EMPLOYEE CONCERN REVIEW
Battelle Energy Alliance (BEA)
National & Homeland Security

On Feburary11th, 2010 the Department Of Energy Idaho Operations Office (DOE-ID) Employee Concerns Program (ECP) Manager received a concern via information provided in a 10 CFR 708 complaint filed by Mark Siciliano, a Battelle Energy Alliance (BEA) employee working in Strategy & Program Development (D001). From the 10 CFR 708 complaint, it was determined that Mr. Siciliano had voiced several concerns dealing with the BEA National & Homeland Security organization. Mr. Siciliano was contacted regarding these concerns. He stated that in addition to filing a 10 CFR 708 complaint with DOE-ID, he had filed an employee concern with the BEA Employee Concerns Manager regarding some of these concerns. He said that he wanted the DOE-ID ECP to investigate his concerns separate from the BEA investigation. After meeting with Mr. Siciliano it was determined that the DOE-ID ECP office would investigate the following concerns:

1. National and Homeland Security senior leadership were provided with suggestions to improve security performance by Mr. Siciliano, which they failed to take action on in a timely manner resulting in a number of security infractions.
2. [redacted], misled or lied to DOE-ID personnel when he misrepresented the official status of an Office of Secretary of Defense (OSD) client.
3. Direct reports were required to sign a DOE form indicating that they were responsible for a security incident before the investigation was completed and ultimately they were not responsible for the incident.
4. There is a chilling effect within National and Homeland Security staff.
5. [redacted], traveled to a sensitive country in the fall of 2009 and did not report his trip before leaving.

The DOE-ID ECP Manager requested a copy of the BEA employee concerns investigation report from the BEA ECP Manager. The request was denied because the report had been turned over to the BEA legal department.

DOCUMENTS REVIEWED:
DOE F 5639.3 Report of Security Incident/Infraction forms for incident dated December 2008 dealing with an unattended classified document (IMI 2.6)
DOE F 5639.3 Report of Security Incident/Infraction form
MCP-310 Counterintelligence Program
DOE O 551.1C Official Foreign Travel
INL Form 472.17 Notification of Proposed Foreign Travel
INL Gallup Employee Engagement Survey
INL Standards of Conduct and Business Ethics

INTERVIEWS:
[redacted] (DOE-ID [redacted], National Security)
[redacted] (DOE-ID [redacted])

(BEA D400)

Concern #1 Suggestions to Improve Security Performance

BACKGROUND:
National and Homeland Security senior leadership were provided with suggestions to improve security performance by Mr. Siciliano, which they failed to take action on in a timely manner resulting in a number of security infractions.

On Feb. 17th, 2009 Mr. Siciliano sent an e-mail titled "Security Thoughts" to), with a cc to The e-mail provided the following suggestions to improve security performance:

- Professional guard located at the entrance to secure facilities
- Establish shared drives on classified networks
- Engineering barrier that picks up cell phones upon entrance to building (detectors, wands, etc.)
- No cell phones or electronic devices should be allowed inside buildings, even in the lobbies. This is especially true for UB2, UB3 (SECURE lab), IWB and SAF.
- Establish Semi-Annual Clean-out Day combined with Security refreshers, training, etc.
- Networked classified scanners
- Industrial strength paper shredders located in every major container area. Completely get rid of "Burn Bags"
- SIPRNET in UB2 and IWB
- Individual Accountability (both positive and negative) There needs to be effective and swift measures to deal with infractions to include guidelines and standards.

Because of security issues the DOE-ID ECP Manager was not able to review the security infractions for this time period. To determine if Mr. Siciliano's suggestions would have prevented security infractions, reviewed the suggestions and the infractions.

CONCLUSIONS:
This concern is partially substantiated.
stated, "I have reviewed the security infractions related to the BEA National and Homeland Security organization from the period February 2009 to present. There is a total of 15 incidents that I reviewed - 13 where the investigation is complete and 2

where the investigation is still ongoing. Of the 15 infractions, it is my opinion that 4 of the incidents would have been prevented if the suggestions of Mr. Siciliano had been implemented, 3 incidents where the infractions may have been prevented but I can not make a definitive determination, and 8 incidents where I believe the suggestions would not have prevented the infractions from occurring."

Concern #2 Misrepresentation of Official Status

BACKGROUND:

[redacted]

misled or lied to DOE-ID personnel when he misrepresented the official status of an Office of Secretary of Defense (OSD) client.

From a string of e-mails, it appears that a situation occurred in October 2009 which caused confusion between officials from DOE-ID, BEA, and employees from the Department of Defense (DOD). The situation resulted from a request by OSD personnel to have several machines returned to the DOD that were in the possession of the INL. An e-mail from a DOD employee, dated October 26th, 2009, alleges that [redacted] communicated to DOE-ID personnel that he and others were not federal employees and not authorized to represent DOD, and that [redacted] statements were intentionally fraudulent. None of the e-mails from the DOD personnel indicated that they heard these statements directly from [redacted].

[redacted] were involved with this request by the DOD employees. Neither [redacted] believed that [redacted] or any other BEA official blatantly misrepresented any information to DOE, however both stated that there was confusion between the parties because it was difficult to validate the identity of the DOD employees making the request. This confusion was made greater by the fact that one of the DOD employees making the request for the information had previously worked for BEA as an employee and as a contractor. The situation was resolved when [redacted] sent an e-mail to one of the DOD employees with instructions on how to verify his identity and submit a proper request for the property to be transferred.

CONCLUSIONS:
This concern was not substantiated.
The investigation returned no evidence of direct misrepresentation or untruthfulness by [redacted] to DOE-ID or the employees from DOD. It was reasonable for DOE-ID and BEA officials to question the authorization of the DOD employees considering the circumstances. However, BEA officials, including [redacted], had access to systems that were able to validate the DOD employees' credentials and should have been used to prevent the miscommunication and confusion that followed.

Concern #3 Inappropriate Security Investigation Form

BACKGROUND:

Direct reports were required to sign a DOE form indicating that they were responsible for a security incident before the investigation was completed and ultimately they were not responsible for the incident.

In December of 2008 an INL employee found an Unattended Classified Document which resulted in an investigation of a security infraction. During the investigation, four of Mr. Siciliano's direct reports were required to fill out the form DOE F 5639.3, "Report of Security Incident/Infraction". On the second page of the form labeled "Part II Notification of Security Incident" the employee completing the form is required to fill in items numbered 2 and 5 the "Name and title of person responsible for incident:" and the "Signature of individual responsible for incident". These 2 items imply guilt on the part of the individual filling out the form. They also contradict the wording on the cover page that accompanies the form that states: "Though the form requires your signature, it does not constitute an automatic infraction, and no distribution other than to you is made until your response is received and a determination of outcome is made."

Two DOE F 5639.3, "Report of Security Incident/Infraction" forms were obtained during the review. One of the forms was obtained from [redacted]. He stated his form was the one in current use and that he had modified the form so that employees' social security numbers were not requested on the form. The second form was obtained from Mark Siciliano. A comparison of the 2 forms found some differences. Part I of the two forms is identical. The title for Part II of [redacted] form states, "Part II – Notification of Security Incident" and Mr. Siciliano's form states, "Part II Report by Office Concerned". In addition, items numbered 2, 3 and 5 in Part II are different on the 2 forms and the reporting time varies from 5 days to 15 days. It is unclear which version of the form should be used. Items 2 and 5 on each form, however, do not clearly state that the person completing the form is not the person responsible for the infraction.

CONCLUSIONS:
This concern was substantiated.
Both DOE F 5639.3 forms contain language that could lead to confusion and a perception among employees that if they were to sign this form they would be blamed for the security incident and possibly held accountable. To prevent future problems the correct form needs to be determined and items numbered 2 and 5 of Part II on the form, which require the name and signature of the person responsible for the incident, should be modified if the form is going to continue to be use as a witness form.

Concern #4 Chilling Effect

BACKGROUND:
There is a chilling effect within National and Homeland Security staff.

During a meeting with Mr. Siciliano the question of whether there was a chilling effect within the BEA National and Homeland Security staff arose. To determine if this was true an anonymous paper survey was mailed to 39 BEA employees working in Homeland

Security. The purpose of the survey was to determine if there was a perceived "chilling effect" that could result in the underreporting of security infractions/incidents, and performance issues to management. The employees were to complete the survey and return it through interoffice mail to the DOE-ID ECP Manager.

Of the 39 surveys mailed out, a total of 23 or 63.8% were completed and returned. Ten or 43.5% of the employees indicated that they do not fear retaliation of some kind by their supervisors or higher BEA management if they were to self-report or report others for a security infraction or incident. Thirteen or 56.5 % of the employees, however, indicated that they fear retaliation of some kind by their supervisors or higher BEA management if they were to self-report or report others for a security infraction or incident.

Thirteen employees included comments about the management of BEA National and Homeland Security, the work environment, or past experiences with incident reporting. The comments included:

- Four respondents named the [redacted]) as being the source of retaliatory action and the problematic management style.
- Six respondents stated that they fear retaliation from management above their immediate supervisor without mentioning a specific individual.
- Two respondents mentioned that the work environment had become stressful lately due to having a high number of "violations" and that management has not reacted appropriately.
- Four respondents stated that security rules had become unreasonable. The number of sign-in logs was mentioned by all 4 as a problem.
- Seven respondents indicated that employees are not encouraged to provide input of any kind into work processes.

CONCLUSIONS:
From the results of the survey there is an indication of a chilling effect among a segment of the employees in the BEA National & Homeland Security organization. To determine if this belief is prevalent throughout the organization an anonymous survey of all employees in BEA National & Homeland Security should be conducted. The employees should be asked if they believe they would be retaliated against by their supervisors or higher BEA management if they were to self-report or report others for a security infraction or incident.

Concern #5 Failed to Report Travel to a Sensitive Country

BACKGROUND:
[redacted], *traveled to a sensitive country in the fall of 2009 and did not report his trip before leaving.*

[redacted], of the [redacted]) stated that [redacted] traveled to a sensitive country on September 25, 2009 but he did not report the trip to her as required by procedure until February 23rd, 2010.

CONCLUSIONS:
This concern is substantiated.
[redacted] did not follow BEA reporting procedure for foreign travel by a SCI holder.

DEPARTMENT OF ENERGY – IDAHO OPERATIONS OFFICE
Employee Concerns Closeout Summary Form

File Number: ECP-04-010

Date Filed: 2/11/10
Date Closed: 5/3/10

Date Concern Originator Notified of Resolution: 5/17/10

Concern: Substantiated Unsubstantiated X Partially Sustained

Summary of Investigation

Who Conducted the Investigation: DOE-ID ECP

Conclusions of Investigation:

- National and Homeland Security senior leadership were provided with suggestions to improve security performance by Mr. Siciliano, which they failed to take action on in a timely manner resulting in a number of security infractions.
  Substantiated

- [redacted], misled or lied to DOE-ID personnel when he misrepresented the official status of an Office of Secretary of Defense (OSD) client.
  Unsubstantiated

- Direct reports were required to sign a DOE form indicating that they were responsible for a security incident before the investigation was completed and ultimately they were not responsible for the incident.
  Substantiated

- There is a chilling effect within National and Homeland Security staff.
  Partially substantiated

- [redacted], traveled to a sensitive country in the fall of 2009 and did not report his trip before leaving.
  Substantiated

Did Anyone Receive a Copy of the Investigation Report:
Yes X No

If Yes Who and Why:

- [redacted] because of the chilling effect issue.
- [redacted] to inform BEA of the conclusions.

- [redacted] because of the issues around DOE F 5639.3 Report of Security Incident/Infraction form.

Follow-up Requirements
Yes X No

If Yes Please Describe:

- [redacted] needs to determine if a survey dealing with the possible chilling effect will be conducted and by who.
- [redacted] needs to deal with the issues around DOE F 5639.3

Who Is Responsible For Follow-up:

- [redacted]