

**Statement of Daniel Poneman
Deputy Secretary
U.S. Department of Energy**

**Before the
Committee on Oversight and Government Reform**

U.S. House of Representatives

August 1, 2013

Thank you, Chairman Issa, Ranking Member Cummings, and members of the Committee. I am here today to discuss the Department of Energy's (DOE) Bonneville Power Administration (BPA) and the allegations of prohibited personnel practices at BPA detailed in the recent Management Alert issued by DOE's Office of the Inspector General (IG).¹

DOE takes these allegations very seriously, and we share the Committee's deep concern regarding the IG's preliminary findings of questionable personnel practices. We have responded forcefully and continue to work cooperatively to aid and assist in the completion of the IG's investigation of BPA. As the IG recognized, the Department "initiated immediate corrective actions which were fully responsive to [its] findings and recommendations" so far. As the IG continues its investigation, the Department looks forward to a full accounting of the facts so we can carefully consider any actions that may be appropriate.

Bonneville Power Administration

Based in the Pacific Northwest, BPA markets wholesale electric power from 31 federal hydropower projects in the Columbia River Basin, one nonfederal nuclear plant and several small nonfederal power plants. The federal dams are operated by the U.S. Army Corps of Engineers and the Department of the Interior's Bureau of Reclamation.

BPA sells power to electric cooperatives, municipalities, public utility districts, federal agencies, investor-owned utilities, direct service industries, port districts and tribal utilities. In addition, BPA operates and maintains 15,272 miles of transmission lines including 75 percent of the regions high-voltage transmission lines. BPA provides service to 483 transmission customers. Its service territory encompasses some 300,000 square miles and includes Idaho, Oregon, Washington, western Montana and parts of eastern Montana, California, Nevada, Utah and Wyoming. While a part of the DOE, BPA is self-funding and covers its costs by selling its products and services to ratepayers and through borrowing from the U.S. Treasury.

Allegations of Prohibited Personnel Practices at BPA

BPA's Federal workforce is administered under the civil service laws in Title 5 of the United States Code. Under Title 5, the Office of Personnel Management (OPM) has the ability to delegate to federal agencies most hiring and employment authorities—including the authority to hire Federal

¹ DOE/IG-0891, Management Alert, "Allegations Regarding Prohibited Practices at the Bonneville Power Administration," July 2013.

employees, process personnel actions, establish and set pay, and administer labor and employee relations activities. OPM delegated all human resources authorities for the Department of Energy to the Secretary of Energy, and the Secretary then delegated these authorities to the Department's Chief Human Capital Officer. The Chief Human Capital Officer has further delegated these human resources authorities to other organizational elements within DOE, including BPA.

In 2012, DOE received a complaint alleging prohibited personnel practices at BPA and provided this information to the IG. The IG informed DOE that it had also received a similar complaint and subsequently requested that DOE review these matters. DOE conducted a review of the hiring cases identified in the initial complaint and communicated with the IG regarding its findings. Included in the Department's findings was concern that BPA had not followed the personnel practice requirements of Title 5, OPM regulations, and DOE policies and procedures in exercising its delegated authority to hire from the general public.

Based on initial findings, DOE took a series of actions to address the situation at BPA:

- On April 2, 2013, DOE required BPA to submit all cases involving hiring from the general public to DOE for review and concurrence before proceeding, as set forth in a memorandum to the Administrator of BPA and copied to OPM and IG.
- From April 22 through April 26, 2013, DOE participated in an OPM-led independent audit of BPA's hiring practices. The final OPM audit report has not been issued.
- On May 23, 2013, based on its preliminary findings from the April audit, OPM de-certified all BPA human resources employees that had been certified to process hiring from the general public.
- On May 24, 2013, DOE formally suspended the BPA Administrator's authority to conduct hires from the general public, as set forth in a memorandum to the Administrator of BPA and copied to OPM and IG.
- On May 29, 2013, DOE notified BPA that the Department's regularly scheduled Human Capital audit would be conducted from June 17 through June 21, 2013, two months earlier than planned.
- On June 21, 2013, based on the preliminary findings from the Department's June audit, DOE formally suspended BPA's authority to conduct hiring from within the existing federal workforce, and to classify all positions, as set forth in a memorandum to the Administrator of BPA and copied to OPM and IG.

Based on DOE's Human Capital Management Accountability Program audit, DOE outlined steps BPA needed to take to correct improper hiring procedures and identified factors that would be reviewed to assess compliance with federal hiring laws, rules, and regulations. DOE is continuing to provide support to BPA's human capital staff to assist them in taking corrective actions, as needed, and developing and implementing sound human resource processes and procedures.

Allegations of Retaliation at BPA

DOE is strongly committed to a workplace where all workers are free to speak out, voice concerns, or lodge complaints—with the Department, Congress, or other entities—without fear of retaliation. Consistent with that commitment, the Department directed the Administrator of BPA that there be no retaliation against any employees who may have raised concerns regarding questionable personnel practices at BPA. For this reason, we were seriously concerned when we learned, after the fact, that BPA had issued a notification of proposed removal against a potential whistleblower. DOE then took swift and decisive action:

- On July 8, 2013, DOE 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 DOE.
- On July 9, 2013, DOE temporarily suspended BPA's authority to take any adverse personnel actions against BPA employees upon learning that BPA was on the verge of proposing the removal of another BPA Human Capital Management employee. DOE directed BPA to stop that proposed removal and provide DOE with all information on any adverse actions in process or under consideration at BPA for further review.
- On July 10, 2013, I 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 then on administrative or any other type of leave due to a proposed removal or suspension to return to work immediately. I also directed the BPA Administrator to provide a full, prompt report of any actions that conceivably could fall into these categories to the Department's Office of Human Capital Management. Furthermore, I directed the Administrator to immediately convey to all BPA employees that they can cooperate freely with IG and other investigations without fear of retaliation.
- I also sent a team to BPA right away to conduct a management review.
- On July 15, 2013, Elliot Mainzer was named Acting Administrator of BPA on an interim basis.
- On July 19, 2013, BPA Acting Administrator Elliot Mainzer sent an email to all BPA employees "[reiterating] BPA's absolute commitment to a workplace free of retaliation, particularly against those who raise concerns. We protect the right of employees to speak out, voice any concerns, or lodge complaints with any authoritative body as they see fit, without fear of retaliation."

Conclusion

BPA remains committed to ensuring continuity and stability in its operations and will be working actively to make sure it continues to make progress on critical issues facing the organization and the region. DOE is also committed to and has taken steps to ensure human resources offices within the Department adhere to all laws and regulations, including veterans' preference laws. We look forward to a full accounting of the facts once the IG's investigation is complete so that we can

evaluate the situation and, as necessary, build on the steps already taken to assure that BPA staff understand federal hiring rules and have the capability and systems in place to implement them appropriately.

DOE will work with the Acting Administrator of BPA to act quickly and constructively to resolve all the issues identified by the IG investigation, DOE's and the Office of Personnel Management's Human Capital Management Accountability audits, as well as to take all appropriate steps pursuant to the ongoing management review of BPA .We recognize the Committee's interest in this matter as well, and share your objective of remedying the any deficiencies at BPA. Mr. Chairman, and members of the Committee, this completes my prepared statement. I would be happy to answer your questions at this time.



Daniel B. Poneman - Deputy Secretary of Energy

Previously, he was nominated by President Obama to be Deputy Secretary of Energy on April 20, 2009, and was confirmed by the United States Senate on May 18, 2009. Under the leadership of Secretary of Energy Steven Chu, Mr. Poneman also served as Chief Operating Officer of the Department. Between April 23, 2013, and May 21, 2013, Mr. Poneman served as Acting Secretary of Energy.

Mr. Poneman first joined the Department of Energy in 1989 as a White House Fellow. The next year he joined the National Security Council staff as Director of Defense Policy and Arms Control.

From 1993 through 1996, Mr. Poneman served as Special Assistant to the President and Senior Director for Nonproliferation and Export Controls at the National Security Council. His responsibilities included the development and implementation of U.S. policy in such areas as peaceful nuclear cooperation, missile technology, space-launch activities, sanctions determinations, chemical and biological arms control efforts, and conventional arms transfer policy. During this time, he also participated in negotiations and consultations with governments in Africa, Asia, Europe, Latin America, and the former Soviet Union.

After leaving the White House, Mr. Poneman served as a member of the Commission to Assess the Organization of the Federal Government to Combat the Proliferation of Weapons of Mass Destruction and a number of other federal advisory panels.

Prior to assuming his responsibilities as Deputy Secretary, Mr. Poneman served as a principal of The Scowcroft Group for eight years, providing strategic advice to corporations on a wide variety of international projects and transactions. Between tours of government service he practiced law for nine years in Washington, D.C. - first as an associate at Covington & Burling, later as a partner at Hogan & Hartson - assisting clients in regulatory, policy and transactional matters, international arbitration, commercial real estate financing, export controls, and sanctions and trade policy.

Mr. Poneman received A.B. and J.D. degrees with honors from Harvard University and an M.Litt. in Politics from Oxford University. He has published widely on national security issues and is the author of *Nuclear Power in the Developing World* and *Argentina: Democracy on Trial*. His third book, *Going Critical: The First North Korean Nuclear Crisis* (coauthored with Joel Wit and Robert Gallucci), received the 2005 Douglas Dillon Award for Distinguished Writing on American Diplomacy. Mr. Poneman is a member of the Council of Foreign Relations.

Mr. Poneman lives in Virginia with his wife, Susan, and their three children.