



OFFICE OF INSPECTOR GENERAL

U.S. Department of Energy

AUDIT REPORT

DOE-OIG-19-55

September 2019

**IMPLEMENTATION OF EMPLOYEE
CONCERNS PROGRAMS AT SELECTED
OFFICE OF ENVIRONMENTAL
MANAGEMENT SITES**



Department of Energy
Washington, DC 20585

September 30, 2019

MEMORANDUM FOR THE SENIOR ADVISOR FOR ENVIRONMENTAL
MANAGEMENT TO THE UNDER SECRETARY FOR SCIENCE

A handwritten signature in black ink, appearing to read "Bruce Miller".

FROM: Bruce Miller
Assistant Inspector General
for Audits and Inspections
Office of Inspector General

SUBJECT: INFORMATION: Audit Report on "Implementation of Employee
Concerns Programs at Selected Office of Environmental Management
Sites"

BACKGROUND

The Department of Energy's Office of Environmental Management (Environmental Management) mission is the safe cleanup of the environmental legacy resulting from 5 decades of nuclear weapons development and Government-sponsored nuclear energy research. Two Environmental Management sites with active cleanup operations are the Savannah River Site near Aiken, South Carolina, and the Idaho National Laboratory Site near Idaho Falls, Idaho. Savannah River Nuclear Solutions, LLC (SRNS), with Savannah River Operations Office oversight, manages cleanup at the Savannah River Site. Fluor Idaho, LLC (Fluor Idaho), with Idaho Operations Office oversight, currently manages cleanup at the Idaho National Laboratory Site.

Department Order 442.1A, *Department of Energy Employee Concerns Program*, established an employee concerns program (ECP) to ensure that employee concerns related to the environment, safety, health, and management of Department programs and facilities are addressed in an independent, timely, and objective manner. The Department's ECP is designed to encourage free and open communication without the fear of reprisal. Both SRNS's and Fluor Idaho's contracts require establishing their own ECPs to support the Department's ECP. Upon receipt of a concern, the ECP must investigate the concern, refer the concern to another office or program, transfer the concern to another organization with jurisdiction over the issues, or immediately close the concern when warranted. We initiated this audit to determine whether ECPs of select Environmental Management contractors addressed employees' concerns in a timely, thorough, and objective manner.

RESULTS OF AUDIT

Nothing came to our attention to indicate that SRNS's and Fluor Idaho's ECPs did not address concerns in a timely, thorough, and objective manner. Generally, we found that SRNS's and Fluor Idaho's ECPs adequately handled the concerns officially filed by employees. Also, although we did not evaluate the actions ultimately taken to address substantiated concerns, there was documentation in the ECPs' files that provided evidence that the concerns were tracked to closure. However, during our review, we noted an opportunity that could improve the overall effectiveness of ECPs at both SRNS and Fluor Idaho. Specifically, we found that SRNS and Fluor Idaho could better foster environments of free and open expression of concerns, a key aspect of an effective ECP.

Free and Open Expression

We found that SRNS and Fluor Idaho may not have always fostered environments conducive to free and open expression of employee concerns. Specifically, we noted, through survey results and our review of ECP case files at both contractors, instances where employees expressed reluctance to raise concerns to their respective ECPs.

Employee Surveys

Surveys conducted at both SRNS and Fluor Idaho indicated that the environments were not always conducive to free and open expression of concerns. Specifically, some employees may not have always felt comfortable expressing concerns. During our audit, we conducted a survey of SRNS employees and reviewed results of a 2017 survey of Fluor Idaho employees conducted by the Idaho Operations Office. The details of those surveys are as follows:

Survey Location	Number of Employees Surveyed	Number of Respondents	Percentage of Respondents to Survey	Number of Respondents Who Would Not Use ECP	Percentage of Respondents Who Would Not Use ECP
SRNS	5,760	1,553	27%	292	19%
Fluor Idaho	1,209	399	33%	102	26%

Respondents who indicated that they would not use the ECP selected various reasons for not using the program. Based on their selections, we concluded that many of them believed that they did not have an environment conducive to free and open expression of concerns. The top five reasons selected at SRNS, in order by frequency, are as follows:

1. Fear of retaliation by SRNS management and/or SRNS Employee Concerns Program Office;
2. Nothing would be done;
3. Lack of confidentiality;
4. Lack of trust in SRNS; and
5. The ECP exists to protect management.

The top five reasons selected at Fluor Idaho, in order by frequency, are as follows:

1. Lack of trust in Fluor Idaho;
2. Fear of retaliation by Fluor Idaho management and/or Fluor Idaho Employee Concerns Program Office;
3. Nothing would be done;
4. Lack of confidentiality; and
5. The ECP exists to protect management.

We noted that many survey respondents stated that they would use their respective ECPs. Specifically, 81 percent of SRNS respondents and 74 percent of Fluor Idaho respondents stated that they would use their ECPs. Some of the survey comments were also complimentary of the ECPs. For example, one survey respondent at Fluor Idaho stated that the ECP did a great job handling the concern and that the respondent would not hesitate utilizing the ECP in the future or recommending it to others. One SRNS respondent stated that ECP investigations produced positive results in a few different cases.

Assessing whether or not there is generally free and open expression is inherently difficult and relies largely on subjective data, such as the expressed opinions of employees. We recognize that the results from these surveys may not be representative of all SRNS and Fluor Idaho employees. The surveys were structured so that the employees' responses would be voluntary and anonymous to obtain maximum participation. There was a risk that employees chose not to respond to the surveys because they were not confident that they would remain anonymous and may then be retaliated against for responding negatively. Further, individuals who expressed reluctance to use the ECP or raise concerns may or may not have justifiable reasons. Therefore, the results of the surveys may provide indicators and insights into the environment regarding free and open expression, but may not fully depict the true environment. Nevertheless, we concluded that the surveys' results provide valuable insights and indicate that improvement could be made toward encouraging free and open expression of employee concerns at both contractors.

Employee Concerns Case File Reviews

During our review of ECP case files at both SRNS and Fluor Idaho, we found evidence which indicates that the environments may not have always been conducive to open communication. For example, in one SRNS case file, an investigation into the concern found that other employees in the group under review were not willing to communicate concerns to their manager. In another SRNS case file, an employee expressed reluctance to share environmental concerns. To its credit, the Savannah River Operations Office offered to meet with the employee and a subject matter expert; however, the employee declined the offer because the employee had lost trust in the process. At Fluor Idaho, ECP investigations into several different employee concerns substantiated that employees did not feel free to express their concerns. For example, during one investigation, Fluor Idaho ECP found that employees believed management had created a chilled work environment and that these employees were reluctant to communicate openly. Another investigation found that 15 employees, 40 percent of an organization, were reluctant to openly communicate concerns.

Contributing Factors

We attributed the concerns regarding free and open communication, in part, to prior incidents at both SRNS and Fluor Idaho. In addition, we identified weaknesses in the Savannah River Operations Office's oversight.

Prior Incidents

During our review, we encountered instances where employees stated that management's actions, real or perceived, affected their willingness to express concerns. Survey respondents at both SRNS and Fluor Idaho expressed their personal experiences with their respective ECPs and said that the ECPs did not protect their anonymity. For example, a survey respondent commented that an SRNS manager confronted employees after learning that a concern pertaining to the manager's area was reported to SRNS's ECP. This affected the employee's confidence in the program's ability to protect identities. Also, employee comments in SRNS ECP case files described instances where intimidating actions contributed to the negative environment. In a Fluor Idaho ECP case file, employees stated that management's actions created a chilled work environment. Further, comments from another Fluor Idaho case file stated that management's actions show that it does not value employee input. Although these events could be considered isolated, any event that affects an employee's willingness to communicate concerns negatively impacts the effectiveness of the ECP.

In addition, at SRNS, the events and circumstances surrounding the removal and eventual reinstatement of the ECP manager for making a protected disclosure to the Government Accountability Office contributed to an environment that may not always be conducive to free and open communication at SRNS. In a previously issued Office of Inspector General investigation report, *Retaliation Complaint Pursuant to Title 41 United States Code Section 4712* (DOE-OIG-WB-17-01, January 2017), we found that the SRNS ECP manager had met the burden of proving that the protected disclosure was a contributing factor for termination. A few survey respondents stated that the SRNS ECP manager's termination and subsequent reinstatement negatively impacted their willingness to report concerns. One survey respondent commented that if SRNS is willing to terminate the ECP manager for reporting a concern, then what protects others "from the same fate?" We recognize that these examples are all based on the employees' perceptions of the situation. Nevertheless, employee perceptions of the ECP will affect whether or not they are comfortable expressing concerns.

Department Oversight

Weaknesses in the Savannah River Operations Office's oversight contributed to the concerns identified at SRNS's ECP. Specifically, Savannah River Operations Office's annual assessments of SRNS's ECP did not include questions to evaluate how comfortable all employees were using SRNS's ECP or how conducive the environment was to free and open communication. Instead, the assessments focused on compliance with establishing and managing an ECP, such as informing employees of the ECP, establishing a hotline, and informing employees of the receipt and closure of their concerns. While reviewing these aspects of the contractor's ECP is a good practice, it does not fully consider all important aspects of an ECP, such as whether there is an

environment conducive to free and open communication. Further, it does not provide a complete picture of the ECP's effectiveness. We concluded that if the Savannah River Operations Office had considered all employees' perceptions of the environment in its assessments, it likely would have identified this concern and been able to ensure that SRNS implemented corrective actions.

Also, the Savannah River Operations Office did not conduct annual assessments of SRNS's ECP during 2016 and 2017, as required by Department Order 442.1A. The Savannah River Operations Office decided not to perform the assessments due to a change in SRNS's ECP management. The Savannah River Operations Office did not believe it was appropriate to evaluate a new ECP manager until the manager had time to get acclimated. Although we acknowledge the Savannah River Operations Office's reason for not conducting these annual assessments, any weaknesses identified during these assessments could have provided valuable guidance to the new manager to improve the program. To its credit, the Savannah River Operations Office ECP was available to SRNS employees if they did not feel comfortable expressing their concerns to the SRNS ECP. In addition, the Savannah River Operations Office performed monthly reviews of the SRNS ECP during 2016 and 2017 and provided the results to SRNS management; however, the reviews only included input from those individuals using the SRNS ECP and did not capture all employees' perceptions of the environment.

In contrast, the Idaho Operations Office performed an employee survey in 2017 as part of its annual assessment. The survey resulted in a recommendation for Fluor Idaho to identify ways to improve employee confidence in its ECP. We believe this is a positive step toward a complete assessment of Fluor Idaho's ECP that should be continued in the future. We also believe this is a good practice that could be adopted by the Savannah River Operations Office because company-wide surveys can help gauge the perceptions of all employees, not just those who use the ECP.

PATH FORWARD

Department leadership has communicated its commitment to the safety of its workforce, the public, and the environment. In a March 2019 memo announcing improvements to the Department's ECP, the Deputy Secretary of Energy stated that Federal and contractor employees are important to identifying and reporting conditions that could affect the quality or safety of operations. In addition, the goal of fostering an environment that encourages free and open expression of employee concerns is essential to the safe and efficient accomplishment of the Department's missions. The contractors' ECPs are essential to achieving this goal because of their direct support of the Department's ECP. The issues identified in this report do not warrant specific corrective actions, and accordingly, we are not making formal recommendations. However, it is clear that additional management attention and focus to this important area may be prudent.

We suggest that the Senior Advisor for Environmental Management to the Under Secretary for Science direct the contractors to develop action plans to improve the environment for free and open communication and address negative employee perceptions of their respective ECPs.

Although this audit was limited to two Environmental Management contractor operations, we believe that any actions taken should be promulgated throughout the entire Environmental Management complex.

Attachments

cc: Deputy Secretary
Chief of Staff

OBJECTIVE, SCOPE, AND METHODOLOGY

OBJECTIVE

We conducted this audit to determine whether employee concerns programs (ECPs) of select Department of Energy, Office of Environmental Management contractors addressed employees' concerns in a timely, thorough, and objective manner.

SCOPE

This audit was conducted from February 2018 through September 2019. The scope of the audit was limited to the activities of the ECPs at Savannah River Nuclear Solutions, LLC for fiscal year 2013 through March 2018, and at Fluor Idaho, LLC from June 2016 through January 2018. Fluor Idaho, LLC took over the Idaho Cleanup Project Core contract in June 2016; therefore, we did not evaluate its ECP prior to June 2016. We did not evaluate the actions ultimately taken by the contractors' management to address substantiated employee concerns. Our review was conducted at the Savannah River National Laboratory and Savannah River Operations Office near Aiken, South Carolina, and the Idaho National Laboratory and Idaho Operations Office in Idaho Falls, Idaho. The audit was conducted under Office of Inspector General project number A18ID014.

METHODOLOGY

To accomplish the audit objective, we:

- Reviewed Federal and Department regulations and contractual requirements applicable to ECPs;
- Reviewed prior Office of Inspector General and Government Accountability Office audit reports;
- Held discussions with responsible Department and contractor personnel to discuss ECP activities and processes;
- Reviewed ECP programs, policies, and procedures used by the Department and the contractors;
- Obtained and reviewed results of an employee survey of the ECP for fiscal year 2017 at Fluor Idaho, LLC and conducted the same survey in fiscal year 2018 at Savannah River Nuclear Solutions, LLC; and
- Reviewed all 46 ECP case files for Fluor Idaho, LLC during fiscal years 2016 through January 2018 and reviewed a randomly selected sample of 32 ECP case files out of 154 for Savannah River Nuclear Solutions, LLC during fiscal year 2013 through March 2018. Additionally, we judgmentally selected and reviewed three files for Savannah River Nuclear Solutions, LLC based on the descriptions of the concerns. We evaluated the

selected ECP case files for compliance with laws and policies, and to obtain an understanding of employee perceptions regarding the contractor's ECP. Because the sample selection at Savannah River Nuclear Solutions, LLC was based on a combination of random and judgmental samples, results and overall conclusions are limited to the files tested and cannot be projected to the entire population.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objective. We believe that the evidence obtained provides a reasonable basis for our conclusions based on our audit objective. Accordingly, the audit includes 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 audit. Finally, we relied on computer-processed data to satisfy our audit objective. We conducted an assessment of this data by comparing it to source documents and deemed the data to be sufficiently reliable for our purposes.

An exit conference was held with management officials on September 5, 2019.

RELATED REPORTS

Office of Inspector General

- Special Report on [Department of Energy's Actions to Address Worker Concerns Regarding Vapor Exposures at the Hanford Tank Farms](#) (OIG-SR-17-01, November 2016). The special review found that while management had made some improvements in communicating with workers on vapor exposures at the Hanford Tank Farms, further actions were needed to ameliorate continuing fear of retribution for expressing concerns. Specifically, 7 of 52 workers interviewed had a concern with reporting, communicating, reprisal, or fear of retaliation related to potential vapor exposures. The remaining workers generally felt free to discuss their concerns about vapors without fear of retaliation. Actions taken by management to improve communications included engaging in outreach campaigns, launching publicly accessible websites, and sharing facts about vapors and actions taken. However, further improvements in communications about the status of actions were needed to reduce continuing fear of retribution. The review recommended further improvements to communicating the rationale behind hazards that had been studied and not acted upon. Management concurred with the recommendations and specifically agreed to summarize prior and ongoing engineering control evaluation reports and to share these with the workforce and the public.

Government Accountability Office

- Audit Report on the [Department of Energy Whistleblower Protections Need Strengthening](#) (GAO-16-618, July 2016). The Department of Energy has used a combination of independent reviews and contractor self-assessments to evaluate the openness of the environment for raising safety and other concerns. The independent reviews, which were methodologically sound and consistently applied, revealed problems with the environment for raising concerns. In contrast, many self-assessments used flawed and inconsistent methodologies and overstated the openness of the environment. Therefore, the Department cannot judge the openness of its environment or ensure that appropriate action is taken in response to evaluation results. Factors that may have limited contractor employees from raising concerns and seeking whistleblower protections were finding the whistleblower program difficult to navigate and concerns about anonymity. In addition, the Department has infrequently used its authority to enforce policies that prohibit retaliation and has taken little action to hold contractors accountable for creating a chilled work environment. The Department's reluctance to hold contractors accountable may diminish contractor employee confidence in mechanisms for raising concerns and seeking whistleblower protection.

FEEDBACK

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