

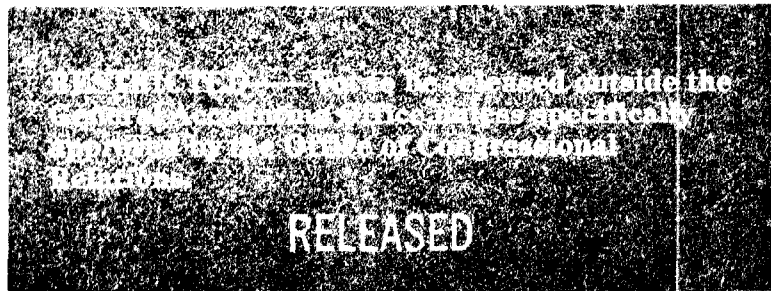
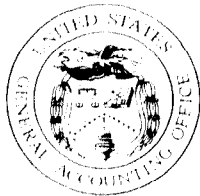
GAO

Report to the Chairman, Subcommittee on Oversight and Investigations, Committee on Energy and Commerce, House of Representatives

April 1989

ENERGY MANAGEMENT

DOE's Plan to Transfer Fire Department Operations to Los Alamos County



Denver Regional Office**Suite 300-D
2420 W. 26th Avenue
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B-232152

April 5, 1989

The Honorable John D. Dingell
Chairman, Subcommittee on Oversight
and Investigations
Committee on Energy and Commerce
House of Representatives

Dear Mr. Chairman:

Your July 14, 1988, letter asked us to review the legality of the Department of Energy's (DOE) transferring its responsibility for operating the Los Alamos fire department to the county of Los Alamos, New Mexico. Subsequently, you asked us to also address what specific provisions DOE was making to ensure that the county would assume financial responsibility for its share of the fire department's operating costs (i.e., the costs of providing fire suppression and emergency medical services to the commercial and residential community of Los Alamos County).

Further, as a result of our meeting with your office on October 7, 1988, we agreed to

- obtain views of the fire fighters on the planned transfer and their reasons for opposing or supporting it;
- determine whether DOE's Albuquerque Operations Office exceeded its authorized staffing ceiling by 145 positions, as fire fighters alleged, and whether the reduction-in-force that would occur as a result of the fire department transfer was intended to help resolve the overstaffing problem; and
- gather information on the adequacy of the fire department's equipment.

On December 1, 1988, we briefed your staff on the preliminary results of our review. At the briefing, we agreed to conclude the assignment with a report summarizing the information presented in the briefing.

Results in Brief

In summary, we found the following:

- DOE is authorized to contract for a transfer of the Los Alamos fire department operations.
- DOE has not made specific provisions to ensure that the county will assume financial responsibility for its share of the operating costs.

- The views of the fire fighters about the transfer are divided: some are against it, and some are in favor of it.
- DOE's Albuquerque Operations Office exceeded its authorized staffing ceiling by 32 positions, but the planned transfer was not intended to resolve the overstaffing problem, according to DOE's Acting Assistant Secretary for Defense Programs. Rather, it was to get DOE out of the fire fighting business.
- DOE has begun repairing and replacing fire fighting equipment as a result of a recent internal study and a Federal Aviation Administration inspection of the equipment used for fire protection at the Los Alamos airport.

DOE Is Authorized to Contract for a Transfer of Los Alamos Fire Department Operations

Since 1948, the Los Alamos fire department—which serves both the Los Alamos National Laboratory and the residential and commercial community—has been funded and managed by the federal government and staffed with federal employees. In May 1986, DOE contracted with the county of Los Alamos to study the feasibility of transferring the Los Alamos fire department operations to the county of Los Alamos. The September 1986 study report, prepared by a private organization under contract to the county of Los Alamos, concluded that the proposed transfer was the most feasible and economical method of continuing fire protection services to both the Los Alamos National Laboratory and the residential and commercial community of Los Alamos County. Accordingly, in February 1988, DOE entered into a contract with the county of Los Alamos to prepare for and implement the proposed transfer of the Los Alamos fire department operations.

DOE is legally authorized to enter into a contractual arrangement for providing fire fighting services at Los Alamos. Such an arrangement is authorized by section 161(e) and (f) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(e), (f), (1982)). This arrangement also is consistent with, and in furtherance of, government policy set forth in section 11 of the Atomic Energy Community Act of 1955, as amended (42 U.S.C. 2301 (1982)). The policy provides for the federal government to transfer to local governments municipal functions and installations located in communities established to carry out atomic energy activities. The policy specifically cites Los Alamos as one such community. (See app. I.)

No Assurance That the County Will Assume Financial Responsibility for Its Share of the Operating Costs

Under the terms of the February 1988 contract between DOE and the county, DOE is to furnish to the county property and equipment to perform fire fighting and rescue functions, with DOE retaining title to this property and equipment. For its part, the county is to staff and operate the fire department, providing fire suppression and emergency medical services to both the Los Alamos National Laboratory and the residential and commercial community of Los Alamos County. The contract consists of two phases: the preoperational phase, during which the county will prepare to take over the fire department operations and will hire a fire chief, and the operational phase, during which the county will actually operate the fire department for 1 year. Upon successful completion of the contract, DOE intends to enter into subsequent 5-year contracts with the county to continue operating the fire department.

The contract does not specifically address how or when the county will assume financial responsibility for its share of the operating costs. However, it does require that the county's timetable and methods for assuming financial responsibility for its fire services be studied during the expected subsequent 5-year contract period. Until cost-sharing arrangements are completed, DOE will continue to finance the total cost to the county of providing fire suppression and emergency medical services to both the laboratory and the Los Alamos commercial and residential community. (See app. II.)

Fire Fighters' Views on the Transfer Are Divided

Of the 18 (of 92) fire fighters we individually interviewed, 10 opposed the transfer and 8 favored it. Fire fighters who attended the open meetings we held at four of the five Los Alamos fire stations generally opposed the transfer.

Views of Fire Fighters Opposed to the Transfer

We interviewed seven fire fighters who had signed letters to you expressing their opposition to the transfer of the fire department. We also interviewed three fire fighters who had not signed the letters but opposed the transfer.

Of principal concern to the opponents were that (1) the transfer would negatively affect their retirement eligibility and costs and (2) the fire fighters would not receive severance pay and would lose their accrued federal sick leave. Other concerns included the increased cost to the taxpayers of transferring the fire fighting operations and the fire fighters' uncertainty about their future job security in case DOE terminates or

does not renew the contract once the transfer has occurred. One of the fire fighters' principal concerns was that, upon the transfer, the county retirement system will allow them to credit no more than 10 years of fire fighting service toward their retirement eligibility, regardless of their actual service years. The fire fighters were also concerned about the additional up-front cost of buying into the county retirement system after rolling over to the county system their federal retirement system contributions.

Although DOE has provided group briefings to the fire fighters on a variety of personnel issues related to the transfer, the fire fighters have received individual counseling only on the cost of entering the county retirement system. According to the DOE Acting Assistant Secretary for Defense Programs, DOE will work with each fire fighter to help identify the retirement option best meeting each person's specific needs.

Regarding the fire fighters' concern about severance pay, Office of Personnel Management regulations prohibit such pay when permanent employees separated from federal service through a reduction-in-force are offered comparable employment. According to DOE's Acting Assistant Secretary for Defense Programs, the fire fighters' county employment will be comparable to their federal employment because the fire fighters will receive a higher percentage-of-pay-to-benefits ratio and more pay for fewer hours of work. The contract between DOE and the county stipulates that the county will offer positions to all fire fighters in permanent positions. According to the fire chief hired by the county under the contract, fire fighters in temporary positions also will be offered permanent positions.

In regard to the employees' concern about their loss of sick leave, we are unaware of any authority to compensate them for this loss.

The fire fighters were correct that the transfer will result in increased costs. According to DOE's Acting Assistant Secretary for Defense Programs, the current annual cost of operating the fire department is about \$4,986,000, whereas the cost for the first full year of the county's operating the fire department is estimated to be \$5,669,692. The cost difference, according to the Acting Assistant Secretary, is largely due to the proposed change from a two-shift to a three-shift operation. This change, according to the Acting Assistant Secretary, will necessitate hiring additional staff (the contract proposes 109 staff, including support personnel, as opposed to the 98 currently authorized). According to an internal DOE Albuquerque Operations Office memorandum, the change to

three shifts “. . . will provide greater stability and integrity to the crews. By allowing the crews to remain more intact, crew training and effectiveness will be enhanced.” (See app. III.)

Views of Fire Fighters Supporting the Transfer

We interviewed six fire fighters who had signed letters to you expressing their support of the fire department transfer. We also interviewed two fire fighters who had not signed the letters but generally favored the transfer.

The proponents of the transfer, while sharing the opponents' concerns, believed that the benefits outweighed the concerns. They stated that, under county employment, the fire fighters will work fewer hours for the same pay and will receive additional pay for supplemental duties such as instruction. Additionally, proponents believed that the county would provide them with more training and would base promotions solely on merit rather than on seniority. (See app. III.)

DOE Albuquerque Office Exceeded Its Authorized Staffing Ceiling by 32 Positions, Not the Alleged 145

According to DOE officials, DOE's Albuquerque Operations Office did not exceed its authorized staffing ceiling by 145 full-time-equivalent positions, as fire fighters alleged, but by 32 (in fiscal year 1988). Contrary to the fire fighters' allegation, the purpose of the transfer was to get DOE out of the fire fighting business, not to bring the Albuquerque office within its staffing ceiling, according to DOE's Acting Assistant Secretary for Defense Programs.

The anticipated fire department reduction-in-force will make available 98 permanent authorized positions. (Currently the fire department is staffed at 92.) However, according to DOE headquarters officials, the Office of Management and Budget has already reduced DOE's full-time-equivalent positions, anticipating conversions of commercial activities to the private sector. If DOE is allowed to retain some or all of the positions, according to DOE's Director of Manpower Resource Management, DOE headquarters will decide whether to allocate them to the Albuquerque Operations Office or to other DOE offices. (See app. IV.)

Fire Department Equipment and Facilities Are Being Repaired or Replaced

DOE Albuquerque Operations Office officials acknowledged that since the completion of the county's September 1986 feasibility study, some routine equipment maintenance was deferred while the transfer was being planned. However, as a result of an August 1988 Federal Aviation Administration inspection (of DOE fire fighting equipment used to respond to airport emergencies) and an October 1988 DOE study, DOE has begun replacing or repairing deficient equipment and facilities. For example, DOE has purchased two new ambulances, a hazardous materials trailer, and a fire truck to replace the one that failed the Federal Aviation Administration inspection. DOE has also repaired structural damage to a fire station floor and has begun repairing leaky roofs. (See app. V.)

Scope and Methodology

In performing our review, we examined applicable laws, the contract between DOE and the county of Los Alamos, DOE staffing data, and various DOE studies, reports, and correspondence related to the planned transfer. We also interviewed officials of DOE's headquarters, Albuquerque Operations Office, and Los Alamos Area Office. We individually interviewed 18 fire fighters, 10 of whom were against the proposed transfer and 8 of whom were in favor of it. Further, we held open meetings with fire fighters on duty (one of two shifts) at four of the five DOE fire stations in Los Alamos. The views on the transfer that were expressed by the fire fighters we interviewed are not projectable to all the fire fighters. We performed our work during October and November 1988. (See app. VI.)

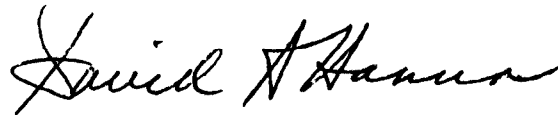
We discussed the contents of this report with DOE headquarters and Albuquerque Operations Office officials and incorporated their comments where appropriate. However, as you requested, we did not obtain written agency comments on a draft of this report.

As arranged with your office, unless you publicly announce its contents earlier, we plan no further distribution of this report until 30 days after the date of this letter. At that time we will send copies to the Secretary of Energy; the Director, Office of Management and Budget; and other

interested parties. If you have any questions, please contact me at (303) 964-0017.

Major contributors to this report are listed in appendix VII.

Sincerely yours,

A handwritten signature in cursive script that reads "David A. Hanna".

David A. Hanna
Regional Manager

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Abbreviations

DOE Department of Energy
GAO General Accounting Office

DOE Is Authorized to Contract for a Transfer of Los Alamos Fire Department Operations

The Los Alamos fire department has been funded and managed by the federal government and staffed with federal employees since 1948. The fire department serves not only the Department of Energy's (DOE) Los Alamos National Laboratory, but also the Los Alamos, New Mexico, residential and commercial community. In May 1986, DOE contracted with the county of Los Alamos to study the feasibility of transferring the Los Alamos fire department operations to the county of Los Alamos. The county in turn contracted with a private organization to conduct the feasibility study. The September 1986 study report concluded that the proposed transfer "... is the most feasible and most economical method of continuing top-quality fire prevention and fire protection services to [the Los Alamos National Laboratory] and the Community."¹

Initially, the cost to DOE of transferring the fire department operations to the county will be greater than the cost of retaining them. In the long run, however, according to DOE's Acting Assistant Secretary for Defense Programs, transferring the fire department operations to the county will be less costly to DOE than retaining them, for two reasons. First, as discussed in appendix II, the county is expected to ultimately assume financial responsibility for its share of the operating costs (i.e., the costs of providing fire suppression and related services to the Los Alamos residential and commercial community). Second, as specified in the contract,

"The County shall be responsible for all costs of providing [fire suppression and related] services to any residential, commercial, and industrial areas within or outside the County developed subsequent to date of this contract."

In February 1988, DOE entered into a contract with the county of Los Alamos to prepare for and implement the proposed transfer of the Los Alamos fire department operations.

DOE is legally authorized to enter into a contractual arrangement for providing fire fighting services at Los Alamos. Such an arrangement is authorized by section 161(e) and (f) of the Atomic Energy Act of 1954, as amended (42 U.S.C. 2201(e), (f), (1982)). The arrangement also is consistent with, and in furtherance of, government policy set forth in section 11 of the Atomic Energy Community Act of 1955, as amended (42 U.S.C. 2301 (1982)). In communities established to carry out atomic

¹ A Feasibility Study on the Possible Transfer of the Los Alamos Fire Department from the Department of Energy to the Incorporated County of Los Alamos (Hernor Corporation for the Incorporated County of Los Alamos, pursuant to DOE Contract No. DE-AC32-80AL13159, Modification No. A051, September 1986).

**Appendix I
DOE Is Authorized to Contract for a Transfer
of Los Alamos Fire Department Operations**

energy activities, including Los Alamos, this policy provides for the transfer of municipal functions and installations from the federal government to local governments.

The 1955 Atomic Energy Community Act authorized the federal government to transfer to local governments the ownership of municipal installations such as schools, hospitals, police and fire protection systems, government buildings, libraries, and parks. The authority to transfer ownership of the Los Alamos installations has since expired; however, the transfer of operational responsibility for such installations is still allowed.

The community of Los Alamos was entirely government-owned until the mid-1960s. At that time, as authorized by the 1955 Atomic Energy Community Act, as amended, the federal government transferred ownership and operational responsibility for most municipal functions (e.g., the police department, hospital, and schools) to public and private parties. However, the fire department remained under the control of the federal government because of concerns that the then-proposed plan to establish two fire departments (one serving the Los Alamos National Laboratory and one serving the Los Alamos community) would result in a duplication of effort. DOE and the county of Los Alamos now plan to avoid this problem by having the government-owned, county-run fire department serve both the laboratory and the community.

No Assurance That the County Will Assume Financial Responsibility for Its Share of the Operating Costs

The two-phase contract between DOE and the county of Los Alamos does not specifically address when or how the county will assume financial responsibility for its share of the fire department operating costs. Under phase I of the contract, the preoperational phase, DOE funds the county's preparation for taking over the fire department operations. Under phase II, the operational phase, DOE will fund the county's actual operation of the fire department for 1 year. The contract provides that upon successful completion of the contract, DOE and the county intend to enter into a subsequent 5-year contract.

Nothing in the current contract provides a guarantee to DOE that the county at any time will assume financial responsibility for its share of the fire department operating costs. However, the contract provides that the subsequent 5-year contract, should one be entered into, will require the county to undertake studies as necessary to identify alternative sources of funding for municipal fire services and to submit to DOE a plan describing the means by which the county will achieve financial self-sufficiency in providing the contract services. According to the current contract, DOE and the county intend to enter into a subsequent 5-year contract. The current contract provides that before entering into the subsequent 5-year contract, DOE and the county shall negotiate a timetable for the county's submission of any necessary studies and the financial self-sufficiency plan.

Until the county assumes financial responsibility for its share of the costs, DOE will continue to finance the total costs of providing fire suppression services to both the laboratory and the Los Alamos residential and commercial community. If the county does assume responsibility for its share of the costs (i.e., the costs of providing services to the residential and commercial community), DOE will continue to finance the county's costs of providing fire suppression and related services to the Los Alamos National Laboratory.

Fire Fighters' Views on the Transfer Are Divided

Of the 18 fire fighters we individually interviewed, 10 opposed the transfer. The other eight, while sharing some of the opponents' concerns, were generally in favor of the transfer. The fire fighters who attended the open meetings we held at four of the five Los Alamos fire stations generally opposed the transfer.

Views of Fire Fighters Opposed to the Transfer

The primary concerns of the fire fighters opposed to the transfer dealt with the retirement system, the lack of severance pay, and the loss of federal sick leave benefits. Of lesser concern but also mentioned were the additional cost to the taxpayers of transferring the fire fighting operations to the county and uncertainty about future job security. Fire fighters on temporary status also were concerned about how the transfer would affect them.

Concern About Switching to a New Retirement System

One of the fire fighters' primary concerns was that switching from the federal retirement system to the county retirement system will affect some fire fighters' eligibility for retirement. All county employees are required to participate in the New Mexico Public Employees Retirement System. While both the federal and the county systems allow retirement after 20 years of fire fighting service, the county system allows no more than 10 years' service to be credited to those transferring into it. Thus, a fire fighter with 14 years of federal fire fighting experience, for example, could be credited with only 10 of those years and would then have to work for 10 more years instead of 6 before becoming eligible for retirement (assuming minimum age requirements are met). According to DOE Albuquerque Operations Office personnel data, as of December 1, 1988, 42 of the 92 fire fighters had 10 or more years of fire fighting experience. However, according to a DOE Albuquerque Operations Office official, 5 of these 42 fire fighters would be eligible to retire rather than work for the county: three were eligible as of December 1, 1988, and two others would become eligible under discontinued service (i.e., would meet the minimum requirement of being either 50 years of age with 20 years of service or any age with 25 years of service) if the fire department operations were eliminated from federal service.

Joining the county retirement system was also perceived as costly by many of the fire fighters. When the fire fighters leave the federal retirement system, they may withdraw their federal retirement contributions and roll them over into the county system. However, the federal system allows them to withdraw only their own contributions, not the government's share. As a result, according to the fire fighters, the amount that

**Appendix III
Fire Fighters' Views on the Transfer
Are Divided**

a fire fighter will have available to roll over into the county system will be much less than the amount needed to purchase county retirement credit for the full number of years of federal fire fighting service earned (up to 10). For example, one fire fighter with 16 years of federal fire fighting service has individually contributed about \$19,550 to the federal retirement system. This fire fighter may withdraw and roll over these contributions into the county system. However, to purchase 10 years (the maximum) of retirement credit under the county system, this fire fighter will need about \$33,689, or about \$14,139 more than the individual federal contributions accrued. Table III.1 shows, for a 43-year-old fire fighter with a county annual salary of \$23,307 and individual federal retirement contributions of about \$19,550, the purchase amounts for various numbers of years of county retirement credit, according to data provided by New Mexico's Public Employees Retirement System.

Table III.1: Purchase Amounts for Years of County Retirement Credit

Years purchased	2	4	6	8	10
Cost of purchase	\$6,138	\$12,627	\$18,941	\$25,254	\$33,689
Individual federal retirement contributions	19,550	19,550	19,550	19,550	19,550
Difference	\$(13,412)	\$(6,923)	\$(609)	\$5,704	\$14,139

According to DOE's Acting Assistant Secretary for Defense Programs, fire fighters who belong to the federal Civil Service Retirement System and have 5 years or more of federal civilian service have two options available with respect to retirement. First, they may leave their retirement contributions in the federal system. At age 62, they will be eligible for retirement benefits based on the average of the salaries received during the 3 consecutive highest paid years with the federal government. Their annuity would be 1.5 percent per year for the first 5 years of service, 1.75 percent per year for the second 5 years of service, and 2 percent per year for all years of service over 10. A fire fighter with 16 years of federal civilian service, for example, would receive an annuity of 28.25 percent of the average of his or her 3 consecutive highest paid years of federal service. In addition, fire fighters who selected this option would receive an annuity from the county system based on the number of years of county employment.

The second option is for fire fighters to receive a refund of their retirement contributions from the federal retirement system and to buy into the county system. DOE's Acting Assistant Secretary for Defense Programs acknowledged that a fire fighter is limited to buying a maximum

Appendix III
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of 10 years and that the buy-in cost of 10 years usually exceeds the amount of money that the fire fighter has contributed to the federal retirement program. (See table III.1.)

According to the Acting Assistant Secretary, each of the fire fighters who belong to the federal Civil Service Retirement System and has 5 or more years of federal civilian service may choose between these two retirement program options. Of the 92 DOE fire fighters on board as of December 1, 1988, 64 belong to the Civil Service Retirement System, and all 64 have more than 5 years of federal civilian service, according to Albuquerque Operations Office personnel data. Of the remaining 28 fire fighters, 15 belong to the newer Federal Employees Retirement System.¹ The other 13 fire fighters are temporary employees not covered by a retirement system.

Of the 15 fire fighters who belong to the Federal Employees Retirement System, 13 have 5 years or more of federal civilian service. These 13, like those covered under the Civil Service Retirement System, may choose to leave their retirement contributions in the federal system and become eligible for deferred retirement benefits at age 62. All 15 of the fire fighters who belong to the Federal Employees Retirement System have 3 or more years of federal civilian service and therefore may alternatively choose to withdraw and roll over into the county system not only their contributions to the basic benefit plan, but also both their own and the government's contributions to the savings plan. (An employee covered under this retirement system can contribute up to 10 percent of his or her salary to the savings plan, while the government automatically contributes 1 percent, as well as matching a portion of the employee's contribution.) Fire fighters under this retirement system with less than 3 years of service have the same withdrawal option, except that they forfeit the government's automatic contribution (1 percent of salary) to the savings plan. The amount, if any, the 15 fire fighters covered by the Federal Employees Retirement System would have to pay to buy into the county system would depend on the amounts contributed to the basic benefit and savings plans. Fire fighters covered by the Federal Employees Retirement System pay social security taxes, which could not be returned to them when they leave the retirement

¹The Federal Employees Retirement System, established by Public Law 99-335, took effect on January 1, 1987, and automatically covers all federal employees hired after December 31, 1986. It also covers all federal employees who, as of December 31, 1986, had less than 5 years of creditable civilian federal service. Additionally, employees covered under the Civil Service Retirement System were given the option to transfer to the Federal Employees Retirement System between July 1 and December 31, 1987.

system. However, upon retirement, these fire fighters would receive social security benefits if they have paid the taxes for at least 10 years. (They would not pay social security taxes under the county retirement system.)

According to the Acting Assistant Secretary for Defense Programs, DOE will be working with each fire fighter on an individual basis to help identify which program best meets each person's specific needs. We agree that DOE needs to work individually with each fire fighter, as some of the fire fighters' comments to us indicated some misunderstanding about the retirement options available to them.

**Concern About Severance
Pay and the Loss of
Federal Sick Leave**

The fire fighters were also concerned that they will not receive severance pay or any compensation for their accrued federal sick leave. Office of Personnel Management regulations prohibit severance pay when permanent employees separated from federal service through a reduction-in-force are offered comparable employment. According to DOE's Acting Assistant Secretary for Defense Programs, the fire fighters' county employment will be comparable to their federal employment because the fire fighters will receive a higher percentage-of-pay-to-benefits ratio and more pay for fewer hours of work. The contract between DOE and the county stipulates that the county will offer positions to all fire fighters in permanent positions. Additionally, according to the county fire chief, fire fighters in temporary positions also will be offered permanent positions.

In regard to the fire fighters' concern about their loss of sick leave, we are unaware of any authority to compensate them for this loss. According to Office of Personnel Management regulations (5 C.F.R. 630.502), sick leave balances can be reinstated only if an employee separated from federal service (e.g., through a reduction-in-force, such as at Los Alamos) rejoins federal service after a break of 3 years or less.

**Concern About the
Additional Cost of the
Transfer**

According to DOE's Acting Assistant Secretary for Defense Programs, the current annual cost of operating the fire department is about \$4,986,000, whereas the estimated cost for the first full year of operation by the county is estimated to be \$5,669,692. The cost difference, according to the Acting Assistant Secretary, is largely due to the proposed change from a two-shift to a three-shift operation. This change, according to DOE's acting fire chief, will necessitate hiring additional staff (the contract proposes 109 staff, including support personnel, as

**Appendix III
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opposed to the 98 currently authorized). The change was recommended in the September 1986 feasibility study prepared for the county. Although the overall cost for operating the fire department will increase, the amount of overtime will be reduced. Under a three-shift operation, the fire fighters will work on average 56 hours a week instead of the 72 they now work for DOE under a two-shift operation. (The fire fighters now work 24 hours followed by 24 hours off, plus an additional day off every 2 weeks; under county employment they would work 24 hours followed by 48 hours off.) In accordance with the requirements of the Fair Labor Standards Act, the county will pay the fire fighters 3 hours of overtime pay, above their base salary, each week. With a two-shift operation, the county would have to pay the fire fighters for 19 hours of overtime.

In addition to reducing overtime pay, according to a Los Alamos County official, the change to three shifts will provide other benefits: it will be in line with standard industry work hours, will increase employee morale, and will ease the administrative scheduling burden. According to a Los Alamos County official, the 72-hour average work week is peculiar to the federal government; nonfederal fire fighters generally work a 56-hour week. The change from a 72-hour work week to a 56-hour week, according to an internal DOE Albuquerque Operations Office memorandum, "... will provide greater stability and integrity to the crews. By allowing the crews to remain more intact, crew training and effectiveness will be enhanced." In view of these benefits, DOE is considering changing to a three-shift operation even if the transfer does not occur, according to DOE's Acting Assistant Secretary for Defense Programs. A Los Alamos County official added that the 56-hour work week will be easier to administer. For example, when a fire fighter has to be called back to duty to work overtime, as can happen due to unplanned sick leave and other absences, that fire fighter would at least be more likely to have had 24 hours off duty under the 56-hour schedule.

**Concerns About Future
Job Security in Case the
Contract Is Not Renewed**

Fire fighters were also concerned about their future job security in case DOE terminates or does not renew the contract with the county. The contract does not specify what steps DOE would take in case of contract termination or nonrenewal.

**Concerns of Temporary
Fire Fighters**

Fire fighters on temporary status had their own concerns about the transfer. They were unsure whether they would be offered permanent positions with the county, would remain temporary employees, or would

not be offered a position at all. According to the county fire chief, the county will offer permanent positions to all fire fighters, including those now on temporary status.

According to DOE's Acting Assistant Secretary for Defense Programs, the Albuquerque Operations Office filled permanent positions with temporary employees because of the impending transfer. That is, DOE thought it would not be prudent to hire permanent employees and then, in the transfer of the fire department operations, separate the new employees from federal service through a reduction-in-force. When the present 13 temporary fire fighters were hired (12 in December 1987 and 1 subsequently), according to the Acting Assistant Secretary, they accepted the temporary positions with the understanding that the fire department operations might be transferred to the county.

The temporary fire fighters were also concerned about the transfer not occurring. In such a case, they questioned whether they would obtain permanent status, remain as temporaries, or be terminated. If the transfer does not occur, according to DOE's Acting Assistant Secretary for Defense Programs, the temporary employees' positions will be competed as permanent positions, in accordance with Office of Personnel Management regulations. The temporary employees may compete for those positions and, if successful, will become permanent employees.

Views of Fire Fighters Supporting the Transfer

The fire fighters who generally supported the planned transfer cited several benefits: fewer work hours for the same pay, more training, promotions based on merit rather than seniority, and additional pay for supplemental duties.

The County Will Offer the Same Pay for Fewer Hours

One of the benefits the fire fighters cited was that the county will give them the same pay for fewer work hours. The fire fighters' annual salary will remain the same. According to Albuquerque Operations Office officials, DOE and the county have agreed that the county, as part of its desire to offer the fire fighters an employment package comparable to what they now have, will hire the DOE fire fighters at their current annual gross pay (based on their federal base pay plus premium and overtime pay). Under county employment, the fire fighters would work 24 hours followed by 48 hours off, whereas under DOE employment, they work 24 hours followed by 24 hours off, plus an additional day off every 2 weeks. Under county employment, the fire fighters would work

on average 32 fewer hours during each 2-week period than they currently do (112 hours as opposed to 144 hours).

The County May Offer More Training

The fire fighters also believed that the county would provide more training than DOE currently provides. A DOE study of the fire department operations and the transfer process cited training deficiencies and recommended improvements.² Albuquerque Operations Office officials initiated the study because the transfer issue, having been considered imminent for nearly 2 years, had resulted in uncertainty, decreased morale, and deferred maintenance of fire department equipment. The study noted training deficiencies such as not having an adequate facility for live fire fighting training and outdated and too few training manuals. To improve training, the study recommended developing a training program which should include actions such as establishing basic-training curricula, recertifying the fire fighters, providing training on radiation and exposure levels, improving the training manuals, increasing medical training, constructing an adequate facility for live fire fighting training, and providing training on special fire situations dealing with chemicals, electricity, and hazardous materials.

While the DOE study was underway, according to the acting DOE fire chief, some additional training was provided to fire fighters. For example, newly appointed temporary officers were provided supervisory training, six fire fighters attended basic fire fighting training, and two lieutenants attended crash/rescue training.

Merit Promotions

Some fire fighters believed that the county would base promotions on job knowledge, qualifications, performance, and leadership abilities. Conversely, they perceived DOE promotions as being based solely on time-in-grade and seniority.

The DOE acting fire chief, however, disagreed with the fire fighters' perception. He said that DOE bases its promotions on merit rather than time-in-grade or seniority.

²Plan for the Upgrade of the Los Alamos Fire Department and the Transfer of Fire Fighting Activities to Los Alamos County (DOE Albuquerque Operations Office, October 21, 1988).

**The County Will Provide
Additional Pay for
Supplemental Duties**

Under county employment, fire fighters who perform extra duties will receive additional pay, whereas under DOE employment they do not. For example, the county will pay an additional 5 percent of base pay to qualified fire fighters who are also instructors or intravenous technicians.

DOE's Albuquerque Office Exceeded Its Authorized Staffing Ceiling by 32 Positions, Not the Alleged 145

In fiscal year 1988, according to DOE officials, DOE's Albuquerque Operations Office exceeded its authorized staffing ceiling by 32 full-time-equivalent positions, not 145 full-time-equivalent positions as alleged by the fire fighters. However, DOE overall staffing levels did not exceed authorized levels, according to DOE's Director of Manpower Resource Management.

The purpose of the transfer was not to reduce the number of Albuquerque Operations Office positions in order to stay within the staffing ceiling, according to DOE's Acting Assistant Secretary for Defense Programs. The purpose was to get DOE out of the fire fighting business. According to the Acting Assistant Secretary, the transfer is consistent with government policy set forth in the 1955 Atomic Energy Community Act: to transfer the responsibility for municipal services to local governments in formerly wholly government-owned communities such as Los Alamos.

The fire fighter reduction-in-force that will occur as part of the transfer will make available 98 permanent authorized positions. However, according to DOE's headquarters officials, the Office of Management and Budget has already reduced DOE's full-time-equivalent positions, anticipating conversions of commercial activities to the private sector. If DOE is allowed to retain some or all of the positions, according to DOE's Director of Manpower Resource Management, DOE headquarters will decide whether to allocate them to the Albuquerque Operations Office or to other DOE offices.

Fire Department Equipment and Facilities Are Being Repaired or Replaced

Over the past 2 years, according to an Albuquerque Operations Office study, DOE postponed many routine repair and maintenance items while the transfer was being planned. Deficient equipment and facilities are being repaired or replaced as a result of an August 1988 Federal Aviation Administration inspection of the equipment used for fire protection at the Los Alamos airport and an October 1988 DOE study. DOE recently purchased

- two new ambulances (about \$55,000 each) to replace two that were older units;
- a fire truck (about \$52,000) capable of spraying foam, water, or a potassium extinguishing agent, which will respond to airport emergencies, to replace the outdated foam truck that failed an August 1988 Federal Aviation Administration inspection; and
- a fully equipped hazardous materials trailer (about \$72,000), which will allow the fire department to handle hazardous materials situations that could occur outside the laboratory.

Other actions DOE is taking in response to the DOE study recommendations include repairing or replacing deficient equipment or facilities such as

- structural damage to a fire station;
- boilers that are not vented in accordance with safety codes, are deteriorated, or cannot be inspected because they are a sealed unit;
- air packs and flammable materials cabinets that do not meet National Fire Protection Agency requirements;
- rust holes on fire truck steps;
- asbestos insulation open to work areas;
- leaky station roofs;
- damaged building ladders; and
- potholes in station driveways.

The fire fighters, as well as Los Alamos and DOE officials, acknowledged that the equipment and facilities are being upgraded.

Scope and Methodology

To determine the legality of DOE's plans to transfer its Los Alamos fire fighting operations to the county, we reviewed the 1954 Atomic Energy Act, as amended (42 U.S.C. 2201(e), (f), (1982)), and the 1955 Atomic Energy Community Act, as amended (42 U.S.C. 2301 (1982)), as well as other pertinent legislation. We reviewed the terms of the contract between DOE and the county of Los Alamos to effect the transfer.

To determine whether DOE had any assurance that the county would be able to assume financial responsibility for its share of the fire department's operating costs, we reviewed the contract terms and interviewed DOE Albuquerque Operations Office officials.

To obtain fire fighters' views on the proposed transfer, we held open meetings with fire fighters on duty (one of two shifts) at four of the five Los Alamos fire stations and solicited attendees' concerns and opinions. We also privately interviewed 18 fire fighters (15 permanent and 3 temporary). For the interviews, we selected both opponents and proponents of the transfer; we also interviewed several other fire fighters at their request. Ten fire fighters opposed the transfer, and 7 of them had signed letters to the Chairman, Subcommittee on Oversight and Investigations, House Committee on Energy and Commerce, expressing their opposition. Eight fire fighters supported the transfer, and six of them had signed letters to the Subcommittee Chairman expressing their support. The views of the fire fighters we interviewed may not represent those of all 92 Los Alamos fire fighters.

To determine whether the DOE Albuquerque Operations Office exceeded its authorized staffing ceiling, we obtained fiscal year 1988 staffing data from that office. We also interviewed officials of DOE's headquarters, Albuquerque Operations Office, and Los Alamos Area Office about staffing levels and use.

To obtain information on the adequacy of the Los Alamos fire fighting equipment, we interviewed DOE officials, the acting fire chief, deputy and assistant fire chiefs, and fire fighters. We also interviewed the Los Alamos National Laboratory's emergency management officer, and the Los Alamos County fire chief. We reviewed and discussed with the DOE acting fire chief the August 1988 Federal Aviation Administration's inspection report and DOE's October 1988 investigative report on the condition of the Los Alamos Fire Department.

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