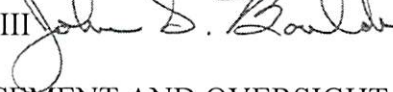




Department of Energy
Washington, DC 20585

July 13, 2012

MEMORANDUM FOR MATTHEW S. MCCORMICK
MANAGER
RICHLAND OPERATIONS OFFICE

FROM: JOHN S. BOULDEN III 
DIRECTOR
OFFICE OF ENFORCEMENT AND OVERSIGHT
OFFICE OF HEALTH, SAFETY AND SECURITY

SUBJECT: *Independent Oversight Review of the Hanford Site
Employee Concerns Programs – July 2012*

In support of your request, the Office of Health, Safety and Security's Office of Enforcement and Oversight conducted an independent review of the Hanford Site employee concerns programs during April 30 – May 4, 2012. The programs were found to be in compliance with Department directives. The attached report documents the results of this review and includes three opportunities for improvement.

If you have any questions regarding the report, please contact me at (301) 903-2178, or your staff may contact Thomas Staker, Deputy Director for Oversight, Office of Enforcement and Oversight, at (301) 903-5392.

Attachment: *Independent Oversight Review of the Hanford Site
Employee Concerns Programs– July 2012*

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**Independent Oversight Review of the
Hanford Site
Employee Concerns Programs**



July 2012

**Office of Safety and Emergency Management Evaluations
Office of Enforcement and Oversight
Office of Health, Safety and Security
U.S. Department of Energy**

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Acronyms

CRD	Contractor Requirements Document
DOE	U.S. Department of Energy
ECP	Employee Concerns Program
HSS	Office of Health, Safety and Security
OFI	Opportunity for Improvement
ORP	Office of River Protection
RL	Richland Operations Office
RWP	Radiological Work Permit

Independent Oversight Review of the Hanford Site Employee Concerns Programs

1.0 PURPOSE

This report documents the independent review of Hanford Site employee concerns programs (ECPs) that was conducted by the Office of Enforcement and Oversight (Independent Oversight), which is within the U.S. Department of Energy (DOE) Office of Health, Safety and Security (HSS). The review was performed by Independent Oversight's Office of Safety and Emergency Management Evaluations from April 30-May 4, 2012. The overall purpose of this Independent Oversight review was to evaluate the ECP processes of the DOE Richland Operations Office (RL) and selected DOE prime contractors operating at the Hanford Site and to selectively sample their implementation by those organizations.

2.0 BACKGROUND

HSS conducted this review at the request of the Manager of RL. The free and open expression of employee concerns coupled with an effectively implemented, robust program for addressing employee safety concerns is a cornerstone supporting a safety conscious work environment and a strong nuclear safety culture. DOE Order 442.1A, *Department of Energy Employee Concerns Program*, and associated guide, DOE Guide 442.1-1, establish the requirements and implementation guidance for DOE ECPs. RL has established and administers an ECP for Federal employees at Hanford to report and obtain resolution of concerns. In June 2011, RL assumed responsibilities for providing ECP services formerly performed by the Office of River Protection (ORP). Any contractor or subcontractor employees working at the Hanford Site can also use the RL ECP to report concerns. DOE prime contractors have established and implemented ECPs, as directed in supplemental contractor requirements documents (CRDs) contained in their contracts with DOE.

3.0 SCOPE

This review evaluated the adequacy and effectiveness of ECPs established and implemented by RL and the following three Hanford Site prime contractors: RL contractor CH2M Hill Plateau Remediation Company, RL contractor Mission Support Alliance LLC, and ORP prime contractor Washington River Protection Solutions LLC. The two other Hanford prime production contractors, Bechtel National Incorporated (BNI) and Washington Closure Hanford (WCH) were not selected because the BNI ECP had been evaluated during the HSS Safety Culture review in December 2011 and WCH is close to completing their contract activities. The review was led by the Deputy Director for Oversight, Office of Enforcement and Oversight, and performed by a team of two specialists with experience in feedback and improvement process evaluations.

To evaluate the elements of the Hanford ECPs the team used selected lines of inquiry from HSS Criteria, Review and Approach Documents 64-20 and 64-21 that address evaluation of DOE field element and contractor feedback and continuous improvement programs. The team reviewed RL and contractor procedures, training documents, contract requirements, a sampling of recently closed concern case file records and prior assessments of the ECPs, and interviewed responsible personnel. These methods were used as a basis to answer the following questions:

- Do RL and Hanford contractor processes and performance encourage employees to report safety concerns for resolution?

- Have RL and Hanford prime contractors established and implemented effective processes and protocols that ensure effective management of employee concerns with timely and appropriate resolutions as required by DOE Order 442.1A and contract requirements documents?

The review team restricted its sample of concern cases to those involving direct or inferred involvement with environment, safety, or health issues. As defined in the DOE Order and Guide and in Hanford ECP procedures, employee concerns can be referred to other organizations for investigation and disposition if they would be more appropriately managed by others (within the organization, other contractors, or from RL to contractors). Final disposition and case file documentation for concerns that are referred remain the responsibility of the referring organization. Concerns that are not within the jurisdiction of the ECP (e.g., equal employment opportunity complaints, waste/fraud/abuse concerns, collective bargaining issues) are logged and closed, but formally transferred to appropriate organizations that are responsible for investigation, disposition, and closure of those concerns. Concerns that were within the ECP purview but referred by RL and Hanford contractors were also included in the sample of case files reviewed by Independent Oversight.

The review team did not re-perform investigations and did not make judgments as to the accuracy of the final disposition of the concern cases reviewed, only whether the investigations were adequately documented and whether dispositions were sufficiently justified by the documentation. Details on specific weaknesses in individual organization processes are not being included in this report, but specific areas that could be strengthened were discussed and markups of procedures were provided to each ECP manager. Due to confidentiality concerns, specific details regarding weaknesses in individual cases are also not included in this report, but were discussed with each ECP manager. Positive attributes and weaknesses in processes and implementation identified during the review are discussed in Section 4.0.

4.0 RESULTS

Most of the positive attributes and weaknesses described in this section were identified in most or all of the ECPs reviewed by HSS and thus are presented, with few exceptions, in general terms as applicable to some extent, to each Hanford ECP reviewed. However, not all positive attributes or weaknesses applied to all ECPs and the details and significance of identified weaknesses varied for each case file and program reviewed. The specific cases reviewed by HSS have been identified to ECP managers.

RL and the three contractors reviewed have developed well-designed and visible mechanisms to communicate management expectations and employee responsibilities for reporting concerns about environment, safety, health, or management of DOE operations. These communications also detail the availability of, and means to access, formal ECPs. Hanford Site general employee training and contractor new employee orientation presentations contain modules on reporting and resolution of employee concerns. Workers are encouraged to identify and obtain resolution of concerns at the level closest to the issue, including supervisors or management. However, the formal ECP is available if employees have concerns about retribution, confidentiality, or prior unsuccessful efforts. DOE and company posters are placed on building bulletin boards throughout the site that identify contacts, hotline numbers, and websites for seeking more information or reporting forms. Contractors have developed and distribute brochures describing their programs and contact information. Several contractor ECP managers make periodic field visits to interact with workers, make presentations, or take questions at safety meetings upon request. Overall, the Independent Oversight review team considered the “advertising” of Hanford ECPs to be a positive attribute of the ECPs.

Hanford ECP managers and investigation staff for all organizations reviewed had received appropriate training, were experienced in employee concern resolution processes, and were knowledgeable of Hanford Site operations. Concern program managers and staff expressed interest and openness in identifying opportunities to improve ECP processes and performance, and enhance the perceptions of employees with regard to the fairness, effectiveness, and value of ECPs in addressing employee concerns. RL has developed a database for documenting case details that is being used by RL contractors and is being evaluated by the DOE Headquarters ECP Manager for recommended use by all DOE Field Element ECP offices. RL and contractor ECP managers and staff are actively engaged in supporting DOE Headquarters staff in drafting an update to DOE Order 442.1A and working with ECP staff at other DOE sites to improve the database. The Independent Oversight review team considered the personnel staffing and managing Hanford ECPs to be a positive attribute.

RL has included specific ECP-related contractor requirements in its prime contracts to supplement the basic CRD in DOE Order 442.1A, which requires contractors to assist DOE in resolution of employee concerns, ensure employees and subcontractor employees are informed of their rights and responsibilities for reporting concerns, and cooperate with assessments used to verify that the contractors have acted to minimize, correct, or prevent recurrence of conditions that precipitated a valid concern. These clarifying supplemental requirements include addressing the following ECP elements:

- Training
- Interface with RL on significant concerns and referred concerns
- Independent management chain reporting
- Establishment of a formal program description and implementing documents
- Confidentiality agreements
- Communication with concerned employees at intake and closure
- Maintenance of case files
- Management of corrective actions where appropriate.

These clarifying contractual requirements are not common for other site and operations offices in the DOE complex and were also considered a positive attribute that promotes a more structured framework and effective use of contractor ECPs.

RL has developed and is implementing a *Continuous Improvement Plan for the Hanford Employee Concerns Program (ECP)*, Rev 1, April 26, 2012 with actions addressing issues and recommendations in the January 2012 HSS report of a review of nuclear safety culture and nuclear safety concern management at the Hanford Waste Treatment Plant. Specified actions in the plan include, in part, clarifying ECP roles and responsibilities, arranging for this HSS review and a DOE Environmental Management HQ assist visit, various revisions to the RL ECP processes, establishment of performance metrics, implementing specific actions from the 2012 HSS report, benchmarking “best in class” industry and government ECPs, and conducting a future effectiveness review of actions taken.

ECP Procedures and Processes. RL and the contractors reviewed have established formal procedures describing the requirements and process steps needed to manage ECPs. While varying in approach and level of detail, these procedures generally describe the processes for receiving, categorizing, investigating, and dispositioning safety and management concerns reported by employees, or referred or transferred from RL or other Hanford contractors. Although generally adequate, Hanford ECP procedures do not include sufficient detail and action steps to fully describe the ECP processes. Although a comprehensive step-by-step procedure for a management system may not be as essential for a very small and stable group of users within the ECP organization, that level of detail is essential when investigation responsibilities are referred to personnel in other organizations within the company or to other contractors who may not

have the experience, training, or awareness of what is required to conduct or document the investigation and maintain confidentiality as necessary. In most cases, the following procedural weaknesses identified by Independent Oversight are also reflected in program implementation weaknesses described in the following section. The following areas of process weakness were identified by the Independent Oversight review team:

- **Procedures do not sufficiently define mechanisms to ensure that employee concerns are documented in a manner that fully and accurately describes the employee’s issues as needed to facilitate an effective investigation and resolution.** Procedures do not detail expectations for ECP staff to engage the employee during the intake process in clarifying their concerns, soliciting specific examples, and obtaining employee concurrence with any restatements of their concerns. Fully described concern statements are especially important when concerns are referred to another organization. In several cases reviewed by the team, insufficiently detailed concern definitions resulted in investigations and conclusions that also lacked sufficient specificity. Further inhibiting effective investigation in these cases was the inability of investigating organizations to clarify the concerns because the identity of the concerned employee was not disclosed to the investigating organization due to confidentiality concerns.
- **Procedures do not adequately define and provide examples for what concerns are within the ECP’s jurisdiction, including what concerns should not be referred and what qualifiers apply to transfers (cases where the transferring ECP has no responsibility for further investigation or disposition).** Procedures do provide general examples of exceptions to ECP jurisdiction but did not specify what types of cases were required to be managed by the ECP (e.g., if union or Human Resources issues that are appropriately transferred to other organizations for resolution have any environment, safety, and health related elements, those aspects should be evaluated and resolved within the ECP’s jurisdiction). The review team noted that the DOE Order and Guide also do not sufficiently define or provide examples of case types that are within or not within ECP jurisdiction.
- **Procedures do not clearly identify the need for, means, or scope for communicating the ECP’s expectations for the conduct and reporting of investigations that are referred to other organizations, where investigations would likely be conducted by personnel with less training and experience in managing employee concerns, including the need for maintaining confidentiality as necessary.** Cases were often referred to other organizations by electronic mail or telecom, as well as by formal memorandum, but without specific expectations for report content. Implementation issues related to inadequacies in referral response reports and insufficient quality review by referring organizations are identified in the following section of this report.
- **Procedures do not include action steps, or sufficiently describe the steps, for performing some elements of the ECP management process.** Procedures do not include action steps for ECP staff to review and ensure the adequacy of investigations and the basis for resolution recommendations documented on response forms for concerns referred to other organizations.

ECP Implementation. The review team recognizes that many concerns reported to ECPs suffer from a lack of tangible, corroborated, clearly defined evidence and facts. In many instances, definitive resolution of concern cases are challenging because available data consists primarily of conflicting statements about an event or situation, often affected by the presence or absence of witnesses or documented records. Concerned individuals sometimes have ulterior motives or misunderstandings, including protecting their employment if they suffer or suspect imminent loss of their position or deflecting negative actions for poor performance to a charge of retribution. However, even if cases are not substantiated or actionable facts are lacking, the very fact that an investigation is conducted and questions are asked can change behaviors and reinforce positive cultural expectations.

Some of the 33 concern case files reviewed by Independent Oversight reflected adequately described, investigated, and documented employee concerns with final dispositions (i.e., substantiated, partially substantiated, or not substantiated) sufficiently supported by objective analysis of available and gathered information. Use of the standard database by RL and RL contractors resulted in generally consistent case file documentation, including intake forms, initial notification letters to the employee, a chronological record of events, investigation reports or referral response forms, exit interview forms, closure letters, and supporting reference documents.

The content and quality of case file information, however, was inconsistent, with an appreciable number of cases reflecting inadequacies in the implementation of employee concerns processes. These weaknesses hinder the ability of DOE and its contractors to demonstrate fully effective ECPs that promote employee confidence in their integrity and effectiveness. The following are weaknesses in ECP implementation identified by the review team:

- **In many cases, the details of employee concerns were not sufficiently established and documented to ensure a full and accurate understanding of the employee’s issue(s) to support effective investigation and resolution. This situation included insufficiently documenting and addressing additional concern elements, or process or performance deficiencies identified during subsequent interactions with the employee or during the investigation.** Insufficiently detailed concern statements were especially problematic for concerns referred to other organizations and especially for RL. As an example, an employee alleged that workers were required to work faster to complete a milestone at the expense of safety so that management could get a bonus. During the investigation, the term “bonus” was interpreted as a monetary reward to individuals, which management denied existed. However, it is possible that there was a corporate performance-based incentive bonus in place that could have been the intent of the stated concern. There is no evidence that this was investigated. Another example was a general concern statement that safety issues are not being input to or properly managed by a contractor’s issues management system. This concern was referred by RL to the contractor’s ECP with full confidentiality required (i.e., the investigating contractor had no contact with the employee), without first soliciting specific examples from the employee that would have provided a basis for investigation.
- **In some case files, where individuals expressed multiple concerns or sub-elements of their concern, there was no documentation in the chronological event logs, status forms, or dispositions to indicate that these issues had been investigated.** In most of these cases, the overall concern was formally dispositioned as not substantiated without an investigative basis for some concern sub-elements.
- **Referral communications were often informal (i.e., telephone calls or e-mails) and insufficiently documented the ECP organization’s expectations for referral organization investigation and response documentation and precautions regarding employee confidentiality.** In several

examples, concerns that were brought to RL by individuals who expressed dissatisfaction with a contractor's ECP resolution or perceived past performance were still referred back to the contractor.

- **In some cases, response reports from organizations performing referred investigations provided an insufficient description of the investigation approach and/or the bases for the conclusions, and failed to attach or reference specific supporting documents. In addition, responsible ECPs did not adequately review investigation response forms from referral organizations for adequacy and closed cases without sufficiently defined bases.** ECP procedures do not specifically require evaluation of the adequacy of referral response forms, and ECP managers expressed a reluctance to question or criticize investigations or conclusions developed by other organizations. The review team identified several cases where referral response form documentation did not fully address all aspects of concerns, did not reflect a robust investigation based on objective evidence, or did not provide a sufficient basis for concluding that a concern was not substantiated.
- **The approach to and scope of concern investigations in many cases were insufficiently performance based. Concern dispositions were often not based on objective evidence (e.g., what are the requirements and was there compliance supported by records or other corroboration) but relied heavily on interviews, often with supervisors, managers, or other involved parties with a vested interest in the outcome of the investigation. Some investigation reports and case file records did not adequately include or reference supporting documentation (e.g., permits, issues management reports, or correspondence).** An allegation that a supervisor directed a worker not to report an injury was resolved based on discussion with the accused supervisor without interviewing (or documented attempts to interview) the injured worker or other coworkers. In another example regarding allegations that a two-person rule had been violated with regard to radiation control activities, conclusions were drawn based solely on communications with management. A manager interviewed by the investigator stated that the radiological work permit (RWP) did not require the presence of two radiological control technicians, but the case file did not indicate that the investigator had verified what the RWP required and no copy of the RWP was included in the case file.
- **Mail or e-mail communication of results to concerned employees often did not provide sufficient details on the investigation to provide a level of assurance that the investigations were robust and fair.** This communication weakness was particularly problematic regarding issuance of closure letters to concerned individuals that typically contained no details on the investigation other than that the concern was investigated and not substantiated.
- **There were many examples of administrative errors and omissions.** Fields in forms were not always completed or, in some cases, were in conflict between different forms. Record of Events logs for multi-element concerns were not segregated to reflect activities related to each of the elements but were intermixed, obviating some of the benefits of a chronological log in managing the evolution of the investigation of each element. One contractor does not assign a subordinate designation number for multi-element concerns and, in one case, dispositioned the concern as "not substantiated" although evidence in the file reflected that several of the elements were either partially or fully substantiated. Several case files had no, or an incomplete, Record of Events. During the first half of 2011, multiple anonymous concerns were filed to the ORP ECP concerning the firing of four RCTs, for which there was no record of any investigation or closure in the database. These cases were similar or identical to other ORP ECP managed cases that did have supporting documentation and information in the database. The RL ECP Manager committed to reviewing these cases and ensuring they sufficiently address and provide linkage to closure information in the ORP ECP database module.

Oversight and Self-Assessment. As required by DOE Order 442.1A and RL’s supplemental contract requirements, RL and the contractors reviewed have conducted periodic self-assessments of their ECPs, generally on an annual basis and, in some cases, by outside contracted organizations. The RL ECP office has also conducted annual surveillances of its prime contractor ECPs. These assessments, while nominally including reviews of case files, were focused on ensuring the required documents were in the file and complete, rather than confirming the quality and completeness of the investigations or the adequacy of the documented bases for the final concern dispositions. Although several ECPs used some form of case file closure checklist to verify that all required document types were included in the file, they did not include verification of the quality of the included documents.

5.0 CONCLUSIONS

Many attributes of the reviewed Hanford ECPs provide a sound basis for effective management of safety and operational concerns reported by employees. The availability and access to Hanford ECPs are regularly and appropriately communicated to employees. The staff members implementing Hanford ECPs have appropriate qualifications and considerable experience. Formal procedures have been developed and details of concern reports, investigations, and resolutions are documented. The Hanford ECPs reviewed were compliant with DOE O 442.1A and no formal Findings, as defined in DOE Order 227.1, were identified.

However, weaknesses in process and performance are detracting from the effectiveness of the ECPs and can promote negative perceptions of the ECPs among Hanford employees. Most of the identified areas of weakness were, to some extent, common to all of the programs reviewed. Most damaging to the credibility of Hanford ECPs were weaknesses in investigation reports that did not fully address all aspects of concerns or that provided insufficient documented bases for dispositioning concerns as “not-substantiated.” While Independent Oversight did not draw conclusions about the proper disposition of individual cases (i.e., whether they were correctly dispositioned as “not substantiated”), Independent Oversight determined that documentation did not always adequately support the disposition decision.

Another weakness with a negative effect on employee confidence in the ECPs was lack of detail in communication of status and investigation processes, and the basis of results to concerned employees. Self-assessments and RL oversight activities have not been sufficiently focused on performance. Hanford ECPs should be strengthened to provide more robust management and improve implementation in the areas of investigation, documentation, and communication to ensure concerns are rigorously evaluated and to enhance employee and stakeholder perceptions about the fairness and effectiveness of Hanford ECPs.

6.0 OPPORTUNITIES FOR IMPROVEMENT

This Independent Oversight review identified the following opportunities for improvement (OFIs). These potential enhancements are not intended to be prescriptive or mandatory. Rather, they are offered to the site to be reviewed and evaluated by the responsible line management organizations and accepted, rejected, or modified as appropriate, in accordance with organization-specific program objectives and priorities.

OFI-1: ECP procedures for all programs reviewed should be strengthened to better define and detail the program elements that are needed to ensure effective program implementation and resolution of concerns. Specific actions to consider include:

- Review and address specific procedural weaknesses identified by the review team.
- Ensure that critical process elements of concern descriptions, referral investigation and confidentiality expectations and review, comprehensiveness of investigations, and improved communication with concerned employees are sufficiently addressed.
- Ensure that procedures define expectations for proper conduct of investigations, such as identification and attachment of objective evidence to corroborate verbal assertions wherever possible.

OFI-2: The implementation of Hanford employee concerns processes needs to be strengthened to ensure that concerns are accurately described, concern dispositions are accurately and sufficiently supported, and that communications with employees foster confidence in the integrity and effectiveness of Hanford ECPs. Specific actions to consider include:

- Conduct an extent-of-condition review of employee concern case file documentation for the previous year to ensure that all elements of reported concerns and issues identified during investigation activities were sufficiently addressed and that decisions that concerns were not substantiated were adequately supported by evidence and analysis. Correct deficiencies, as appropriate, through reopening of case files, addition of supporting documentation, and/or direct contact and communication with the concerned individuals.
- Ensure that the intake process includes written clarification of concerns, requesting specifics and examples that facilitate investigation. Encourage employee signature on restated or clarified concerns.
- Document a brief investigation approach plan that describes an initial methodology and scope for concern evaluation. Limit the use of referrals back to the same organization, if a concern was previously investigated by that organization.
- Increase the use of objective evidence and performance-based techniques to support investigations, such as specific document reviews, work observations, pre-job briefing attendance, etc., as appropriate. Where possible, interview assertions should be corroborated by objective evidence to support conclusions.
- Maintain a comprehensive record of events that are clearly linked to each concern and sub-elements of concerns to document the course of the investigation and information gathered.
- Provide additional detail in closure correspondence to concerned individuals such that the basis for conclusions can be understood and the individual has assurance that a fair and robust investigation was performed.
- Employ a second-party quality review (signed and dated) and/or ECP manager approval of case file documentation before final disposition and closure.

OFI-3: Strengthen self-assessment and RL oversight processes to focus on the quality of performance, such as accurate and full documentation of concerns, adequacy of investigations, sufficient documentation of the bases for determinations that concerns are “not substantiated,” and the sufficiency of communications and interactions with concerned employees. Specific actions to consider include employing an outside trusted agent with specific directions to focus assessment on performance and, specifically, the adequacy of investigations and disposition rationales.

7.0 FOLLOW-ON ITEMS

HSS will continue to monitor efforts at the Hanford Site to enhance the ECPs and other programs that are important to safety culture improvements. Follow-up reviews will be considered as circumstances warrant.

Appendix A Supplemental Information

Dates of Review

Onsite Review: April 30 – May 5, 2012

Office of Health, Safety and Security Management

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