

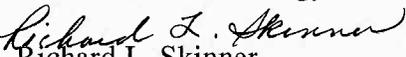


Homeland Security

JUL 27 2010

MEMORANDUM FOR: The Honorable Rand Beers
Under Secretary
National Protection and Programs Directorate

The Honorable Dr. Tara O'Toole
Under Secretary
Science and Technology Directorate

FROM: 
Richard L. Skinner
Inspector General

SUBJECT: *Final Letter Report: Audit of the Department of Homeland Security's Handling of Conference Fees for the Process Control Systems Forum (PCSF)*

We audited the Department of Homeland Security's (DHS) Handling of Conference Fees for the Process Control Systems Forum in fiscal years 2005 to 2007. Our objective was to determine whether a violation of the Miscellaneous Receipts Statute (31 U.S.C. § 3302) or the *Anti-Deficiency Act* (31 U.S.C. §§ 1341 and 1517(a)) occurred from the receipt of conference registration fees.

DHS violated the Miscellaneous Receipts Statute by improperly augmenting its appropriations with the conference fees collected in fiscal years 2005 to 2007 and not remitting those fees to the U.S. Treasury general fund as required. However, DHS did not violate the *Anti-Deficiency Act* because appropriated funds available from the years in question are sufficient to cover DHS' remittance of the conference fees to the U.S. Treasury Account.

This report contains one recommendation. Your office concurred with the recommendation and has taken action to resolve the recommendation. We consider the recommendation resolved and open and will close it when implementation is complete.

Consistent with our responsibility under the *Inspector General Act of 1978*, as amended, we are providing copies of our report to appropriate congressional committees with oversight and appropriation responsibility over the Department of Homeland Security. The report will be posted on our website.

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Should you have any questions, please call me, or your staff may contact Anne L. Richards, Assistant Inspector General for Audits, at (202) 254-4100.

Background

As part of DHS' Science and Technology Directorate, the Homeland Security Advanced Research Projects Agency has an essential role in engaging the private sector, the academic community, and others in innovative technology design, rapid prototyping, prototype systems engineering, and development of new homeland security technologies. During August 2004, the Homeland Security Advanced Research Projects Agency requested support for the creation and management of a Process Control Systems Forum (PCSF) to address problems with security and reliability in process control systems and supervisory control/data acquisition. The Science and Technology Directorate awarded a contract to a private contractor on October 13, 2004.

The original contract, covering 1 year with 2 additional option years, was awarded under an interagency agreement with the Department of Interior for management of the annual Forums for FYs 2005 through 2007. On June 27, 2006, a modification to the contract transferred Forum responsibility to the National Protection and Program Directorate (NPPD). Nonetheless, PCSF funding continued to be provided from Science and Technology's appropriation for Research, Development, Acquisition, and Operations.

In 2008, the NPPD Director of Budget and Financial Services raised concerns that conference fees were being inappropriately collected for the PCSF that fiscal year and canceled DHS' sponsorship. On August 27, 2008, the Director notified the DHS Chief Financial Officer of a potential *Anti-Deficiency Act* violation related to conference fees previously collected for the PCSF in FYs 2005 to 2007. The *Anti-Deficiency Act* (31 U.S.C. § 1341 and 31 U.S.C. § 1517 (a)) prohibits a government officer or employee from making or authorizing an expenditure from, or creating or authorizing an obligation under, any appropriation or fund in excess of the amount available in the appropriation or fund unless authorized by law. Additionally, the Miscellaneous Receipts Statute (31 U.S.C. § 3302(b)) requires all funds received for the government from any source to be deposited into the miscellaneous receipts account of the U.S. Treasury without deduction for any charge or claim if the retention of the money is not authorized or exceeds authorized levels.

The Office of the Chief Financial Officer performed a preliminary investigation and on November 25, 2008, referred the matter to the Office of Inspector General for review. We performed our audit to determine whether the department violated the Miscellaneous Receipts Statute (31 U.S.C. § 3302) or the *Anti-Deficiency Act* by collecting conference registration fees for the Process Control Systems Forum in FYs 2005 to 2007.

Results of Audit

DHS violated the Miscellaneous Receipts Statute by improperly augmenting its appropriations with the conference fees collected in FYs 2005 to 2007 and not remitting those fees to the U.S. Treasury general fund as required. However, DHS did not violate the *Anti-Deficiency Act* because appropriated funds available from those years are sufficient to cover DHS' remittance of the conference fees to the U.S. Treasury Account.

Miscellaneous Receipts Statute

The department violated the Miscellaneous Receipts Statute (31 U.S.C. § 3302(b)) in FYs 2005 through 2007 by collecting conference fees and not remitting the fees to U.S. Treasury General Fund as required. The Science and Technology Directorate used its Research, Development, Acquisition and Operations appropriation to fund the cost of the Process Control Systems Forum for FYs 2005 to 2007. The directorate charged conference fees to cover related costs, such as hotel charges, food, and light refreshments. Table 1 lists the amount of conference registration fees the department collected for the Process Control Systems Forum during the 3-year period.

Table 1

Fiscal Year	Total Fees Collected
2005	\$23,370
2006	\$50,925
2007	\$137,150
Total	\$211,445

When the contractor collected the fees from conference attendees and used those fees to offset conference expenses, an unauthorized augmentation of DHS’ appropriations occurred for each of the 3 years in question.

While there are some instances in which an event planner may retain personal convenience fees from conference attendees for meals and not violate the Miscellaneous Receipts Statute, that is not the case here. The contractor did not collect the fees for its own use, but on behalf of the government. Without specific statutory authority, neither DHS nor the contractor acting on its behalf was permitted to collect conference fees from its attendees to defray the official costs of conferences. As a result, the department remains responsible for remitting to the Treasury the fees it inappropriately collected for the PCSF. Officials responsible for the PCSF during FYs 2005 through 2007 are no longer employed at DHS; however, department officials currently responsible for the PCSF said that the previous managers may not have been aware that collecting conference fees without statutory authority to do so was a violation of the Miscellaneous Receipts Statute.

Anti-Deficiency Act

DHS did not violate the *Anti-Deficiency Act* because appropriated funds available from those years are sufficient to cover DHS’ remittance of the conference fees to the U.S. Treasury account. Table 2 shows the amounts available from Science and Technology’s Research, Development, Acquisitions and Operations appropriations for the 3 years. Because the appropriations are no-year funds, they remain available for obligation in succeeding fiscal years until the amounts are exhausted.

Table 2

Fiscal Year	Appropriation
2005	\$1,046,864,000
2006	\$1,420,997,000
2007	\$838,109,000

Since the conference fees collected each year are less than the available appropriations for each year, Science and Technology will not encounter a deficit when it remits the total \$211,445 to the Treasury.

We identified one other potential funding issue. The hotels provided receptions at night at the conclusion of the conferences, at which food and beverages were served. If the cost of the receptions was not included as part of a nonseparable fee for the entire conference, and if DHS reimbursed employees not in travel status for their conference registration fees, Science and Technology may have committed an *Anti-Deficiency Act* violation. We did not determine whether Science and Technology made any such reimbursements. However, we note the issue for any further action Science and Technology may wish to take.

New Legislation

During the course of our audit, the *DHS Appropriations Act for FY 2010*, Pub. L. No. 111-83, § 554, was enacted, giving DHS the authority to collect conference fees in advance either directly, or by contract, from nonfederal participants for the conferences, seminars, exhibitions, or similar meetings it conducts. The fees must be credited to the appropriation or account from which the costs of the conference are paid. When the total amount of fees collected exceeds actual costs, the excess amount must be deposited to the U.S. Treasury. Although DHS now has the authority to collect conference fees, the department did not have this authority in FYs 2005 to 2007. Therefore, the department must return all conference fees previously collected to the U.S. Treasury account.

Recommendation

We recommend that the Under Secretary for the National Protection and Programs Directorate and the Under Secretary for the Science and Technology Directorate remit to the U.S. Treasury Fund the \$211,445 collected in conference registration fees for the Process Control Systems Forum in FYs 2005 through 2007.

Management Comments and OIG Analysis

We obtained written comments on a draft of the report from the Under Secretary for Science and Technology, on behalf of the department for both the National Protection and Programs Directorate and the Science and Technology Directorate. We have included a copy of the comments in appendix B. The Under Secretary concurred with the recommendation.

Appendix A

Purpose, Scope, and Methodology

To accomplish our audit objective, we reviewed DHS policies, procedures, and documentation regarding managing conferences and collecting registration fees. We also examined prior DHS, Government Accountability Office, and Department of Defense audit reports addressing these issues. We reviewed pertinent laws and regulations; conducted analysis related to interagency agreements, contracts, and records of receipts; and conducted interviews with officials of DHS' National Protection and Program Directorate, Science and Technology Directorate, and Office of the Chief Financial Officer. Our Office of Counsel assisted our audit by providing us with legal opinions on the conference fees collected for the Process Control Systems Forum for the 3 years in question.

We conducted this performance audit between March and October 2009 under the authority of the *Inspector General Act of 1978*, as amended, and according to generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

We appreciate the efforts by DHS management and staff to provide the information and access necessary to accomplish this review.

Appendix B
Management Comments to the Draft Letter Report

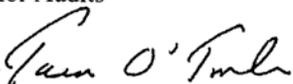
Under Secretary for Science and Technology
U.S. Department of Homeland Security
Washington, DC 20528



**Homeland
Security**

June 8, 2010

MEMORANDUM FOR: Anne L. Richards
Assistant Inspector General for Audits

FROM: Tara O'Toole, M.D., M.P.H. 
Under Secretary for Science and Technology

SUBJECT: *Draft Letter Report: Audit of the Department of Homeland Security's Handling of Conference Fees for the Process Control Systems Forum – FOR OFFICIAL USE ONLY (FOUO)*

Thank you for the opportunity to review and comment on *OIG Draft Letter Report: Audit of the Department of Homeland Security's Handling of Conference Fees for the Process Control Systems Forum – FOUO*. I am providing this response on behalf of the Department – for both the National Protection and Programs Directorate and Science and Technology Directorate. The Department has no comments on the content of the draft report. We agree with the recommendation. The Science and Technology Directorate intends to remit \$211,445 collected in conference registration fees to the U.S. Treasury Fund.

If you have any further questions, please feel free to contact Leslie Tomaselli in my Office of the Executive Secretary, (202) 254-6714.

Cc: Rand Beers, Under Secretary, National Protection and Programs Directorate

www.dhs.gov

Appendix C
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Appendix D

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