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ONE HUNDRED THIRTEENTH CONGRESS

Congress of the United States

House of Representatives

COMMITTEE ON OVERSIGHT AND GOVERNMENT REFORM

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July 16, 2013

The Honorable Daniel B. Poneman
Deputy Secretary
U.S. Department of Energy
1000 Independence Avenue, SW
Washington, D.C. 20585

Dear Mr. Poneman:

Today, the Department of Energy Office of Inspector General issued a "Management Alert" regarding allegations of prohibited personnel practices at the Bonneville Power Administration (BPA).¹ In the Alert, the OIG wrote that it has:

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.²

Such personnel practices—which allegedly occurred in 65 percent of hiring decisions between November 2010 and June 2012—are starkly at odds with this Administration's public proclamations supporting the hiring of thousands of veterans returning from the war theater.³

Furthermore, the Department of Energy may have illegally retaliated against employees who blew the whistle on these improper hiring practices. The OIG wrote:

Bonneville had initiated questionable adverse personnel actions against a number of H[uman Capital Management] 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 . . . we are deeply concerned.⁴

¹ "Management Alert: Allegations Regarding Prohibited Personnel Practices at the Bonneville Power Administration," U.S. Dep't of Energy, Office of Inspector General, (July 2013) [hereinafter Management Alert].

² *Id.*

³ See, e.g., "Statement by the President on Passage of the Veterans Skills to Jobs Act," (July 12, 2012), available at <http://www.whitehouse.gov/the-press-office/2012/07/12/statement-president-passage-veterans-skills-jobs-act>.

⁴ Management Alert, at 2.

In fact, it appears as though some individuals may have even been fired for blowing the whistle on these egregious hiring practices.⁵ The fact that Department officials may be engaged in retaliation against whistleblowers courageous enough to report improper hiring practices is, as the OIG wrote, deeply concerning and if true, this is something this Committee will not tolerate.

Last week—over one year after the complaints alleging prohibited personnel actions at Bonneville first surfaced—you finally took action. According to the Management Alert, on July 10, 2013, you directed the BPA Administrator to “immediately convey to all BPA employees that they can cooperate freely with the OIG and other investigations without fear of retaliation.”⁶ It is disappointing that the environment at BPA has stifled employees in such a way that many of them were fearful to report wrongdoing, and those who did may have suffered retaliation.

Yesterday, *The Oregonian* reported that the BPA Administrator, Bill Drummond, and Chief Operating Officer, Anita Decker, have been placed on leave.⁷ *The Oregonian* also reported that, according to an internal BPA email to employees, Deputy Administrator Elliot Mainzer would step in as the BPA Administrator.⁸

To help the Committee understand the origin of these prohibited hiring practices described in the OIG Management Alert, and identify how widespread this problem may be, please answer the following questions:

1. When did you first learn of these allegations?
2. Have you shared these allegations with the Secretary of Energy?
3. What steps have you taken, other than the ones outlined in the Management Alert, to identify the scale of wrongdoing?

In addition, provide the following documents as soon as possible, but by no later than noon on July 30, 2013:

1. All documents related to adverse personnel actions taken against BPA employees who cooperated with, or provided information to, the OIG or other reviews of the prohibited hiring practices;
2. All documents pertaining to BPA hiring practices;
3. All documents and communications between and among Steve Wright, Bill Drummond, Elliot Mainzer, and Anita Decker from October 2010 to the

⁵ *Id.*

⁶ *Id.* at 5.

⁷ Ted Sickinger, *DOE appoints Elliot Mainzer interim leader of BPA; Bill Drummond's fate unclear*, OREGONIAN, July 15, 2013.

⁸ *Id.*

The Honorable Daniel B. Poneman

July 16, 2013

Page 3

present regarding prohibited hiring practices at BPA, including documents relating to any steps taken by BPA to correct these hiring practices;

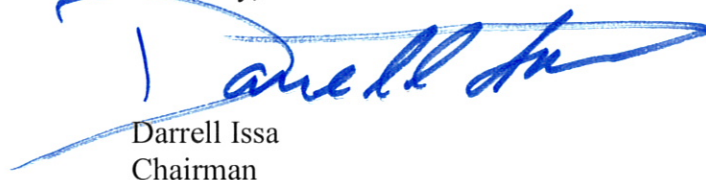
4. All documents and communications between BPA and the Department of Energy from October 2010 to the present regarding the prohibited hiring practices at BPA; and
5. All documents and communications between BPA and the Office of Personnel Management from October 2010 to the present regarding the hiring practices of veterans.

The Committee on Oversight and Government Reform is the principal oversight committee of the House of Representatives and may at "any time" investigate "any matter" as set forth in House Rule X. An attachment to this letter provides additional information about responding to the Committee's request.

When producing documents to the Committee, please deliver production sets to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building. The Committee prefers, if possible, to receive all documents in electronic format.

If you have any questions about this request, please contact Jen Barblan or Tyler Grimm of the Committee staff at (202) 225-5074. Thank you for your attention to this matter.

Sincerely,



Darrell Issa
Chairman

Enclosure

cc: The Honorable Elijah E. Cummings, Ranking Minority Member

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Responding to Committee Document Requests

1. In complying with this request, you are required to produce all responsive documents that are in your possession, custody, or control, whether held by you or your past or present agents, employees, and representatives acting on your behalf. You should also produce documents that you have a legal right to obtain, that you have a right to copy or to which you have access, as well as documents that you have placed in the temporary possession, custody, or control of any third party. Requested records, documents, data or information should not be destroyed, modified, removed, transferred or otherwise made inaccessible to the Committee.
2. In the event that any entity, organization or individual denoted in this request has been, or is also known by any other name than that herein denoted, the request shall be read also to include that alternative identification.
3. The Committee's preference is to receive documents in electronic form (i.e., CD, memory stick, or thumb drive) in lieu of paper productions.
4. Documents produced in electronic format should also be organized, identified, and indexed electronically.
5. Electronic document productions should be prepared according to the following standards:
 - (a) The production should consist of single page Tagged Image File ("TIF"), files accompanied by a Concordance-format load file, an Opticon reference file, and a file defining the fields and character lengths of the load file.
 - (b) Document numbers in the load file should match document Bates numbers and TIF file names.
 - (c) If the production is completed through a series of multiple partial productions, field names and file order in all load files should match.
 - (d) All electronic documents produced to the Committee should include the following fields of metadata specific to each document;

BEGDOC, ENDDOC, TEXT, BEGATTACH, ENDATTACH,
PAGECOUNT, CUSTODIAN, RECORDTYPE, DATE, TIME, SENTDATE,
SENTTIME, BEGINDATE, BEGINTIME, ENDDATE, ENDTIME, AUTHOR, FROM,

CC, TO, BCC, SUBJECT, TITLE, FILENAME, FILEEXT, FILESIZE, DATECREATED, TIMECREATED, DATELASTMOD, TIMELASTMOD, INTMSGID, INTMSGHEADER, NATIVELINK, INTFILPATH, EXCEPTION, BEGATTACH.

6. Documents produced to the Committee should include an index describing the contents of the production. To the extent more than one CD, hard drive, memory stick, thumb drive, box or folder is produced, each CD, hard drive, memory stick, thumb drive, box or folder should contain an index describing its contents.
7. Documents produced in response to this request shall be produced together with copies of file labels, dividers or identifying markers with which they were associated when the request was served.
8. When you produce documents, you should identify the paragraph in the Committee's schedule to which the documents respond.
9. It shall not be a basis for refusal to produce documents that any other person or entity also possesses non-identical or identical copies of the same documents.
10. If any of the requested information is only reasonably available in machine-readable form (such as on a computer server, hard drive, or computer backup tape), you should consult with the Committee staff to determine the appropriate format in which to produce the information.
11. If compliance with the request cannot be made in full by the specified return date, compliance shall be made to the extent possible by that date. An explanation of why full compliance is not possible shall be provided along with any partial production.
12. In the event that a document is withheld on the basis of privilege, provide a privilege log containing the following information concerning any such document: (a) the privilege asserted; (b) the type of document; (c) the general subject matter; (d) the date, author and addressee; and (e) the relationship of the author and addressee to each other.
13. If any document responsive to this request was, but no longer is, in your possession, custody, or control, identify the document (stating its date, author, subject and recipients) and explain the circumstances under which the document ceased to be in your possession, custody, or control.
14. If a date or other descriptive detail set forth in this request referring to a document is inaccurate, but the actual date or other descriptive detail is known to you or is otherwise apparent from the context of the request, you are required to produce all documents which would be responsive as if the date or other descriptive detail were correct.
15. Unless otherwise specified, the time period covered by this request is from January 1, 2009 to the present.
16. This request is continuing in nature and applies to any newly-discovered information. Any record, document, compilation of data or information, not produced because it has not been

located or discovered by the return date, shall be produced immediately upon subsequent location or discovery.

17. All documents shall be Bates-stamped sequentially and produced sequentially.
18. Two sets of documents shall be delivered, one set to the Majority Staff and one set to the Minority Staff. When documents are produced to the Committee, production sets shall be delivered to the Majority Staff in Room 2157 of the Rayburn House Office Building and the Minority Staff in Room 2471 of the Rayburn House Office Building.
19. Upon completion of the document production, you should submit a written certification, signed by you or your counsel, stating that: (1) a diligent search has been completed of all documents in your possession, custody, or control which reasonably could contain responsive documents; and (2) all documents located during the search that are responsive have been produced to the Committee.

Schedule Definitions

1. The term “document” means any written, recorded, or graphic matter of any nature whatsoever, regardless of how recorded, and whether original or copy, including, but not limited to, the following: memoranda, reports, expense reports, books, manuals, instructions, financial reports, working papers, records, notes, letters, notices, confirmations, telegrams, receipts, appraisals, pamphlets, magazines, newspapers, prospectuses, inter-office and intra-office communications, electronic mail (e-mail), contracts, cables, notations of any type of conversation, telephone call, meeting or other communication, bulletins, printed matter, computer printouts, teletypes, invoices, transcripts, diaries, analyses, returns, summaries, minutes, bills, accounts, estimates, projections, comparisons, messages, correspondence, press releases, circulars, financial statements, reviews, opinions, offers, studies and investigations, questionnaires and surveys, and work sheets (and all drafts, preliminary versions, alterations, modifications, revisions, changes, and amendments of any of the foregoing, as well as any attachments or appendices thereto), and graphic or oral records or representations of any kind (including without limitation, photographs, charts, graphs, microfiche, microfilm, videotape, recordings and motion pictures), and electronic, mechanical, and electric records or representations of any kind (including, without limitation, tapes, cassettes, disks, and recordings) and other written, printed, typed, or other graphic or recorded matter of any kind or nature, however produced or reproduced, and whether preserved in writing, film, tape, disk, videotape or otherwise. A document bearing any notation not a part of the original text is to be considered a separate document. A draft or non-identical copy is a separate document within the meaning of this term.
2. The term “communication” means each manner or means of disclosure or exchange of information, regardless of means utilized, whether oral, electronic, by document or otherwise, and whether in a meeting, by telephone, facsimile, email (desktop or mobile device), text message, instant message, MMS or SMS message, regular mail, telexes, releases, or otherwise.

3. The terms “and” and “or” shall be construed broadly and either conjunctively or disjunctively to bring within the scope of this request any information which might otherwise be construed to be outside its scope. The singular includes plural number, and vice versa. The masculine includes the feminine and neuter genders.
4. The terms “person” or “persons” mean natural persons, firms, partnerships, associations, corporations, subsidiaries, divisions, departments, joint ventures, proprietorships, syndicates, or other legal, business or government entities, and all subsidiaries, affiliates, divisions, departments, branches, or other units thereof.
5. The term “identify,” when used in a question about individuals, means to provide the following information: (a) the individual's complete name and title; and (b) the individual's business address and phone number.
6. The term “referring or relating,” with respect to any given subject, means anything that constitutes, contains, embodies, reflects, identifies, states, refers to, deals with or is pertinent to that subject in any manner whatsoever.
7. The term “employee” means agent, borrowed employee, casual employee, consultant, contractor, de facto employee, independent contractor, joint adventurer, loaned employee, part-time employee, permanent employee, provisional employee, subcontractor, or any other type of service provider.