



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

Management Alert

Allegations Regarding Prohibited
Personnel Practices at the
Bonneville Power Administration

DOE/IG-0891

July 2013



Department of Energy
Washington, DC 20585

July 16, 2013

MEMORANDUM FOR THE SECRETARY

FROM: 
Gregory H. Friedman
Inspector General

SUBJECT: INFORMATION: Management Alert: "Allegations Regarding Prohibited Personnel Practices at the Bonneville Power Administration"

INTRODUCTION

On May 11, 2010, the President issued a memorandum, *Improving the Federal Recruitment and Hiring Process*, requiring all executive Federal agencies to convert to a category rating hiring approach. This approach was established to broaden the candidate selection pool while still complying with merit system principles and other requirements of Title 5, United States Code, including, veterans' preference. The U.S. Office of Personnel Management (OPM) delegated the competitive hiring authority to the Department of Energy, and the Department, in turn, delegated these same authorities to Bonneville Power Administration (Bonneville). As with all personnel with similar responsibilities within the Department, Bonneville's Human Capital Management (HCM) staff members responsible for delegated examining actions are required to be certified by OPM. Further, the Department is authorized by statute and has delegated to Bonneville the ability to issue announcements and hire current or former Federal employees through merit promotion.

In June 2012, the Office of Inspector General received an anonymous complaint alleging prohibited personnel practices at Bonneville. The complaint alleged violations of OPM regulations, as well as Department policies regarding the application of veterans' preference and the use of the category rating system in the exercise of Bonneville's delegated examining authority for competitive hiring.

Given the seriousness of the complaint and as part of our fact gathering process, we sent the complaint to the Department's Office of the Chief Human Capital Officer (Human Capital). In February 2013, Human Capital expressed concern that Bonneville had not followed OPM and Department regulations regarding exercise of its delegated examining authority and requested that the Office of Inspector General review this matter. In response, we initiated a special inquiry to determine the facts and circumstances surrounding the allegations of prohibited personnel practices.

IMMEDIATE CONCERN

Based on our work to date, we have reached a preliminary conclusion that Bonneville engaged in a number of prohibited personnel practices. Notably, Bonneville's hiring practices appeared to have

effectively disadvantaged veterans and other applicants. Such action was inconsistent with concerted efforts by the Federal government to ensure that veterans received appropriate preferential treatment in the hiring process. Equally concerning and the primary reason for the urgency of this 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.

Interim Results

Although only preliminary, we have determined that Bonneville engaged in prohibited personnel practices in 65 percent (95 of 146 cases) of its competitive recruitments conducted from November 2010 to June 2012. These practices involved modifying the best qualified category after all applications were received; actions that resulted in the inappropriate exclusion of veterans and other applicants from consideration for selection. We also discovered that even after the inappropriate practices were disclosed by HCM staff and confirmed by independent sources, it appears that Bonneville did not take required action to notify the affected applicants that were disadvantaged and to address the impact of the inappropriate hiring that was associated with the prohibited practices.

Our findings in this area are consistent with an internal review conducted by Human Capital and with actions taken by OPM following its own review to revoke the certification of HCM staff that perform competitive recruitment actions. Subsequent to OPM's decision, Human Capital quickly moved to temporarily suspend Bonneville's overall delegated examining authority. Further, on June 21, 2013, Human Capital also suspended Bonneville's merit promotion authority thereby interrupting Bonneville's ability to advertise and fill jobs only open to individuals with Federal status. Human Capital noted it took these actions because it found that there were major errors in the vast majority of files reviewed, including a violation of hiring reform policies.

We continue to evaluate the circumstances surrounding these practices and seek to establish the proximate cause of the improper exclusions. We are also focusing on why the issues, once discovered by Bonneville, were not addressed in a timely manner.

Allegations of Retaliation

During the conduct of our review, we became aware that Bonneville had initiated questionable adverse personnel actions against a number of HCM staff members who either cooperated in one or more of the reviews of Bonneville's personnel practices or who had previously raised related concerns with Bonneville's management. While we are not in a position at this point to conclude that the actions taken thus far are retaliatory in nature, we are deeply concerned.

We have received a number of complaints from HCM staff members alleging that they were disciplined because they had communicated hiring problems to Bonneville management, to the Office of Inspector General and/or to Human Capital officials. Key HCM personnel instrumental in bringing the category rating issue to Bonneville and Human Capital's attention had been subject to, or proposed for, a range of adverse personnel actions including removal from Federal service,

suspension, or placement on a Performance Improvement Plan. Further, additional personnel actions have come to our attention involving other HCM employees who brought personnel-related issues to management. The chilling effect of the adverse actions against Bonneville staff is clear, jeopardizing efforts to get at the truth in these matters.

RECOMMENDATIONS

Due to the imminent possibility of further personnel actions and the general adverse effect these actions are having on HCM staff, we believe that the Department's senior leadership should intervene in this matter to ensure that all Bonneville employees feel free to report potential wrongdoing in an atmosphere free from retaliation, whether real or perceived. Consistent with this objective and in addition to on-going action by Human Capital to review proposed disciplinary actions for certain HCM employees:

1. All ongoing disciplinary actions of HCM staff should be suspended until our inquiry has been completed and the final results have been provided to the Department for full consideration; and
2. In the case of individuals removed or on administrative leave pending removal, those employees should be temporarily restored to their positions consistent with the actions noted in the recommendation above.

We will issue a separate report on the results of our special inquiry of the alleged prohibited personnel practices at Bonneville.

MANAGEMENT REACTION AND OIG COMMENTS

In a July 15, 2013, memorandum, the Department expressed its concurrence with the facts presented, the conclusions reached and the recommendations provided in this Management Alert. Notably, the Department initiated immediate corrective actions which were fully responsive to our findings and recommendations. Management's comments are attached.

cc: Deputy Secretary
General Counsel
Chief Human Capital Officer

MANAGEMENT COMMENTS

Department of Energy
Washington, DC 20585

JUL 15 2013

MEMORANDUM FOR RICKEY R. HASS
DEPUTY INSPECTOR GENERAL
FOR AUDITS AND INSPECTIONS
OFFICE OF INSPECTOR GENERAL

FROM: ROBERT C. GIBBS *Robert Gibbs*
CHIEF HUMAN CAPITAL OFFICER

SUBJECT: Response to Draft Management Alert on "Allegations Regarding
Prohibited Personnel Practices at the Bonneville Power
Administration"

This is in response to your memorandum dated July 11, 2013, regarding allegations of prohibited personnel practices at Bonneville Power Administration (BPA). The Department of Energy takes these allegations very seriously. As you are aware, the Department has been responding forcefully and working cooperatively with the Office of the Inspector General (OIG) to aid and assist in the completion of your investigation of BPA.

With respect to the Inspector General Management Alert which is the subject of your memorandum, the Department concurs with the facts presented, the conclusions reached, and the recommendations. The Department is committed to a workplace where employees feel free to raise concerns without fear of retaliation. Consistent with that commitment, the Department directed the Administrator of BPA to ensure that there would be no retaliation against any employees who may have raised concerns regarding questionable personnel practices at BPA. The following actions have already been taken:

- On July 8, 2013, the Department's Director, Office of Human Capital Management (Director) requested that BPA provide all documentation associated with proposed adverse actions against two employees on BPA's Human Capital Management staff that had recently come to the attention of the Office of Human Capital Management in Washington, DC.
- On July 9, 2013, the Director temporarily suspended BPA's authority to take any adverse actions when he learned that BPA was on the verge of proposing the removal of another BPA Human Capital Management employee. The Director directed BPA to stop that proposed removal and provide the Office of Human Capital Management headquarters with all information on any adverse actions in process or under consideration at BPA for further review.



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- On July 10, 2013, the Deputy Secretary directed the Administrator of BPA to take no adverse personnel actions against BPA's Human Capital Management employees, to immediately suspend any such actions that had already been taken, and to instruct any such employee who is currently on administrative or any other type of leave due to a proposed removal or suspension to return to work immediately. The Deputy Secretary also directed the Administrator to immediately convey to all BPA employees that they can cooperate freely with the OIG and other investigations without fear of retaliation.
- The Deputy Secretary has directed an immediate review of BPA's management. The Department is forming a management review team to send to BPA.
- The Department looks forward to working with the Acting Administrator of BPA to quickly and constructively resolve all the issues identified by the OIG investigation, the Department's and the Office of Personnel Management's Human Capital Management Accountability audits, as well as the upcoming management review of BPA.

The Department looks forward to receiving the OIG's completed investigation.

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