



Department of Energy
Thomas Jefferson Site Office
12000 Jefferson Avenue, Suite 14
Newport News, Virginia 23606

April 22, 2008

Dr. Hugh E. Montgomery
President and Laboratory Director
Jefferson Science Associates, LLC
Thomas Jefferson National Accelerator Facility
12000 Jefferson Avenue
Newport News, VA 23606

Dear Dr. Montgomery:

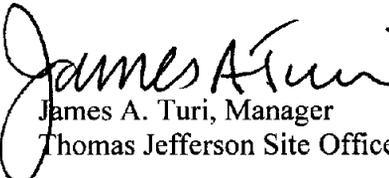
DOE 2008 EMPLOYEE CONCERNS PROGRAM ASSESSMENT

The attached assessment documents the Department of Energy's (DOE's) review of Jefferson Laboratory's (JLab) Employee Concerns Program. The assessment verified that a strong employee concerns program exists at JLab, in which there were no Findings. This report has received a factual accuracy review from JLab and comments have been dispositioned.

Two opportunities for improvement were noted. The later of the two will be elevated to a Finding if it is not addressed by the next DOE Employee Concerns Program assessment. Specifically, employees currently are not informed that they are protected under Federal statute from retaliation for disclosing information which they believe exhibits unsafe, illegal, fraudulent, or wasteful practices. This is required via 10 CFR 708.40 and DEAR clause 952.203-70, WHISTLEBLOWER PROTECTION FOR CONTRACTOR EMPLOYEES. This subject is also discussed on page 3 of the assessment report.

If you have any questions pertaining to this assessment, please contact me or David Luke of my staff at extension 7139.

Sincerely,


James A. Turi, Manager
Thomas Jefferson Site Office

Enclosure

cc w/encl:
J. Turi
S. Mallette
M. Dallas
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B. Lenzer
R. Smith, ORO-ISC

U.S. Department of Energy



Employee Concerns Program Assessment of the Thomas Jefferson National Accelerator Facility

February 23 – 26, 2009

DOE Reviewer: Rufus Smith, DOE-ORO

ASSESSMENT OF THE THOMAS JEFFERSON NATIONAL ACCELERATOR FACILITY EMPLOYEE CONCERNS PROGRAM

Executive Summary

An external independent assessment of the Thomas Jefferson National Accelerator Facility (TJNAF) Employee Concerns Program (ECP) was conducted by the Department of Energy's (DOE) Oak Ridge Office Diversity Programs and Employee Concerns Manager during the week of February 23-26, 2009, to evaluate the effectiveness of the implementation of the ECP at TJNAF.

DOE O 442.1A, Department of Energy Employee Concerns Program, established the DOE Employee Concerns Program to ensure employees concerns related to such issues as environment, safety, health, (ES&H) and management of DOE and the National Nuclear Security Administration programs and facilities, are addressed through prompt identification, reporting, and resolution of employee concerns regarding DOE facilities or operations in a manner that provides the highest degree of safe operations; free and open expression of employee concerns that result in an independent, objective evaluation; and supplementation of existing processes with an independent avenue for reporting concerns. In support of the effective implementation of the DOE Employee ECP, contractors are required to assist DOE in the resolution of employee concerns in a manner that protects the health and safety of both employees and the public and ensure effective and efficient operations of DOE-related activities under their jurisdiction; ensure that contractor and subcontractor employees are advised that they have the right and responsibility to report concerns relating to the environment, safety, health, or management of DOE-related activities; and cooperate with assessments used to verify they have acted to minimize, correct, or prevent recurrence of the situation that precipitated a valid concern.

Positive Attributes

Positive attributes of the ECP at TJNAF is to include the implementation of EthicsPoint and the use of exit interviews. EthicsPoint is a confidential and anonymous Internet and telephone-based reporting tool that assists the laboratory in addressing Human Resources; ES&H; Fraud, Waste and Abuse; Financial and Procurement; Reprisal; and Conflicts of Interest related concerns. An exit interview is administered by the TJNAF Human Resources organization when an employee is terminating their employment. The purpose of the exit interview is to obtain feedback from the employee on those areas the laboratory is performing well and those areas where the laboratory could improve. All exit interview feedback is shared with the employee's supervisor, the employee's department head or associate director, the Chief Operating Officer (COO) and the TJNAF Laboratory Director. Exit interviews are tracked and analysis of attrition data is communicated quarterly to the TJNAF Leadership Team.

Opportunities for Improvement

Although most aspects of the ECP are effective, there are weaknesses in the program at TJNAF, most significantly in the implementation of the DOE Differing Professional Opinions Process

and the incorporation of the requirements of DOE Contractor Employee Protection Program into ECP concern resolution policies, procedures and communications.

TJNAF has not implemented the requirement of the DOE Differing Professional Opinions Process: TJNAF could not demonstrate how the requirements of DOE M 442.1-1, Differing Professional Opinions (DPO) for Technical Issues Involving ES&H are satisfied or complied with.

DOE M 442.1-1 includes flow down and support requirements for contractors and subcontractors. Specifically, regardless of the performance of the work, the contractor is responsible for compliance with the requirements of the Contractor Requirements Document (CRD) of DOE M 442.1-1 and is responsible for flowing down the requirements of the CRD to subcontractors at any tier to the extent necessary to ensure the contractor's compliance with the requirements and the safe performance of work. Contractors, in support of the effective implementation of the DPO process, are required to assist DOE as requested in the resolution of DPOs, ensure that contractor and subcontractor employees are advised at least annually that they have the right to report concerns on technical issues relating to ES&H through the DPO Process, encourage their employees to raise technical issues related to ES&H, use the DPO Process when appropriate, and provide them reasonable time and resources to use the DPO Process, protect their employees from retaliation in any form for reporting DPOs, and report to the DOE when requested on the status of assigned implementation actions resulting from the DPO resolution and on the closure of these actions. The requirement is not included in the Jefferson Science Associates, L.L.C. (JSA) contract, and there is no external requirement document specifying who is responsible for this requirement.

TJNAF has not incorporated the requirements of the DOE Contractor Employee Protection Program: (*Whistleblower Protection Rule*) into ECP concern resolution policies, procedures, and communications. TJNAF could not demonstrate how 10 CFR 708 is satisfied or complied with. The DOE Whistleblower Protection Rule provides procedures for processing complaints by employees of DOE contractors alleging retaliation by their employees for disclosure of information concerning danger to public or worker health and safety, substantial violations of law, or gross mismanagement; for participation in Congressional proceedings; or for refusal to participate in dangerous activities. DOE contractors are also required to inform employees about these regulations by posting notices in conspicuous places at the work site. These notices must include the name and address of the DOE office where an employee can file a complaint under this rule. Postings did not provide information regarding the DOE whistleblower protection program or the name and address of the DOE office where an employee could file a complaint of retaliation. Also, information regarding these regulations and the name or address of the DOE office where an employee may file a complaint of retaliation was not included in either the TJNAF Administrative Manual or the ES&H Manual available to all employees, visitors or the public.

Section 1 provides background information and discusses the purpose and scope of the evaluation. **Section 2** provides a summary of the assessment of the effectiveness of the major ECP elements that were reviewed. **Section 3** provides recommendations.

Section 1: Background, Purpose, and Scope

Within DOE, the Office of Science (SC) has line management responsibility for TJNAF. SC provides programmatic direction and funding for research and development, facility infrastructure activities, and ES&H implementation at TJNAF. At the site level, line management responsibility for TJNAF operations falls under the Thomas Jefferson Site Office (TJSO) Manager. The DOE ORO provides ECP support to the TJSO under the SC Integrated Support Center. Under contract to DOE, TJNAF is managed by JSA, which is a partnership involving the Southeastern Universities Research Associates and Computer Sciences Corporation.

The primary mission of the TJNAF involves research in the areas of nuclear physics, theoretical and computational physics, superconducting accelerator operations, and Free Electron Laser (FELs). To accomplish this mission, TJNAF operates various scientific facilities, including the Continuous Electron Beam Accelerator Facility, the FEL facility, and various other equipment and laboratories. These facilities are available to various users from DOE, other U.S. government agencies, other countries, and various other industrial and academic organizations. These agencies and organizations provide funding for various experiments and equipment modifications and upgrades to support experiments, many of which are performed by visiting scientists and students. Potential hazards that need to be effectively controlled by TJNAF include exposure to radiation, radiological contamination, lasers, hazardous chemicals, and various hazards associated with facility operations (e.g., cryogenics, oxygen-deficient environments, and high voltage electrical equipment). Radiological/irradiated materials and hazardous chemicals are also present in various forms.

The purpose of this assessment was to assess the effectiveness of the ECP at TJNAF, as implemented by JSA, under the direction of TJSO and SC. The ORO Diversity Programs and Employee Concerns Manager, in support of the TJSO, evaluated ECP program at TJNAF by reviewing program policies, procedures, and documents as required by DOE O 442.1A, and interviewed key management officials at TJNAF. Documents reviewed included ECP policies and procedures contained in the TJNAF Administrative Manual; ES&H concerns resolution policies and procedures contained in the ES&H Manual; and ECP related information contained in New Employee Orientation, Supervisor Orientation, and Code of Ethics and Standards of Conduct Briefing incorporated in the TJNAF Training Manual. Key management officials interviewed included the TJNAF Human Resources Manager who serves as the ECP Manager; the COO; Legal Counsel; Associate Director of Experimental Nuclear Physics; Security and Services Manager; Associate Director of Environmental, Safety, Health, and Quality; Chief Information Officer; Internal Auditor; Associate Director of Accelerator Operations, Research and Development; Chief Financial Officer and Business Manager; and the Chair of the TJNAF Worker Safety Committee.

Section 2: Assessment Summary of Major ECP Elements

The formal TJNAF concerns processes have been rarely used. There were only four ES&H concerns in the ES&H hotline report log; three in 2006 and one in 2007, only two of which were related to safety concerns. The two minor safety concerns in the ES&H log were adequately addressed. There were no formal grievances filed related to ES&H. The following

section provides a summary assessment of the major elements of the ECP at TJNAF that were evaluated during this assessment.

Organization

Consistent with the requirements of DOE O 442.1A, the organization responsible for the ECP is well defined. The TJNAF Human Resources Manager serves as the ECP Manager and reports to the COO with independent oversight provided by the Laboratory's Internal Auditor. All concerns reported through the ECP follow a protocol, with action reported to the COO and the Laboratory Director.

Confidentiality

Confidentiality is specifically addressed in the TJNAF ECP procedures outlined in the laboratory Administrative Manual at Chapter 210, Employee Concerns and Grievances. EthicsPoint, the newly implemented ECP internal reporting procedures provide employees with a confidential and anonymous Internet and telephone based reporting tool. Employees are also advised of the limits of confidentiality and anonymity.

Concern Classification

Internal operating procedures address the classification of concerns in two areas, Imminent Danger and Potential Violations of Law. However, TJNAF ECP could benefit from some additional focus to a graded approach in classifying and/or prioritizing concerns consistent with DOE G 442.1-1 where, in addition to classifying concerns as Imminent Danger conditions, concerns are also categorized as serious conditions/concerns and other than serious conditions/concerns. All three categories of classification provide suggested time limits for addressing concerns identified in these categories.

Independence

The TJNAF Human Resources Manager serves as the TJNAF ECP Manager and reports to the COO. Protocols exist in operating procedures to ensure that individuals or organizations involved or named in a concern will not be involved in the evaluation or investigation of a concern.

Responses

Where the identity of concerned individuals was known, TJNAF demonstrated that responses were provided to these individuals in a timely manner.

Corrective Actions

A review of concern files indicated that concerns were investigated in a timely manner and that corrective actions were implemented when appropriate. Corrective actions were communicated to concerned individuals when the identity of these individuals was known.

Exit Interviews

Exit interviews are not required by DOE O 442.1a. However, they are identified as a positive attribute in the TJNAF ECP. Exit interviews are administered by the TJNAF Human Resources organization when an employee is terminating their employment at the laboratory. All exit interview feedback is shared with the employee's supervisor, department head or associate director, laboratory COO, and Director.

Tracking

A recent enhancement of the TJNAF ECP with the implementation of EthicsPoint provides the laboratory with an automated system to track concerns to closure. A review of the manual tracking system utilized prior to the implementation of EthicsPoint indicates that concerns were adequately tracked to closure.

Investigative Reports

Case files reviewed indicate that reports clearly identify facts of the investigation are clearly described and reports are formatted in an orderly fashion so that they are clearly understood by third parties. Files reflect that corrective actions were indentified and implemented by appropriate laboratory officials when necessary.

Program Assessment

Records reviewed and interviews conducted indicated that the Internal Auditor provided laboratory management with assessments of the effectiveness of the ECP and processes used to implement the program. In addition to evaluations conducted by the TJNAF Internal Auditor, TJNAF should also consider implementing annual self assessments and provide the DOE TJSO with quarterly reports of major issues and trends to determine ways to enhance the effectiveness of the ECP.

Program Awareness

Initial awareness of the TJNAF ECP is provided during new employee orientation. The Laboratory's internal and external web sites provide detailed information about the ECP and links to related resources. ES&H components of the laboratory ECP are included in the ES&H orientation training that is required of the laboratory community and the ECP is also a component of the laboratory's Supervisor Orientation training. In addition to these program awareness methods, the "Safety Toolbox" booklet includes a section on ES&H concerns reporting. However, the section does not reference the ES&H Manual Chapter related to ES&H Concern Reporting, does not provide the "hotline" number, does not provide a link to the ES&H Concern Form, does not indicate that concerns can be anonymously through the formal ECP at www.jseep.ethicspoint.com, and does not reference the DOE concerns program or telephone number.

Section 3: Recommendations

Differing Professional Opinions Process:

Recommendation - TJNAF should implement the requirements of DOE M 442.1-1, Differing Professional Opinions Manual for Technical Issues Involving Environment, Safety and Health dated November 16, 2006, in accordance with Clause H.15-APPLICATION OF DOE CONTRACTOR REQUIREMENTS DOCUMENTS, in Contract DE-AC05-06OR23177.

10 CFR 708, DOE Contractor Employee Protection Program:

Recommendation - TJNAF incorporate information regarding protection from retaliation under federal law for disclosing information which they believe exhibits unsafe, illegal, fraudulent, or wasteful practices in ECP policies, procedures and communications.