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

Inspection Report

Employment Verification at Savannah River Site

INS-O-09-05

September 2009

Department of Energy

Washington, DC 20585

September 30, 2009

MEMORANDUM FOR THE MANAGER, SAVANNAH RIVER SITE
DIRECTOR, POLICY AND INTERNAL CONTROLS
MANAGEMENT

FROM: Herbert Richardson
Principal Deputy Inspector General

SUBJECT: INFORMATION: Inspection Report on "Employment Verification at Savannah River Site"

BACKGROUND

The Department of Energy's Savannah River Operations Office and the National Nuclear Security Administration (NNSA) are co-located on the Savannah River Site (Site) in Aiken, South Carolina. Their primary missions include environmental management and cleanup, national security, energy independence, and nuclear material disposition. The prime management and operating contractors for the Site manage over 800 subcontractors, whose employees may be required to access the Site.

The Immigration Reform and Control Act of 1986 (Act) makes it illegal for entities and individuals to knowingly hire, continue to employ, or recruit unauthorized workers. To implement this policy, the Act and Executive Order 12989 require that U.S. employers, including Federal contractors, 1) review specific employee identification documentation, for example, drivers license, social security card, and passport; 2) ensure the documents are genuine; and, 3) certify individuals are eligible to work in the United States. The Act mandates that the information is collected and recorded on an "Employment Eligibility Verification Form" (I-9 Form). Furthermore, the Executive Order prohibits federal agencies from contracting with entities that do not comply with the requirements set forth in the Act.

We conducted a review at the Site to determine if Site subcontractors verified the employment status of all employees in accordance with Federal requirements and, if unauthorized individuals accessed the site. During our field work, we reviewed 600 I-9 Forms from 21 subcontractors to verify whether Site subcontractors were using the I-9 Forms; and if the forms were accurate and complete. We also conducted a judgmental sample of individuals who accessed the Site during a six-month period to determine if there were any documentation anomalies.

RESULTS OF INSPECTION

We found that:

- Four subcontractors contacted during our inspection failed to utilize the I-9 Form to determine worker eligibility. Subsequent to our review, two of the four subcontractors stated that, as a result of our review, they have started using the I-9 Form;

- Twenty-two percent (136) of the 600 I-9 Forms obtained from our sample of 21 Site subcontractors were missing key elements, including the subcontractor's affirmation that the identity documentation was reviewed and appeared authentic; and, the employee's signature to affirm that the employment information was correct; and,

- Twenty-seven percent (16) of the subcontractor employees from our judgmental sample accessed the Site using social security numbers that had allegedly been used by multiple individuals.

We made several recommendations designed to enhance employment verification at the Savannah River Site.

MANAGEMENT REACTION

In responding to a draft report, management concurred with our recommendations. Management's comments are included in their entirety in Appendix C.

Attachment

cc: Chief of Staff
Assistant Secretary for Environment Management
Director, Office of Internal Review (CF-1.2)
Audit Liaison, Office of Environment Management (EM-6)
Audit Liaison, Savannah River Site Office

EMPLOYMENT VERIFICATION AT SAVANNAH RIVER SITE

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INTRODUCTION AND OBJECTIVE

The Department of Energy's (Department) Savannah River Operations Office and the National Nuclear Security Administration (NNSA) are co-located on the Savannah River Site (Site) in Aiken, South Carolina. Their primary missions include environmental management and cleanup, national security, energy independence, and nuclear material disposition. The prime management and operating contractors for the Site manage over 800 subcontractors, whose employees may be required to access the Site.

The Immigration Reform and Control Act of 1986 (Act) makes it illegal for entities and individuals to knowingly hire, continue to employ, or recruit unauthorized workers. To implement this policy, the Act and Executive Order 12989 require that U.S. employers, including Federal contractors, 1) review specific employee identification documentation, for example, drivers license, social security card, and passport; 2) ensure the documents are genuine; and, 3) certify individuals are eligible to work in the United States. The Act mandates that the information is collected and recorded on an "Employment Eligibility Verification Form" (I-9 Form). Furthermore, the Executive Order prohibits federal agencies from contracting with entities that do not comply with the requirements set forth in the Act.

The objective of our inspection was to determine if Site subcontractors verified the employment status of all employees in accordance with Federal requirements and, if unauthorized individuals accessed the site. During our field work, we reviewed 600 I-9 Forms from 21 subcontractors to verify whether Site subcontractors were using the I-9 Forms; and if the forms were accurate and complete. We also conducted a judgmental sample of individuals who accessed the Site during a six-month period to determine if there were any documentation anomalies.

The Office of Inspector General (OIG) has previously identified concerns regarding foreign employee access at an NNSA site and alleged loss or theft of personally identifiable information at another NNSA site. In addition, the Government Accountability Office (GAO) has identified a number of reports and testimonies on managing the "Employment Verification" programs throughout the Federal system. Some of these OIG and GAO reports

highlighted the need for improved management oversight in the administration of the program. These related reports are identified in Appendix B.

OBSERVATIONS AND CONCLUSIONS

We found that not all Site subcontractors verified employment eligibility in accordance with Federal requirements. This condition allowed the possibility that individuals who are not eligible to work in the United States (U.S.) could be employed by Department subcontractors and potentially access the Site. We did not identify any weakness regarding unauthorized employees having access to the site. Specifically, we found that:

- Four subcontractors contacted during our inspection failed to utilize the I-9 Form to determine worker eligibility. Subsequent to our review, two of the four subcontractors stated that, as a result of our review, they have started using the I-9 Form;

- Twenty-two percent (136) of the 600 I-9 Forms obtained from our sample of 21 Site subcontractors were missing key elements, including the subcontractor's affirmation that the identity documentation was reviewed and appeared authentic; and, the employee's signature to affirm that the employment information was correct; and,

- Twenty-seven percent (16) of the subcontractor employees from our judgmental sample accessed the Site using social security numbers that had allegedly been used by multiple individuals.

To timely address these concerns, we notified NNSA and the Savannah River Operations Office of our findings during the course of our field work. NNSA's Contracting Officer immediately drafted a letter to the Mixed Oxide Fuel Fabrication Facility contractor mandating them to ensure that their subcontractors are aware of the requirement to comply with all applicable laws and regulations. The letter also notified the contractor that some of the subcontractors working on the Site were not complying with statutory requirements to verify that employees are U.S. citizens or are otherwise legally entitled to employment in the United States.

Details of Findings

EMPLOYMENT VERIFICATION

Our inspection determined that some Site subcontractors did not verify employment status in accordance with Federal requirements.

Subcontractors Failed to Use I-9 Forms

We found that four subcontractors failed to utilize the I-9 Form to determine worker eligibility. Subsequent to our review, two of the four subcontractors stated that, as a result of our review, they have started using the I-9 Form. The I-9 Form requires the employee to affirm that he or she is a U.S. citizen or is authorized to work in the U.S. and to provide specific documentation to establish identity and employment authorization. The Form also requires that the employer certify that the documents presented appear to be genuine, relate to the employee and that the employee is authorized to work in the U.S. When interviewed as to why the I-9 Forms were not being completed, the four subcontractors stated that they were unaware of the I-9 requirement. The Site's management and operating contract mandates that the contractor adhere to all federal laws and regulations. In addition, the contractor is responsible to ensure subcontractors are aware of their responsibility to adhere to all federal laws and regulations.

We observed that one of the subcontractors had augmented its permanent employees by hiring day laborers to install and/or repair carpet at various Site facilities. The subcontractor stated that in these instances, the day laborers were not required to complete an employment application, or provide any documentation validating their identity or employment eligibility. We noted, however, that prior to Site access, these laborers would be required to produce appropriate identification documents. Using our investigative on-line system, we did not identify any anomalies with the social security numbers utilized by the day laborers.

Incomplete I-9 Forms

We found that 22 percent (136) of the 600 I-9 Forms obtained from 21 Site subcontractors were missing key elements, including the subcontractor's affirmation that the identity documentation was reviewed and appeared authentic; and, the employee's signature to affirm that the employment information was correct.

Specifically, our review revealed missing or incomplete I-9 Form information, including:

- Employee's attestation that he or she is a U.S. citizen or was authorized to work in the U.S.;

- Employee's signature acknowledging Federal law concerning imprisonment and fines for false statements;

- Documentation to establish identity and employment authorization; and,

- Employer's signature certifying the employee documents were examined, related to the employee and that the employee was authorized to work in the U.S.

When questioned regarding the incomplete documentation, we were informed by various subcontractor management officials that the oversight in gathering and reviewing the required documentation was inadequate.

Duplicate Use of Social Security Numbers

During our fieldwork, we selected a judgmental sample of 60 names and social security numbers of individuals who had accessed the Site during a six-month period. As a result of using an investigative on-line system, we found that 27 percent (16) of the subcontractor employees in our sample used social security numbers that were used by other individuals in the general population. We did not determine that any of the 16 subcontractor employees used a false social security number. This information has been forwarded to the OIG's Office of Investigations for further review. This information has also been forwarded to the Site Office and NNSA officials identifying the results of the OIG judgmental sample.

E-Verify System

In June 2008, an amendment to Executive Order 12989 required Federal contractors verify employee's eligibility with an electronic employment verification system (E-Verify). E-Verify will provide immediate feedback to the employer concerning the eligibility status of the new hire including the validity of identification documents. The Executive Order, published in the Federal Register on November 14, 2008, had an effective date of January 15, 2009. However, based on actions proposed by the Civilian Agency Acquisition Council, the Defense Acquisition Regulations Council, and the current administration, the applicability of the final rule has been postponed until September 8, 2009. On September 8, 2009, the US Citizenship and Immigration Services issued an update notice that E-Verify Federal Contractor rule had been implemented.

During our review, we noted three subcontractors utilize the E-Verify system to validate the authenticity of the employee's information. One subcontractor indicated that if a discrepancy is noted by E-Verify, the employee is allowed three business days to address the discrepancy. In addition, we determined that a number of subcontractors accessed other internet-based databases which identify discrepancies regarding a social security number, date of birth, current address, and passports. We asked subcontractor officials who did not utilize the E-Verify or similar systems what indicators they used to determine if the documentation provided by an employee was authentic. In most cases, these officials told us that they conducted a visual inspection of the documentation for authentication. These officials also informed us that if an employee were to provide a fake social security card, the subcontractor officials would not be able to confirm its authenticity. We noted that the E-Verify system would identify a concern with the documentation. The increased use of E-Verify by the Site subcontractors will help to ensure that the identity documentation for employment belongs to the individual presenting them.

RECOMMENDATIONS

We recommend the Manager at the Savannah River Operations Office:

1. Ensure contractors establish a method to notify existing and future subcontractors to comply with federal requirements related to employment verification; and,

2. Develop a process to notify contractors of the E-verify system when implemented.

MANAGEMENT COMMENTS

In comments on a draft of this report, the Department's Savannah River Operations Office concurred with our recommendations. We have included management's comments in Appendix C.

INSPECTOR COMMENTS

We consider management's comments to be generally responsive to our recommendations.

Appendix A

SCOPE AND METHODOLOGY

We reviewed the employment verification process used by subcontractors who provide goods and services at the Savannah River Site. As part of this inspection, we visited and interviewed subcontractor management officials and reviewed Federal laws governing work authorization for employment in the United States. The inspection fieldwork was conducted primarily during July through December 2008.

To accomplish the inspection objective, we:

- Reviewed applicable Federal and Departmental policies and regulations related to employment verification;
- Reviewed contract procedures pertaining to employment verification;
- Reviewed prior OIG and Government Accountability Office reports pertaining to hiring practices and site access;
- Reviewed a list of individuals who accessed the site during the six-month period of July through December 2007;
- Interviewed Federal staff assigned to Savannah River Site as well as contractors' officials; and,
- Visited and interviewed 28 subcontractors that had contracts with the Savannah River Site.

As part of our review, we evaluated the Department's implementation of the Government Performance and Results Act of 1993. Our review indicated that the Savannah River Site officials had not established performance measures related to employment verification.

This inspection was conducted in accordance with the "Quality Standards for Inspections" issued by the President's Council on Integrity and Efficiency.

Appendix B

PRIOR REPORTS

The following are prior Department of Energy Office of Inspector General reports:

- Letter Report on "Alleged Loss or Theft of Personally Identifiable Information at Pantex," INS-L-07-05, February 2007; and,

- Inspection Report on "Security Access Controls at the Y-12 National Security Complex," DOE/IG-0691, June 2005.

The following are examples of selected reports issued by Government Accountability Office that had similar findings:

- "Weaknesses Hinder Employment Verification and Worksite Enforcement Efforts," GAO-06-895T, June 2006; and,

- "Challenges Exist in Implementing a Mandatory Electric Verification System," GAO-07-924T, June 2007.

DOE F 1325.8

United States Government — Department of Energy (DOE)

memorandum

Savannah River Operations Office (SR)

DATE: SEP 17 2009

REPLY TO ATTN OF: FET (Paul Lovick, (803) 952-6195)

SUBJECT: Draft Inspection Report on "Employment Verification at Savannah River Site" (S08IS008), (Your Memorandum, 08/14/09)

TO: Herbert Richardson, Principal Deputy Inspector General (IG-1), HQ

Thank you for giving DOE-SR the opportunity to comment on the subject report. In this draft inspection, the Office of Inspector General (OIG) evaluated subcontractor compliance with Federal requirements concerning verification of employment status. This inspection concluded that not all Site subcontractors verified employment eligibility in accordance with Federal requirements.

On July 20, 2009, the Office of Environmental Management (EM) Headquarters issued a letter to all site manager's with EM cleanup work (except National Nuclear Security Administration), highlighting this issue and directing them to ensure their prime contractors and their subcontractors understand they are required to comply with the applicable laws and regulations concerning employment verification. The letter also advised the site manager if non-compliance is found, failure to meet this law should be considered in incentive fee determinations and documented in past performance reporting.

On July 27, 2009, the DOE-SR contracting officers issued letters to contractors as mentioned below. The report indicated "(16) of the subcontractor employees from our judgmental sample accessed the Site using social security numbers that had allegedly been used by multiple individuals." This was based on the OIG using an investigative on-line system, which was not available to the site. Further, the OIG indicated "This information has been forwarded to the OIG's Office of Investigations for further review." Thus, the site has not been able to determine if individuals had inappropriately used social security numbers. In addition, the report indicated the investigative on-line system looked at "social security numbers that were used by other individuals in the general public." Therefore, this duplication of the use of social security numbers by individuals in the general public could be due to inaccurately or fraudulently providing a social security number for a wide range of purchases or activities.

The procedure used by the Savannah River Site (SRS) to process individuals for access to the site is two-fold. For individuals seeking access for less than six months, the site database is used. This database has been used for the past 10-15 years and validates the match of an individual's name and social security number is consistent with past access requests. This is a real-time check for individuals seeking access at the gates. Per DOE Guidance, for those seeking access at DOE sites for over 6 months, there is an HSPD-12 badge procedure, where data will be compared to the Federal database. This can take 3-6 months. The E-Verify, is an on-line national virtually real-time database, which will be very effective for validating identity for anyone seeking access. The use of E-Verify will certainly enhance the current capabilities at the site to validate identity, especially for those seeking access for less than six months.

Appendix C

The DOE-SR response to the recommendations follows:

Management Reaction:

Recommendation 1: "Ensure contractors establish a method to notify existing and future subcontractors to comply with Federal requirements related to employment verification."

Concur. DOE-SR Office of Acquisition Management Contracting Officers issued letters in late July 2009, (see attachment) to the appropriate contractors informing and emphasizing their obligation to ensure compliance with all applicable employment laws and regulations, including employment verification for both prime contract and any subcontracts. The contractors were also notified of their obligation to verify citizenship by the completion of Form I-9, "Employment Eligibility Verification," and if non-compliance is found, failure to meet this law will be considered in incentive fee determinations (if appropriate) and documents in past performance reporting.

In addition, all DOE-SR contractors and subcontractors are required to comply with DOE Manual (M) 470.4-5 "Personnel Security". DOE M 470.4-5 requires contractors and subcontractors to provide certification of employee's U.S. citizenship when submitting site access requests. Also, current SR badging procedures require the submission of a detailed OSR 10-142 "Request for New Security Badge or Site Access Authorization" or OSR 10-302, "Subcontractor Request for New Security Badge or Site Access Authorization". SR Badge Office personnel ensure positive identification of employees and subcontractor prior to issuance of badges.

Recommendation 2: "Develop a process to notify contractors of the E-verify system when implemented."

Concur. SR is cognizant of the potential efficiencies of the E-verify System. Since the E-verify system requirements just became effective (September 8, 2009) within the Federal Acquisition Regulation (FAR), SR will begin including the FAR clause 52.222-54, "Employment Eligibility Verification" in accordance with the direction contained in FAR 22.1803, "Contract clause." EM will provide implementing guidance to field offices for E-verify NLT October 31, 2009. More importantly, EM is committed to providing ongoing oversight in this area and will include the review of the E Verify program in its Acquisition Management Reviews and other site liaison oversight activities with our field procurement offices. Nevertheless, no problems were implicated by the recent assessments conducted at EM sites, per EM-HQ letter direction in July.

If you have any questions, please contact me, or have your staff contact Renee R. Alvis at (803) 952-9349, or Paul Lovick at (803) 952-6195.

Jeffrey M. Allison
Manager

FET:PL:joh

FET-09-0035

2 Attachments:
1. Memorandum, Allison to Surash, 08/13/09, (w/5 attachments)
2. Memorandum, Surash to Allison, 07/20/09

IG Report No. INS-0-09-05

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