



U.S. Department of Energy
Office of Inspector General
Office of Audits and Inspections

INSPECTION REPORT

Alleged Fraud, Waste, Abuse and
Mismanagement at the (b)(6), (b)(7)(C) Site Office

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September 2014



Department of Energy
Washington, DC 20585

September 30, 2014

MEMORANDUM FOR THE SECRETARY

FROM: *Gregory H. Friedman*
Gregory H. Friedman
Inspector General

SUBJECT: INFORMATION: Inspection Report on "Alleged Fraud, Waste, Abuse and Mismanagement at the [redacted] Site Office" (b)(6),(b)(7)(C)

BACKGROUND

(b)(6),(b)(7)(C) The [redacted] Site Office is located at the Department of Energy's [redacted] (b)(6),(b)(7)(C) [redacted] in [redacted] (b)(6),(b)(7)(C) [redacted] conducts [redacted] (b)(6),(b)(7)(C) [redacted] (b)(6),(b)(7)(C) [redacted] The Site Office's mission is to administer the Department's performance-based contract with [redacted] (b)(6),(b)(7)(C) [redacted] for the management and operation of [redacted] (b)(6),(b)(7)(C) [redacted] The Site Office employs approximately 25 Federal and contractor employees. The Site Office Manager serves as the senior Federal official on the [redacted] (b)(6),(b)(7)(C) [redacted] site and reports to the Deputy Director for Field Operations, Office of Science (Science). (b)(6),(b)(7)(C)

This inspection was initiated in response to a complaint received by the Office of the Inspector General alleging fraud, waste, abuse and mismanagement at the [redacted] (b)(6),(b)(7)(C) [redacted] Site Office. (b)(6),(b)(7)(C) Specifically, the complaint alleged that the Site Office Manager used Government employees and other resources to perform personal tasks. The complaint also alleged that the Site Office Manager committed various other ethics violations, to include: (1) accessing and sharing a Site Office employee's email records; (2) creation of a negative work environment; (3) disclosure of Site Office employees' personal health information; (4) the use of inappropriate influence with Site Office staff during prior investigations of the Site Office Manager's conduct; and (5) improprieties related to the consumption of alcohol during an offsite Site Office "Team Building" event. Lastly, it was alleged that the Site Office Manager retaliated against a Site Office employee by facilitating a transfer to another Department site. We initiated this inspection to determine the facts and circumstances surrounding these allegations.

RESULTS OF INSPECTION

(b)(6),(b)(7)(C) Key aspects of the allegations were substantiated. We found that the [redacted] (b)(6),(b)(7)(C) [redacted] Site Office Manager inappropriately used both Federal and contractor employees and other official resources to perform personal tasks on [redacted] (b)(6),(b)(7)(C) [redacted] behalf. Specifically, we found that:

(b)(6),(b)(7)(C) • The [redacted] Site Office Manager used Site Office employees to perform personal tasks such as reconciling monthly statements of a bank account for the family trust of the Manager's relative, and the sorting and organizing of the Manager's personal family trust-related records;

(b)(6),(b)(7)(C) • The [redacted] Site Office Manager also used contractor employees to perform personal tasks such as cleaning the Manager's office, taking the Manager's personal mail to the post office and picking up food, coffee, and groceries;

(b)(6),(b)(7)(C) • [redacted] Site Office equipment and supplies were used by the Site Office Manager and Site Office employees to perform the various personal tasks related to the Manager's personal and family trust-related affairs; and

(b)(6),(b)(7)(C) • Since approximately 2009, the [redacted] Site Office Manager used Federal office space to house the Manager's extensive collection of personal financial records.

(b)(6),(b)(7)(C) We also substantiated the allegations that the [redacted] Site Office Manager accessed employees' emails and that the Manager created a negative work environment. Specifically, we determined that the Site Office Manager, without sufficient justification, accessed and shared Site Office employees' emails and, in the process, intimidated employees by demonstrating [redacted] ability and propensity to do so. Also, many of the personnel we interviewed said that the Site Office Manager frequently yelled and cursed at employees. Furthermore, several Site Office employees told us that they were afraid of losing their jobs and expressed fear that they would experience retaliation as a result of speaking with us during our fieldwork. (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C) In addition, we found that the [redacted] Site Office Manager attempted to intimidate Site Office employees after obtaining a copy of an investigative report regarding prior allegations against

(b)(6),(b)(7)(C) [redacted] We determined that in 2011, following that investigation, Science disciplined the manager and subsequently provided the Manager a copy of the investigative report. Although the copy of the report provided to the Site Office Manager had been redacted by Science's Office of Chief Counsel in Chicago, it still contained the names of Site Office and [redacted] employees interviewed during the investigation. While the redacted report did not contain the witness affidavits, the report did contain unattributed verbatim quotes from those affidavits. We were told that the Site (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C) Office Manager made it known that [redacted] had been provided a copy of the investigative report,

(b)(6),(b)(7)(C) and, in an email, the Manager stated that [redacted] knew who the negative comments had come from

(b)(6),(b)(7)(C) because [redacted] was familiar with the communication style used in the quotes.

It is important to note that there was no evidence that the disclosure of this sensitive information was intentional on the part of Science. Moreover, we learned that the release of the redacted report to the Site Office Manager was authorized by both Science's Office of Chief Counsel in Chicago as well as Headquarters' Office of the General Counsel, and that Science also consulted the Office of Human Capital regarding the decision to release the report. However, as evidenced by the Manager's own statement, we believe that despite Science's efforts to redact the investigative report, the release of this sensitive information to the Site Office Manager negatively impacted the work environment at the Site Office.

(b)(6),(b)(7)(C) The remaining aspects of the alleged ethics violations were not substantiated. Specifically, there was insufficient evidence to conclude that the [redacted] Site Office Manager had disclosed Site Office employees' personal health information or inappropriately used influence with Site Office staff during previous investigations into the Manager's conduct. Nor was there evidence of alleged improprieties at an offsite Site Office "Team Building" event. Finally, there was insufficient evidence to substantiate the allegation that the Site Office Manager's facilitation of a Site Office employee's transfer to another Department site constituted retaliation. Additional details regarding our examination of the issue of reprisal and retaliation are discussed in Appendix I.

Contributing Factors

(b)(6),(b)(7)(C) The misuse of Federal and Government contractor employees and other resources occurred because the (b)(6),(b)(7)(C) [redacted] Site Office Manager failed to adhere to well-established and widely promulgated ethical standards regarding the conduct of Federal employees. In fact, the Site Office Manager created a work environment and culture wherein [redacted] authority was viewed as (b)(6),(b)(7)(C) absolute and the handling of [redacted] personal affairs by Site Office employees had become the accepted norm. The extensive use of contractor "at will" personnel at the Site Office also contributed to an office culture wherein these employees believed that they had to perform personal tasks at the Manager's direction or risk losing their jobs. This environment and culture appear to have been further exacerbated by the staff's awareness that prior complaints and investigations regarding the Site Office Manager were largely ineffective. Specifically, Site Office employees told us that the continuation of the Site Office Manager's behavior led them to conclude that the prior Departmental investigation and Science's subsequent corrective actions simply did not correct the problem, and that the Manager was "invincible."

(b)(6),(b)(7)(C) We concluded that the [redacted] Site Office Manager was solely responsible for [redacted] actions in (b)(6),(b)(7)(C) the intimidation of Site Office employees, and noted that [redacted] engaged in these activities despite (b)(6),(b)(7)(C) having been disciplined by Science for similar conduct in the past. However, the Manager's ability to target specific employees for intimidation appeared to have been facilitated by the release of the investigative report that contained the names of witnesses along with unattributed verbatim quotes from witness affidavits.

Finally, although we do not consider this to be an acceptable excuse for the behavior of the (b)(6),(b)(7)(C) [redacted] Site Office Manager in this matter, we noted that neither the Department nor Science had promulgated procedures governing a Manager's access to employees' email and computer records. Clearly, there could be legitimate reasons for granting such access; however, the circumstances in this case did not, in our view, provide any reasonable rationale for such action.

Impact and Path Forward

We concluded that the (b)(6),(b)(7)(C) [redacted] Site Office Manager's actions in this matter violated the *Standards of Ethical Conduct for Employees of the Executive Branch*. In our view, the Manager's actions constituted: an alarming misuse of subordinates for the performance of personal tasks; widespread misuse of Government property and the official time of Government and contractor personnel; unwarranted access to email and computer records; intimidation of

subordinates for legitimate participation in a Department-sanctioned fact-finding examination; and, the creation of a negative work environment tainted by threats of reprisal. In this environment, it is doubtful that the Site Office was able to function effectively in carrying out its vital mission. Moreover, the provision of the redacted investigative report to the Site Office Manager, and the Site Office Manager's subsequent use of that information, placed Site Office and [redacted] employees at risk for reprisal and retaliation, and may have compromised the integrity of the OIG complaint process.

(b)(6),(b)(7)(C)

To address the issues described in this report, we made recommendations designed to assist management in: (1) preventing any future actual or apparent violations of the *Standards of Ethical Conduct for Employees of the Executive Branch*; (2) preventing any future misuse of Government resources; and (3) ensuring that employees are free to exercise their protected rights, to include the legal right to disclose wrongdoing, without fear of retaliation. In addition, we are also suggesting that the Acting Director for Science protect all sensitive information relating to investigations of employee misconduct and ensure that dissemination of such information does not compromise witnesses or those who provided testimony.

MANAGEMENT REACTION

Management concurred with the report's recommendations and will conduct a review of support service contracts to ensure contractor duties are aligned with contract requirements. In addition, Management is in the process of establishing policies and procedures for proper legal and senior level review of field requests for access to employees' email and computer records and will also develop procedures to ensure that employees are aware of the protections afforded to them by law when reporting workplace concerns. Because the [redacted] Site Office Manager has retired from Federal Service, Management statement that it cannot take further action with regard to determining appropriate disciplinary and administrative action to address the issues identified in our report, or increasing the level of supervision of the [redacted] Site Office Manager.

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

We considered Management's planned actions responsive to our recommendations.

Management's comments are included in Appendix 4.

Attachments

cc: Deputy Secretary
Chief of Staff
Deputy Under Secretary for Science and Energy
Acting Director, Office of Science
General Counsel

**INSPECTION REPORT ON ALLEGED FRAUD, WASTE, ABUSE AND
MISMANAGEMENT AT THE (b)(6),(b)(7)(C) SITE OFFICE**

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ALLEGED FRAUD, WASTE, ABUSE AND MISMANAGEMENT AT THE
(b)(6),(b)(7)(C) SITE OFFICE

BACKGROUND

(b)(6),(b)(7)(C) The (b)(6),(b)(7)(C) Site Office is located at the Department of Energy's (Department (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) in (b)(6),(b)(7)(C) employs approximately (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) The Site Office's mission is to oversee the Department's performance-based contract with the (b)(6),(b)(7)(C) for the management and operation (b)(6),(b)(7)(C) of (b)(6),(b)(7)(C) The Site Office employs approximately 25 Federal and contractor employees and consists of (b)(6),(b)(7)(C) (b)(6),(b)(7)(C) The Office of Science's (Science) Integrated Service Center in Chicago (ISC/Chicago) provides administrative support to the Site Office. The Site Office Manager serves as the Senior Federal Official on the (b)(6),(b)(7)(C) site and (b)(6),(b)(7)(C) reports to Science's Deputy Director for Field Operations at Department Headquarters.

Alleged Misconduct

In October 2013, the Office of the Inspector General's (OIG) Hotline received an anonymous allegation of fraud, waste, abuse and mismanagement at the (b)(6),(b)(7)(C) Site Office. Specifically, it (b)(6),(b)(7)(C) was alleged that the Site Office Manager used Site Office employees and other Government resources to perform personal tasks. The complaint also alleged that the Site Office Manager committed various ethics violations, to include: (1) accessing and sharing a Site Office employee's email records; (2) creation of a negative work environment; (3) disclosure of Site Office employees' personal health information; (4) use of inappropriate influence with Site Office staff during prior investigations of the Site Office Manager's conduct; and (5) improprieties related to the consumption of alcohol during an offsite "Team Building" event. Lastly, it was alleged that the Site Office Manager retaliated against a Site Office employee by facilitating a transfer to another Department site.

(b)(6),(b)(7)(C) Key aspects of the allegations were substantiated. Specifically, we found that the (b)(6),(b)(7)(C) Site (b)(6),(b)(7)(C) Office Manager inappropriately used Site Office employees and other resources to perform personal tasks for (b)(6),(b)(7)(C) accessed and shared Site Office employees' email records; and created a negative work environment. However, the allegations regarding the disclosure of Site Office employees' personal health information, the use of inappropriate influence during prior investigations, and improprieties during an offsite "Team Building" event were not substantiated.

Misuse of Federal and Contractor Employees

(b)(6),(b)(7)(C) We found that the (b)(6),(b)(7)(C) Site Office Manager routinely used both Federal and contractor employees at the Site Office to perform personal tasks for (b)(6),(b)(7)(C) The *Standards of Ethical Conduct for Employees of the Executive Branch* provide that an employee shall use official time in an honest effort to perform official duties and prohibit an employee from encouraging, directing, coercing, or requesting a subordinate to use official time to perform activities other than those required in the performance of official duties or authorized in accordance with

law or regulation (5 CFR §2635.705, *Use of Official Time*). These standards also stipulate that: (1) directing or coercing a subordinate to perform such activities during off duty hours constitutes an improper use of public office for private gain; and (2) a subordinate's performance of unofficial duties for a superior during non-duty hours, unless adequately compensated, constitutes a prohibited gift to the superior, even if the subordinate performs the unofficial duties voluntarily. Ethical standards also require that Federal employees avoid even the appearance of unethical behavior (5 CFR §2635.101, *Basic Obligation of Public Service*). In addition, 48 CFR §952.242-70, *Technical Direction*, stipulates that technical direction provided to contractor personnel must be within the scope of work stated in the contract, while Department Order 203.1, *Limited Personal Use of Government Office Equipment Including Information Technology*, states that seeking help from Government employees or contractor personnel in pursuit of personal projects is an inappropriate use of Government resources. Finally, the *OPM Guide to Senior Executive Service Qualifications*, dated September 2012, states that the fundamental competencies of a member of the Senior Executive Service include behaving in an honest, fair, and ethical manner and modeling high standards of ethics.

However, contrary to these provisions, we confirmed that the [redacted] Site Office Manager (b)(6),(b)(7)(C) enlisted the assistance of a Site Office employee to prepare documentation in support of the Manager's family trust. Specifically, a Site Office employee performed reconciliations of monthly statements for a bank account in the name of the Site Office Manager's relative's trust. The employee told us that, at the end of each year, the employee compiled these monthly reconciliations which were then forwarded to the Manager's personal accountant for tax preparation purposes. The employee stated that these tasks were performed in the Site Office workplace, either during the employee's lunch breaks or after duty hours. Per the employee's statement, the employee first performed these activities for the Site Office Manager in 2009, and subsequently performed them on a recurring basis, as recently as October 2013. The employee told us that the employee chose to help the Site Office Manager and that the Manager provided the employee with direction for this task both verbally and via personal email.

(b)(6),(b)(7)(C) We also confirmed the allegation that the [redacted] Site Office Manager utilized a Site Office (b)(6),(b)(7)(C) employee to perform [redacted] personal financial planning. During our fieldwork, another Site Office (b)(6),(b)(7)(C) employee told us that [redacted] assisted the Site Office Manager and other Site Office employees with their Thrift Savings Plan accounts, but performed no other financial services for the Manager. (b)(6),(b)(7)(C) The employee stated that [redacted] spent no more than 15-30 minutes per month of Department time on (b)(6),(b)(7)(C) these activities, which [redacted] performed using both Department and personal computers. The Site Office Manager acknowledged that this employee assisted [redacted] with [redacted] Thrift Savings Plan (b)(6),(b)(7)(C) account.

(b)(6),(b)(7)(C) In addition, several [redacted] Site Office Federal and contractor employees informed us that they participated in sorting and organizing the Site Office Manager's family trust-related records. Some of these employees said that they sorted and organized these documents on their own time, to include weekends worked in the Site Office workplace. Other employees stated that they performed these tasks during their regular duty hours, but that the time spent on the activities was minimal. Also, former Site Office contractor employees told us that they prepared address labels for the Site Office Manager's family trust-related correspondence and also cleaned the Manager's office, to include vacuuming, and organizing the Manager's shoes. One former contractor employee stated that sometimes as many as 2-3 hours of the employee's work day was

spent performing personal tasks for the Manager. This included the sorting of the Manager's personal correspondence and bills, and the preparation of loan documents and reimbursement requests for purchases made by the Site Office Manager on behalf of [redacted] family trust. This former employee told us that the handling of the Manager's personal affairs by the Site Office staff was the norm and part of the Site Office's culture, and that the employee frequently performed other personal errands for the Manager, such as taking personal mail to the post office and picking up food, coffee, and groceries. Clearly, these personal errands were outside the scope and performance work statements of the contracts.

(b)(6),(b)(7)(C)

The [redacted] Site Office Manager confirmed that [redacted] also worked on family trust-related matters in the Site Office, mostly on weekends or after hours, and characterized any other time [redacted] spent during work hours as de minimis. The Manager told us that [redacted] has not received any income from the trust but also stated that [redacted] is the "last person standing" and the beneficiary of [redacted] relative's trust, which [redacted] described as substantial. The Site Office Manager also admitted that Site Office employees assisted [redacted] with [redacted] family trust matters but stated that this assistance was either de minimis or performed on the employees' own time. The Site Office Manager stated that the employees who voluntarily provided this assistance were also the Manager's longtime friends, and that they did not receive any type of compensation for performing these tasks. Despite these assertions, we concluded that the Site Office Manager's use of both Federal and contractor employees to perform personal tasks on [redacted] behalf was inappropriate.

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

Misuse of Other Government Resources

We found that the [redacted] Site Office Manager and Site Office employees inappropriately used Government resources, to include office equipment and supplies, to perform personal tasks for the Site Office Manager. Federal standards of ethical conduct stipulate that an employee has a duty to protect and conserve Government property and shall not use such property, or allow its use, for other than authorized purposes (5 CFR § 2635.704, *Use of Government Property*). Department Order 203.1, *Limited Personal Use of Government Office Equipment Including Information Technology*, permits employees to make limited use of Government resources for personal purposes, but only if such use involves de minimis additional expense to the Government and is otherwise permissible under Department regulations and applicable State and Federal laws. Department Order 203.1 further states that using Government resources to benefit one's outside employment or business activities is a misuse of Government resources. Finally, Title 5 CFR § 2635.801, *Outside Activities*, provides that outside employment and other outside activities of an employee must also comply with the principle that an employee shall endeavor to avoid actions creating an appearance of violating ethical standards.

However, contrary to these provisions, we determined that [redacted] Site Office resources, including telephones, computers, email accounts, printers, scanners, ink, toner, paper, envelopes and address labels, were used by the Site Office Manager as well as Site Office employees to perform various tasks related to the Manager's personal and family trust affairs. We also confirmed that Site Office space was used to house the Manager's extensive inventory of personal financial records for several years. The Site Office Manager and many of the Site

Office employees we interviewed admitted that office equipment and supplies were used to perform the various tasks related to the Manager's personal and business-related activities, but stated that this use was minimal. On the other hand, a former Site Office employee stated that the use of Government equipment and supplies was on a large scale, particularly on the weekends when the former employee and other Site Office employees came in to work on the Manager's family trust matters.

During our fieldwork, a (b)(6),(b)(7)(C) Site Office employee permitted us to inspect several drawers and boxes of the Site Office Manager's family trust records which were stored in the employee's office. We were told that these documents had originally been brought into the Site Office in several large trash bags, and that the documents were subsequently organized for the Manager by Site Office employees into binders, boxes and filing cabinets. We also obtained a signed-sworn statement from another Site Office employee attesting that the Manager's family trust-related records had been present in the workplace since 2009, and that the records were still on the Site Office premises at the time of our initial fieldwork. The Site Office Manager readily admitted the presence of the family trust records in offices and allowed us to view additional binders of family trust records stored in (b)(6),(b)(7)(C) office. Subsequently, the Site Office Manager told us that the majority of these records had been removed from the workplace.

Although the (b)(6),(b)(7)(C) Site Office Manager and some Site Office employees asserted that these uses of Government resources were de minimis in nature, we concluded that Government resources, including supplies, and equipment, were misused to perform personal tasks for the Site Office Manager. Since these Government resources were used to benefit an outside business or other activity with which the Site Office Manager was associated, these uses were not authorized under Department policy. We also concluded that, at a minimum, the prolonged presence of the Manager's extensive personal financial records in the Site Office workplace was irregular, leading reasonable observers to conclude that ethical standards were being violated.

Accessing and Sharing Employees' Email Records

(b)(6),(b)(7)(C) We confirmed the allegations that the (b)(6),(b)(7)(C) Site Office Manager accessed and shared Site Office employees' email records. Specifically, we found that the Site Office Manager obtained access to at least six different Site Office employees' email records, and that the Manager had at times shared the content of these records with other Site Office employees. In one particularly disturbing example, in May 2013, the Site Office Manager requested and was granted full access to the email and computer records of a Site Office employee who was about to transfer permanently to a new position outside the Site Office. We learned that in 2011, this particular Site Office employee had been tasked by the Site Office Manager's supervisor to coordinate an investigation into a previous OIG complaint against the Site Office Manager. We noted that as a result of this investigation, during which many (b)(6),(b)(7)(C) personnel and nearly all Site Office employees were interviewed, the Manager received a letter of reprimand and a notice of requirement to improve (b)(6),(b)(7)(C) performance, which noted that (b)(6),(b)(7)(C) performance had declined to "unsatisfactory" in two critical leadership attributes.

(b)(6),(b)(7)(C) An official from ISC/Chicago, responsible for providing information technology support to the (b)(6),(b)(7)(C) Site Office, told us that the Site Office Manager's request for access to this particular

employee's emails was approved by a senior ISC/Chicago official via an informal and unwritten process. However, the Site Office Manager's supervisor, whose office is located at the Department's Headquarters, expressed doubt that the Site Office Manager could obtain access to emails and told us that [redacted] was under the impression that any such requests would have required Headquarters-level approval. This senior Science official also stated that [redacted] was not aware of this request or any other requests by the Site Office Manager to access any Site Office employee's email records. The official confirmed that a number of allegations and grievances had previously been filed with regard to the Site Office Manager's conduct and went on to state that, in the charged atmosphere of tension at the Site Office, approving a request by the Site Office Manager for access to the employee's email and computer records would have been inappropriate "to say the least."

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

Seven [redacted] Site Office employees stated that the Manager directed them to view the departing employee's emails, or verbally shared with the employees the content of those emails. The Site Office Manager, as well as several employees, stated that Government emails were electronic files, which must be reviewed in order to locate any "reportable Government records" and that the Manager's actions in accessing email records were justified by the need for "continuity of operations." However, the Manager as well as several employees told us that no reportable Government records were actually located during the review of the departing employee's email records. Moreover, other Site Office employees stated that the Manager's primary motive for accessing the departing employee's emails was to obtain information related to prior complaints and grievances involving the Manager, to include the identities of the complainant(s). Our own review of the Site Office Manager's and other Site Office employees' emails confirmed that the Manager's focus was on emails that contained either statements that were unflattering to the Manager or information related to allegations or grievances filed against the Manager. We noted that the Manager forwarded emails to human resources personnel in ISC/Chicago, evidently to be used to rebut grievances filed against the Manager and [redacted] supervisor by yet another Site Office employee.

(b)(6),(b)(7)(C)

We determined that there is no current Department or Science policy in place regarding a Manager's access to Science field office employees' email records. However, we found that in July 2013, the Department's Office of the General Counsel drafted a policy to address management requests for access to an employee's computer records. The policy, which was approved by the Deputy Secretary of the Department in December 2013, stipulates that access to employee records on Department computer systems may not be used to chill various employee rights, to include the legal right to disclose wrongdoing without fear of retaliation, such as disclosures to the Office of Special Counsel or the Department's Inspector General. The policy requires that management's access to employee computing records further a legitimate Government interest and that proposed search terms be narrowly tailored to elicit information related to the specific purpose or objective of the request. However, as written, this policy is only applicable to users of the Office of the Chief Information Officer Energy Information Technology Services Desktop Services, and it is not currently proposed that the policy be made applicable to Science and other Department program offices.

We determined that the Office of the General Counsel discussed the email policy with several program offices, including Science, and that discussions were also initiated with Offices of Chief Counsel throughout the Department, to determine how field offices currently handle requests for employees' computer and access control records. We also determined that in March 2013, Science established a standard process for conducting data transfer requests, which required the submission of a written request and subsequent review and approval by both Science's Deputy Director of Resource Management and General Counsel. However, we were informed that this process was only applicable at Science's Headquarters level, not at the field office level. ISC/Chicago officials confirmed that there is no formal policy in place for Science field offices regarding a Manager's access to employees' emails and computer records, but told us that a Science policy is being developed.

(b)(6),(b)(7)(C) We also learned that the [redacted] Site Office Manager requested and obtained access to the email records of Site Office employees still actively employed at Site Office for [redacted] as well (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C) as the Manager's administrative support staff. Many of the Site Office employees we interviewed stated that the Site Office Manager had repeatedly advised the staff during meetings that [redacted] could and would access employees' email records. We were told that as a result, Site Office employees have become paranoid and that employees avoid using email to accomplish their official duties, even though this negatively impacts productivity. For example, we were told that Site Office employees whose assigned duties involve sensitive, contractual and pre-decisional information have concerns about Site Office contractor employees having access to their emails and therefore conduct such matters verbally rather than via email. Other employees told us that they use their email sparingly since they are aware that it may be monitored.

(b)(6),(b)(7)(C) Finally, statements made by the Manager in [redacted] own emails illustrate [redacted] view and motivation (b)(6),(b)(7)(C)

(b)(6),(b)(7)(C) with regard to [redacted] authority and ability to access (b)(6),(b)(7)(C) Site Office employees' email records. Specifically, the Manager wrote:

As a Manager, I get individuals files when they depart and that is cleared through the IT Department (CH-ISC). But you know as a Manager, I can request to review the emails prepared by my staff when they are using Government furnished property.

I learned today from a member of my staff . . . that there were emails . . . from a 'certain Manager' on my staff that were very unflattering to me. I will get a copy of the email for the files.

This view is evidence that the (b)(6),(b)(7)(C) Site Office Manager accessed Site Office employees' email records for reasons other than to locate reportable Government records or to ensure continuity of operations.

Negative Work Environment

We found that the (b)(6),(b)(7)(C) Site Office Manager used intimidation to create a negative and fearful work environment. Department Order 442.1A, *Department of Energy Employee Concerns Program*, defines intimidation as any action taken by coworkers or supervisors against or toward an employee to cause that employee to cease engaging in protected activities, to be

fearful of engaging in protected activities, or to otherwise be afraid for his or her safety, reputation, or job security as a result of having identified concerns about any aspect of Department facilities or operations.

(b)(6),(b)(7)(C) However, [redacted] Site Office employees stated that there was a great level of fear and intimidation in the Site Office, that the Site Office Manager's management style was based on fear, and that the Manager had a "long reach." Several Site Office employees told us that the Manager frequently lost [redacted] temper and yelled and cursed at employees. We were also told that Site Office employees were afraid for their jobs and several employees expressed fear that they would experience retaliation as a result of speaking with us during our fieldwork. Moreover, Site Office employees, both Federal and contractor, told us that the continuation of the Office Manager's behavior led them to conclude that the prior Department investigation and Science's corrective actions were ineffective, and that the Site Office Manager was "invincible."

(b)(6),(b)(7)(C) In addition, most (b)(6),(b)(7)(C) [redacted] Site Office employees we interviewed were aware that the Site Office Manager had accessed employees' email on multiple occasions, which one employee described to us as "a form of control." Moreover, Site Office employees also told us that the Site Office Manager made it known that [redacted] had been provided with a copy of a prior investigative report (b)(6),(b)(7)(C) into past allegations against [redacted] and that the Manager shared or discussed [redacted] copy of the report (b)(6),(b)(7)(C) with several Site Office employees. We were told that members of the Site Office staff were alarmed when they learned that the Manager had been given this information. In fact, one employee told us that the employee "felt that the Department had let us down."

(b)(6),(b)(7)(C) We confirmed that on August 10, 2011, Science provided the Site Office Manager a copy of the prior investigative report which, although redacted, still contained the names of Site Office and (b)(6),(b)(7)(C) [redacted] employees interviewed during the investigation as well as unattributed verbatim quotes from witness affidavits. Specifically, although the report's supporting exhibits (including the affidavits of all witnesses interviewed) were not provided to the Site Office Manager, the redacted copy of the report still contained a complete list of the names of all those interviewed. Moreover, the redacted document furnished to the Site Office Manager included the body of the report which consisted of a series of finding statements as well as a corresponding series of supporting unattributed verbatim quotes, as extracted from the witness affidavits.

(b)(6),(b)(7)(C) We were informed that Science consulted personnel in the Office of Human Capital Management, CH-ISC's Office of Chief Counsel, and Headquarters' Office of the General Counsel before the redacted report was released to the Site Office Manager. However, despite these efforts, the Site Office Manager was still able to determine what the witnesses had said. During our own review of email records, we found the following statement made by the Site Office Manager in an email [redacted] sent after receiving the copy of the report on August 10, 2011:

I have received the redacted version of the Report and although the areas of [sic] blacked out, I know who the negative comments came from because the style of communicating is something that I am quite familiar with since the same style has been used to communicate directly with me.

(b)(6),(b)(7)(C) We noted that, under the *Whistleblower Protection Act*, filing an OIG complaint and cooperating with an investigation into an OIG complaint are both protected activities. We concluded that, by demonstrating to the [redacted] Site Office staff [redacted] ability and willingness to obtain their email and computer records, as well as [redacted] possession of the names and partial statements of witnesses interviewed during the previous investigation, the Site Office Manager's actions: (1) intimidated Site Office employees; (2) caused Site Office employees to fear for their job security; (3) caused Site Office employees to be fearful of engaging in protected activities; and (4) created a negative and fearful work environment.

Unsubstantiated Aspects of Ethics Allegations and Retaliation

The remaining aspects of the alleged ethics violations were not substantiated. Specifically, our review did not substantiate the allegations that the [redacted] Site Office Manager disclosed Site Office employees' personal health information and inappropriately used influence with staff during previous investigations into the Manager's conduct. We also did not substantiate the improprieties regarding an offsite Site Office "Team Building" event where it was alleged that the time was spent primarily shooting pool, drinking beer, and taking tequila shots. In addition, the allegations that the (b)(6),(b)(7)(C) [redacted] Site Office Manager retaliated against a Site Office employee were not substantiated. Specifically, although we confirmed that the Site Office Manager actively facilitated the transfer of a Site Office employee to another Department site, we were unable to obtain sufficient evidence that the Manager's involvement in the employee's transfer constituted retaliation. However, we did conclude that Science's provision of the redacted investigative report to the Site Office Manager, and the Site Office Manager's subsequent use of that information, placed Site Office and [redacted] employees at risk for reprisal. Additional details regarding our examination of the circumstances surrounding this issue are discussed in Appendix 1.

Contributing Factors

The (b)(6),(b)(7)(C) [redacted] Site Office Manager's misuse of Government resources occurred, in part, because the Manager failed to adhere to well-established and widely promulgated ethical standards regarding the conduct of Federal employees. In fact, the Site Office Manager created a work environment wherein Site Office staff viewed the Manager's authority to be absolute and the handling of the Manager's personal affairs by Site Office employees had become the norm. This environment appears to have been reinforced by the ineffectiveness of actions taken in response to previous complaints regarding the conduct of the Site Office Manager. During our review, we learned that a number of previous allegations and grievances against the Site Office Manager, along with a number of resultant reviews by Science and external investigators, had adversely impacted morale and productivity at the Site Office. Science appears to have been aware of these issues, as evidenced by the fact that, in 2011, the Site Office Manager received a letter of reprimand and a notice of requirement to improve [redacted] performance, which noted that [redacted] performance had declined to "unsatisfactory" in two critical leadership attributes.

The extensive use of contractor "at will" personnel at the [redacted] Site Office also contributed to an office culture wherein the handling of the Site Office Manager's personal affairs came to be accepted as standard practice. We learned that Federal employees had previously provided

administrative support at the Site Office, but that beginning in 2006, contractor employees were hired for these positions. We determined that, during a 7-year period ending in 2013, five or six different contractor employees had occupied these Site Office administrative support positions and that these employees were frequently dismissed and replaced. One of these former administrative support employees told us that the Site Office Manager stated that "I can't get rid of a Fed as easy as I can get rid of a contractor." The former employee stated that [redacted] believed [redacted] contract was not renewed because eventually [redacted] began to refuse the Manager's requests to perform personal tasks, as well as the Manager's requests to interact with the employee's children. Another former administrative support employee stated that [redacted] believes the reason for [redacted] termination was the Manager's displeasure at the employee's reluctance to hold the Manager's [redacted]. The former employee told us that budget issues were the stated reason given for letting [redacted] go, but that another contractor was subsequently hired to replace [redacted] at an even higher rate of pay. The former employee also stated that Site Office contractor employees understood that the Manager could "pull their contract" at any time.

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

(b)(6),(b)(7)(C)

Finally, although we do not consider this to be an acceptable excuse for the behavior of the [redacted] Site Office Manager in this matter, the conditions which allowed the Manager to obtain access to Site Office employees' email and computer records existed, in part, were because neither the Department nor Science had promulgated procedures requiring that requests for such access be reviewed and approved by senior management and legal counsel. Moreover, although the Site Office Manager was solely responsible for [redacted] actions in the intimidation of Site Office employees, we concluded the Manager's ability to target specific employees for intimidation appeared to have been facilitated by the release of an investigative report that contained the names of witnesses along with unattributed verbatim quotes from witness affidavits.

(b)(6),(b)(7)(C)

Impact and Path Forward

The [redacted] Site Office Manager's actions in these matters constitute, at the very least, violations of the *Standards of Ethical Conduct for Employees of the Executive Branch*. The Manager's alarming misuse of subordinates for the performance of personal tasks; misuse of Government property and Site Office personnel's time; abuses of email and computer records; and, intimidation of subordinates, created a negative work environment tainted by threats of reprisal. In such an environment, it was doubtful that the Site Office was able to effectively accomplish its vital mission to manage the Department's performance-based contract for the management and operation of [redacted].

In addition, the [redacted] Site Office Manager's demonstrated ability to access Site Office employees' email records and sensitive information from prior investigations created a chilling effect upon Site Office employees with regard to their protected right to disclose fraud, waste, abuse, misuse or mismanagement, as well as their willingness to cooperate with inquiries into such wrongdoing. It is important to note that there was no evidence that the disclosure of sensitive information was intentional on the part of Science. However, Science's provision of the names and portions of statements of witnesses during a prior investigation, and the Site Office Manager's use of that information, may have compromised the integrity of the complaint process, placing these witnesses at risk for reprisal and retaliation.

Ensuring that senior Department officials adhere to ethical standards, that government resources are used appropriately, and that employees are free to exercise their protected rights are critical to satisfying pressing Department mission needs. Accordingly, we made recommendations designed to assist management address the issues identified in this report.

RECOMMENDATIONS

To address the issues identified in this report, we recommend that the Acting Director, Office of Science:

1. Determine whether disciplinary and/or administrative action is necessary to address the significant ethical violations chronicled in this report;
- (b)(6),(b)(7)(C) 2. Increase the level of supervision of the [redacted] Site Office Manager to ensure that: (i) Site Office employees immediately and permanently cease the performance of personal tasks for the Site Office Manager, regardless of whether or not the performance of such tasks is voluntary, uses Government property, or is accomplished on the employees' own time; (ii) the Site Office Manager immediately ceases the performance of personal tasks using Government resources; and (iii) the Site Office Manager immediately and permanently removes all personal financial records and documents from the Site Office workplace;
- (b)(6),(b)(7)(C) 3. Ensure that services provided by [redacted] Site Office contractor staff are within the scope of the support services contract;
4. Develop and implement policies and procedures that ensure any Science site manager's request for access to an employee's email and computer records be subject to senior-level and legal review and approval; and
5. Through changes to current procedures and training, ensure that employees are free to exercise their protected rights.

MANAGEMENT RESPONSE

Science concurred with the report recommendations. Management will conduct a review of support service contracts to ensure contractor duties are aligned with contract requirements and is in the process of establishing policies and procedures for proper legal and senior level review of field requests for email and computer access. In addition, management will develop procedures to ensure that employees are aware of the protections afforded to them by law when reporting work place concerns. Because the [redacted] Site Office Manager has retired from Federal Service, management cannot take further action with regard to determining appropriate disciplinary and administrative action to address the issues identified in our report, or increasing the level of supervision of the [redacted] Site Office Manager.

Management did raise a concern that our report was inconsistent in its description of the processes and procedures used when a redacted copy of the previous investigative report was provided to the Site Office Manager. Management argued that, although our report inferred that the investigative report was improperly redacted, we provided no reference to procedure or process violations related to the redaction process. Management requested that we review the facts and circumstances surrounding the process followed by various Department elements in redacting the investigative report and that we consider interviewing the attorney that performed the redaction to affirm that the redaction was carried out in accordance with established Department processes and procedures.

Management comments are included in their entirety in Appendix 4.

INSPECTOR COMMENTS

We considered management's comments to be generally responsive to the report's findings and recommendations. We have modified our report where appropriate to further clarify the nature of the redacted report provided to the Site Office Manager. Specifically, the redacted report did contain the names of Site Office and [redacted] employees interviewed during the investigation as well as unattributed verbatim quotes from the witness affidavits. However, the redacted report did not contain the witness affidavits themselves. We also reemphasized in the body of our report that there was no evidence that the disclosure of sensitive information was intentional on the part of Science.

However, we have not reviewed the process for redacting reports as requested by management. Our point all along has been that, despite Science's efforts to redact the investigative report, and as evidenced by the Manager's own statement, the release of this sensitive information to the Site Office Manager negatively impacted the work environment at the Site Office. We have concluded that management's provision of the names and unattributed but verbatim statements of Site Office and [redacted] employees interviewed during the prior investigation of the Site Office Manager, as well as the Site Office Manager's subsequent use of that information, may have compromised the integrity of the complaint process, placing these witnesses at risk for reprisal and retaliation.

OTHER MATTERS: PROTECTION AGAINST REPRISAL

(b)(6).(b)(7)(C) Although we were unable to obtain sufficient evidence to substantiate the allegation that the [redacted] Site Office Manager's facilitation of a Site Office employee's transfer to another Department of Energy (Department) site constituted retaliation, we concluded that, at the very least, that the Office of Science (Science) did not ensure that Site Office employees were protected against reprisal.

Merit System Principles (5 USC § 2301) stipulate that an employee should be protected against reprisal for the lawful disclosure of information which the employee reasonably believe evidences either: (1) a violation of any law, rule or regulation; or (2) mismanagement, a gross waste of funds, an abuse of authority, or a substantial and specific danger to public health or safety. Additionally, Department Order 221.1A, *Reporting Fraud, Waste and Abuse to the Office of Inspector General*, stipulates that Department managers must ensure that reprisals are not taken against employees who report fraud, waste, abuse, misuse, corruption, criminal acts or mismanagement. Department Order 442.1A, *Department of Energy Employee Concerns Program*, defines reprisal as any action taken against an employee in response to, or in revenge for, the employee having raised, in good faith, reasonable concerns about any aspect of Department-related operations. Finally, Department Guide 442.1-1, *Department of Energy Employee Concerns Program*, states that managers and supervisors have a responsibility to establish open communications to enable employees to raise concerns in a manner that fosters the free flow of information, without employees being subjected to reprisal for raising those concerns.

(b)(6).(b)(7)(C) Numerous [redacted] Site Office employees told us that the Site Office Manager facilitated the eventual departure of a Site Office employee, based on the Manager's belief that the employee had either filed or helped to substantiate prior allegations against the Manager. As previously noted, this particular Site Office employee had been tasked by the Site Office Manager's supervisor to coordinate an investigation into a previous Office of Inspector General (OIG) complaint against the Site Office Manager. We determined that this investigation, conducted in May 2011 by an independent investigator, substantiated the prior OIG Hotline complaint which alleged, among other things, that the Manager created a negative work atmosphere in the Site Office. We learned that subsequently, in August 2011, the Site Office Manager received a letter of reprimand as well as a copy of the investigator's report which, although redacted, contained the names of the Site Office and (b)(6).(b)(7)(C) [redacted] employees interviewed, along with unattributed but verbatim quotes excerpted from witness affidavits.

(b)(6).(b)(7)(C) The [redacted] Site Office employee told us that in November 2011, during a discussion of [redacted] (b)(6).(b)(7)(C) performance appraisal with the Site Office Manager, the Manager informed the employee that [redacted] (b)(6).(b)(7)(C) was seeking to detail [redacted] elsewhere and that [redacted] hoped [redacted] did not return to the Site Office. (b)(6).(b)(7)(C) We confirmed that, in December 2011, this employee was subsequently detailed to another Department site. After the detail was extended several times, the employee was eventually permanently transferred, effective June 2013. The former Site Office employee told us that [redacted] (b)(6).(b)(7)(C) did not request or initiate the detail, and that the transfer was a significant downgrade which

(b)(6),(b)(7)(C) more than doubled [redacted] daily commute. However, the former employee noted that it felt like an
 (b)(6),(b)(7)(C) "escape" for [redacted] to leave the Site Office and that [redacted] was at least able to retain [redacted] rate of pay (b)(6),(b)(7)(C)
 even after the transfer became permanent.

In contrast, the (b)(6),(b)(7)(C) Site Office Manager told us that the Site Office employee initiated the request for the detail. The Site Office Manager also stated that the employee's subsequent permanent transfer was mutually decided upon by the Manager and the Manager's supervisor. When pressed for further details, the Site Office Manager stated that the transfer was a
 (b)(6),(b)(7)(C) complicated personnel matter and referred us to [redacted] supervisor for additional information. Our own review of email traffic confirmed the Site Office Manager's substantial and prolonged efforts to repeatedly extend the employee's detail and to facilitate [redacted] eventual permanent transfer (b)(6),(b)(7)(C)
 from the Site Office. We also learned that this inter-agency transfer, which involved a "trade" of personnel between the National Nuclear Security Administration (NNSA) and Science, took months to accomplish and required the approval of senior NNSA and Science officials, as well as NNSA's Hiring Review Board.

The (b)(6),(b)(7)(C) Site Office Manager's supervisor, a senior Science official, told us that [redacted] viewed (b)(6),(b)(7)(C)
 the detail as a temporary means to alleviate the stress in the Site Office environment by defusing (b)(6),(b)(7)(C)
 the tension between the Manager and the employee. The Science official stated that [redacted] was not (b)(6),(b)(7)(C)
 sure who initiated the former employee's permanent transfer but that the gaining site wanted to (b)(6),(b)(7)(C)
 keep the employee permanently because [redacted] performed so well during [redacted] detail. The Science (b)(6),(b)(7)(C)
 (b)(6),(b)(7)(C) official also told us that [redacted] was unaware that the redacted copy of the report provided to the (b)(6),(b)(7)(C)
 Manager contained the statements and names of those Site Office and [redacted] employees (b)(6),(b)(7)(C)
 interviewed during the previous investigation, and that had [redacted] been aware that this information (b)(6),(b)(7)(C)
 had been released to the Manager, it would have been a cause for concern.

(b)(6),(b)(7)(C) Although we were unable to confirm that the employee's detail and subsequent transfer were in (b)(6),(b)(7)(C)
 fact retaliation for [redacted] participation in the prior investigation into the [redacted] Site Office (b)(6),(b)(7)(C)
 Manager's conduct, we concluded that Science's actions in providing the Site Office Manager with sensitive information from the previous investigation, and the Site Office Manager's subsequent use of that information, placed all witnesses and participants, including the transferred employee, at risk for reprisal and retaliation, and may also have compromised the integrity of the complaint process.

SUGGESTED ACTION

We suggest that the Acting Director for Science protect all sensitive information relating to investigations of employee misconduct and ensure that dissemination of such information does not compromise witnesses or those who provided testimony. Specifically, we suggest that policies and procedures be developed and implemented to protect sensitive information generated during reviews of OIG Hotline and other allegations/complaints, to ensure that employees who report fraud, waste, abuse, misuse, corruption, criminal acts or mismanagement, as well as employees who cooperate with investigations into such wrongdoing, are not exposed to potential reprisal and retaliation.

OBJECTIVE, SCOPE AND METHODOLOGY

Objective

(b)(6),(b)(7)(C) We initiated this inspection to determine the facts and circumstances surrounding the allegations that the [redacted] Site Office Manager: (1) misused Government resources; (2) accessed and shared Site Office employees' email records; (3) created a negative working environment; (4) disclosed Site Office employees' personal health information; (5) used inappropriate influence with Site Office staff during prior investigations; (6) sanctioned improprieties related to a "Team Building" event; and (7) retaliated against Federal and contractor Site Office employees.

Scope

We conducted this inspection from November 2013 to September 2014, at the [redacted] (b)(6),(b)(7)(C) [redacted] in [redacted] (b)(6),(b)(7)(C) [redacted]. The inspection was conducted under Office of Inspector General (OIG) Project Number S14IS002.

Methodology

To accomplish the inspection objective, we:

- Reviewed prior allegations against or involving the [redacted] (b)(6),(b)(7)(C) [redacted] Site Office Manager and the results of any ensuing reviews;
- Interviewed current and former Site Office Federal and contractor personnel, and obtained signed-sworn statements as necessary;
- Interviewed Office of Science officials and personnel;
- Reviewed e-mail records of key [redacted] (b)(6),(b)(7)(C) [redacted] Site Office personnel; and
- Reviewed applicable Federal and Department of Energy (Department) laws, regulations and guidance pertaining to misuse of Government property and official time, access to employees' email and computer records, retaliation, and negative work environment.

We conducted this inspection in accordance with the Council of the Inspectors General on Integrity and Efficiency, *Quality Standards for Inspection and Evaluation*, January 2012. Those standards require that we plan and perform the review to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our objective. We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our inspection objective. Accordingly, the inspection included tests of controls and compliance with laws and regulations to the extent necessary to satisfy the objective. Because our review was limited, it would not necessarily have disclosed all internal control deficiencies that may have existed at the time of our inspection.

Finally, we relied on computer-processed data to some extent, to satisfy our objective. We confirmed the validity of such data, as appropriate, by conducting interviews and reviewing email records.

With regard to our review of email records, the OIG Inspection team requested the assistance of the OIG Technology Crimes Section in order to obtain the email records of key individuals. Our review of the email records subsequently provided by the [redacted] Site Office's data hosting site (b)(6),(b)(7)(C) was hampered by gaps in the records we received and by the Department's initial reluctance to provide decryption keys necessary for our review of encrypted emails. This necessitated our submission of repeated requests for the subject records and created lengthy delays. Because the scope of our email review was limited by these circumstances, it would not necessarily have revealed all email records relevant to our objective. However, in our opinion, we obtained sufficient, appropriate evidence to support our findings and conclusions.

An exit conference was held with management on September 25, 2014.

PRIOR REPORTS

- Special Inquiry on Review of Allegations Regarding Prohibited Personnel Practices at the Bonneville Power Administration (DOE/IG-0895, October 2013). The objective of this special inquiry was to determine the facts and circumstances surrounding the allegations of prohibited personnel practices at Bonneville Power Administration (Bonneville). We found that Bonneville's hiring practices disadvantaged veterans and other applicants and that Bonneville consistently manipulated the applicant rating process. Further, despite specific requirements to do so, Bonneville did not fully disclose to the Department of Energy (Department) that the inappropriate personnel practices had occurred or the adverse impact on veterans and other applicants. Finally, Bonneville neither notified the affected applicants nor did it initiate corrective actions required to remedy the inappropriate practices.

The management culture at Bonneville contributed to an environment that enabled the prohibited practices to occur. Notably, we observed that Bonneville officials spent considerable effort trying to distance the organization from Departmental procedures, processes and oversight.

To address the issues identified in this report, we made a number of recommendations intended to ensure that affected veterans receive the preference to which they are entitled and that all applicants are fairly treated. Our recommendations should also assist the Department with ensuring that Bonneville administers and manages its Office of Human Capital function in accordance with Federal regulations and Department policy, and that Bonneville employees feel free to raise issues of concern without fear of retaliation. The Department expressed concurrence with our report, and its corrective actions, taken and planned, were fully responsive to our findings and recommendations.

- Management Alert on Allegations Regarding Prohibited Personnel Practices at the Bonneville Power Administration (DOE/IG-0891, July 2013). The objective of this review was to determine the facts and circumstances surrounding the allegations of prohibited personnel practices at Bonneville. We reached a preliminary conclusion that Bonneville engaged in a number of prohibited personnel practices and appeared to have effectively disadvantaged veterans and other applicants.

Equally concerning and the primary reason for the urgency of the management alert, Bonneville has apparently proposed or recently executed a number of personnel actions against certain employees who have cooperated with our review. These actions have a potentially chilling effect on various aspects of our work and, as such, jeopardize our ability to effectively complete our review of the circumstances surrounding inappropriate Bonneville hiring practices. The Department's comments were responsive to our recommendations and the Department initiated immediate corrective actions.

- Inspection Report on *Alleged Nepotism and Wasteful Spending in the Office of Energy Efficiency and Renewable Energy* (DOE/IG-0888, June 2013). The objective of this inspection was to determine the facts and circumstances surrounding the allegations that a senior official within the Office of Energy Efficiency and Renewable Energy (EERE) engaged in nepotism by advocating for his three children to obtain Student Temporary Employment Program positions at the Department and wasted funds by enrolling two of the three children in costly training courses unrelated to their duties. The allegation that the senior EERE official was actively involved in securing Student Temporary Employment Program intern appointments at the Department for his three college-aged children was substantiated. The allegation related to enrolling his children in inappropriate training was not substantiated. We made several recommendations designed to address the issues described in our report and strengthen internal controls over certain hiring process within the Department.
- Inspection Report on *Review of Allegations Regarding Hiring and Contracting in the Office of Energy Efficiency and Renewable Energy* (OAS-SR-10-04, September 2010). The objective of this inspection was to determine in part whether there were improprieties in the hiring of a contract employee to a senior Federal career position, including concerns that the contract employee was pre-selected or otherwise had an unfair advantage. We concluded that the allegation related to pre-selection of an EERE senior official was substantiated. We made several recommendations designed to help improve the integrity of the hiring process.

MANAGEMENT COMMENTS



Department of Energy
Office of Science
Washington, DC 20586

August 15, 2014

MEMORANDUM FOR RICKEY R. HASS

DEPUTY INSPECTOR GENERAL FOR AUDITS AND INSPECTIONS
OFFICE OF INSPECTOR GENERAL

FROM:

JOSEPH MCBREARTY
DEPUTY DIRECTOR FOR FIELD OPERATIONS
OFFICE OF SCIENCE

Joseph M. Brearty 8/15/14

SUBJECT:

Response to Office of Inspector General Draft Special Report on "Allegations of Waste, Fraud and Abuse at the [REDACTED] Site Office"

The Office of Science (SC) appreciates the opportunity to review the Office of Inspector General's (OIG) special report "Allegations of Waste, Fraud and Abuse at the [REDACTED] Site Office".

SC generally agrees with the findings of the report. However, SC is very concerned that the report incorrectly infers that proper Departmental procedures were not followed in the redaction of a previous investigative report concerning conditions at the [REDACTED] Site Office that was provided to the Site Office Manager at [REDACTED] normal request, and that, as a result, Departmental officials improperly granted the [REDACTED] Site Office Manager access to information that permitted the identification of individuals whose statements appeared in the prior investigative report.

The OIG report is inconsistent in its description of the processes and procedures followed that provided the Site Office Manager a redacted copy of the previous investigative report. For example, the cover letter of the OIG report states that:

"...there was no evidence that the disclosure of this sensitive information was intentional on the part of Science. Moreover we learned that release of the redacted report to the Site Office Manager was authorized by both Science's Office of the Chief Counsel in Chicago as well as the Office of the General Counsel in Headquarters and that Science also consulted the Office of Human Capital regarding the decision to release the report."

However, the cover letter later appears to imply that SC intentionally provided an improperly redacted copy of the report to the Site Office Manager: "... Moreover Science's decision to provide the Site Manager the names and statements ...". The draft OIG report incorrectly implies an intentional and willful decision to release names and statements of employees participating in the previous investigative report.



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Although the OIG draft report infers that the report was improperly redacted, it provides no reference to procedural or process violations in the redaction process. As part of SC's review of the draft OIG report, a senior SC management official spoke with the Field Counsel's Office in Chicago. The Field Counsel's office conducted the redaction of the investigative report. The Counsel's Office reported that the investigative report document had been thoroughly reviewed and that the subsequent redaction was approached in a very conservative manner, taking great care to ensure that it would be difficult to identify individuals. Only the body of the investigative report was ultimately provided to the Site Office Manager. Witness affidavits were not provided to the Site Office Manager.

It was the professional opinion of the attorney who conducted the redaction that the redaction process was properly executed and that the redacted investigative report did not include any inappropriate personnel information. The attorney had consulted the Headquarters General Counsel's Office and Headquarters Human Capital.

SC requests that the OIG review the facts surrounding the process followed by Departmental elements in redacting the investigative report and the ultimate release of the redacted investigative report to ensure that they are accurately and consistently described in the final OIG report. Further, SC requests that the OIG consider interviewing the attorney that conducted the redaction to affirm that the redaction was properly carried out in accordance with established Departmental processes and procedures.

Recommendations:

1. Determine whether disciplinary and/or administrative action is necessary to address the significant ethical violations chronicled in this report.

SC concurs in this recommendation. However, the subject of the report has retired from Federal service. Therefore, SC cannot take further disciplinary action at this time.

2. Increase the level of the supervision of the [redacted] Site office Manager to ensure: (i) Site Office employees immediately and permanently cease the performance of personal tasks for the Site Manager, regardless of whether or not the performance of such tasks is voluntary, uses government property, or is accomplished on an employee's own time, (ii) Site Office manager immediately ceases the performance of personal tasks using government resources, and (iii) the Site Manager immediately and permanently removes all personal financial records and documents from the workplace.

SC concurs in this recommendation. However, SC cannot take further action with respect to the subject of the report due to their retirement from Federal service. An acting Site Office Manager has been detailed to the [redacted]. SC will return the former Site Office Manager's personal records.

3. Ensure that services provided by [REDACTED] contractor staff are within the scope of the support services contract.

SC concurs in this recommendation. SC will conduct a review of the support services contract to ensure contractor actual duties are aligned with contract requirements.

4. Develop and implement policies and procedures that will ensure any SC Site Manager's request for access to an employee's email and computer records be subject to senior-level and legal review and approval.

SC concurs in this recommendation. SC has already established policies and procedures for access to email and computer records of SC Headquarters. SC is in the process of establishing policies and procedures for proper legal and senior level review of field requests for email and computer access. These will be in place by 30 September 2014.

5. Through changes in current procedures and training, ensure that employees are free to exercise their protected rights.

SC concurs in this recommendation. SC will develop procedures to ensure that employees are aware of the protection afforded to them by law when reporting work place concerns. Through appropriate training, SC senior management will ensure that managers are aware of their responsibilities in protecting workers rights. SC anticipates this training will be completed by 15 October 2014.

cc: Michael Knotek, Deputy Under Secretary for Science and Energy (S4)

FEEDBACK

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Washington, DC 20585

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