspector Comments. The three recommendations address actions to be taken by three different Program offices. Recommendation 23 recommends that the Chief Financial Officer formally issue policy. Recommendation 25 recommends that the Office of Scheduling and Logistics assure a system is developed and implemented to acquire charter airlift services. Recommendation 27 recommends that the Office of Human Resources and Administration (Office of Procurement) work with the Assistant Secretary for Environment, Safety and Health (Office of Field Support) to establish a system to procure charter airlift services. We believe that addressing these

recommendations separately to these three offices is the best way to ensure corrective actions are taken.

Management Update on Status of Corrective Actions. Management stated that DOE N 551.1 had been finalized and the final policy statement and manual were issued on July 31, 1996, as DOE P 551.1, "INTERNATIONAL TRIPS," and DOE M 551.1-1, "INTERNATIONAL TRIPS." Management also stated that "DOE N 551.1 requires Aviation Policy to prepare Transportation Options Analysis which considers all reasonable alternatives and includes detailed cost breakout. Senior Responsible Official must select least cost option meeting needs." Further, management stated that "DOE N 551.1 requires transportation costs to be included in budgets; CFO required to certify availability for funds for budget."

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

RECOMMENDATION 28: We recommend that the Assistant Secretary for Policy establish policy and procedures for measuring accomplishments claimed as a result of trade promotion activities.

Management Update on Status of Corrective Actions. Management stated that the DOE Policy Office developed written guidance on tracking and reporting results of trade promotion activities. The policy was formalized on July 31, 1996. DOE's policy recommendation states that DOE track accomplishments of DOE-sponsored trade missions through the Department of Commerce Advocacy Center, using the same reporting forms and procedures as the Department of Commerce. The policy recommendation also states that, to the maximum extent possible, claims regarding the magnitude or dollar amounts of business activity generated during or as a result of a trade mission should be based on documentation provided by the private sector participants involved. The policy recommendation also states that speculation with regard to the potential business activity that could be the result of a particular trade mission should be avoided at all costs.

Inspector Comments. Although we agree with DOE's response, the Department has not discussed measuring all accomplishments claimed as a result of its trade promotion activities. Specifically, the Department conducts advocacy efforts involving letters sent to foreign governments on behalf of U.S. companies. According to Commerce's Assistant Secretary for Trade Development, its Advocacy Center tracks its advocacy efforts that have resulted in the material advancement of business agreements between U.S. and foreign partners. Since DOE's intention is to use Commerce's procedures, DOE should track its advocacy efforts. Therefore, this recommendation should remain open.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"In the Initial Draft Report, you requested that we establish policies and procedures for measuring accomplishments as a result of trade promotion activities. The Office of Policy developed these policies and procedures and they were issued on July 31, 1996.

"In the Official Draft Report, you request that we develop a tracking mechanism for advocacy and trade promotion activities. We are now using the system in place at the Department of Commerce, which has the responsibility to maintain a governmentwide trade promotion system. This allows governmentwide tracking of trade promotion and advocacy activities. We will develop an automated system tailored for DOE use."

Inspector Comments: We consider management's actions to be responsive. However, we believe this recommendation should remain open until planned dates for the implementation of the automated system have been established.

**RECOMMENDATION 29:** We recommend the Secretary, in coordination with the Director of the Office of Public and Consumer Affairs, establish policies and procedures for press releases related to the Department's trade promotion activities.

Management Update on Status of Corrective Actions. Management stated that the Assistant Secretary for Congressional, Public and Intergovernmental Affairs issued a memorandum establishing policy and outlining procedures that are to be taken when press releases are issued in connection with international trade missions sponsored by DOE. Included in the memorandum are the purpose, content, and procedures for preparing and approving written press announcements. The policy was formalized on July 31, 1996.

Inspector Comments. We consider management's actions to be responsive; therefore, this recommendation may be closed.

**RECOMMENDATION 30:** We recommend that the General Counsel, who's office has a responsibility within the Department for interpretation of the procurement integrity provisions of 41 U.S.C. 423 and the implementing regulations in FAR 3.104, determine whether the provisions of 41 U.S.C. 423 were violated by the Department's acceptance of I CAN's offer to sponsor the August 23, 1995, reception or by individuals personally attending the reception and take any actions as may be appropriate.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Official Draft Report contained two new recommendations, both of which we have adopted."

Management also stated that:

"In response to this recommendation, we attach a memorandum from the Assistant General Counsel for General Law, which concludes that there was no violation of the procurement integrity laws."

The attached memorandum from the Assistant General Counsel for General Law stated that:

"Acceptance of the Reception by the Department"

"It is our view that, had the reception been funded by the I Can Foundation, the reception would have constituted a gift to the Department that could have been accepted under the Secretary's gift acceptance authority. The procurement integrity gift prohibition applies to gifts to procurement officials and not the acceptance of gifts by an agency that had statutory gift acceptance authority. The FAR excludes from the prohibition gifts which are accepted under specific statutory authority. (FAR 3.104-4(f)(1)(ii)) We have informally discussed this interpretation with a representative of the Office of Federal Procurement Policy, who agreed. Accordingly, we conclude that a violation of the procurement integrity gift prohibition could not have occurred.

"Acceptance of Invitations to Attend the Reception"

"Given the totality of the facts in this case, attendance at the reception should be viewed as gifts to the attendees from the Government. Invitations to the reception were sent out by the American Embassy. The I Can Foundation intended to add names to the invitation list, but advised the Office of Economic Impact and Diversity that it was unable to do so due to a lack of cooperation from the State Department. Thus, it appears that the Federal government exercised control concerning the invitation list to the reception. Since the Government decided who would be attending the reception, any procurement officials who attended the reception would have been accepting a gift from the Government, not from the I Can Foundation.

"Further, even if one were to argue that the reception should be viewed as a gift from the I Can Foundation to the attendees, the acceptance of the invitation must have been done "knowingly" in order to cause a violation. Both competing contractors and procurement officials have a duty to inquire whether any prospective conduct would violate the procurement integrity provisions. (FAR 3.104-8) In this case, there was confusion concerning funding of the I Can Foundation. Although the purchase order for the I Can Foundation was not issued until more than a month after the reception, it appears that, at the time of the reception, the individuals involved in the funding of the I Can Foundation thought the work had already been done under an existing contract with The

Mitchell Group. [The Special Assistant's] August 11, 1995, letter and her August 21, 1996, interview with representatives from the Office of the Inspector General indicate that she thought that the I Can Foundation was going to be paid under the existing contract. Funds were in fact transferred to the Golden Field Office for these activities on August 11, 1995. In addition, The Mitchell Group sent correspondence to the Golden Field Office after the reception indicating their belief that the I Can Foundation was to be paid under the existing contract. It is illogical to conclude that attending the reception gave rise to a violation of the procurement integrity gift prohibition when the alleged gift was given at a time when those involved were unaware that a procurement was being conducted. In any event, since the I Can Foundation never paid for the reception, any question concerning the propriety of individual attendees accepting a gift from it would appear to be moot."

Inspector Comments: We believe this recommendation should remain open until this office completes its analysis of the Office of General Counsel opinion.

**RECOMMENDATION 31:** We recommend that the Assistant Secretary for Human Resources and Administration review the circumstances surrounding the I CAN procurement to document procurement irregularities and identify "lessons learned" and take any actions that may be appropriate.

Subsequent Management Comments on the Official Draft Report. Management stated that:

"The Official Draft Report contained two new recommendations, both of which we have adopted."

Management also stated that:

"We have prepared an action plan for implementation of this recommendation. That plan is attached to this memorandum."

Inspector Comments: We consider management's actions to be responsive. However, we believe this recommendation should remain open until the November 15, 1996, date set in the Action Plan for a report to be issued.

## **VII. OTHER MANAGEMENT COMMENTS**

The Department provided comments to our Initial Draft Report on the Inspection of the Secretary of Energy's Foreign Travel, issued May 29, 1996, in two phases. The comments provided in a memorandum dated June 27, 1996, signed by the Acting Chief Financial Officer were said to identify "key areas of concern and clarification." This memorandum also stated that another memorandum would be provided to the OIG that would include comments and supporting documentation and clarify details provided in

the June 27, 1996, memorandum. A memorandum dated July 8, 1996, signed by the Acting Chief Financial Officer included the "annotated comments" to our Initial Draft Report. Also, on October 3, 1996, the Department provided comments to an Official Draft Report. The three management comments memorandums are attached to this report. In general, management comments have been incorporated where appropriate in the report. The following discusses comments that have not been specifically addressed elsewhere in the report.

#### Characteristics of Monetary Outcomes

Management Comments. Management commented that: "This paragraph suggests that all agreements signed on the trade mission were contracts. DOE has never characterized these agreements as final contracts."

Inspector Comments. In a July 24, 1996, memorandum to the Acting Chief Financial Officer, we asked for clarification on this comment, since, in our view, we did not see the "contract" implication in the paragraph referenced by this comment. On August 1, 1996, a meeting was held with representatives of the Acting Chief Financial Officer to discuss responses to our July 24, 1996, memorandum. During this meeting, these officials agreed with our view of the comment.

#### Many Agreements Would Have Been Signed Anyway

Management Comments. Management commented that:

"It should be noted that secretarial trade missions are a new concept to the DOE. Other program office trade missions have normally focused [sic] on fact-finding, or industry-industry or industry-government discussions aimed at identifying and defining approaches to overcoming perceived trade and investment-related barriers. The reporting of business agreements is a new concept to the DOE and only associated with the four trade missions to India, Pakistan, China and South Africa. Nonetheless, the DOE does need to improve its reporting of all trade promotion activities."

Inspector Comments. In a July 24, 1996, memorandum to the Acting Chief Financial Officer, we asked for clarification on this comment, since, in our view, it was not clear how it applied to the referenced paragraph. On August 1, 1996, a meeting was held with representatives of the Acting Chief Financial Officer to discuss responses to our July 24, 1996, memorandum. During this meeting, these officials agreed with our view of the comment.

## Other Issues

Management Comments. Management commented that: "Our agency-wide review also has revealed that some information presented in the report is inaccurate or does not appear to reflect the complete picture."

Inspector Comments. Throughout the report we address the Department's comments. In many cases where the Department's comment is that the Initial Draft Report is incorrect, we disagree and present our reasons why we disagree with the comment.

Management Comments. Management commented on certain information in the appendices that were included in the Initial Draft Report.

Inspector Comments. We did not include the appendices in the Official Draft Report; therefore, we only addressed the Department's comments on the appendices that were applicable to text in the main body of the report.

Management Comments. Management commented that one individual included on our participants list as having traveled preadvance on trip 10 (India, Hong Kong, China) and two individuals included on our list as having traveled on trip 11 (Paris, Azerbaijan, Florence) did not go on those trips.

Inspector Comments. We reinterviewed the three individuals; and, based on the results of our interviews, we concluded that two of the individuals should not have been on our list. Changes were made to the report to reflect the results of our interviews. The third individual, however, did join the Secretary for the Azerbaijan portion of trip 11 and remains on our participants list.

**Department of Energy**

Washington, DC 20585

June 27, 1996

**MEMORANDUM FOR THE INSPECTOR GENERAL**

*D. W. Pe*  
FROM: **DONALD W. PEARMAN, JR.**  
ACTING CHIEF FINANCIAL OFFICER

Subject: **Comments: Initial Draft Report on Review of the Secretary of Energy's Foreign Travel**

This memorandum provides the Department's response to the Initial Draft Report on the review of the Secretary of Energy's Foreign Travel, issued by your office on May 30, 1996. The report was circulated for comments to involve relevant offices throughout the agency.

This memorandum identifies key areas of concern and clarification. We are also compiling another memorandum that we will provide to your office next week; this will include comments and backup documentation that clarify details that will clarify important details.

The draft report confirms areas of concern in the conduct of international travel. We acknowledge that stronger management controls, improved planning, tighter administration and improved accounting procedures are necessary. Your recommendations --which the Secretary has accepted and directed to be implemented --will help achieve the goal of establishing more accountability and cost containments for future international travel.

Our agency-wide review also has revealed that some information presented in the report is inaccurate or does not appear to reflect the complete picture. In this memo, we clarify:

- Roles and responsibilities in handling costs incurred by local embassies on the Department's behalf --we believe these are inaccurately described in the report.
- Actions, funding availability and costs described in the Reception and Representation Expenditures section of the draft report --we provide additional information that should be included to present a clear and accurate picture.
- Costs of Pakistan and China trade missions --we believe that the analysis overstates total trade mission costs by including non-trade mission activities.
- Trade missions outcomes --we recommend including national security objectives of trade missions.



The issues outlined in this memorandum are not meant to undermine the Department's firm belief that the thrust of the findings are useful and will help in implementation of the twenty-nine recommendations which we endorse. A number of steps we began taking earlier -- response to the November 1994 IG report, creation of the interim international travel policy, and accounting policy improvements -- have helped us substantially complete action on 10 of the 29 recommendations. We will complete action on all of them by July 31, 1996. Enclosed is a matrix that cites each recommendation, its implementation status and responsible office.

#### Embassy Costs

In administering costs through the embassies, the Department followed a decades-old system, in use throughout the Federal government. The draft report inaccurately describes this process.

This government-wide process makes the traveling agency responsible for requesting only goods and services that it is allowed to spend money on and are necessary for the completion of the trip. The supporting embassy is responsible for buying all the requested goods and services in accordance with applicable government rules, paying for only what it bought, and ensuring that it does not spend more than the amount given to it by the traveling agency.

The traveling agency provides the supporting embassy with a request for support and a fund cite, providing accounting information that allows the embassy to charge the traveling agency for the costs of the support. All expenses incurred by the embassy on behalf of the visiting agency, including the embassy's own overtime and travel costs, are then charged directly against the fund cite, BEFORE any review by the traveling agency can be conducted. The traveling agency thereafter receives notification from the Treasury Department of these charges. The traveling agency then reviews and contests inappropriate or questionable charges. The Department took the additional step of requesting all original invoices from embassy vendors in order to substantiate the financial system notifications from Treasury. To our knowledge, this is the first time that the Department of Energy has requested vendor invoices from an embassy during this kind of review. Receiving these invoices has been a slow process that is still ongoing. These invoices are used to review all embassy charges for the Department's trade missions. The draft report does not accurately describe this process.

Page 108 of the draft report paraphrases a State Department official as saying "the embassy does not verify the accuracy...of the costs incurred by the Department of Energy." This is simply not true, and is inconsistent with the State Department policy as set forth in the "State Department Guidance for Administrative Support of Overseas Cabinet Level and VIP Visits". Section 7(a) of that policy directs the embassy certifying officer to ensure that: "(1) The expenses are consistent with trip support costs. Costs that have not been authorized by the visiting agency should not be charged to the visiting agency's fiscal citation without prior

approval from the visiting agency.... (2) The expenses do not include any specifically prohibited items... (3) The expenses do not exceed the amount provided by the visiting agency for the visit."

Nonetheless, during the Department's trade missions, the actions of the embassies often yielded erroneous charges to the Department's account. The South African embassy erroneously charged the Department's fund cite for airline fuel (\$6,346), hotel charges (\$24,285), room service (\$670.91), rental cars (\$15,539), banquets (\$14,170), computer equipment (\$916) and numerous other items which are still undergoing review by the State Department and DOE. Similar issues exist for the three other trade missions, although on a smaller scale. Many of these disputed items have been reversed by the State Department when brought to its attention.

Overall, the Department has contested \$98,405 of embassy charges as inappropriate. The draft report fails to recognize the shared responsibilities of the government-wide embassy cost process. In the future, our new international travel accounting procedures, which were reviewed by the General Accounting Office, will require DOE staff to fully reconcile every dollar of embassy costs, and to charge back any unauthorized charges made by the embassy.

#### Representation Expenses

The draft report contains numerous errors and omissions in its discussion of the Department's representation fund expenditures, covering the cost of receptions and official functions.

First, all trade mission representation expenses were processed through U.S. embassies, and therefore are subject to the same sort of embassy billing errors described above.

On the India, Pakistan and China trips, each embassy was requested to arrange for various receptions and official functions and was instructed via cable the amount available to fund those activities. According to the draft report, each embassy then spent more on representation expenses than was made available by DOE. The report then implies that DOE allowed these excessive costs to be charged, when in fact the amounts were charged before any DOE review could occur. Holding DOE responsible for these events does not make good common sense and directly contradicts the allocation of functions under the State Department policy.

On the South Africa mission, the Department prepared a cable to the State Department specifically stating that no representation expenses are to be charged to the Department's account. However, the embassy did not receive this cable and charged DOE accounts for unallowed receptions and official functions. Because the records of the cables do not correspond, the General Counsel review recommended in the report will examine this issue and suggest a course of action.

With regard to the India and Pakistan missions, the draft report does not contain any explanation of the availability of funds to cover the representation charges made by the embassies. Despite the draft report's statement that the costs exceeded the amounts set aside for the India and Pakistan trips, representation funds were and are still available to cover these expenses. Obligations are regularly adjusted for these minor changes in expenditure.

With regard to China, the draft report inaccurately presents the facts surrounding the China mission representation expenses. The report states that the China trip overran its representation funds by \$1,776. However, the report does not state that the Department originally set aside \$10,000 in representation funds, more than enough to fund all representation costs, including the ones detailed in the report. Nor does the report explain that the Department reallocated \$5,000 of the \$10,000 only after the original bills from the embassy showed that the additional funds were unneeded. Had the embassies promptly billed the Department for the costs outlined in the draft report, the Department's original funds would have been more than sufficient. These facts are directly relevant to the discussion of the availability of representation expenses and should be included in the report.

The discussion of the China mission also inaccurately states that champagne was served in a holding room during the trip. The holding room referred to was actually a meeting room in which several bilateral meetings took place. Additionally, no champagne was ever served in this meeting room. The only champagne served was at a large round-table event, toasting a series of industry deals that were being signed.

Regarding South Africa, the draft report misleads the reader trip expenses. The report states that the Department spent money on representation activities (\$17,910) in South Africa when no money was available. While it is true that the Department had no funds set aside for these expenses in South Africa, that is because the Department did not intend to incur nor authorize such expenses. Not only did the Department inform the State Department that DOE funds were not to be used for representation expenses, it made arrangements with the hotel and the embassy to reflect this.

Of the \$17,910 in representation expenses cited in the report, \$12,966 were for three receptions that were held and hosted by others and were never authorized by DOE as government expenditures.

- \$1,077 was billed for a reception held by the American Ambassador to South Africa, a charge that the State Department has acknowledged was charged in error.
- \$7,104 was billed for a reception sponsored by the I CAN Foundation, a South African educational organization. The State Department has acknowledged that this cost should have been billed to the I CAN Foundation directly.

- \$4,785 was charged for a reception sponsored by the American Chamber of Commerce, where the report itself suggests that funds may have been collected at the door to cover the cost of this event.

The General Counsel review will examine these charges, as well as the remaining \$4,944 of charges discussed in the draft report. The review will examine the facts in light of the Department's understanding that none of the receptions were being hosted or sponsored by the Department of Energy, and that all other business related representation expenses would be funded from the business delegate's administrative fee, paid to the hotel. That review has already begun, and will be completed by July 31, 1996. If any of the facts indicate that corrective action by the Department is necessary, the Office of the Chief Financial Officer will take that action.

Meanwhile the Department's accounting processes, and the planning steps outlined in the International Travel Policy, have been tightened to ensure that any representation expense is properly planned for, that appropriate funds are set aside to cover all such expenses, and that any charges made against the Department in error are quickly corrected.

#### **Trade Mission Costs and Participants**

In calculating the cost and staff participation in the trade missions, the draft report inflates the estimates for two of the missions by including non-mission elements. Secretary O'Leary traveled to Austria, on a regularly scheduled commercial carrier, to lead the United States delegation to the annual meeting of the International Atomic Energy Agency. The trip had no trade mission components, and the official trade delegation did not accompany her on this trip. The transportation and support costs for the delegation of \$54,595 should not be included as a cost of the Pakistan trade mission, nor should the delegation support staff of 19 be included as Pakistan trade mission staff.

We have the same concern in the presentation of the China mission. Secretary O'Leary traveled to India on regularly scheduled commercial carrier. None of the trade delegates accompanied her, and she independently traveled to China to meet the delegation. We are working to isolate the cost and staffing figures for this visit and will provide them in the detail memo that will follow next week. In any event these figures should not be presented as part of the China mission.

#### **Trade Mission Outcomes**

The Trade Mission Outcomes section of the draft report understates the value of the trade missions by not including important national security and non-proliferation accomplishments.

In each country where DOE conducted trade missions, the Department undertook work related to non-proliferation and national security. In India and Pakistan, Secretary O'Leary

took the opportunity to establish personal relationships with key officials, an important step in advancing U.S. non-proliferation policy. Since both of these countries are at the center of a nuclear arms and missile race in South Asia, the ability to use personal relationships to convey U.S. non-proliferation policy concerns and positions is useful and important. Secretary O'Leary established these relations on her trade missions, and built upon them when discussing with India the importance of completing a Comprehensive Test Ban Treaty.

The discussions with China resulted in an agreement by the Chinese government to consider joining a program to convert their research reactor fuel from weapon-usable highly-enriched uranium to non-weapon usable low-enriched uranium. Such a conversion has a direct non-proliferation benefit by decreasing the need and use of a bomb-grade material. Conversion of these reactors worldwide is a U.S. policy goal. This meeting also assisted in the dialogue on the future of the U.S.-China Peaceful Nuclear Cooperation Agreement that was signed in the 1980's but is not yet implemented because of Chinese proliferation and human rights practices.

The South Africa meeting produced a nuclear cooperation agreement which will facilitate U.S.-South Africa cooperation on nuclear energy issues including the conversion of their highly-enriched uranium fueled reactors to low-enriched uranium fuel. In addition, both governments agreed to engage in a nuclear non-proliferation dialogue. This is important, given South Africa's admission that it once possessed nuclear weapons and now has relinquished them.

The conduct of these non-proliferation and security elements of the trade missions also required additional staff and Administration representatives with expertise in these issues. By failing to fully acknowledge these important aspects of the missions, the draft report fails to provide a full picture of the activities, accomplishments and staff requirements of the trips.

#### Aircraft Acquisition

The section of the draft report discussing aircraft acquisition is generally accurate and useful. However, the descriptions of the China process are not entirely accurate, and the three related recommendations appear overlapping.

The draft report states on page 143 that "the Secretary's staff chose (the) carrier as the charter service..." This statement is misleading to the reader. While it is true that the entire Federal staff of the Department of Energy is the staff of the Secretary, the inference invited from the statement is that her immediate staff (the Office of the Secretary) made the aircraft selection. This is not accurate. Omega made the aircraft selection, subject to technical and safety review by the Office of Field Support. The Office of Field Support's technical review found that the low bidder did not have international certification required to operate international charters. Therefore, they were disqualified and the second lowest bidder was then selected.

Recommendations 23, 25 and 27 seem to overlap somewhat. The Department agrees with the recommendations and aircraft acquisition procedures need to be established. The Department will involve all parties discussed in the draft report in the process, assigning primary responsibility to the Office of Human Resources and Administration (Office of Procurement) working with the Office of Field Support, the Office of Scheduling and Logistics, the Office to General Counsel and the Office of the Chief Financial Officer.

#### **Full Cost Recovery**

The draft report reviews the costs of the trade missions and recommends that the Department ensure its orders are consistent with full cost recovery policies. Yet the report does not address some of the Federal regulatory limitations (i.e. OMB Circular A-126) that may bear on implementing a full-cost recovery policy. The report also describes costs that did not benefit the business community and therefore are not appropriate for recovery.

Some of the administrative expenses identified in the report as appropriate for private sector cost recovery were in fact for the Department's benefit alone (e.g. telephone installation and communications, facsimile capability and certain transportation expenses). They were necessary to support the Secretary when out of the country or to support other non-trade mission business, such as national security and non-proliferation discussions.

Overall the draft report will prove to be a useful tool in helping the Department correct the shortcomings identified in the draft report. We thank you and your staff for the hard work that it took to complete this review, and look forward to your continued involvement as we implement your recommendations and refine the solutions in place. We share the objective that international travel be well managed and soundly administered to ensure that the American taxpayers get the results we have demonstrated at the lowest possible cost.

**IG Report - Recommendation Status (Working Document)**

**CHAPTER V Part B - TRIP PARTICIPANTS**

#	IG Recommendation	DOE Explanation/ Response-to-Date	DOE Next Action	Owner	Date
1	Secretary assign responsibility to a Senior Official for developing and implementing international travel procedures. <i>Complete</i>	April 1996 Vivona/Durham issued DOE N 551.1, "International Travel" for simultaneous use and coordination. The policy makes clear that the CFO has overall responsibility for international travel policies and procedures.	Integrate Department-wide comments and prepare final order/policy.	Pearman/ Travelstead	July 31
2	Secretarial establishment of a nomination process for non-Federal trade mission participants, to include public announcements. <i>Agree</i>		Policy office to develop nomination process.	Chupka/ Jhirad	July 31
3	Assistant Secretary for Policy establish written selection criteria for non-Federal participants on future trade mission to be applied in selection process <i>Complete</i>	DOE N 551.1 requires mission-specific delegate criteria developed by Asst Sec for Policy and Senior Responsible Official for each trip.	Integrate Department-wide comments and prepare final order/policy	Chupka/ Jhirad	July 31
4	Assistant Secretary for Human Resources and Administration implement procedures to ensure that all non-Federal participants on future trade missions are provided with invitations in advance and that all copies of correspondence pertaining to trade missions are maintained. <i>Agree</i>	The Office of Scheduling and Logistics will develop appropriate procedures and ensure implementation. The Office of Executive Secretariat will maintain file copies of all correspondence.	Lead Durham Lavin & Fallon	July 31	

## CHAPTER V Part B - TRIP PARTICIPANTS

#	IG Recommendation	DOE Explanation/ Response-to-Date	DOE Next Action	Owner	Date
5.	General Counsel and the Chief Financial Officer provide training to those individuals responsible for processing invitational travel. <i>Agree</i>	GC reminder memo issued in April to all Asst. Secs, as invitational travel used primarily outside the context of trade missions.	CFO will conduct training classes in conjunction with GC.	Lead: Pearman/ Travelstead Fygi/Odom	July 31
6.	Assistant Secretary for Human Resources and Administration evaluate the level of administrative and communication support required for Secretarial foreign travel. <i>Agree</i>	DOE N 551.1 requires Senior Responsible Official to develop a logistical staffing plan as part of each trip plan	The Offices of Administrative Services (HR-8) and Information Management (HR-4) will develop written criteria for use by Senior Responsible Official in determining the appropriate number of admin/communication personnel.	Durham	July 15
7	General Counsel determine the authority and financial liabilities of the Department and of executive protection personnel when carrying weapons in a foreign country. <i>Agree</i>		GC will consult with Security Affairs to define executive protection extra-territorial authority issues that require resolution, and begin analysis.	Lead:Fygi Walsh	July 31

## CHAPTER V Part C - TRIP COSTS

#	IG Recommendation	DOE Explanation/ Response-to-Date	DOE Next Action	Owner	Date
8.	Chief Financial Officer include provisions in DOE Notice 551.1 "International Travel" to remind travelers of Federal travel regulations requiring that they reduce their M&IE for meals they are provided. <i>Agree</i>	CFO will ensure final policy is modified to include reminder.  CFO will issue a DOE Cast addressing this issue.	CFO will work with the Travel Manager software to improve checks and balances	Pearman/ Travelstead/ Langford	July 31
9	Chief Financial Officer contact all Federal employees on the four trade mission trips, inform these employees of the M&IE offset issue, and request that the employees reimburse the Department for the appropriate amount. <i>Agree</i>	Not clear whether individuals actually consumed meal, and thus did not need to purchase meal.	Memorandum was issued on 6/12/96 to travelers requesting review and reimbursement.	Lead Pearman/ Travelstead  Fygi/Odom	July 31
10.	Chief Financial Officer, in coordination with the General Counsel, properly classify "reception and representation" type costs incurred and take other actions that may be required. <i>Agree</i>	CFO is disputing with State Dept many of the representation type expenditures highlighted in the report.	CFO will continue working with State Dept to reverse improper charges.  Meanwhile, GC will assess any remaining legal issues.	Lead. Pearman/ Travelstead  Fygi/Odom	July 31

## CHAPTER V Part C - TRIP COSTS

11	General Counsel review the Department's obligations and payments of expenditures that are representational in nature, to determine whether such obligations and payments, absent adequate "reception and representation" funds, constitute a misuse of appropriated funds. <i>Agree</i>	Prior request of GC asked to determine all Department funds available and how to handle any potential issues.	GC to complete analysis and CFO will act on results of GC review.	Fygi/Odom	July 31
12	General Counsel review the Department's obligations, and/or payments of expenditures that are representational in nature, to determine whether such obligations and payments, absent adequate "reception and representation" funds, constitute a violation of the Anti-Deficiency Act. <i>Agree</i>	CFO is disputing with State Dept many of the representation type expenditures highlighted in the report.	CFO will continue working with State Dept to reverse improper charges. Meanwhile, GC will assess any remaining legal issues.	Lead: Pearman/Travelstead Fygi	July 31
13	Chief Financial Officer recover personal expenses from responsible individuals. <i>Agree</i>		Review for cost effectiveness.	Pearman/Travelstead	July 31
14	Chief Financial Officer take action to ensure proper review and approval of travel costs being charged to the Department, and that, to the extent available, bills are reviewed and accounts settled by DOE financial officers prior to departing the country visited <i>Complete</i>	DOE N 5511 establishes policy for review and approval of travel costs, including review of available invoices prior to departure.	Integrate Department-wide comments and prepare final order/policy.	Pearman/Travelstead	July 31

## CHAPTER V Part C - TRIP COSTS

15.	Chief Financial Officer develop policies and procedures which ensure that embassy support costs are appropriate, properly approved, and correctly applied. <i>Complete</i>	DOE N 551.1 requires a negotiated advance understanding with embassy or detailed cable listing needed goods and services, specifically identifying individuals authorized to make changes, and requiring invoices, etc. prior to end of trip.	Integrate Department-wide comments and prepare final order/policy.	Pearman/Travelstead	July 31
16.	Chief Financial Officer ensure that sufficient funds are obligated for foreign trips which require embassy support prior to the initiation of the trip. <i>Complete</i>	DOE N 551.1 requires CFO to review detailed trip budget, certify availability of funds, ensure proper authorizations in place and then track expenses.	Integrate Department-wide comments and prepare final order/policy.	Pearman/Travelstead & Durham	July 31
17.	Chief Financial Officer develop written policies and procedures to ensure that embassy support costs for foreign trips be closely coordinated with the program office and to establish specific guidelines that would require timely application of embassy support costs. <i>Complete</i>	DOE N 551.1. provides for program participation in developing administrative /logistical support levels, and requires changes to these levels to be approved in writing prior to incurrence of costs. Post trip, Senior Responsible Official required to reconcile all costs and certify results.	Integrate Department-wide comments and prepare final order/policy.	Pearman/Travelstead & Durham	July 31
18.	Chief Financial Officer take timely action consistent with the Office of General Counsel opinion and the Federal and Department accounts receivable collection requirements. <i>Agree</i>	All three collection letters have been issued regarding both Pakistan and India accounts receivable consistent with GC opinion.	The remaining accounts receivable were referred to a collection agency on 6/25/96.	Fygi & Pearman/Travelstead	June 25

CHAPTER V Part C - TRIP COSTS			
19	Chief Financial Officer ensure that requirements outlined in DOE Order 2110.1a and DOE Notice 551.1 are consistent with the full cost recovery policy. <i>Agree</i>	CFO will ensure the final Order is consistent with full cost recovery.	Pearman/ Travelstead July 31

June 27, 1996

**CHAPTER V Part D - SOURCE OF FUNDS**

#	IG Recommendation	DOE Explanation/ Response-to-Date	DOE Next Action	Owner	Date
20.	Chief Financial Officer consider requesting an appropriation account to fund future foreign trade missions. <i>Agree</i>	CFO will review and determine whether separate appropriation is warranted for FY 1998 Budget cycle.		Pearman/ Smedley	July 31
21.	General Counsel determine whether the Miscellaneous Receipts Statute (31 USC, Section 3302) requires the Department to deposit into the U.S. Treasury all funds from the Department of Interior collected on behalf of DOE. <i>Agree</i>	Act generally applies to official receiving \$\$ on behalf of Gov't; in this case Interior Dept received funds and paid directly to air transport provider.	GC will review particular facts and determine if \$\$ collected by Interior should have gone to Treasury.	Fygi/ Goldenberg	July 31
22.	Chief Financial Officer take timely action consistent with the determination of the Office of General Counsel. <i>Agree</i>		CFO will determine appropriate action upon completion of GC review.	Pearman/ Travelstead	July 31

## CHAPTER V Part E - AIRCRAFT ACQUISITION

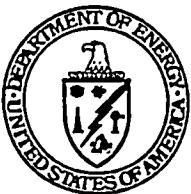
#	IG Recommendation	DOE Explanation/ Response-to-Date	DOE Next Action	Owner	Date
23	Chief Financial Officer ensure that the Department's policies and procedures for aircraft acquisition for international travel are formally issued and they are consistent with results of this inspection. <i>Complete</i>	DOE N 551.1 includes policy on aircraft acquisition for international travel, pursuant to which Procurement office is responsible for acquisition through competitive process or other legitimate procure procedures.	Integrate Department-wide comments and prepare final Order/policy.	Lead: Hopf/ Durham Dean	July 19
24.	Secretary to provide written logistic requirements, for other than regularly scheduled flights, to the Director of the Office of Field Support. <i>Complete</i>	DOE N 551.1 requires Senior Responsible Official to submit an air transport requirements document to Office of Aviation Policy (Field Support).	Integrate Department-wide comments and prepare final Order/policy.	Pearman/ Travelstead Dean	July 19
25.	Director of Scheduling and Logistics assure that a system is developed and implemented to acquire charter airlift services. <i>Complete</i>	DOE N 551.1 establishes procedures for competitive acquisition (or other legitimate procurement process) of aircraft services for international travel.	Integrate Department-wide comments and prepare final Order/policy.	Lead: Durham/ Hopf/ Fallon Pearman/ Travelstead	July 19
			Internal procedures to be reviewed and implemented by 7/19/96.		

## CHAPTER V Part E - AIRCRAFT ACQUISITION

26.	Director of the Office of Scheduling and Logistics establish a system to provide a listing of non-Federal individuals, who will be traveling on Government-chartered aircraft, to the General Counsel for approval. <i>Agree</i>	DOE N 551.1 requires GC review and approval of travel by Government aircraft, without explicit reference to list of non-Federal travelers.	Final Travel Order/policy will be modified to require submission to GC of listing of non-Federal travelers.	July 19 Fallon Travelstead Fygi
27	Assistant Secretary for Human Resources and Administration, in coordination with the Assistant Secretary for Environment, Safety and Health, establish a system to procure charter service in the most economical fashion possible and ensure funds are available prior to committing the Department. <i>Complete</i>	<p>a) DOE N 551.1 requires Aviation Policy to prepare Transportation Options Analysis which considers all reasonable alternatives and includes detailed cost breakout. Senior Responsible Official must select least cost option meeting needs.</p> <p>b) DOE N 551.1 requires transportation costs to be included in budgets; CFO required to certify availability for funds for budget.</p>	Integrate Department-wide comments and prepare final Order/policy.  Same as #23 and #25.	July 19 Lead: Durham/ Hopf  Pearman/ Travelstead Dean

## CHAPTER V Part E - TRADE MISSION OUTCOMES

#	IG Recommendation	DOE Explanation/ Response-to-Date	DOE Next Action	Owner	Date
28	Assistant Secretary for Policy establish policy and procedures for measuring accomplishments claimed as a result of trade promotion activities. <i>Agree</i>		Policy Office to develop written guidance on tracking and reporting results of trade promotion activities.	Chupka/ Jhirad	July 31
29	Secretary, in coordination with the Director of the Office of Public and Consumer Affairs, establish policies and procedures for press releases related to the Department's trade promotion activities. <i>Agree</i>	Initial policy developed in May 1996 by CP.	Initial policies developed in May will be reviewed and augmented by a team from PO, S-1 and led by CP.	Forristier/ MacDougall	July 31



Attachment 2

**Department of Energy**  
Washington, DC 20585

July 8, 1996

MEMORANDUM TO THE INSPECTOR GENERAL

FROM: *D.W.P.*  
**DONALD W. PEARMAN, JR.**  
**ACTING CHIEF FINANCIAL OFFICER**

SUBJECT: Annotated comments in response to the Initial Draft Report  
on Inspection of the Secretary of Energy's Foreign Travel

As conveyed in my formal comments on the report dated June 27, 1996, attached are the annotated comments compiled in response to the Initial Draft Report on Inspection of the Secretary of Energy's Foreign Travel. These comments incorporate responses from throughout the Department of Energy. My office has reviewed and organized these comments to eliminate redundancies and provide supporting documentation for your use.

I look forward to your review of the Department of Energy comments and to working with you and your staff on the implementation of the recommendations resulting from the draft report. If you have questions or should need further information on any of the issues contained within this document please contact Tim Travelstead, of my staff, at (202)586-9355.



Printed with soy ink on recycled paper

These comments have been organized by section, with executive summary and Appendices comments included with the relevant main section. Additional editorial comments are included in the final section.

## **AUTHORITY AND PLANNING**

### **DOE Trade Missions**

#### **Invitations to Conduct Trade Missions**

In addition to the decision process for initiating trade missions described, it is also important to note the roles of the host country Ambassadors located in Washington, DC. These individuals directly extended the invitations from their governments and provided assistance to prepare the Department of Energy for the missions. Specifically, the report omits the following facts:

- That India's Ambassador Ray personally visited Secretary O'Leary to reiterate the invitation from the Prime Minister and inform her that Minister Salve would be her official host. (Page 21, Last Paragraph.)
- That Pakistan's Ambassador Lohdi visited Secretary O'Leary to personally convey the Prime Minister's invitation. (Page 22, Paragraph 3.)
- That Vice Premier Zou Jiahua of the Peoples' Republic of China first invited the Secretary to China during a visit to the Department and that Chinese Ambassador Li confirmed the invitation on behalf of our official host, the Chairman of the State Planning Commission Chen Jinhua. (Page 22, Last Paragraph.)

#### **Planning the Trade Missions**

##### **Planning Involved Complete Team**

The report describes roles of only four people in the "authority and planning" section. This is an incomplete description. In addition to the descriptions of the four positions described, each mission had a team that included a lead staff member for administration, a lead on communications, a lead on security and a lead on advance. We have provided organization charts to this effect. (Page 24-25)

This section also does not recognize that the trade mission planning team changed with each mission. The Chief of Staff did not attend the India mission; the role of Trip Coordinator did not exist for the India mission and the Special Assistant did not attend the South Africa mission. (Page 24-25).

The Executive Summary section on authority and planning states “one DOE employee was in Pakistan on two separate occasions for a total of 29 days before the main body arrived.” (Page 5 paragraph 2). This section does not explain the reasons for his trip. The 29 day stay was required because this person was solely discussing all aspects of the mission with the Pakistan Government.

#### Size of the Trade Missions -Editorial Clarification

This section states that the missions made specific recommendations to host countries to “improve their energy business...” This may mislead the reader. The Department’s recommendations were not to improve any individual business or organization, but to improve the climate for doing business. Adding the words -“environment, through identification of policy, legislative and regulatory barriers” after the word “business” would clarify this point. (Page 32 paragraph 3)

This section also quotes the Director of Scheduling and Logistics as follows: “we wanted as many people as we could.” This refers to business delegates, not Federal employees or any other participants in the trip. This section should be modified to clarify this point (Page 32 Paragraph 4)

#### Internal Control Procedures Section Inaccurate

The Internal Control section of the report states that “no one was assigned responsibility for obligating, controlling and approving services that were ordered and costs that were incurred.” (Page 33 paragraph 4) This is incorrect. The Administrative Lead Officer had this responsibility.

## **TRIP PARTICIPANTS**

There are several main issues of concern regarding the draft report: characterization of the size and composition of the trade missions; separation of trips from trade missions; contractor identification and participation; and document representation.

#### Trade Mission Information Includes Non-Mission Components - Inaccurately Inflates Participants

As stated earlier, The Department does not think it appropriate to include the Austria and India stops in the Trade Mission figures. All tables in this section about the size of the delegation should be changed to clarify this point, or at least footnoted, as is Table 7 (Page 39). However, none of the Trade Mission Cost Tables (12-15) contain any information that would allow the reader to understand the costs of the Austria and India stops and separate them from the trade missions.

Additionally, there is some inconsistency in the report when identifying Feds v. Non-Feds, Pre-Advance v. Advance and even with the identification of Administrative officials.

- In Table 10, Cost of Foreign Travel, the participant numbers for the Gore-Mbeki Binational Commission, in December 1995, reflect an incorrect assumption of trip participation. Many of the people listed were working on general Gore-Mbeki Binational Commission business,

not preparation for the Secretary's trip. Therefore the table's participation and cost information is inaccurate. (Page 71, Table 10 and Page 42 Paragraph 2)

- Steve Fried, the staff member that spent 29 days in Pakistan prior to the mission, is not identified as traveling on the Pre-Advance.(Appendix 8-4, Table)
- Appendix 11 - Paris/Baku/Florence Trip - Both Bob Price and Bob Berls are listed as having participated in the trip but did not. (Appendix 11-4, Trip Participants)

#### Contractor Participants - Inconsistent Treatment, Incorrect Characterization

On page 34 paragraph 4 of the report, M&O contractors and support services contractor employees are identified as non-Federal trip participants. But, on Page 43, Paragraph 2 specifically states that "employees of the Department's management and operating contractors, their subcontractors... are not included in our definition of non-Federal participants."

Contractor participants in the South Africa trip of November 29, 1995 are mischaracterized in Table 3 - Number of foreign Travel Participants. Five contractors were incorrectly associated with the trip as "pre-advance". Their efforts were part of the ongoing work of the Sustainable Energy Committee and had no direct relevance to the Secretary's trip.

Another four members of the team (*Arent, Fletcher, Klimas and Bouie*) were incorrectly identified as *main*. They were advance and did not participate in the Binational Commission meetings.

Page 41 of the draft report is entitled "Problems Associated with Identifying Trip Participants." The Department feels that the final list submitted to the Inspector General by the Trip Coordinator accurately reflects the members of the Official Delegation.

#### Selection of Non-Federal Participants

This section of the report suggests that business delegates were selected based upon whether they had a deal to sign on the trip. It is more accurate to say that the selection was based on companies that had deals that could be furthered by the Secretary's direct support, rather than deals that would be signed anyway, as is implied in that section. (Page 47, Paragraph 3. )

Specifically, related to two of the delegates:

- Pension Fund Specialist: This section should be reworded to clearly state that the Finance POD leader only recommended the inclusion of a pension fund specialist. The POD leaders did not have the authority to add anyone to the mission. (Page 52, Paragraph 3. )
- Pakistan Mission Last Minute Addition: The report discusses the addition of a business delegate to the Pakistan mission. The report does not explain the circumstances of this addition. The Trip Coordinator's key point of communication with this company in

preparation for the trip was the Director of Business System Development, not the CEO who was the delegate. The Trip Coordinator stated that she conveyed all of the logistical and payment information to the Director. The report suggests that the company does not believe it owes money for the air transportation. However, the company in question provided a credit card number in November of 1995 to pay the amount due. The Department of Energy was unable to process the transaction due to a credit limit on the card. To date, the delegate/company has been put on a payment plan and already has paid one-quarter of the amount due. None of these facts appear in the report. (Page 49-50)

The report discusses the addition of passengers to the official delegation in the last few weeks before the trip departed for South Africa. The discussion indicates the individuals who were "added" to the trip based upon when funds were obligated to air travel. However, the report does not indicate that most of the people discussed were expected to travel on the delegation plane long before the obligation was established. The obligations could not be established until all the proper paperwork was completed. Therefore, the time frames discussed represent paperwork delays, not additions to the official delegation. (Page 51 - 52)

Consequently, the Executive Summary incorrectly concludes that "in the case of the trade mission to South Africa ... DOE agreed to fill the plane, and therefore, added at least 12 people within days of departure." (Page 6 Paragraph 2)

Cancellations and empty seats did not "force" DOE to find replacements -- it enabled us to accept someone else's request for participation. On each trade mission the Department had to turn away businesses that wanted to travel as part of the official delegation. (Page 6, Paragraph 2.)

### **Invitational Travel**

The reference to inappropriately issued invitational travel to Federal employees who traveled at Department of Energy expense implies that there is some difference in the procedures for these individuals. The concept is the same however, with the only difference being that they are not called invitational. For example:

- Page 57, Traveler 6: We agree that the provisions in 10 CFR 1060 do not apply to Federal employees. However, the statement that the Associate Director for National Security and International Affairs at the Office of Science and Technology Policy was extended invitational travel orders is misleading. Although the traveler was included, in error, in the invitational travel memorandum forwarded to the Secretary by Energy Research, the travel orders were issued correctly as standard government travel authorizations, approved and signed by Energy Research officials. *Attachment*

### **Support Personnel**

The support personnel on any Secretarial foreign trip are some of the most experienced personnel in dealing with these matters. They offer particular insight into "doing business" internationally and confirm that it is not easy or simple.

Page 59, "Support Personnel" Section, First Paragraph. It is stated that the "...Secretary's foreign travel was modeled after the standard advance team for foreign travel taken by 'senior White House officials.'" It is our understanding that the advance team was modeled after and is consistent with those for the Secretaries of other Cabinet level departments.

Page 60, Administrative/Communications Support In various places throughout the report, there is reference to communications and communication costs. There are several comments that are applicable to all of the trade mission locations (India, Pakistan, China, and South Africa) that should be noted:

- Communications capabilities in all of the locations are very limited. The waiting period just to obtain phone service could exceed several years, even if the requestor has the financial means to acquire such services.
- International Direct Dial (IDD) phone lines are important during these trips for several reasons, including: improved quality of lines; the availability of international lines without going through a hotel operator; the reduced ability for others to monitor the lines; the lack of availability of a similar number of hotel lines to the Command Post, Staff Room, etc; and the ability of the equipment we use to operate.

Pages 66 through 70 discuss guidance related to executive protection. The information presented is incorrect. The correct information is as follows:

- Written guidance related to the DOE Executive Protection Program was issued in January 1993 by the Headquarters Operations Division, Office of Safeguards and Security, Office of Security Affairs, as the Executive Protection Procedural Guide. The purpose of the guide was to assist the DOE Executive Protection Program Manager in planning, managing, and operating the Executive Protection Program. The Guide was updated, revised and reissued in April 1995.
- Attempts to develop and issue a new DOE Order for executive protection began in 1991. Several factors, foremost being the moratorium on issuing new directives, eventually led to the decision to incorporate executive protection policies into an existing order. Subsequently, this was accomplished by revising DOE Order 5632.7A, PROTECTIVE FORCES, in February 1995.
- Page 67, Last Paragraph, Lines 1-5 describes the policy for submitting proposals for protective operations. This cite is correct, but the interpretation the Executive Protection Procedure Guide is incorrect. The guide does not establish requirements. As a Guide, it need not be followed. The same requirement exists in Chapter VIII, DOE Order 5632.7A,

PROTECTIVE FORCES. DOE Orders do establish requirements and must be followed. DOE Order 5632.7A, Chapter VIII, paragraph 3a should be cited in this section.

- While the guide does not suggest who should be responsible for preparing and submitting proposals for protective operations, DOE Order 5632.7A, which contains the same requirement, applies to all DOE elements. While there is a new requirement for a Security Plan in the Interim International Travel Policy, the "Security Plan" is virtually identical to the "proposal" already required to be by DOE Order 5632.7A, Chapter VIII, paragraph 3b. Essentially, the Office of Security Affairs has had the "Security Plan" requirement in effect by DOE Order since February 1995 and it has been informally required since January 1993.

Page 138, Paragraph Two, Lines 6-7. This section indicates there is a requirement for the Secretary to be protected by an armed guard at all times. There is no "requirement" that the Secretary be accompanied by an armed guard at all times while traveling internationally.

## **TRIP COSTS**

### **Administrative Costs on Vouchers - Allowable Under Circumstances**

Department of Energy personnel are allowed certain expenses within the bounds of their travel documents. Administrative staff most specifically, will allot an amount in the miscellaneous portion of their travel authorization to cover such expenses. These travel authorization are signed and approved by at least two separate individuals. Further clarification on this issue would be helpful. As cited: Page 74, Paragraph 2. "...equipment handling without prior approval...", in one instance, due to change in airports porters with large dollies were needed to transfer equipment. Charge was f25 or approximately \$40. *Attachment*

### **Reduction of Meals and Incidental Expenses - Paints an Incomplete Picture**

The report does not mention that many of the Federal employees on the trade missions worked "behind the scenes." They did not attend or eat at the functions discussed in the report, and therefore were not required to deduct anything from their per diem. (p. 75)

### **Embassy Support Costs**

Recognizing weaknesses in the Department of Energy's internal control procedures, and that the Department of Energy continues to work closely with the State Department and US Embassies abroad, we believe clarifications on specific expenses noted in the report would be useful. Specifically, when amount are references without explanation or on several pages within the report without notation as the same expense. Samples:

- Page 8, "Lodging Costs". The Lodging costs were for DOE Government employees in Islamabad, not State Department employees. *Attachment*

- Page 98 and Page 104. The amount for the I Can Foundation Reception is referred to on several occasions and the amount varies from \$7,085 to \$7,104.

Page 80 of the report mentions that the Department of State has issued guidance to the embassies and agency travelers. The report, and the State Department, state that this represents a recodification of policies already in affect. However, the report makes no mention of the fact that many of the issues identified by the report are clearly within the State Department's area of responsibility, according to its own policy. This clarification is necessary for the readers to understand that DOE needs to improve its review of State Department charges, but that many of the errors were initiated by the embassy.

The report occasionally refers to "missing" documents or refers to documents inaccurately:

Page 86, "Pakistan" Section, First Paragraph. The last sentence of the first paragraph states that Department officials were unable to provide a copy of CID 0194AD00098. Copy is attached. *Attachment*

Page 108, "Inadequate Internal Controls -- India" Section, Second Full Paragraph. The second sentence of the second full paragraph states that obligations for India were established approximately one month after the trip and after embassy support costs were received by the U.S. Embassy. That statement is inaccurate in the case of the Official Reception and Representation Fund. The obligation out of that fund was made in advance. *Attachment*

Page 112, Paragraph 3. The report states that the Department was unable to locate a copy of the purchase order DE-AP36-95GO20356 from TMG. A copy is attached. *Attachment*

Page 113, "Computer Data Services Incorporated" Section. The references to the CDSI costs are not completely clear. The costs in the first paragraph are total CDSI costs, including on-site overseas support costs and pre-trip preparation costs. The costs cited in the second paragraph for CDSI's pre-trip preparations are also included in the costs cited in the first paragraph. This could be more clearly stated so that at first glance it does not appear that the pre-trip preparation costs are in addition to the costs in the first paragraph. Also, in reviewing these cost figures we realized that the Inspector General was provided some incorrect cost information. (A revised cost statement from CDSI has been provided to Inspector General staff.) In summary, the revised (corrected) information is as follows: the \$220,000 cost figure should be changed to \$197,000; the \$64,800 figure should be changed to \$47,315; and the \$23,486 figure should be changed to \$18,089. It should also be noted that the \$197,000 CDSI cost figure also includes salaries and overtime pay of approximately \$43,000. *Attachment*

### **Overtime**

In addition, the Office of Security Affairs has forwarded extensive comments related to overtime of security:

Page 11, First Paragraph, lines 1-4. These lines state there is a lack of management control in the verification and certification of overtime by executive protection personnel. While not formally a “recommendation” by the Office of the Inspector General’s office, the Office of Security Affairs has already implemented new procedures to enhance management and control of overtime by Executive Protection Personnel.

Historically, there have been two different methods for authorizing and approving overtime for executive protection operations. One process applied to Transportation Safeguards Division (TSD) security personnel while the other applied to DOE headquarters personnel. These dual processes occurred because of the differences in the way each of the parent organizations processed and approved overtime requests. As their executive protection responsibilities comprise only a small segment of their respective missions, it was decided that each organization should handle overtime for executive protection as they would normally. The following paragraphs describe each process:

- Transportation Safeguards Division (TSD) Personnel. TSD personnel historically did not request or receive pre-approval to perform overtime for executive protection operations. They simply traveled to the destination, worked the number of hours required to complete their mission, and claim those hours on their time sheets. They would request a senior member of the security detail, either the City Lead or Detail Leader, to sign their time sheets to indicate they actually worked the number of hours claimed.
- Headquarters Personnel. Headquarters security personnel have historically requested and received pre-approvals for overtime for executive protection operations. Each security specialist provided a “good faith” estimate of the number of hours they expected to work. Their estimates were reviewed by the Headquarters Physical Protection Program Manager (NN 514.1) and the Director, Headquarters Operations Division (NN-514). If the request appeared reasonable, the request was approved. If the request appeared excessive, the request was discussed with the individual and, when appropriate, the request was reduced.
- Upon completion of the protective operation, the Headquarters security specialists submitted their time sheets to NN 514.1 and NN-514 for approval. If the hours appeared reasonable, the time sheets were approved and submitted for payment.

In early 1996, an informal internal management review determined that the two overtime approval processes were causing confusion and improvements were needed. Accordingly, in April 1996, the Executive Protection Program Manager took action to standardize the authorization and approval of overtime. Since early May 1996, each City Lead and member of a security detail has received an individual letter authorizing him/her to perform overtime and providing instructions on having their time sheets verified. Upon completion of the executive protection activity, the City Lead is responsible for verifying the number of overtime hours expended by each member of the detail. The City Lead’s overtime hours are verified by the Detail Leader. Upon return to their respective duty stations, all security agents submit these validated hours to their appropriate line management for final approval.

However, there are certain situations that dictate certifying officials rely on the integrity of the individual. Such is the case when only one security agent travels with the Secretary domestically. There is no existing mechanism to allow the certification official to certify the accuracy of claimed overtime. In such a case, either someone on the Secretary's staff must verify the accuracy of the claim (sometimes, the Secretary, herself) or the certification official must trust that the claimant is making an honest claim.

### **Full Cost Recovery**

Page 33, Paragraph 5. States that although the interim travel policy requires the private sector to fund its fair share of trip costs, including ground transportation and business center services, "we do not believe this occurred on any of the trade missions." This latter statement ignores DOE's efforts to charge an administrative fee explicitly to cover such overhead costs. Further, some of the costs which the report indicates should be shared in fact had no benefit to the business delegates. Charging business delegates for costs incurred for Department officials, where the delegates receive no benefit, seems inappropriate, and it was not DOE's procedure to do so.

Page 119, Paragraph 1. Characterizes India charges at coach rate as based on General Counsel's admitted "misinterpretation" of Federal regulations prior to trip. In fact, the advice to charge coach was based at the time on the explicit wording of OMB Circular A-126 and related regulations. Subsequent to the trip the Office of General Counsel was advised by OMB orally to recover as much as possible from the private sector notwithstanding the apparent requirements of Circular A-126.

Page 121, Table. Two travelers from the Pakistan mission conveyed to the Inspector General's office that they had paid the amount due to the Department. The Department has not received payment for these individuals, nor a copy of a canceled check reflecting a payment unaccounted for by the Department. It is inaccurate of the IG to assume that DOE is in error by "reflecting no payment" when in fact no payment has been received from these individuals.

Page 122, RECOMMENDATION 18. The report does not mention the fact that the Chief Financial Officer has completed action on all accounts receivable for the India and Pakistan Missions. Of the remaining individuals, three have been placed on a installment plan and two have been referred to collection agencies.

A review of the travel authorizations and vouchers of the Energy Research invitational travelers revealed that no overpayment was made for the charter flights. As cited:

- Pages 123-124, South Africa, paragraphs 3, 4, and 5: In paragraph 3, last sentence, the Inspector General states that the Department paid charter costs of \$7,553 for traveler one. Office of Energy Research review of the traveler's travel voucher shows that Energy Research paid \$3,976 for the charter portion of the trip because, as stated in the report, the traveler only

flew on the charter one-way. In paragraph 4, the Inspector General report states that the Department paid \$7,553 for charter airfare for traveler two. Energy Research review of traveler two's travel voucher shows that Energy Research paid \$3,776 for the charter portion of the trip because, as stated in the report, the traveler only flew on the charter one-way. Energy Research has no record that it paid round-trip charter costs of \$7,553 each for the two travelers. If round-trip fare was paid, it did not come out of Energy Research funds. Paragraph 4 erroneously identifies traveler two as the passenger on the Johannesburg to Kimberly leg of the flight when in fact it was traveler one.

- In summary (paragraph 5), Energy Research did not pay \$8,297 for charter services not used by these two travelers. Energy Research paid \$7,752 in charter costs, not \$9,710.38 as reported by the Inspector General. The Inspector General correctly stated \$6,364 in commercial air costs. The total charter and commercial airfare costs for these two travelers totaled \$14,116, not \$24,372 as stated in the report.

## **AIRCRAFT ACQUISITION**

### **Action Taken as Result of Prior Audit Report**

Page 16, para 2 Discusses the April 9 memo from John Layton to Jonathan Miller on the four 1994 IG recommendations, but does not mention Miller's three response memos which provided further information on the Department's implementation of the 1994 recommendations, and sought further clarification from the Inspector General with respect to Mr. Layton's comments on two of the recommendations.

### **The DOE Aircraft Acquisition Process**

Page 13, Paragraph 2. The report inaccurately indicates that the Department incurred a \$5,287 cancellation fee because it did not cancel at least 24 hours in advance. However, the government of Mozambique did not cancel the event until the morning of departure. Therefore, DOE was not able to give proper notice.

Page 143, Paragraph 1&2. Paragraphs 1&2 should be rewritten to delete, "The Secretary's staff chose that carrier...". The statement is not factual. Omega selected the carrier subject to a quality control review by this office. The Office of the Secretary indicated that the aircraft used for the last mission was acceptable. However, the Aviation Staff did not perceive this as a mandate and, in fact, intended to use a different aircraft and operator, presented by Omega World Travel as the lowest bidder. When the quality control procedures of the Office of Field Support uncovered that the tentative carrier was unlicensed and therefore illegal to perform the flight, we requested Omega to select a different carrier. The next lowest bid was selected by Omega which, coincidentally, was by Flight Time International, representing Grand Holdings as the carrier. These actions took place between December 1, 1994 and January 31, 1995.

## **TRADE MISSION OUTCOMES**

### **Monetary Outcomes**

There has been much discussion about the trade mission "deals. Consistent with the Congressional testimony of Assistant Secretary Dirk Forrister and Mr. Steven Lee before the House Commerce Committee, Subcommittee on Oversight and Investigations, we offer a few comments:

Page 13, Paragraph 3. The Department consistently resisted claiming exclusive credit for "causing" the business deals. Our press statements and one letter to Congress used the term "resulted in," which some critics assail as a claim of causality. But our intended meaning was Webster's second definition, "to end in a given way." The business signing signified the culmination of much work before and during our missions. In addition, most of the time, our press statements were accompanied at the time of their release with a listing of the specific agreement by type of project, type of agreement and estimated values using information provided by the companies so that reporters could describe them as they saw fit. Further, the Secretary's oral remarks at the signing events made clear that the deals were signing represented a variety of stages of business developments, from initial MOU's to power purchase agreements to a variety of other business agreements.

Page 153, Paragraph 2. This paragraph suggests that all agreements signed on the trade mission were contracts. DOE has never characterized these agreements as final contracts.

Page 157, Paragraph 2. It should be noted that secretarial trade missions are a new concept to the DOE. Other program office trade missions have normally focussed on fact-finding, or industry-industry or industry-government discussions aimed at identifying and defining approaches to overcoming perceived trade and investment-related barriers. The reporting of business agreements is a new concept to the DOE and only associated with the four trade missions to India, Pakistan, China and South Africa. Nonetheless, the DOE does need to improve its reporting of all its trade promotion activities.

Page 169. "Statements by DOE Personnel" could be more complete with direct statements from recent hearings by the Secretary, Chief Financial Officer, Deputy General Counsel and Assistant Secretary for Congressional, Public and Intergovernmental Affairs .

Page 171. "Statements by U.S. Business Executives" would be further enhanced by testimony given on June 13, 1996 by an industry panel before the House Commerce Committee, Subcommittee on Oversight and Investigations.

### **Non-Monetary Outcomes of the DOE Trade Missions**

Comments in this section are provided to gain further accuracy and completeness in the representation of each foreign trip. The non-monetary outcomes we agree are often difficult to

define, thus increasing the importance of those that are stated clearly and represent tangible progress in the energy sector.

Page 176. The summary of non-monetary outcomes for India could be more complete. The India Matrix, the India calendar of events (an event almost every month since the first trip in July 1994), and the communiques from two meetings of the Indo-U.S. bilaterals already provided to the IG are clear evidence of the historic work that the Department of Energy is undertaking with India.

Page 177, Fifth Bullet. Add two more bullet for South Africa:

- Held lengthy discussions with industry and government leaders from both countries which resulted in extensive U.S. comments on the South African draft energy policy statement, “the green paper”.
- Launched efforts which resulted in Departmental and U.S. industry experts assisting in the restructuring of electricity regulatory structure and an action plan for developing of a natural gas market.

Page 177, Last Paragraph. The five Chinese ministries described in this section are the five important heads of oil and gas in China; the presidents of China’s four oil and gas national corporations and the Minister of Geology and Mineral Resources. The lack of cooperation between the national corporations in particular is infamous, and so getting them in the same room was a major accomplishment and speaks volumes about the importance that these powerful Chinese leaders placed on the mission.

Page 178, Paragraph 1. Delete *regulatory structure framework for the energy sector* and replace it with “policy options roadmap document for restructuring the energy sector”.

Appendix 3-1, Trip Overview. There should be a final sentence which reads: “She also felt it would be an opportunity to present Clinton Administration energy policy for the first time to a senior level policy and business audience from around the world and to hold bilateral meetings with UK energy officials, as well as any other leaders at the conference.”

Appendix 3-1, Trip Overview. After *Ambassador’s Reception*, insert “with senior U.S. industry officials attending the conference from the U.S. and based internationally”, delete *Meeting with Saudi Prince Abdul Aziz*, add “Meeting with UK Energy Minister Timothy Eggar”. After *Oil Daily Dinner*, add “with international energy leaders.

Appendix 8-2, Trip Outcomes. The Pakistan trip outcomes should reflect that the trip led to Secretary O’Leary’s meeting with Prime Minister Bhutto in Washington and the Financial Roundtable hosted at the Blair House for Pakistani and U.S. government officials and private sector representatives, and the substantial commitments achieved at that meeting.

Appendix 10-2, First Paragraph. The bilateral meeting list does not reflect the “group” bilateral that she had. There were so many people to see that she wanted to group them as much as possible. This grouping happened in the case of oil and gas and in the case of “clean” energy. Therefore, in the list of meetings in this paragraph, omitted were:

- The four oil and gas presidents;
- The Minister of Geology and Mineral Resources;
- The Administrator of the China Meteorological Administration;
- The Vice President of the Chinese Academy of Sciences;
- The Chairman of the Inner Mongolia Autonomous Region; and
- The Vice Chair of the State Science and Technology Commission.

Appendix 11-1, Trip Overview. For Paris, it should be noted that the Secretary traveled to Paris to “Chair” the IEA Ministerial meeting and preside over other official events surrounding the Ministerial including the preceding official dinner, luncheon, Ministerial session itself and concluding press conference. It would be helpful to note some background on the International Energy Agency, including it’s membership, purpose of Ministerials, U.S. role in the IEA. In Florence, Italy, Secretary O’Leary delivered the Closing Plenary Speech at the World Geothermal Congress on Friday, May 26, 1995.

Appendix 11-1, Justification. For the Paris segment, justification should be that the Secretary was asked by the International Energy Agency and its twenty-three member countries to chair the May 25 Ministerial. This was the first time the U.S. had chaired an IEA Ministerial since 1980. Secretary was encouraged to chair by the U.S. Ambassador to the IEA, by the Deputy Director of the IEA and by the IEA’s Governing Board. For the Florence segment, justification should include that the Chairman of the World Geothermal Congress invited Secretary O’Leary to address the closing plenary session.

Appendix 11-2, Trip Outcomes (Paris). This should indicate that the Ministers reached an agreement on a formal Communiqué for the meeting, which expressed the Ministers’ consensus views on the major issues and priorities for the International Energy Agency. Ministers also discussed and endorsed the conclusions of two reports by the International Energy Agency: “Energy Policies of the Russian Federation” and “Natural Gas Security Study”. The Russian report was the result of an in-depth review of the Russian energy sector by the IEA and included important recommendations for energy sector reform in Russia endorsed by Ministers.

Appendix 11-2, Trip Outcomes (Florence). The following points should be included:

- Secretary O’Leary met with 55 U.S. Geothermal Energy Executives who attended the World Geothermal Congress to discuss the importance to the U.S. economy of the international market of geothermal power, to emphasize the importance of continuous technological developments to further lower costs and increase competitiveness of the U.S. geothermal industry in a slack domestic market and to reaffirm the commitments that the U.S. Government had just made at the Berlin Environmental Summit in March 1995.

- Secretary O'Leary held a bilateral meeting with the Italian Minister of Industry, Trade and Handicrafts, Alberto Clo, to discuss the international energy situation and privatization of Italian-owned electricity and energy companies, ENEL and ENI.
- Secretary O'Leary and Minister Clo signed a bilateral agreement to renew cooperation in energy research development, bilateral consultations on energy planning and energy policies between the U.S. and Italy.

## EDITS

Page 5, Paragraph 3. Four (not three) groups comprised the advance team. In addition to security, communication and administration, there was also a "substance" group as noted elsewhere in the report.

Page 27, First Bullet. The India Pods are different. To be fair, there has been some evolution in the designation of the pods. For what it is worth, the current breakdown is oil and gas, coal, electric power, renewables, energy efficiency, finance and the environment.

Page 28, Paragraph 4, Lines 2-4. This section indicates that travelers on the China trip received a "security briefing" prior to their departure. It would be more accurate to state that the travelers received a "counterintelligence briefing".

Page 27, Paragraph 2. The "Substance Lead" on the South Africa trip was not the same as on the Pakistan trip (the Director of International Relations). The substance leads for South Africa were the Deputy Assistant Secretary for International Affairs and the Manager of the Golden Field Office.

Page 40, Table 8, "Communications" Line. The Table indicates that there were seven "Feds" in China. The correct number is eight. The total of 12 communication support personnel (eight Federal plus four Non-Federal) is consistent with the discussion on Page 59.

Page 44, Paragraph 1. Instead of "Office of Export Policy", it should read "former Office of Energy Exports".

Page 112, "Computer Data Services Incorporated" Section. The correct name of the company is Computer Data Systems Incorporated.

Page 60, Communication. The IDD lines that are installed in support of the foreign travel are for voice, FAX, and data requirements. (The Report indicated in some places that these circuits were only for voice and FAX.)

Page 70, RECOMMENDATION 7. Recommend that the wording of the recommendation be revised slightly to read "... personnel when carrying weapons."

Page 124, Paragraph 5. Options (2) and (3) leave the reader with the impression that the flight would fly non-stop from South Africa to Washington-Dulles. The flight plan required a refueling stop in Recife, Brazil in either case.

Page 142, Paragraph 5. As reads: "The Director of the Office of Field Support Director a memorandum..." probably should read: "The Director of the Office of Field Support sent a memorandum..."

Appendix 8-2, Last Paragraph. Should read "... trip report of the Pakistan [not India] mission."

Appendix 10-2, Last Paragraph. Chen Jinhua's name is misspelled.

Appendix 10-5, Participant List. Both Steve Lee and Tracy Hardy's travel dates for the pre-advance are wrong. Tracey Hardy's travel voucher states 1/2-1/8. Also, Al Owens and Dirk Forrister stayed 1/2/95-1/11/95. Also, Robert Dolence was not an official member of the Secretary's pre-advance. He happened to be traveling there in December, and he likely did some FE advance work, but he should not be listed as a pre-advance trip member. He did not go on the official trip either.

Appendix 14-6, Participant List. Per number 146, Terri Tran, the organization code is incorrect. The correct organization code is the then PO-73.

Appendix 16-1, Total Travelers. Incorrect as noted on pages 42 and 71. There were on 3 contractors participating in the trip.

Appendix 16-1, Trip Overview. After *August 1, 1995*, add "on December 1, 1995, the Secretary co-chaired the Sustainable Energy Committee of the Binational Commission's one day meeting with the South African Minister of Mineral and Energy Affairs, Pik Botha. In the evening of December 1, *the Secretary traveled to Cape Town*, then delete *on December 1, 1995*, retain *and* and insert on December 2, Saturday, the Secretary" *met with the Gugulethu Township* ... in the next sentence add after December 3, 1995, "Sunday".

Appendix 16-1, Trip Overview. After *the report* delete *on* and add "of the" *Sustainable Energy*, then add "Committee outcomes".

Appendix 16-1, Trip Overview. After *Vice President Gore.*, insert "The Secretary attended", then delete *At*. After *evening*, delete *the Secretary also met with* and add "hosted by" *Ambassador Lyman*, "and also attended by Vice President Gore, Vice President Mbeki and all the other members of the U.S. and South African delegations."

Appendix 16-2, Justification. After *to* add "co-chair the Sustainable Energy Committee and".

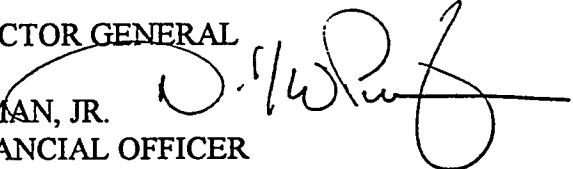
**Department of Energy**

Washington, DC 20585

October 3, 1996

**MEMORANDUM FOR THE INSPECTOR GENERAL**

FROM: DONALD W. PEARMAN, JR.  
ACTING CHIEF FINANCIAL OFFICER



Subject: Comments: Official Draft Report on Review of Foreign Travel

This is in response to the Official Draft Report on the review of foreign travel that was issued by your office on September 12, 1996.

We are pleased that you have confirmed that the Department has completed action on 18 of the 29 recommendations described in the Initial Draft Report, issued on May 29, 1996. We believe that as of July 31 we completed the remaining 11 recommendations to the best of our ability and understanding at that time.

In your Official Draft Report that was issued on September 12, 1996, you offered further guidance on 11 remaining recommendations. With this new guidance, we have completed DOE action on three of the 11 recommendations, substantially completed 4, and will complete action for your concurrence on the remaining 4 by October 31.

With respect to the two new recommendations in the Official Draft Report, we have completed action on one and are submitting with this memorandum an action plan for completion of the other.

**Responses to Recommendations**

I have grouped our responses to your comments into three general categories: recommendations that were contained in the Initial Draft Report and updated in the Official Draft Report; recommendations that appeared for the first time in the Official Draft Report; and recommendations on which DOE action is complete but for your request to the Comptroller General for an opinion on matters relating to their expertise. As indicated, we will work with your staff to resolve any outstanding aspects of all of your recommendations.



***1. Recommendations Contained in the Initial Draft Report and Updated in the Official Draft Report***

**Recommendation 2: Establish a nomination process for non-Federal trade mission participants.**

In the Initial Draft Report, you requested that we establish a nomination process for non-Federal trade mission participants. We prepared and circulated such a nomination process with the Department's revised travel policy on July 31, 1996.

Our subsequent conversations with your staff indicate that you may ask that more formal action be taken. We agree to take such action should our continuing deliberations with your staff call for that result.

**Recommendation 8: Include provisions in the travel manual to remind Federal travelers of the regulations requiring reduction of miscellaneous and incidental expenses for meals which are provided.**

In the Initial Draft Report you requested that we include a reminder in the international travel policy concerning reduction of expenses for meals which are provided. On July 31, 1996, we issued DOE M-551, which included this reminder.

In the Official Draft Report, you request that we forward to you a copy of the DOECast on this issue, and demonstrate to you the changes we made to the Travel Manager software. We are attaching a hard copy of the DOECast requested, which was made widely available to DOE employees. With respect to changing the Travel Manager software, an on-screen prompt already exists reminding travelers to reduce miscellaneous and incidental expenses by meals that are provided. In addition, we will reemphasize the reminder of DOE M-551.1 and the automatic prompt in the Travel Manager software in our continuing program of training on the use of this software.

**Recommendation 9: Contact all Federal employees on the trade missions and request that they reimburse the Department for the appropriate miscellaneous and incidental expenses.**

In the Initial Draft Report, you requested that we contact all Federal employees on the trade missions and obtain reimbursement for appropriate miscellaneous and incidental expenses. We have located and contacted 129 of the 139 employees involved and collected the \$ 3259.21 due. With respect to the remaining 10 employees all of whom have left the Department, we are continuing our efforts to locate them through all available sources so that they can identify for us whether they inappropriately received payment for miscellaneous and incidental expenses; and ensuring they have complied fully with the proper requirements.

In the Official Draft Report you request that we completely recoup outstanding amounts. We will continue to pursue all amounts due for meals and incidental expenses received.

**Recommendation 10: Properly classify representational and reception-type costs incurred on the trade missions.**

The Department has reviewed the expenses and agrees to the classifications found in the General Counsel's review of representational fund expenses from the 4 trade missions. We are in final discussions with the State Department regarding who will pay for certain expenses and we expect that all issues will be resolved by and a final accounting will be completed by October 31.

**Recommendation 13: Recover personal expenses incurred in trade missions from responsible travelers.**

With respect to personal expenses that were incurred, we have completed our audit of all but three of the relevant travel vouchers. Six disclosed improperly billed personal expenses amounting to \$366.77, all of which has been recovered. Three remaining vouchers are still under review.

We are aware that there are additional personal expenses that were or will be billed to DOE through U.S. Embassies overseas that will not appear on travel vouchers. We will work with the State Department to identify these amounts and take corrective action.

With respect to any remaining improperly charged personal expenses, unless these expenses are voluntarily repaid, we will follow formal debt collection procedures, including the use of 30 day demand letters and referral to a collection agency.

**Recommendation 19: Ensure that requirements in the travel manual are consistent with the full cost recovery policy.**

In the Initial Draft Report, you requested that we revise DOE Order 2110.1A (which calls for non-Federal travelers on DOE aircraft to be charged full coach fare) and DOE Order M-551.1 (which calls for full cost recovery) for consistency. In response, we examined and consulted with members of your staff on whether the two rules were, in fact, inconsistent.

In the Official Draft Report, you reiterated your requested that we modify DOE Order 2110.1A to clarify that DOE's policy is to recover the full cost of transportation by all travelers. We will complete this action by October 31.

Recommendation 20: Consider requesting an appropriation account to fund future foreign trade missions.

In the Initial Draft Report, you requested that we consider requesting an appropriation account to fund future foreign trade missions. We considered but rejected such a request because the same financial information can be captured without altering the existing, Congressionally-approved budget structure.

In the Official Draft Report, you accepted this strategy but requested that we define a system for identifying and tracking trade mission costs. At present, for all travel that is covered by the new travel regulations, including trade missions, the Senior Trip Official is charged with the responsibility for identifying, tracking and maintaining a log of all trade mission costs. That individual will provide regular expense reconciliations of trips to the Chief Financial Officer. However, as you have requested, we will develop a computerized system that is complementary to our existing travel manual.

Recommendation 23: Ensure that the Department's policies and procedures for aircraft acquisition are formally issued.

In the Initial Draft Report, you requested that we formally issue policies and procedures for aircraft acquisition. Our office formally issued these policies and procedures on July 31, 1996.

In the Official Draft Report, you ask us to revise these policies to address how payment shall be received from non-Federal passengers on military aircraft. We will complete this action by October 31.

Recommendation 28: Establish policies and procedures for measuring accomplishments of trade promotion activities.

In the Initial Draft Report, you requested that we establish policies and procedures for measuring accomplishments as a result of trade promotion activities. The Office of Policy developed these policies and procedures and they were issued on July 31, 1996.

In the Official Draft Report, you request that we develop a tracking mechanism for advocacy and trade promotion activities. We are now using the system in place at the Department of Commerce, which has the responsibility to maintain a governmentwide trade promotion system. This allows governmentwide tracking of trade promotion and advocacy activities. We will develop an automated system tailored for DOE use.

***2. Recommendations on Which DOE Action is Complete but Referred by the Inspector General to the Comptroller General***

Recommendation 11: The Office of General Counsel should review whether the Department's obligations and payments of expenditures that are representational in nature constitute a misuse of appropriated funds.

The Office of General Counsel's review, referenced above, concluded that there had not been a misuse of appropriated funds. A copy of their findings was provided to you on July 31.

In the Official Draft Report, you informed us that you have sought the views of the Comptroller General on the question whether representation funds are no-year money or are available only for one year. We have completed all action on this recommendation; however, we will review the Comptroller General's analysis when he responds to your request.

Recommendation 12: The Office of General Counsel should review whether the Department's obligations and payments of expenditures that are representational in nature constitute a violation of the Antideficiency Act.

The Office of General Counsel conducted such a review and concluded that DOE's actions were consistent with the Antideficiency Act.

In the Official Draft Report, you informed us that you have sought the views of the comptroller General on the question whether representation funds are no-year money or are available only for one year. We have completed all action on this recommendation; however, as stated above, we will review the Comptroller General's analysis when he responds to your request.

***3. New Recommendations Contained in the Official Draft Report***

The Official Draft Report contained two new recommendations, both of which we have adopted.

Recommendation 30: The Office of General Counsel should determine whether the procurement integrity laws were violated by the Department's acceptance of a subcontractor's offer to sponsor a reception during the South Africa trade mission.

In response to this recommendation, we attach a memorandum from the Assistant General Counsel for General Law, which concludes that there was no violation of the procurement integrity laws.

Recommendation 31: The Assistant Secretary for Human Resources and Administration should review the circumstances surrounding the above-mentioned procurement, documenting procurement irregularities, identifying “lessons learned” and taking any actions that may be appropriate.

We have prepared an action plan for implementation of this recommendation. That plan is attached to this memorandum.

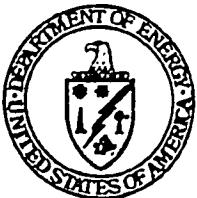
#### **Implementation Matrix**

With respect to all of the recommendations of the Inspector General, attached is an updated matrix that cites each recommendation, its status, and the responsible office.

Regarding requests for documents referenced in the Official Draft Report as still outstanding, we believe we have now responded completely.

We invite your continued involvement as we implement and refine your suggestions to improve our policies on foreign travel, and would be pleased to provide any further information you require.

#### **Attachments**



## Department of Energy

Washington, DC 20585

October 1, 1996

MEMORANDUM FOR DONALD W. PEARMAN, JR.  
ACTING CHIEF FINANCIAL OFFICER

FROM: ASSISTANT GENERAL COUNSEL FOR GENERAL LAW

SUBJECT: August 23, 1995 Reception in South Africa

Recommendation 30 of the Official Draft Report on the Inspection of the Secretary of Energy's Foreign Travel, issued September 12, 1996, recommends that the General Counsel "determine whether the provisions of 41 U.S.C. 423 [procurement integrity] were violated by the Department's acceptance of I CAN's offer to sponsor the August 23, 1995, reception or by individuals personally attending the reception and take any actions as may be appropriate." For the reasons discussed below, this office has concluded that the procurement integrity provisions were not violated in this case.<sup>1</sup>

### Facts

Based on our review of the draft report and supporting documents provided by the Office of the Inspector General, we understand the facts in this case to be as follows.

The African Electrification Foundation (AEF) has a cooperative agreement with the Office of Economic Impact and Diversity with a potential value of approximately \$4,000,000 (extending through August 21, 1999) to develop a partnership with Historically Black Colleges and Universities to collaborate in strengthening the electric power infrastructure in Africa. Pursuant to this cooperative agreement, AEF was engaged in arranging appropriate activities for the Secretary's trade mission to South Africa. The I Can Foundation was assisting in these arrangements, as is evidenced by an August 3, 1995 proposed AEF budget that included \$6,900 in compensation to the I Can Training Foundation.<sup>2</sup> Specifically, the I Can Foundation was responsible for arranging an August 24, 1995 tour of the Northern Transvaal Technikon for the Department and distributing books and computers in South Africa that were collected in connection with the trade mission.

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<sup>1</sup> This memorandum does not address any procedural irregularities that may have occurred in the procurements associated with this matter.

<sup>2</sup> Department records do not reflect any payment by the African Electrification Foundation to the I Can Foundation for activities related to the South African trade mission.

A problem evidently arose related to the amount and distribution of funds to the I Can Foundation. Records indicate the Foundation expected to be paid \$11,000 for its assistance.

[ ] Special Assistant to the Director, Office of Economic Impact and Diversity, would not agree to pay \$11,000 for these services. After discussions with an advance team member, the I Can Foundation agreed to provide the services for \$5,000. Similarly, AEF was seeking additional funds from the Department to cover these and other activities, but those funds were delayed because the responsibility for administering the cooperative agreement was in the process of being transferred from the Oak Ridge Operations Office to Headquarters.

The I Can Foundation advised [ ] a member of the advance team, that it was reluctant to continue working unless it was paid and that the Office of Economic Impact and Diversity was responsible for paying the I Can Foundation. Corlis Moody, the Director, Office of Economic Impact and Diversity, believed that the Secretary's visit to South Africa would be jeopardized if the I Can Foundation was not paid. Therefore, [the Special Assistant] consulted with Frank Stewart, Manager of the Golden Field Office, to see if funds could be added to an existing contract with The Mitchell Group for this purpose. The Golden Field Office had a July 25, 1995 contract in the amount of \$110,000 with The Mitchell Group to provide support for the trade mission to South Africa. The Mitchell Group advised the Department that it would require an administrative fee of \$1,000 to provide the I Can Foundation with funds. The Mitchell Group required this fee because of uncertainty over how long it would be before the Department reimbursed The Mitchell Group. On August 11, 1995, [the Special Assistant] requested that The Mitchell Group provide support to the I Can Foundation in connection with the Secretary's trip to South Africa. The Office of Economic Impact and Diversity agreed to increase its share of The Mitchell Group's fees by \$6,000 to cover the expenses associated with the I Can Foundation. On August 16, 1995, The Mitchell Group paid \$4,000 to the I Can Foundation. An additional \$1,000 was distributed to the I Can Foundation on August 17, 1995.

Initially, The Mitchell Group sought reimbursement of the \$6,000 as "project expenditures undertaken by TMG under [the July 25, 1995 contract]." There is no evidence the Department acted on this request. On September 27, 1995, a requisition for supplies, equipment, or service was processed at the Golden Field Office, and on September 28, 1995, the Golden Field Office issued a \$6,000 purchase order to The Mitchell Group for "Logistics and Support of the 'I Can Foundation'" (DE-AP36-95G020368).

Subsequently, The Mitchell Group submitted a voucher for payment based on this purchase order, which was approved for payment on October 16, 1995.

The Office of Inspector General concluded that between August 11 and 14, 1995, the Department decided to accept the I Can Foundation's offer to sponsor a reception in South Africa. The facts presented by the Office of Inspector General do not reveal with certainty the identity of the Department employee or employees who accepted this offer. Interviews previously conducted by the Office of General Counsel indicate a uniform understanding that the I Can Foundation was to pay for the August 23 reception (which cost \$7,104 and had 300 attendees); however, to date the I Can Foundation has not paid for the reception.

#### Applicable Law

During the conduct of a Federal agency procurement, a competing contractor is prohibited from knowingly offering, giving, or promising to offer or give, directly or indirectly, any money, gratuity, or other thing of value to any procurement official of the agency. (41 U.S.C. 423(a)(2)) Likewise, a procurement official is prohibited from knowingly asking for, demanding, exacting, soliciting, seeking, accepting, receiving, or agreeing to receive, directly or indirectly any such gift from a competing contractor during the conduct of a procurement. (41 U.S.C. 423(b)(2))

The term "during the conduct of any Federal agency procurement of property or services" means the period beginning on the earliest date upon which an identifiable, specific action is taken for the particular procurement and ending upon the award or modification of a contract. (FAR 3.104-4(c)(1)) However, the conduct of the procurement cannot be deemed to have begun prior to the decision by an authorized agency official to satisfy a specific agency need or requirement by procurement. (*Id.*) Among the actions that can start a procurement are drafting a specification or statement of work, development of procurement or purchase requests, or review and approval of the award of a contract or contract modification. (*Id.*) The term "modification" means the addition of new work to a contract, or the extension of a contract, which requires a justification or approval. It does not include change orders, administrative changes, or any other changes that are within the scope of the contract. (FAR 3.104-4(e))

A "gratuity or other thing of value" includes gifts, favors, entertainment, or other items having monetary value. (FAR 3.104-4(f)(1)) However, this phrase does not include anything which is accepted by the Government under specific statutory authority. (FAR 3.104-4(f)(1)(ii)) At the time of the reception, pursuant to section 652 of the Department of Energy Organization Act (Public Law No. 95-91), the Secretary of Energy was authorized to accept gifts, including personal property and money, for the purpose of aiding or facilitating the work of the Department.

Acceptance of the Reception by the Department

It is our view that, had the reception been funded by the I Can Foundation, the reception would have constituted a gift to the Department that could have been accepted under the Secretary's gift acceptance authority. The procurement integrity gift prohibition applies to gifts to procurement officials and not the acceptance of gifts by an agency that has statutory gift acceptance authority. The FAR excludes from the prohibition gifts which are accepted under specific statutory authority. (FAR 3.104-4(f)(1)(ii)) We have informally discussed this interpretation with a representative of the Office of Federal Procurement Policy, who agreed. Accordingly, we conclude that a violation of the procurement integrity gift prohibition could not have occurred.

Acceptance of Invitations to Attend the Reception

Given the totality of the facts in this case, attendance at the reception should be viewed as gifts to the attendees from the Government. Invitations to the reception were sent out by the American Embassy. The I Can Foundation intended to add names to the invitation list, but advised the Office of Economic Impact and Diversity that it was unable to do so due to a lack of cooperation from the State Department. Thus, it appears that the Federal government exercised control concerning the invitation list to the reception. Since the Government decided who would be attending the reception, any procurement officials who attended the reception would have been accepting a gift from the Government, not from the I Can Foundation.

Further, even if one were to argue that the reception should be viewed as a gift from the I Can Foundation to the attendees, the acceptance of the invitation must have been done "knowingly" in order to cause a violation. Both competing contractors and procurement officials have a duty to inquire whether any prospective conduct would violate the procurement integrity provisions. (FAR 3.104-8) In this case, there was confusion concerning funding of the I Can Foundation. Although the purchase order for the I Can Foundation was not issued until more than a month after the reception, it appears that, at the time of the reception, the individuals involved in the funding of the I Can Foundation thought the work had already been done under an existing contract with The Mitchell Group. [The Special Assistant] August 11, 1995, letter and her August 21, 1996, interview with representatives from the Office of the Inspector General indicate that she thought that the I Can Foundation was going to be paid under the existing contract. Funds were in fact transferred to the Golden Field Office for these activities on August 11, 1995. In addition, The Mitchell Group sent correspondence to the Golden Field Office after the reception indicating their belief that the

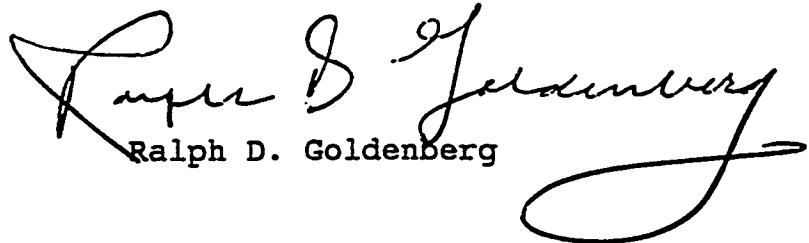
I Can Foundation was to be paid under the existing contract. It is illogical to conclude that attending the reception gave rise to a violation of the procurement integrity gift prohibition when the alleged gift was given at a time when those involved were unaware that a procurement was being conducted. In any event, since the I Can Foundation never paid for the reception, any question concerning the propriety of individual attendees accepting a gift from it would appear to be moot.

This office's view that attendance at the reception should be viewed as a gift from the Government is bolstered by regulations of the Office of Government Ethics. With respect to accepting the gift of attendance at a widely-attended gathering, the Office of Government Ethics has taken the view that the

cost of the employee's attendance will not be considered to be provided by the sponsor [of the event], and the invitation is not considered to be from the sponsor of the event, where a person other than the sponsor designates the employee to be invited and bears the cost of the employee's attendance. . . . (5 C.F.R. 2635.204(g)(5))

As a footnote to this matter, you should be aware that the Federal Acquisition Reform Act of 1996 (enacted as part of the National Defense Authorization Act for Fiscal Year 1996, Public Law No. 104-106) repealed the gift prohibitions addressed in this memorandum.

If you have any questions, please contact me or Susan Beard at 6-8665.

  
Ralph D. Goldenberg



**Department of Energy**  
Washington, DC 20585

OCT 1 1996

MEMORANDUM FOR:

**DONALD W. PEARMAN  
ACTING, CHIEF FINANCIAL OFFICER**

FROM:

**RICHARD HOPF *RH*  
DEPUTY ASSISTANT SECRETARY FOR  
PROCUREMENT AND ASSISTANCE MANAGEMENT**

SUBJECT:

**DRAFT INSPECTOR GENERAL REPORT ON FOREIGN  
TRAVEL -- RECOMMENDATION 31, THE I CAN  
SUBCONTRACT**

The Office of Procurement and Assistance Management has reviewed recommendation 31 of the draft Inspector General (IG) report on the Secretary's foreign travel. The recommendation would have HR review the I CAN subcontract, document any irregularities found and identify "lessons learned". We concur in the recommendation. Indeed, we have already started our review of the transaction.

Attached is our action plan for responding to this recommendation in the event you wish to furnish it to the IG. The plan addresses basic milestones and internal points of contact.

As you can see from the action plan, we will examine the circumstances surrounding, as well as the mechanics of, this transaction and will take any follow-up actions that may be appropriate. Keep in mind, however, that the subject procurement was a small purchase (\$6,000.00) and that it was accomplished to meet the stringent time schedules dictated by the South Africa mission. The size and urgency of the transaction are likely to limit the application of any lessons learned to DOE purchasing generally.

Attachment



Printed with soy ink on recycled paper

**HR-5**  
**ACTION PLAN**  
**RECOMMENDATION 31**  
**THE I CAN SUBCONTRACT**

**Points of contact for relevant information**

HR-5 Analyst: Ed Lovett x68614  
Office of General Counsel: Suzanne Odom  
Office of General Counsel, Procurement: Edgar Merson  
Office of General Counsel, Ethics: Susan Beard  
Golden Field Office Procurement Director: John Meeker  
Golden Field Office Legal Counsel: John Herrick

**Milestones**

Review draft IG Report	completed
Obtain copies of related documents	completed
Initiate discussions with Golden	completed
Evaluate related documents	10/21/96
Complete discussions with Golden	10/28/96
Assess findings with OGC and OIG points of contact	11/1/96
Review findings with CFO	11/10/96
Issue Report	11/15/96
Respond to OIG	11/15/96
Follow-up action	TBD

CHAPTER V Part B - TRIP PARTICIPANTS		DOE Response-to-Date	Status	Owner	Date
#	IG Recommendation				
1.	Secretary assign responsibility to a Senior Official for developing and implementing international travel procedures.	April 1996. Vertone/Durham issued DOE N 551.1 "International Travel" for simultaneous use and coordination. The policy makes clear that the CFO has overall responsibility for international travel policies and procedures. A redraft of DOE N 551.1 has been created in preparation for its final issuance. It has been finalized and issued as DOE MSS 1.1 and DOE P 551.1.	Complete. Closed out by IG.	Pearman/ Travers/ead	July 31
2.	Secretarial establishment of a nomination process for non-Federal trade mission participants, to include public announcements.	The Policy Office developed a policy, circulated it for concurrence and comment and implemented on July 31.	Work Needed to Closeout: <i>Supplement to the Travel Manual may need to be formally issued.</i>	Chupka/ Brodman	July 31 Oct. 31
3.	Assistant Secretary for Policy establish written solicitation criteria for non-Federal participants on future trade mission to be applied in nomination process.	DOE N 551.1 requires mission specific delegate criteria developed by ASST Sec for Policy and Senior Responsible Official for each trip.	Complete. Closed out by IG.	Chupka/ Brodman	July 31

## CHAPTER V Part B - TRIP PARTICIPANTS

#	IG Recommendation	DOE Response-to-Date	Status	Owner	Date
4.	Assistant Secretary for Human Resources and Administration implement procedures to ensure that all non-Federal participants on future trade missions are provided with invitations in advance and that all copies of correspondence pertaining to trade missions are maintained.	ES: The Office of Executive Secretary has issued a memorandum reminding all of correspondence policy.	ES Action: Complete. Scheduling: Complete Closed out by IG.	Lead: Durham & Fallon	July 31
5.	General Counsel and the Chief Financial Officer provide training to those individuals responsible for processing international travel.	Scheduling: Training has been conducted for the CSL staff to ensure that correspondence is handled correctly.	CSL: Training has been conducted for the CSL staff to ensure that correspondence is handled correctly.	Lead: Permanent Traveler/Traveler/CSL	July 31

## CHAPTER V Part B - TRIP PARTICIPANTS

#	IG Recommendation	DOE Response-to-Date	Status	Owner	Date
6	Assistant Secretary for Human Resources and Administration evaluate the level of administration and communication support required for Secretarial foreign travel.	DOE N-5511 requires Senior Responsible Official to develop a logistical staffing plan as part of each trip plan.  The Offices of Administration Services (FIR-8) and Information Management (FIR-4) have developed written criteria for use by the Senior Responsible Official in determining the appropriate number of administrative/communication personnel.	Complete Closed out by IG.	Dunham/ Syc	July 15
7	General Counsel determines the authority and financial liabilities of the Department and of executive protection personnel when carrying weapons in a foreign country.	GC has consulted with Security Affairs to define executive protection extra-territorial authority issues that require resolution and analyzed them.	Complete Closed out by IG.	Landry/ Walsh	July 31

## CHAPTER V Part C - TRIP COSTS

#	IG Recommendation	DOE Response-to-Date	Status	Owner	Date
8.	Chief Financial Officer include provisions in DOE Notice 551.1 "International Travel" to remind travelers of Federal travel regulations requiring that they reduce their M&IE for meals they are provided.	CFO has ensured final policy was modified to include reminder.  CFO has issued a DOE Cast addressing this issue.  CFO is working with the Travel Manager software to improve checks and balances.	Work Needed to Closeout:  <i>Forward DOECast and description of Travel Manager software and training adjustments to IG.</i>	Pearman/ Travelstead/ Langford	July 31  <i>Oct. 31</i>
9.	Chief Financial Officer contact all Federal employees on the four trade mission trips, inform these employees of the M&IE offset issue, and request that the employees reimburse the Department for the appropriate amount.	Memorandum was issued on 6/12/96 to travelers requesting review and reimbursement.  Responses have been received from a majority of trade mission participants.	Work Needed to Closeout:  <i>Complete the recoup of M&amp;IE offsets from travelers.</i>  <i>(We have been unable to locate approx. 10 persons)</i>	Lead: Pearman/ Travelstead	July 31  <i>Oct. 31</i>
10.	Chief Financial Officer, in coordination with the General Counsel, properly classify "reception and representation" type costs incurred and take other actions that may be required.	CFO has disputed with State Dept many of the representation type expenditures highlighted in the report.  CFO continues to work with State Dept to reverse improper charges.	Work Needed to Closeout:  <i>Complete remaining discussions with the State Dept.</i>  <i>Review CompGen's report when issued.</i>	Pearman/ Travelstead  Fygi/Odom	July 31  <i>Oct. 31</i>

## CHAPTER V Part C - TRIP COSTS

11.	General Counsel review the Department's obligations and payments of expenditures that are representational in nature, to determine whether such obligations and payments, absent adequate "reception and representation" funds, constitute a misuse of appropriated funds.	Prior request of GC asked to determine all Department funds available and how to handle any potential issues.  GC has completed analysis and CFO is acting on results of GC review.	Next Steps: <i>Review CompGen's report when issued.</i>	Fygi/Odom  <i>TBD</i>	July 31
12.	General Counsel review the Department's obligations, and/or payments of expenditures that are representational in nature, to determine whether such obligations and payments, absent adequate "reception and representation" funds, constitute a violation of the Anti-Deficiency Act.	CFO is disputing with State Dept many of the representation type expenditures highlighted in the report.  CFO continue to work with State Dept to reverse improper charges.	Next Steps: <i>Review CompGen's report when issued.</i>	Lead: Pearman/ Travelstead  Fygi	July 31  <i>TBD</i>
13.	Chief Financial Officer recover personal expenses from responsible individuals.	The Office of the Chief Financial Officer has identified personal expenses and is billing them to the individuals as appropriate by DOE rules and regulations.  Additionally, the CFO stands ready to handle further actions if GC identifies additional personal expenses in the course of their other reviews.	Work Needed to Closeout:  <i>Review remaining vouchers and collect personal expenses consistent with travel regulations.</i>	Pearman/ Travelstead  <i>Oct. 31</i>	July 31

## CHAPTER V Part C - TRIP COSTS

14.	Chief Financial Officer take action to ensure proper review and approval of travel costs being charged to the Department, and that, to the extent available, bills are reviewed and accounts settled by DOE financial officers prior to departing the country visited.	DOE N 551.1 establishes policy for review and approval of travel costs, including review of available invoices prior to departure.	Completed. Closed out by 163.	Pearman Travelhead	July 31
15.	Chief Financial Officer develop policies and procedures which ensure that embassy support costs are appropriate, properly approved and correctly applied.	DOE N 551.1 requires a negotiated advance understanding with embassy on detailedable listing needed for meals and services, specifically identifying individual authorized to make changes, and requiring invoices, etc. private end of trip.	Completed. Closed out by 163.	Pearman Travelhead	July 31
16.	Chief Financial Officer ensure that sufficient funds are obligated for foreign trips which require embassy support prior to the initiation of the trip.	DOE N 551.1 requires CFO to review identified trip budget, certify availability of funds, ensure proper authorization in place and item travel expenses.	Completed. Closed out by 163.	Pearman Travelhead & Donham	July 31

## CHAPTER V Part C - TRIP COSTS

17.	Chief Financial Officer develop written policies and procedures to ensure that embassy support costs for foreign trips be clearly coordinated with the program offices and to establish specific guidelines that would acquire timely application of embassy support costs.	DOE N 551.1 provides for program participation in developing administrative logisitics support levels and requires changes to these levels to be approved in writing prior to incurrence of costs. Posttrip, Senior Responsible Official required to reconcile all costs and certify results.	Complete. Closed out by IC.	Pearman/Travelstead & Durham	July 31
18.	Chief Financial Officer take timely action consistent with the Office of General Counsel opinion and the Federal and Department accounts receivable collection requirements.	All three collection letters have been issued regarding both Pakistan and India accounts receivable consistent with CGC opinion.	Complete. Closed out by IC.	Pearman/Travelstead	June 25
19.	Chief Financial Officer ensure that requirements outlined in DOE Order 2110.1a and DOE Notice 551.1 are consistent with the full cost recovery policy.	CFO has ensured the final travel manual is consistent with full cost recovery.	Work Needed to Closeout:  Revise DOE Order 2110.1A to address fares charged to non-Federal travelers on military aircraft.	Pearman/Travelstead	July 31  Oct. 31

**CHAPTER V Part D - SOURCE OF FUNDS**

#	IG Recommendation	DOE Response-to-Date	Status	Owner	Date
20.	Chief Financial Officer consider requesting an appropriation account to fund future foreign trade missions.	CFO has determined that a separate appropriation is not warranted for FY 1998 Budget cycle.	Work Needed to Closeout: <i>Define system for identifying and tracking trade mission costs.</i>	Pearman/ Smedley	July 31 <i>Manual track by STO at this time.</i>
21.	General Counsel determine whether the Miscellaneous Receipts Statute (31 U.S.C. Section 3302) requires the Department to deposit into the U.S. Treasury all funds from the Department of Interior collected on behalf of DOE.	CIC is reviewing particular facts and will determine if \$\$ collected by Interior should have gone to Treasury	Complete. <i>Closed out by IG.</i>	Egypt/ Goldstein/AB	July 31
22.	Chief Financial Officer takes timely action consistent with the determination by the Office of General Counsel	CFO has taken appropriate action in preparation as a result of the final opinion issued by OGC	Complete. <i>Closed out by IG.</i>	Pearman/ Travelstead	July 31

## CHAPTER V Part E - AIRCRAFT ACQUISITION

#	IG Recommendation	DOE Response-to-Date	Status	Owner	Date
23.	Chief Financial Officer ensure that the Department's policies and procedures for aircraft acquisition for international travel are formally issued and they are consistent with results of this inspection.	DOE N-551.1 includes policy on aircraft acquisition for international travel, pursuant to which Procurement office is responsible for acquisition through competitive process or other legitimate procure procedures.  The final policy statement and manual have been issued.	Work Needed to Closeout: <i>Revision needed to address fares charged to non-Federal passengers on military aircraft.</i>	Lead: Hopf/Durham Oct. 31 Dean Pearman/Travelstead	July 31
24.	Secretary to provide written logistic requirements, for other than regularly scheduled flights, to the Director of the Office of Field Support.	DOE N-551.1 requires Senior Responsible Official to submit an air transport requirements document to Office of Aviation Policy (Field Support).	Complete Closed out by IG	Lead: Hopf/Durham Pearman/Travelstead Dean	July 31
25.	Director of Scheduling and Logistics assure that a system is developed and implemented to acquire charter aircraft services.	The final policy statement and manual have been issued.	Complete Closed out by IG	Lead: Hopf/Durham Pearman/Travelstead	July 31

## CHAPTER V Part E - AIRCRAFT ACQUISITION

26	Director of the Office of Scheduling and Logistics establish a system to provide a listing of non-Federal individuals who will be traveling on Government-chartered aircraft to the General Council for approval.	DOE N-551.1 requires GC review and approval of travel by Government aircraft, without explicit reference to list of non-Federal travelers.	Complete: Closed out by IG July 31	Lead: Dalton Travelers Fyb
27	Assistant Secretary for Human Resources and Administration, in coordination with the Assistant Secretary for Environment, Safety and Health, establish a system to procure charter service in the most economical fashion possible and ensure funds are available prior to committing the Department.	a) DOE N-551.1 requires Aviation Policy to prepare Transportation Options analysis which considers all reasonable alternatives and include a detailed cost breakout. Senior Responsible Official must select least cost option meeting needs  b) DOE N-551.1 requires transportation costs to be included in budgets; CFO required to certify availability for funds for budget.	Complete: Closed out by IG July 31	Lead: Dalton/ Hoff/ Pramann/ Travelers/ Dean
		The final policy statement and manual have been issued.		

## CHAPTER V Part E - TRADE MISSION OUTCOMES

#	IG Recommendation	DOE Response-to-Date	Status	Owner	Date
28	Assistant Secretary for Policy establish policy and procedures for measuring accomplishments claimed as a result of trade promotion activities.	Policy Office developed written guidance on tracking and reporting results of trade promotion activities. The policy was formalized on July 31.	Work Needed to Closeout: <i>Develop DOE tracking mechanism for advocacy and trade promotion activities.</i>	Chupka/ Brodman	July 31 <i>Dept. Of Commerce tracking at this time</i>
29	Secretary, in coordination with the Director of the Office of Public and Consumer Affairs, establish policies and procedures for press releases related to the Department's trade promotion activities.	Initial policies developed in May have been reviewed and augmented by a team from PO, S-1 and led by CP. The policy was formalized on July 31.	Complete: <i>Chased out by IG.</i>	Furnished/ Mark Deppell	July 31

## OFFICIAL DRAFT RECOMMENDATIONS - Issued September 12, 1996

#	IG Recommendation	DOE Response-to-Date	Status	Owner	Date
30	General Counsel determine whether the provisions of 41 USC 423 were violated by DOE's acceptance of the I CAN foundation reception.	Review by the Office of the General Counsel is complete.	Complete.	Fygi/ Goldenburg	Oct. 3

**OFFICIAL DRAFT RECOMMENDATIONS - Issued September 12, 1996**

31	Human Resources and Administration review the circumstances surrounding the I CAN Foundation procurement to document irregularities and identify lessons learned.	An action plan for implementation of this recommendation has been developed and is being implemented by the appropriate parties, led by HR.	Complete.	Durham/ Hopf	Oct. 3
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Author: DOECAST at ES1  
Date: 7/3/96 3:30 PM  
Priority: Normal  
Subject: Memo for All Employees: Traveling on Government Business  
----- Message Contents -----

July 1, 1996

MEMORANDUM FOR ALL EMPLOYEES

FROM: DONALD W. PEARMAN, JR.  
ACTING CHIEF FINANCIAL OFFICER

Subject: Receipt of Free Meals When Traveling on Government Business

During a recent Inspector General review, it came to my attention that many employees were unaware of applicable rules on the receipt of free meals when traveling on government business. Title 41 CFR 301-7.12 and DOE Order 1500.2A, taken together, require that all meals provided without charge to DOE travelers must be deducted from the traveler's per diem entitlement. The purpose of this requirement is twofold.

First, travel per diem is meant to provide the traveler with money for meals and other incidental expenses. If the government were paying for the meal directly (through conference costs or charges) the government could end up paying for the same meal twice. Therefore, all government travelers are required to reduce their per diem entitlement by an established amount (which varies based upon the per diem rate) if they are provided with a meal for which the government has otherwise paid.

Second, the per diem rate is designed to compensate travelers for their anticipated costs of travel. If the traveler is receiving meals for free, whether funded by the government or by another source, the government would be effectively reimbursing the traveler for an expense that he or she did not incur. Therefore, all DOE travelers are required by the referenced DOE Order to reduce their per diem entitlement for any meal for which they do not directly pay.

I am asking all DOE travelers to review any records reasonably available to them to ensure that this requirement has been observed for their travel. If any traveler discovers that a deduction should have been made, that traveler should file a revised voucher and reimburse the government appropriately. I have attached the relevant sections of DOE Order 1500.2A and a schedule showing how much should be deducted (based upon which meal was received and the amount of the per diem at the traveler's destination) to aid you in this effort.

Travel Manager, the software that prepares all travel authorizations and vouchers for Federal travelers, asks each traveler if meals were provided. Travelers must provide this information with each trip to ensure future compliance with the deduction requirement. The Office of the Chief Financial Officer will underscore this requirement in its Travel Manager training sessions, and will prepare an informational handout for all travelers to receive when they are issued their tickets.

Attachments (3)

## CUSTOMER RESPONSE FORM

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2. What additional information related to findings and recommendations could have been included in this report to assist management in implementing corrective actions?
3. What format, stylistic, or organizational changes might have made this report's overall message more clear to the reader?
4. What additional actions could the Office of Inspector General have taken on the issues discussed in this report which would have been helpful?

Please include your name and telephone number so that we may contact you should we have any questions about your comments.

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