



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

SPECIAL INQUIRY REPORT

Review of Allegations Regarding Continued
Retaliation Against a Bonneville Power
Administration Whistleblower

DOE/IG-0910

May 2014



Department of Energy

Washington, DC 20585

May 15, 2014

MEMORANDUM FOR THE SECRETARY

A handwritten signature in cursive script, appearing to read "Greg Friedman".

FROM: Gregory H. Friedman
Inspector General

SUBJECT: INFORMATION: Special Inquiry: "Review of Allegations Regarding Continued Retaliation Against a Bonneville Power Administration Whistleblower"

BACKGROUND

On December 5, 2013, the Office of Inspector General (OIG) received a letter from the then Chairman, Senate Committee on Energy and Natural Resources, requesting that the OIG immediately investigate allegations of retaliation against whistleblowers that helped uncover violations of veterans' preference at the Bonneville Power Administration. The Chairman specifically communicated complaints alleging a pattern of continued retaliation against a particular Bonneville Human Capital Management (HCM) staffer by his supervisor. Allegedly, the most recent incident occurred in November 2013, when the staffer received an "Unacceptable" rating on his 2013 performance review.

In July 2013, we issued a Management Alert on *Allegations Regarding Prohibited Personnel Practices at the Bonneville Power Administration* (DOE/IG-0891). In October 2013, we also issued a Special Inquiry Report on *Review of Allegations Regarding Prohibited Personnel Practices at the Bonneville Power Administration* (DOE/IG-0895). In addition to identifying inappropriate hiring practices, both reports outlined apparent examples of retaliatory actions against a number of HCM staff members, who either cooperated in our inquiry and/or who had previously raised personnel-related concerns with Bonneville's management and Department officials. In response, the Department took immediate action, including suspending Bonneville's authority to take adverse action against any employee.

Upon receipt of the Chairman's letter, we immediately initiated a special inquiry to determine the facts and circumstances surrounding the allegation.

RESULTS OF SPECIAL INQUIRY

Based on the weight of the evidence, the allegation that certain actions taken by the supervisor of an HCM staffer represented a pattern of continued retaliation was not substantiated. In fact, the record showed that Bonneville senior management actively monitored the relationship between the staffer and his supervisor and took steps that, in our view, prevented even the appearance that an adverse personnel action was being taken against the staffer.

With regard to the specific concerns noted in the Chairman's letter, our findings are summarized as follows:

- Relocation of Work Space: It was alleged that after a remodeling of the HCM Office, the staffer was relocated to a work space situated as far as possible from his supervisor's office. Our review found that the staffer's original work space was reassigned to accommodate a Department official who was temporarily located at Bonneville to monitor HCM personnel practices. The staffer's new work space was within his work unit and in reasonable proximity to his supervisor. Further, its location did not seem to inhibit communication with the supervisor. In short, the new cubical assigned was adjacent to other members of the staffer's workgroup, all of whom were located in a relatively consolidated space.
- Absence of Work Assignments: It was alleged that after returning from extended medical leave, from July through September 2013, the staffer was given no assignments even though his counterpart in HCM was overworked. The record indicates that the staffer was given numerous work assignments during this period, including work related to various Bonneville policy documents and the completion of required training. The supervisor told us that the staffer had completed these assignments and performed well. Also, the counterpart referred to above told us that any assertion that she was overworked during that period was inaccurate.
- Reassignments to Other Offices: It was alleged that in August 2013, after the staffer informed his supervisor of a potential prohibited personnel practice, the supervisor attempted to transfer the staffer from HCM to the Freedom of Information Act (FOIA) Office and later to the HCM Performance Enhancement workgroup (Employee Relations). We determined that the supervisor did discuss opportunities for the staffer to participate in certain FOIA activities within HCM as well as the possibility of a reassignment to Employee Relations. However, the evidence disclosed no attempt to involuntarily detail, transfer or reassign the staffer to the FOIA Office. Further, the record indicates that the staffer initially embraced the Employee Relations opportunity and had, at one point, agreed to that assignment.
- Disclosure of a Potential Prohibited Personnel Practice: It was alleged that, after disclosing information uncovered during a quarterly audit, the supervisor warned the staffer that he should not "throw around" words such as "prohibited personnel practices." We determined that the supervisor had indeed raised a concern about the staffer's review of a hiring action during quarterly audit activities and that he cautioned all of his staff about the appropriate use of the term "prohibited personnel practice." He specifically cautioned his staff that they needed to be specific and accurate with regard to the use of that term.
- Stop Work on a Personnel Audit File: It was also alleged, and we confirmed, that the supervisor told the staffer to stop working on a particular audit file. However, we learned that the basis of the supervisor's direction to stop work on the file was the fact that Bonneville's authority to perform such work had been suspended. This suspension occurred because of prior personnel actions which had been deemed to be improper by

both the Department and the U.S. Office of Personnel Management (OPM). As such, the supervisor's actions did not appear to be retaliatory. Also, we determined that the audit file in question was actually forwarded by both the supervisor and Bonneville senior management to the Department and OPM for evaluation and review.

- **Performance Rating:** It was alleged that the staffer received an "Unacceptable" rating on his 2013 performance review, and that, after the staffer complained, the supervisor changed the staffer's rating to "Acceptable." It was also alleged that the intervention of Bonneville's Acting Administrator and the Acting Executive Vice President for Internal Business Services was the catalyst for the change in rating. We confirmed that when this matter was first brought to the attention of the Acting Administrator through an email sent on a weekend, the Acting Administrator took immediate action to determine the relevant facts and circumstances. However, we found that the supervisor had not given the staffer a rating of "Unacceptable" for 2013. Thus, the concern raised in the email to the Acting Administrator was based on an inaccurate premise. We did note, however, that prior communications between the supervisor and staffer regarding the 2013 performance rating were not precise, that the entire matter was not particularly well handled by both the supervisor and the staffer, and as a result, the staffer may have inaccurately concluded that he was to receive a rating of "Unacceptable." Yet, through multiple sources, we confirmed that this was not the case. Consequently, there was no need for Bonneville senior management to specifically direct a change to the staffer's 2013 rating.

Supervisor/Managerial Action

While the supervisor denied any retaliation by stating that the allegations were unfounded, misrepresented, or resulted from a miscommunication, we found evidence that he had lost trust in the staffer's ability to perform his duties. The supervisor told us that his concerns were based on incorrect policy advice given by the staffer, which the supervisor asserted that contributed to Bonneville's veterans' preference hiring problems and because of other administrative issues. We found indications that the supervisor, based on the staffer's actions noted above, had intended to reassign some of the staffer's duties to the staffer's counterpart prior to the receipt of the complaint/allegations addressed in this report. Further, the supervisor readily acknowledged that he had encouraged the staffer to seek other job opportunities outside the supervisor's work group. However, the evidence did not support a finding that the events were based on the supervisor's intent to retaliate for disclosures of information to any party and/or cooperation with the OIG.

Path Forward

Because no internal control or other deficiencies were discovered during our inquiry, we are not making formal recommendations.

Attachments

cc: Deputy Secretary
General Counsel
Chief of Staff
Chief Human Capital Officer
Administrator, Bonneville Power Administration

OBJECTIVE, SCOPE AND METHODOLOGY

OBJECTIVE

In response to Senator Wyden's request, we initiated a review to determine the facts and circumstances surrounding the allegations that actions taken by a Human Capital Management staffer's supervisor represented a pattern of continued retaliatory action.

SCOPE

We conducted our inspection fieldwork from December 2013 to May 2014, at Bonneville Power Administration (Bonneville) in Portland, Oregon and at Department Headquarters in Washington, DC. This review was conducted under Office of Inspector General Project Number S14IS004.

METHODOLOGY

To accomplish the inquiry objective, we:

- Reviewed relevant laws and regulations, and Department and Bonneville policies and procedures related to whistleblower protection and other applicable areas;
- Interviewed key personnel at Bonneville and the Department's Office of the Chief Human Capital Officer; and
- Reviewed relevant Bonneville staff emails and related documentation.

This inquiry was conducted in accordance with the Council of the Inspectors General on Integrity and Efficiency's *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 inspection objective.

We believe the evidence obtained provides a reasonable basis for our findings and conclusions based on our inspection objective. The inspection included tests of controls and compliance with laws and regulations to the extent necessary to satisfy the inspection 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 did not rely on computer-processed data to satisfy our objective.

We briefed Bonneville management officials on the results of our inquiry on May 9, 2014.

PRIOR REPORTS

- Management Alert on [*Allegations Regarding Prohibited Personnel Practices at the Bonneville Power Administration*](#) (DOE/IG-0891, July 2013). In June 2012, the Office of Inspector General (OIG) received an anonymous complaint alleging prohibited personnel practices at Bonneville Power Administration (Bonneville). 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 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 of Energy's (Department) comments were responsive to our recommendations. Notably, the Department initiated immediate corrective actions.
- Special Inquiry on [*Review of Allegations Regarding Prohibited Personnel Practices at the Bonneville Power Administration*](#) (DOE/IG-0895, October 2013). In June 2012, the OIG received an anonymous complaint alleging prohibited personnel practices at Bonneville. The allegations included violations of Office of Personnel Management regulations and the inappropriate dismissal of veterans during their probationary period. The complaint also alleged violations of Department policies regarding the application of veterans' preference and the use of the category rating process in the exercise of Bonneville's delegated examining authority for competitive hiring.

We found that Bonneville's hiring practices disadvantaged veterans and other applicants. Bonneville consistently manipulated the applicant rating process, and did not fully disclose to the Department that the inappropriate personnel practices had occurred or the adverse impact on veterans and other applicants despite specific requirements to do so. Further, 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 Department procedures, processes and oversight. Compounding problems associated with the general environment and culture, our inquiry revealed that Bonneville exercised inadequate oversight and accountability of its own personnel recruitment functions. In short, there was a massive breakdown in procedures, processes and management attentiveness at several levels of Bonneville's operation.

The impact of Bonneville's improper hiring practices is widespread, has subjected affected individuals to economic consequences, has disrupted Department and Bonneville operations, and has exposed the Department to a variety of legal challenges. Most

importantly, adversely impacted veterans have not received promised benefits. The Department expressed concurrence with our report, and its corrective actions, taken and planned, were fully responsive to our findings and recommendations.

FEEDBACK

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Office of Inspector General (IG-12)
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