



**Resources, Community, and
Economic Development Division**

B-284887

March 24, 2000

The Honorable F. James Sensenbrenner, Jr.
Chairman
The Honorable Bart Gordon
Ranking Minority Member
Subcommittee on Space and Aeronautics
Committee on Science
House of Representatives

Subject: Laboratory Research: State of Tennessee Exempts DOE's Spallation Neutron Source Project From Sales and Use Taxes

The Spallation Neutron Source (SNS) Project is the largest interlaboratory collaboration ever attempted by the Department of Energy (DOE). When completed, the SNS will be the world's most powerful accelerator-based facility for conducting experiments that could result in new materials used in applications ranging from drugs to computer hard drives. Each of five DOE collaborating national laboratories is responsible for designing, building, and assembling separate components of the project. Estimated by DOE to cost about \$1.4 billion, the project is planned to be built in Oak Ridge, Tennessee, under the direct supervision of the Oak Ridge National Laboratory, which is currently managed by Lockheed Martin Energy Research Corporation (Lockheed Martin). Lockheed Martin will be replaced as the managing contractor by the partnership of the University of Tennessee and Battelle Memorial Institute (UT-Battelle) in April 2000. The four other national laboratories collaborating on the project are the Lawrence Berkeley National Laboratory in California, the Los Alamos National Laboratory in New Mexico, the Brookhaven National Laboratory in New York, and the Argonne National Laboratory in Illinois.

Concerned that the federal government might be required to reimburse the project's contractors about \$35 million in Tennessee sales and use taxes during the construction of the SNS, you asked us to determine if these tax expenses would be less if the project were built at any of the other four collaborating DOE laboratories. We reported to you on November 19, 1999, that the sales and use tax costs to build the SNS Project at the Oak Ridge National Laboratory, using Lockheed Martin or UT-Battelle, would be more than if the project were built at Brookhaven National Laboratory, where the current managing contractor and subcontractors incur virtually no sales and use taxes.¹ This is because New York has tax exemptions that Brookhaven's contractor (a tax-exempt, not-for-profit organization) and its for-profit subcontractors can use. In contrast, such exemptions were not available to UT-Battelle because Tennessee did not have similar tax exemptions. Thus, Lockheed Martin, a for-profit organization, and UT-Battelle, a not-for-profit, limited liability corporation that is not recognized by Tennessee as tax exempt, would pay both sales and use taxes.

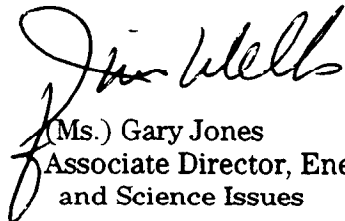
¹ Laboratory Research: Sales and Use Tax Costs to Build DOE's Spallation Neutron Source Project (GAO/RCED-00-33R, Nov. 19, 1999).

Since our report was issued, the state of Tennessee has taken action to exempt the SNS from Tennessee sales and use taxes. On January 27, 2000, the Governor of Tennessee signed into law Senate Bill No. 2001 that, among other things, exempts the SNS from all sales and use taxes imposed by the state. Because of this new legislation, it would now cost no more, from a sales and use tax standpoint, to construct the SNS Project in Tennessee than at any of the four other collaborating laboratories. We are providing you with this report in satisfaction of a direction from the House of Representatives that no fiscal year 2000 funds be obligated for the construction of the SNS Project until GAO reports that it would cost no more, from a tax standpoint, to construct the SNS in Tennessee than at any of the four other collaborating laboratories.²

Agency Comments

We provided a draft of this report to DOE for review and comment. The Department's Chief Financial Officer said that the conditions described in this report are accurate.

We conducted our review in March 2000 in accordance with generally accepted government auditing standards. As arranged with your offices, unless you publicly announce its contents earlier, we plan no further distribution of this report until 5 days after its issuance date. At that time, we will send copies of this report to the Honorable Bill Richardson, Secretary of Energy; and the Honorable Jacob J. Lew, Director, Office of Management and Budget. We are also sending copies of this report to the Honorable Don Sundquist, Governor of Tennessee; the Honorable John S. Wilder, Lt. Governor of Tennessee; the Honorable James O. Naifeh, Speaker, Tennessee House of Representatives; and to the Tennessee congressional delegation. We will make copies available to others upon request. If you have any questions about this report, please call me at (202) 512-3841. Key contributors to this report were Gary Boss and Susan Irwin.


(Ms.) Gary Jones
Associate Director, Energy, Resources,
and Science Issues

(141413)

² This direction is contained in H.R. Rep. No. 106-253, accompanying the Energy and Water Development Appropriations Bill, 2000. The report references a similar direction in H.R. 1655, authorizing DOE's fiscal year 2000 research and development appropriations, subsequently amended and passed by the House on September 15, 1999.

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