

U.S. agency foots contractor legal bills

The Advocate (Baton Rouge, La.) - Tuesday, December 30, 2003

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WASHINGTON - The Energy Department spent \$330 million in taxpayer money to reimburse its private contractors for legal bills during a 51/2-year span, including for lawsuits they lost and settlements of sexual harassment and whistleblower allegations, congressional investigators reported Monday.

The department said the reimbursements were legal and it scrutinizes each legal bill before deciding to pay.

A key congressman said the reimbursements amount to a "get-out-of-court free" card for contractors who engage in wrongdoing.

"When a contractor for the DOE gets sued, 95 percent of the time its legal fees and settlement costs get reimbursed by the federal government," said Rep. Edward Markey, D-Mass., a member of the House Energy and Commerce Committee.

The Energy Department is somewhat unique among federal agencies because private contractors run so many of its facilities, including national defense labs and former sites where nuclear weapons production activity took place.

The department's reimbursements came in 1,895 cases from late 1997 through March, according to a report released by the General Accounting Office.

There were 814 cases involving workers' compensation, 268 on equal employment opportunity, 100 from whistleblowers, 99 stemming from personal injury, 50 on wrongful termination of employment, 40 on radiation and different types of toxicity and 524 on other matters, the GAO said.

Of those, 563 cases are pending, including 290 on workers' compensation and 56 on equal employment opportunity, the investigators reported.

The University of California is one of the department's contractors, operating three labs including the one at Los Alamos, N.M.

Drawing fire from Markey, UC has in some cases invoked the 11th Amendment providing for state immunity from lawsuit by a private party in federal court.

"UC identified eight out of about 35 federal cases where it invoked immunity," the GAO report stated.

"Two were dismissed without further litigation because of this argument."

"Officials at the University of California estimated that the university, in its role as a DOE contractor, has asserted other immunity-related defenses in at least 62 of about 137 cases, predominantly to defend against punitive damages," the GAO said.

Markey said underwriting the costs of defending against lawsuits provides little incentive for Energy Department contractors to act within the law.

Markey said one case of contractor reimbursement involved a \$1 million jury award to a woman who sued Lawrence Livermore National Laboratory for wrongful termination.

Edition: The Baton Rouge Advocate

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