

MANAGEMENT COMMENTS



Department of Energy
Office of Science
Washington, DC 20586

August 15, 2014

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

FROM: JOSEPH MCBREARTY *Joseph McBreaarty 8/15/14*
DEPUTY DIRECTOR FOR FIELD OPERATIONS
OFFICE OF SCIENCE

SUBJECT: Response to Office of Inspector General Draft Special Report on "Allegations of Waste, Fraud and Abuse at the [REDACTED] Site Office"

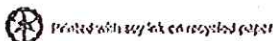
The Office of Science (SC) appreciates the opportunity to review the Office of Inspector General's (OIG) special report "Allegations of Waste, Fraud and Abuse at the [REDACTED] Site Office".

SC generally agrees with the findings of the report. However, SC is very concerned that the report incorrectly infers that proper Departmental procedures were not followed in the redaction of a previous investigative report concerning conditions at the [REDACTED] Site Office that was provided to the Site Office Manager at [REDACTED] normal request, and that, as a result, Departmental officials improperly granted the [REDACTED] Site Office Manager access to information that permitted the identification of individuals whose statements appeared in the prior investigative report.

The OIG report is inconsistent in its description of the processes and procedures followed that provided the Site Office Manager a redacted copy of the previous investigative report. For example, the cover letter of the OIG report states that:

"...there was no evidence that the disclosure of this sensitive information was intentional on the part of Science. Moreover we learned that release of the redacted report to the Site Office Manager was authorized by both Science's Office of the Chief Counsel in Chicago as well as the Office of the General Counsel in Headquarters and that Science also consulted the Office of Human Capital regarding the decision to release the report."

However, the cover letter later appears to imply that SC intentionally provided an improperly redacted copy of the report to the Site Office Manager: "... Moreover Science's decision to provide the Site Manager the names and statements ...". The draft OIG report incorrectly implies an intentional and willful decision to release names and statements of employees participating in the previous investigative report.



Although the OIG draft report infers that the report was improperly redacted, it provides no reference to procedural or process violations in the redaction process. As part of SC's review of the draft OIG report, a senior SC management official spoke with the Field Counsel's Office in Chicago. The Field Counsel's office conducted the redaction of the investigative report. The Counsel's Office reported that the investigative report document had been thoroughly reviewed and that the subsequent redaction was approached in a very conservative manner, taking great care to ensure that it would be difficult to identify individuals. Only the body of the investigative report was ultimately provided to the Site Office Manager. Witness affidavits were not provided to the Site Office Manager.

It was the professional opinion of the attorney who conducted the redaction that the redaction process was properly executed and that the redacted investigative report did not include any inappropriate personnel information. The attorney had consulted the Headquarters General Counsel's Office and Headquarters Human Capital.

SC requests that the OIG review the facts surrounding the process followed by Departmental elements in redacting the investigative report and the ultimate release of the redacted investigative report to ensure that they are accurately and consistently described in the final OIG report. Further, SC requests that the OIG consider interviewing the attorney that conducted the redaction to affirm that the redaction was properly carried out in accordance with established Departmental processes and procedures.

Recommendations:

1. Determine whether disciplinary and/or administrative action is necessary to address the significant ethical violations chronicled in this report.

SC concurs in this recommendation. However, the subject of the report has retired from Federal service. Therefore, SC cannot take further disciplinary action at this time.

2. Increase the level of the supervision of the [redacted] Site office Manager to ensure: (i) Site Office employees immediately and permanently cease the performance of personal tasks for the Site Manager, regardless of whether or not the performance of such tasks is voluntary, uses government property, or is accomplished on an employee's own time, (ii) Site Office manager immediately ceases the performance of personal tasks using government resources, and (iii) the Site Manager immediately and permanently removes all personal financial records and documents from the workplace.

SC concurs in this recommendation. However, SC cannot take further action with respect to the subject of the report due to their retirement from Federal service. An acting Site Office Manager has been detailed to the [redacted]. SC will return the former Site Office Manager's personal records.

3. Ensure that services provided by [REDACTED] contractor staff are within the scope of the support services contract.

SC concurs in this recommendation. SC will conduct a review of the support services contract to ensure contractor actual duties are aligned with contract requirements.

4. Develop and implement policies and procedures that will ensure any SC Site Manager's request for access to an employee's email and computer records be subject to senior-level and legal review and approval.

SC concurs in this recommendation. SC has already established policies and procedures for access to email and computer records of SC Headquarters. SC is in the process of establishing policies and procedures for proper legal and senior level review of field requests for email and computer access. These will be in place by 30 September 2014.

5. Through changes in current procedures and training, ensure that employees are free to exercise their protected rights.

SC concurs in this recommendation. SC will develop procedures to ensure that employees are aware of the protection afforded to them by law when reporting work place concerns. Through appropriate training, SC senior management will ensure that managers are aware of their responsibilities in protecting workers rights. SC anticipates this training will be completed by 15 October 2014.

cc: Michael Knotek, Deputy Under Secretary for Science and Energy (S4)